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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 8(F)(1)

TO: Honorable Chairwoman Audrey M. Edmonson and Members, Board of County Commissioners

DATE: December 17, 2019

FROM: Abigail Price-Williams County Attorney

SUBJECT: Resolution approving award of Contract No. RFP-00953 ("contract") to Plenary Justice Miami LLC as the developer for the design, build, finance, operation, and maintenance of a civil and probate courthouse with a total estimated fiscal impact to the County of $852,249,000.00, inclusive of a $13,334,000.00 contingency allowance, a $25,000,000.00 allowance for furniture and security system equipment and estimated costs of $3,500,000.00 for the art relocation and builder's risk insurance, over the 34-year and two month term subject to a maximum interest rate of 4.92 percent for the financing; authorizing the use of Building Better Communities General Obligation Bond Program Project No. 180 - "Additional Courtrooms and Administration Facilities" funds in an amount not to exceed $42,000,000.00; authorizing the county mayor or county mayor's designee to execute the contract and all ancillary agreements, to exercise certain provisions contained therein, to expend a contingency allowance of up to $13,334,000.00 in accordance with contract, to grant time extensions during the design and construction period up to 146 days, and to select and purchase furniture and security system equipment for the new courthouse in an amount up to $25,000,000.00 following a competitive process by the developer; approving an interdepartmental agreement between the Internal Services

Resolution No. R-1343-19

The accompanying resolution was prepared by the Internal Services Department and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman.

Abigail Price-Williams
County Attorney

APW/cp

Memorandum

MIAMI-DADE COUNTY

Date: December 17, 2019

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Recommendation for Approval to Award Contract No. RFP-00953, Design, Build, Finance, Operate, and Maintain Civil and Probate Courthouse

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Recommendation

It is recommended that the Board of County Commissioners (Board) approve a competitive public-private partnership (P3) contract award, *Contract No. RFP-00953, Design, Build, Finance, Operate, and Maintain Civil and Probate Courthouse* to Plenary Justice Miami LLC (Developer), for the Internal Services Department. More specifically, this item recommends approval of the following:

- Authorization of the County Mayor or County Mayor's designee to execute the Courthouse Project Agreement and all ancillary agreements (collectively, the Courthouse Agreements) for a total term of 34 years and two months (consisting of a two-month period to achieve financial close, 4-year period to design and construct the Courthouse, and 30-year period to operate and maintain the New Courthouse) with the first year availability payment due following completion of the New Courthouse estimated to be $25,447,371. The annual availability payments include capital, operation, maintenance, lifecycle, and financing costs. The total availability payments will be approximately $810,415,000.00 over the 30-year occupancy period, subject to financing cost adjustments permitted in the Courthouse Agreements with a maximum interest rate not to exceed 4.92 percent and inflation;
- Establishment of a contingency allowance account in an amount up to $13,334,000 (5% of the design-build cost) and the addition of up to 146 days to the design and construction period as authorized in the Courthouse Agreements, both to be exercised by the County Mayor or County Mayor's designee for unforeseen items on a limited and as needed basis;
- Authorization for the County Mayor or County Mayor's designee to purchase the furniture and security system equipment for the New Courthouse in an amount not to exceed $25 million; and
- An Interdepartmental Agreement between the Internal Services Department (ISD) and the Department of Transportation and Public Works (DTPW) for the use of Federal Transportation Administration (FTA) grant assisted property for non-transit purposes in exchange for annual payments in the amount of $1,050,000 from ISD to DTPW in support of the Strategic Miami Area Rapid Transit (SMART) Plan and directs the County Mayor to incorporate any necessary budgetary adjustments in the current FY 2019-20 budget via a budget amendment presented to this Board and future proposed budgets to reflect the same.

The New Courthouse project site is located between West Flagler Street and NW 1 Street, west of the existing courthouse and east of the Metrorail, pursuant to Resolution No. R-799-18. The Board may only consider this item if the FTA has forwarded approval for the use of the property for non-transit purposes prior to the date scheduled for Board consideration. If the FTA has not forwarded approval, this item will be removed from the agenda.

Background

The Courthouse Agreements represent the County's first social infrastructure P3 contract and is one of the first of its kind in the state of Florida. The Courthouse Agreements provide for the design, build, finance, operation, and maintenance of a new 640,000 square foot civil courthouse (New Courthouse) to be occupied by the Administrative Office of the Courts for the Eleventh Judicial Circuit, the Miami-Dade Clerk of Courts, the Law Library, and the Miami-Dade Police Department. The New Courthouse will include 46 finished jury courtrooms, four shelled courtroom sets to accommodate future projected growth in the judicial system, and 59 secured parking spaces for judicial officers and Clerk staff.

Originally built in 1928 to serve a population of 142,000 people, the existing Dade County Courthouse located at 73 West Flagler Street (the Historic Courthouse) has previously served as a County jail, criminal courthouse, and a general government building occupied by the County and City of Miami. Currently, the Historic Courthouse is the seat of the judicial system in Miami-Dade County and contains 27 floors, of which 23 are currently usable. Today, there are 40 judicial officers assigned to the Historic Courthouse's 24 available courtrooms, with an additional 6 judicial officers being housed in converted office space in the Lawson E. Thomas Courthouse Center due to a significant lack of available space. Despite the facility's successful adaptation to various uses over time, the Historic Courthouse suffers from accessibility issues, inadequate space, and lacks basic amenities such as sufficient public bathrooms that are typical of modern day government facilities.

Need for New Civil Courthouse

In addition to the Historic Courthouse's space constraints and the presence of columns that obstruct sightlines in courtrooms, the age of the facility continues to be a challenge. While the County continues to take all actions necessary to keep the Historic Courthouse operational and safe for the staff and the public, the County's costs in doing so have been significant. The County's recent maintenance and renovation efforts have included mold remediation due to water intrusion and façade repairs. Despite these efforts, the County estimates that $128 million in unfunded capital repairs to the Historic Courthouse may be necessary over the next 15 years to keep the facility operational for its current use. Due to the Historic Courthouse's physical condition, the County's annual costs to operate and maintain the facility are 50 percent higher than they would be otherwise.

The County is required to provide adequate court facilities pursuant to the Florida Constitution and recent efforts to replace the Historic Courthouse date back to 2014. The Board first directed the County Mayor to issue a competitive solicitation for the replacement of the Historic Courthouse in 2015 through Resolution No. R-151-15 and subsequently directed the Administration to comprehensively study the court system's needs and available funding sources for new court facilities. The Board created the Court Capital Infrastructure Task Force through Resolution No. R-144-15, which recommended the replacement of the Historic Courthouse and the construction of a new civil courthouse. A second Courts Capital Infrastructure Task Force was created through Resolution No. R-562-16 and reaffirmed the initial conclusions that the Historic Courthouse was no longer able to support the operational and spatial needs of the court system.

Project Delivery Method

In an effort to determine the most cost effective delivery method for the New Courthouse, the County's consultant completed a Value for Money analysis in 2017, which projected approximately $25.3 million in savings to the County through the delivery of the New Courthouse as a P3 compared to a traditional method over the contract term. A recent update of this analysis indicates a savings to the County of approximately $48.9 million over the contract term. The County subsequently received an unsolicited proposal to design, build, finance, operate, and maintain the New Courthouse as a P3, and the Board directed the County Mayor to issue an open and competitive Request for Proposals for the same project purpose through Resolution No. R-553-18. The County Mayor has provided bi-monthly reports with relevant project updates since August 28, 2018.

Stakeholder Input

The County has held three public meetings to receive feedback from stakeholders on the proposed project. These meetings included participation from the Administrative Office of the Courts for the Eleventh Judicial Circuit, the Miami-Dade Clerk of Courts, the Miami-Dade Public Library System, the Department of Transportation and Public Works, the Cultural Affairs Department, the Regulatory and Economic Resources Department, the Water and Sewer Department, the City of Miami, the HistoryMiami Museum, the Dade County Bar Association, the Downtown Development Authority, the Miami Downtown Neighbors Alliance, and a number of County Commissioners. As a result of these public meetings, adjustments were made to the Courthouse Agreements to mitigate any construction impacts and to ensure that the New Courthouse enhances the downtown community.

Scope
The New Courthouse is located in Commission District 5, which is represented by Commissioner Eileen Higgins. However, the scope of this item is countywide in nature.

Fiscal Impact/Funding Source
Payments to the Developer for the New Courthouse do not begin until the facility is ready for occupancy, which is currently projected to occur in January 2024. Upon occupancy, the County will pay the Developer annual estimated availability payments totaling $25,447,371 in the first year (see table below). Over the next 29 years, only the facility management charge portion of the availability payment will be escalated based on inflation factors.

1st Year Availability Payment		
Capital Charge	**Facility Management Charge**	**Total**
$21,296,266	$4,151,105	$25,447,371

The total estimated fiscal impact for the 34-year and two-month term is $852,249,000. This total estimated fiscal impact does not include certain other County obligations and costs specified below. As shown below, the fiscal impact includes 1) availability payments to the Developer over a 30-year occupancy term; 2) a contingency allowance to cover unanticipated County costs during the design and construction phase; 3) the purchase of furniture and security system equipment; and 4) the art relocation and purchase of builder's risk insurance during construction.

Department	30-year Availability Payments	Contingency Allowance	Furniture and Security System Equipment	Art Relocation and Insurance	Total Fiscal Impact	Funding Sources
Internal Services	$810,415,000	$13,334,000	$25,000,000	$3,500,000	$852,249,000	Non-ad Valorem General Fund Revenues, Bond Proceeds, and Net Proceeds from future sale of Historic Courthouse

The Capital Charge in the table above is estimated based on Plenary Justice Miami LLC's proposed base interest rate of 2.26 percent plus a fixed credit spread of 1.66 percent (a total of 3.92 percent). The base interest rate is subject to change upward or downward based on changes in the U.S. Treasury rates up until financial close, which is expected in January 2020. Although interest rates have decreased since proposal submission, the Administration will seek subsequent Board approval of the overall interest rate cost should it exceed 4.92 percent. The Courthouse Agreements and related obligations will be funded from legally available non-ad valorem revenue from the General Fund and the net sales proceeds from the sale of the Historic Courthouse. The contingency allowance and eligible furniture and security system equipment expenses for the New Courthouse will be funded by Building Better Communities General Obligation Bond Project No. 180 – "Additional Courtrooms and Administration Facilities" which currently has an unallocated balance of approximately $42 million.

The Courthouse Agreements utilize a performance based contracting method that will benefit the County by incentivizing the Developer to quickly resolve any maintenance issues and deterring the Developer from deferring routine and preventative maintenance. The Courthouse Agreements include specific performance standards that the Developer must meet during the facility management period. The Developer's failure to comply with performance standards will result in deductions to the County's payment obligations.

The Courthouse Agreements allocate various contract obligations to the Developer, the County and to other third parties such as the lender and builder. The Courthouse Agreements comply with all of the requirements of Florida Statutes Section 255.065 and Section 2-8.2.6 of the County Code pertaining to comprehensive agreements for public-private partnerships. Pursuant to the Courthouse Agreements,

the Developer will be responsible for designing and constructing the New Courthouse in accordance with the County's technical specifications. During the design process, the Developer will submit interim and final design documents for review and approval by the County, in consultation with the Clerk of the Courts, and the Administrative Office of the Courts. Input will also be sought from the HistoryMiami Museum and the Miami-Dade Public Library System to ensure that impacts to the Cultural Center are mitigated. The Developer will commence construction of the new courthouse as soon as the Developer obtains all necessary permits and approvals.

The Developer's responsibilities during the construction period include providing all required traffic and right-of-way improvements, on-site environmental remediation, utility relocations and connections, service access improvements, and landscaping. The Developer will be responsible for undertaking a competitive process for the County to select the vendors to provide the security systems and furniture, fixtures and equipment for the Courthouse, which the County will pay for as a County-retained expense. Prior to the occupancy of the New Courthouse, the Developer, in conjunction with the County, will complete a commissioning of all of the systems and improvements to the New Courthouse to ensure it is in good working order. After completion of construction, the Developer's responsibilities during the 30-year operations and maintenance term of the contract include routine and scheduled maintenance of the courthouse such as janitorial services and pest control; repair and lifecycle replacements of building systems; and operation of a small food service area. The Developer is responsible for funding a vandalism reserve account to pay for the Developer's actual costs incurred to remediate acts of vandalism at the New Courthouse.

Prior to the commencement of construction, the County will be responsible for the re-locations of the existing art sculpture and the surface parking lot that are currently located on the project site as well as the purchase of builder's risk insurance policies. There is a public restroom facility on the project site which was constructed by the Miami Downtown Development Authority (DDA), an independent agency of the City of Miami, pursuant to a lease agreement between the City of Miami and the County. A six month notice of lease termination was issued to the City on August 26, 2018 and per the lease agreement, the City is obligated to restore the property to its original condition prior to the lease. The City will be presenting an item to their Board to get authorization to spend up to $150,000 for the removal and relocation of the restroom facility. The City will either do the work themselves or may request that the County undertake the work at the City's expense. If the County is to do the work, it will enter into a reimbursement agreement with the City prior to undertaking the work.

During the construction, to ensure greater control and flexibility over public safety and network security for the New Courthouse, the County will retain the responsibility for the purchase and installation of all information technology systems and equipment. The County likewise has retained costs for the Office of the Inspector General in the amount of one quarter of one percent (0.25%) of the design-build costs to provide continuous oversight during construction, for the engagement of an owner's representative, and one-half of the cost of an independent building expert to resolve construction disputes. The County's estimated budgets for these costs are in development and are not included in this item. As a result, these items will be procured separately and will be subject to future Board approval, as applicable. During the operations and maintenance period, the County will be responsible for paying all utilities for the New Courthouse; the provision of security personnel; relocation expenses; the repair and replacement of movable furniture, fixtures, equipment, security systems, and IT systems; purchasing the property insurance for the New Courthouse; and costs for vandalism in excess of the amount available in the vandalism reserve account. The County's estimated budgets for these on-going operations and maintenance costs will be developed during the design phase of the project and are not included in this item. These items will be procured separately and subject to future Board approval, as applicable.

Track Record/Monitor

Rita Silva of the Internal Services Department is the Procurement Manager. Dan Chatlos of the Internal Services Department is the Project Manager. The project was developed in collaboration with the Chief Judge of the Eleventh Judicial Circuit, the Clerk of Courts, and other key stakeholders.

Delegated Authority

If this item is approved, the County Mayor or County Mayor's designee will have the authority to execute the Courthouse Agreements and exercise all provisions therein, excluding 1) any cancellation provisions, 2) any design and construction change at the County's option pursuant to Section 7.12 of the Courthouse Agreements, 3) any facility management service change requested by the County pursuant to Section 10.8 of the Courthouse Agreements, 4) any rights otherwise reserved to the Board in the Courthouse Agreements, and 5) any other action that would result in an increase to the financial liability to the County beyond that approved in this item. The County Mayor or County Mayor's designee will have the authority, in accordance with the Courthouse Agreements, but subject to the preceding sentence, to 1) expend the contingency allowance up to the amount established; 2) grant time extensions during the design and construction period up to the amount of contingency days specified herein; and 3) select and purchase the furniture and security system equipment for the New Courthouse up to the not to exceed amount following a competitive selection process by the Developer.

Vendor Recommended for Award

A Request for Proposals (RFP) was issued under full and open competition in two phases. Phase 1 was based on general qualifications to short list up to three vendors. Phase 2 was based on technical and financial submittals by the developer of each short listed vendor. Five responses were received to Phase 1 of the RFP. The responses were evaluated by the Competitive Selection Committee and the top three ranked respondents were recommended for the short list. Prior to issuing Phase 2 of the RFP, the County invited the short listed respondents to provide feedback on the draft solicitation and contract, including recommended changes. The County issued the final RFP for Phase 2 and received committed proposals from the three respondents. The Competitive Selection Committee evaluated the proposals and unanimously recommended the top-ranked proposer, Plenary Justice Miami LLC, to negotiate a contract with the County in accordance with Resolution R-553-18.

Plenary and its team members are qualified and have relevant P3 experience with courthouses to successfully complete this project, as demonstrated by its recent completion of the Long Beach Civic Center P3 project in 2019. Plenary is an established developer in the North America P3 market and plans to make the New Courthouse a positive example of a social infrastructure P3 that others will look to emulate. The proposed design met the County's technical objectives and provided the County with a comprehensive and flexible courthouse that will serve the legal community for decades to come. The County's financial consultant, BMO Capital Markets Corp., performed a review of the Developer's financial capabilities and determined Plenary Justice Miami LLC's financial plan was stable and that the Developer was qualified to undertake the financial obligations contained in the Courthouse Agreements. Plenary Justice Miami LLC offered the lowest design-build price and the lowest facility management charge for the New Courthouse.

Awardee	Principal Address	Local Address	Number of Employee Residents 1) Miami-Dade 2) Percentage[1]	Principal
Plenary Justice Miami LLC[2] • Plenary Group USA Concessions Ltd. (equity member); • Hellmuth, Obata & Kassabaum, Inc. (architect); • Tutor Perini Corporation (builder); • Johnson Controls, Inc. (operations and maintenance)	100 North Tampa Street Suite 2840 Tampa, FL	None	0 0	Brian Budden

[1] Provided pursuant to Resolution No. R-1011-15. Percentage of employee residents is the percentage of the vendor's employees who reside in Miami-Dade County as compared to the vendor's total workforce.

[2] Plenary Justice Miami LLC is a special purpose entity created for the purpose of fulfilling the proposer's responsibilities under the Courthouse Agreements and therefore has no existing employees.

Vendors Not Recommended for Award

Vendor	Reason for Not Recommending
M-S-E Judicial Partners, LLC • Meridiam Miami-Dade LLC and EllisDon Capital, Inc. (equity members); • DLR Group, Inc. (architect); • Suffolk Construction Co. Inc. and Ellis Don Services, Inc. (builders); • EllisDon Facilities Services, Inc. and Jones Lang LaSalle (JLL) Americans, Inc. (operations and maintenance)	Evaluation Scores/Price/Ranking
Miami-Dade Courthouse Partnership, LLC • Sacyr Infrastructure USA, LLC; DIF Infra 5 US LLC; and Macquarie Corporate Holdings pty Limited (equity members); • AECOM Technical Services, Inc. (architect); • Plaza Construction Group Florida, LLC and Sacyr Construccion SA (builders); • Sacyr Infrastructure USA, LLC and SFM Services, Inc. (operations and maintenance)	
Fengate Capital Management Ltd.	Phase 1 of the RFP Evaluation Scores/ Not Short Listed for Phase 2
Hunt Companies, Inc.	

Due Diligence

Pursuant to Resolution No. R-187-12, due diligence was conducted in accordance with the Internal Services Department's Procurement Guidelines to determine vendor responsibility, including verifying corporate status and that there are no performance and compliance issues. The lists that were referenced included convicted vendors, debarred vendors, delinquent contractors, suspended vendors, and federal excluded parties. There were no adverse findings relating to vendor responsibility.

Applicable Ordinances and Contract Measures

- The User Access Program provision was waived by the Board pursuant to Resolution No. R-423-19.
- Local Preference was applied in accordance with Resolution No. R-423-19.
- Small Business Enterprise (SBE) measures apply. The solicitation included a 20% SBE-Architectural/Engineering goal for the design portion. The application of additional measures will be determined through the submittal of design and construction packages to Small Business Development.
- Responsible Wages apply.
- Living Wage applies.

Edward Marquez
Deputy Mayor

MEMORANDUM

(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson and Members, Board of County Commissioners

DATE: December 17, 2019

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 8(F)(1)

Please note any items checked.

_____	**"3-Day Rule" for committees applicable if raised**
_____	**6 weeks required between first reading and public hearing**
_____	**4 weeks notification to municipal officials required prior to public hearing**
_____	**Decreases revenues or increases expenditures without balancing budget**
_____	**Budget required**
_____	**Statement of fiscal impact required**
_____	**Statement of social equity required**
_____	**Ordinance creating a new board requires detailed County Mayor's report for public hearing**
✓	**No committee review**
_____	**Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve**
_____	**Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 8(F)(1)
12-17-19

RESOLUTION NO. R-1343-19

RESOLUTION APPROVING AWARD OF CONTRACT NO. RFP-00953 ("CONTRACT") TO PLENARY JUSTICE MIAMI LLC AS THE DEVELOPER FOR THE DESIGN, BUILD, FINANCE, OPERATION, AND MAINTENANCE OF A CIVIL AND PROBATE COURTHOUSE WITH A TOTAL ESTIMATED FISCAL IMPACT TO THE COUNTY OF $852,249,000.00, INCLUSIVE OF A $13,334,000.00 CONTINGENCY ALLOWANCE, A $25,000,000.00 ALLOWANCE FOR FURNITURE AND SECURITY SYSTEM EQUIPMENT AND ESTIMATED COSTS OF $3,500,000.00 FOR THE ART RELOCATION AND BUILDER'S RISK INSURANCE, OVER THE 34-YEAR AND TWO MONTH TERM SUBJECT TO A MAXIMUM INTEREST RATE OF 4.92 PERCENT FOR THE FINANCING; AUTHORIZING THE USE OF BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND PROGRAM PROJECT NO. 180 - "ADDITIONAL COURTROOMS AND ADMINISTRATION FACILITIES" FUNDS IN AN AMOUNT NOT TO EXCEED $42,000,000.00; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE CONTRACT AND ALL ANCILLARY AGREEMENTS, TO EXERCISE CERTAIN PROVISIONS CONTAINED THEREIN, TO EXPEND A CONTINGENCY ALLOWANCE OF UP TO $13,334,000.00 IN ACCORDANCE WITH CONTRACT, TO GRANT TIME EXTENSIONS DURING THE DESIGN AND CONSTRUCTION PERIOD UP TO 146 DAYS, AND TO SELECT AND PURCHASE FURNITURE AND SECURITY SYSTEM EQUIPMENT FOR THE NEW COURTHOUSE IN AN AMOUNT UP TO $25,000,000.00 FOLLOWING A COMPETITIVE PROCESS BY THE DEVELOPER; APPROVING AN INTERDEPARTMENTAL AGREEMENT BETWEEN THE INTERNAL SERVICES DEPARTMENT AND THE DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS FOR USE OF THE NEW COURTHOUSE PROJECT SITE WITH ANNUAL PAYMENTS MADE TO THE DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS IN THE AMOUNT OF $1,050,000.00, AND DEDICATING ALL SUCH PAYMENTS TO THE STRATEGIC MIAMI AREA TRANSIT PLAN; AND DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO INCORPORATE ANY NECESSARY BUDGETARY ADJUSTMENTS IN THE CURRENT AND FUTURE PROPOSED BUDGETS TO SATISFY THE FINANCIAL OBLIGATIONS CONTAINED HEREIN

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. The foregoing recital is incorporated herein by reference and is approved.

Section 2. This Board finds that the design, build, finance, operation, and maintenance of a civil and probate courthouse (the "New Courthouse") is in the public's best interest and approves award of Contract No. RFP-00953 (the "Contract") to Plenary Justice Miami LLC (the "Developer"), in substantially the form attached as Attachment 1 and made a part hereof, for the design, build, finance, operation, and maintenance of the New Courthouse. The New Courthouse project has an estimated fiscal impact of $852,249,000.00, inclusive of a $13,334,000.00 contingency allowance, a $25,000,000.00 allowance for furniture and security system equipment, and estimated costs of $3,500,000.00 for the relocation of the existing art and the purchase of the builder's risk insurance during the term of 34 years and two months, subject to a maximum interest rate of 4.92 percent for the financing, to be funded in part with Building Better Communities General Obligation Bond Program Project No. 180 – "Additional Courtrooms and Administrative Facilities" in an amount not to exceed $42,000,000.00. Certain appendices of the Contract are not attached hereto because of their volume or confidential nature, but are on file with the Internal Services Department and are available to authorized persons for review and inspection upon request.

Section 3. This Board authorizes the County Mayor or County Mayor's designee to execute the Contract and all ancillary agreements and to exercise all provisions contained therein except 1) any cancellation provisions, 2) any design and construction change at the County's option pursuant to Section 7.12 of the Contract, 3) any facility management service change requested by the County pursuant to Section 10.8 of the Contract, 4) any rights otherwise reserved to the Board in the Courthouse Agreements, and 5) any other action that would result in an increase to the financial liability of the County beyond that approved in this item.

Section 4. This Board authorizes the County Mayor or County Mayor's designee to expend a contingency allowance of up to $13,334,000.00 during the design and construction period in accordance with the Contract and this resolution, to grant time extensions during the design and construction period of the New Courthouse up to 146 days, and to select and purchase furniture and security system equipment for the New Courthouse in an amount not to exceed $25,000,000.00 following a competitive process by the Developer in the manner provided in Section 7.16 of the Contract.

Section 5. This Board approves an interdepartmental agreement, in substantially the form attached as Attachment 2 and made a part hereof, between the Internal Services Department and the Department of Transportation and Public Works for use of the New Courthouse Project Site with annual payments made to the Department of Transportation and Public Works in the amount of $1,050,000.00 and dedicating all such payments to the Strategic Miami Area Transit Plan.

Section 6. This Board directs the County Mayor or County Mayor's designee to incorporate any necessary budgetary adjustments in the current and future budgets to satisfy the financial obligations contained herein.

The foregoing resolution was offered by Commissioner **Sally A. Heyman**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

Audrey M. Edmonson, Chairwoman	**aye**		
Rebeca Sosa, Vice Chairwoman	**aye**		
Esteban L. Bovo, Jr.	**aye**	Daniella Levine Cava	**aye**
Jose "Pepe" Diaz	**aye**	Sally A. Heyman	**aye**
Eileen Higgins	**aye**	Barbara J. Jordan	**absent**
Joe A. Martinez	**absent**	Jean Monestime	**aye**
Dennis C. Moss	**aye**	Sen. Javier D. Souto	**absent**
Xavier L. Suarez	**aye**		

The Chairperson thereupon declared this resolution duly passed and adopted this 17th day of December, 2019. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: **Linda L. Cave**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Monica Rizo Perez

CONTRACT NO. RFP-00953

PROJECT AGREEMENT
FOR THE
DESIGN, CONSTRUCTION, FINANCING, OPERATION AND MAINTENANCE
OF THE
MIAMI-DADE COUNTY CIVIL AND PROBATE COURTHOUSE

between

MIAMI-DADE COUNTY, FLORIDA

and

PLENARY JUSTICE MIAMI LLC

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PROJECT AGREEMENT

FOR THE
DESIGN, CONSTRUCTION, FINANCING,
OPERATION AND MAINTENANCE
OF THE
MIAMI-DADE COUNTY CIVIL AND
PROBATE COURTHOUSE

THIS PROJECT AGREEMENT FOR THE DESIGN, CONSTRUCTION, FINANCING, OPERATION AND MAINTENANCE OF THE MIAMI-DADE COUNTY CIVIL AND PROBATE COURTHOUSE is entered into on _____, 2019, between Miami-Dade County, Florida (the "**County**"), and Plenary Justice Miami LLC, a limited liability company organized and existing under the laws of the State of Delaware (the "**Developer**").

RECITALS

WHEREAS, on June 5, 2018, the Board of County Commissioners (the "Board") adopted County Resolution No. R-553-18, directing the County Mayor or Mayor's designee to develop and publish a solicitation for the selection of, and contracting with, a private entity for the delivery of a new civil and probate courthouse; and

WHEREAS, Resolution No. R-553-18 directed the County Mayor or Mayor's designee to develop and issue a "hybrid" solicitation to consist of a two-phase Request for Proposals ("RFP") whereby the first phase would short list proposers based on qualifications and the second phase would result in the selection of a private entity based on a best value determination based on qualifications, approach to providing the services and price; and

WHEREAS, on August 1, 2018, the County issued RFP-00953 for the new courthouse; and

WHEREAS, on September 27, 2018, the County received five (5) submittals in response to RFP 00953; and

WHEREAS, the County shortlisted three (3) of the five (5) respondents as eligible to proceed to the second phase of the RFP-00953; and

WHEREAS, the Developer was one of the shortlisted respondents; and

WHEREAS, on May 24, 2019, the County issued the second phase documents of the RFP-00953, to the three shortlisted respondents; and

WHEREAS, on July 17, 2019, the County received the technical proposal portion of Proposals from each of the three shortlisted respondents; and

WHEREAS, on July 31, 2019, the County received the financial proposal portion of Proposals from each of the three shortlisted respondents; and

WHEREAS, on _____, 2019, the Board, determined that the Developer's proposal offered the best value and adopted Resolution No. R-_____-19 to approve this Project Agreement and to authorize the execution and delivery of this Project Agreement; and

WHEREAS, the County desires to receive and the Developer desires to provide the services set forth herein.

NOW THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged, the parties hereto, intending to be legally bound, covenant and agree as follows:

ARTICLE 1

DEFINITIONS AND INTERPRETATION

SECTION 1.1. DEFINITIONS.

As used in this Project Agreement, the following capitalized terms have the meanings set forth below. Certain words and expressions are defined within the Appendices hereto, and such definitions shall apply, unless the context otherwise requires, in all other parts of this Project Agreement whether or not this Article contains a cross-reference to such definitions.

"Access Roads, Grounds and Landscaped Maintained Elements" has the meaning set forth in Appendix 8 (Facility Management Requirements).

"Accessibility Condition" has the meaning set forth in Appendix 11 (Deductions).

"Actual Response Time" has the meaning set forth in Appendix 11 (Deductions).

"Additional Equity Investment" means an equity investment made solely by the Qualified Investors after the Financial Close Date that is not contractually committed to by the relevant Qualified Investor, as of the Financial Close Date.

"Affected Party" has the meaning set forth in the definition of "Force Majeure Event".

"Affiliate" in respect of a person means any other person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first person, where "control" means, with respect to the relationship between or among two or more persons, the possession, directly or indirectly or as trustee, personal representative or executor, of the power to direct or cause the direction of the affairs or management of a person, whether through the ownership of voting securities, as trustee, personal representative or executor, by statute, contract, credit arrangement or otherwise, including the ownership, directly or indirectly, of securities having the power to elect a majority of the board of directors or similar body governing the affairs of such person.

"Annual Service Plan" has the meaning set forth in Appendix 8 (Facility Management Requirements).

"Appendix" means any of the Appendices and, as applicable, any schedules and attachments thereto, that are appended to this Project Agreement and identified as such in the Table of Contents.

"Applicable Law" means:

(1) Any federal, State or local law, statute, code or regulation;

(2) Any formally adopted and generally applicable rule, requirement, determination, standard, policy, implementation schedule, or other order of any Governmental Body having appropriate jurisdiction; and

(3) Any Governmental Approval,

in each case having the force of law and applicable from time to time to the Project. Applicable Law excludes any decisions, directives, or undertakings by the County in its capacity as owner of the Project.

"Art in Public Places" has the meaning set forth in subsection 7.1(T) (Art in Public Places).

"Availability Condition" has the meaning set forth in Appendix 11 (Deductions).

"Avoidable Costs" when used in relation to an event or circumstance, means all costs and expenditures which:

(1) Are saved or avoided as a result of, or in responding to, the event or circumstance or its effects; or

(2) If the Developer acted reasonably and in accordance with this Project Agreement (including subsection 25.5(A) (Mitigation by the Developer)) would have been saved or avoided as a result of, or in responding to, the event or circumstance or its effects.

"Bankruptcy Law" means the United States Bankruptcy Code, 11 U.S.C. 101 et seq., as amended from time to time and any successor statute thereto. "Bankruptcy Law" also includes any similar state law relating to bankruptcy, insolvency, the rights and remedies of creditors, the appointment of receivers or the liquidation of companies and estates that are unable to pay their debts when due.

"Bankruptcy-Related Event" means in respect of a relevant party (as specified) any of the following events under Bankruptcy Law:

(1) A receiver, receiver manager or other encumbrance holder taking possession of or being appointed over, or any distress, execution or other process being levied or enforced upon, the whole or any material part of the assets of such relevant party, except to the extent such action creates a Permitted Encumbrance; or

(2) Any proceedings with respect to the relevant party being commenced under the Bankruptcy Law and if such proceedings are commenced against the relevant party and are disputed by the relevant party, such proceedings are not discontinued, withdrawn, dismissed or otherwise remedied within 30 days of such proceedings being instituted; or

(3) The relevant party making an assignment for the benefit of its creditors, being declared bankrupt or committing an act of bankruptcy, becoming insolvent, making a proposal or otherwise taking advantage of provisions for relief under the Bankruptcy Law or similar legislation in any jurisdiction, or any other type of insolvency proceedings being commenced by or against the relevant party under the Bankruptcy Law or otherwise and, if proceedings are commenced against the relevant party and are disputed by the relevant party, such proceedings are not stayed, dismissed or otherwise remedied within 30 days of such proceedings being instituted; or

(4) The relevant party ceasing to carry on business.

"Base Case Equity IRR" means [ ]%, the Initial Base Case Equity IRR, as updated at the Financial Close Date pursuant to Appendix 3 (Financial Close Procedures and Conditions). [NOTE: To be inserted from Base Case Financial Model at Financial Close.]

"Base Case Financial Model" means the Initial Base Case Financial Model, as updated at the Financial Close Date and accepted by the County according to the terms of Appendix 3 (Financial Close Procedures and Conditions), which is attached in electronic format as Appendix 17 (Financial Model).

"Benchmark Interest Rate" means the interpolation between the publicly-documented interest rates of each maturity included in the following indices:

(1) 10 year U.S. Treasury; and
(2) 30 year U.S. Treasury.

The Benchmark Interest Rates do not include any additional credit spread, margin or fee components.

"Benchmark Interest Rate Adjustment Date" means the earlier of:

(1) The Financial Close Deadline;

(2) The actual time of Financial Close on the Financial Close Date;

(3) The date of execution of any interest rate hedging instrument by the Developer; or

(4) The Bond Pricing Date.

"Benchmark Interest Rate Protection Period" means the period from the Benchmark Interest Rate Protection Start Date to and including the Benchmark Interest Rate Adjustment Date.

"Benchmark Interest Rate Protection Start Date" means July 19, 2019.

"Billing Period" means each month of a Contract Year except that:

(1) The first Billing Period of the first Contract Year shall begin on the later of the Occupancy Readiness Date and the Scheduled Occupancy Readiness Date and shall continue to the last day of the month, in which the Occupancy Readiness Date occurs, and

(2) The last Billing Period of the last Contract Year shall end on the last day of the Term.

Any computation made on the basis of a Billing Period shall be adjusted on a pro rata basis to take into account any Billing Period of less than the actual number of days in the month to which such Billing Period relates.

"Board" means the Board of County Commissioners of Miami-Dade County, Florida.

"Bond" means any taxable bond.

"Bond Pricing Date" means, with respect to any Bonds included in the Developer's financial plan, the date of the signing of the bond purchase agreement between the Developer and the bond purchasers, or an earlier date on which the Bond interest rates are fixed by the bond purchasers.

"Business Day" means a day other than a Saturday, Sunday, or an official County holiday.

"Buy-Down Insurance Cost" has the meaning set forth in Appendix 10 (Insurance Requirements).

"Capital Charge" has the meaning set forth in Section 16.3 (Capital Charge).

"Capital Expenditure" means an expenditure related to the Project which is treated as a capital expenditure in accordance with GAAP.

"Capital Modification" means any material change to any part of the physical assets constituting the Project occurring after the Occupancy Readiness Date, including the alteration, addition, demolition or extension of the physical assets constituting the Project or the installation of new structures, equipment, systems or technology. If a replacement of any part of the Project is made by the Developer under Article 9 (Operation and Maintenance), or a capital investment, improvement or modification required to be made by the Developer in order to remedy a Developer Event of Default, and can be reasonably expected to result in a material change to the physical assets constituting the Project, then such replacement, capital investment, improvement or modification shall constitute a Capital Modification.

"CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 et seq., and applicable regulations promulgated thereunder, each as amended from time to time.

"Change in Costs" means, in respect of any Compensation Event, the effect of that Compensation Event (whether of a one-off or recurring nature, and whether positive or negative) upon the actual or anticipated costs, losses or liabilities of the Developer, including, as relevant, the following:

(a) the reasonable costs of complying with the requirements of Articles 15 (Compensation Events and Changes in Law) and 17 (Financial Model), including the reasonable costs of preparation of design and estimates;

(b) the costs of continued employment of, or making redundant, staff who are no longer required;

(c) the costs of employing additional staff;

(d) reasonable professional fees;

(e) (i) Financing Costs (where applicable and without double counting), (ii) the costs to the Developer of financing any Compensation Event (and the consequences thereof) including commitment fees and capital costs, interest and hedging costs, (iii) lost interest on any of the Developer's own capital employed, and (iv) any finance required pending receipt of a lump-sum payment);

(f) the effects of costs on implementation of any insurance reinstatement in accordance with this Project Agreement, including any adverse effect on the insurance proceeds payable to the Developer (whether arising from physical damage insurance or business interruption insurance (or their equivalent)) in respect of that insurance reinstatement and any extension of the period of implementation of the insurance reinstatement;

(g) operating costs, life cycle costs, maintenance costs, or replacement costs;

(h) any Capital Modification or expenditure which is treated as a capital expenditure in accordance with GAAP or equivalent auditing standards utilized and generally accepted in the country of incorporation of the applicable party;

(i) the costs required to ensure continued compliance with the Senior Financing Agreements;

(j) any deductible or increase in the level of deductible, or any increase in premium under or in respect of any insurance policy; and

(k) any material loss, damage, injury, liability, obligation, cost, response cost, expense, fee, charge, judgment, penalty, or fine.

Under no circumstances will Change in Costs include any costs or other losses that arise due to the Developer receiving any payments due by the County to the Developer under Section 7.22 (Payment Obligations of the County During the Design-Build Period) or payments of the Service Fee later than the date that it would have received them in the absence of the Compensation Event.

"Change in Law Event" means the enactment of, and the coming into effect of, after the Technical Proposal Due Date: any Applicable Law; or any modification (including repeal) of any Applicable Law existing on the Technical Proposal Due Date, including but not limited to revised professional and technical standards as set forth in subsection 7.1(G) (Technical Standards and Codes), which is different from Applicable Laws in effect on the Technical Proposal Due Date and compliance with which, in accordance with the Contract Standards: (1) materially expands the scope of or materially interferes with, delays or increases the cost of the Design-Build Work (except that the Developer shall be entitled to relief on account of a Specified Change in Tax Law or a Discriminatory Change in Law as and to the extent provided in Section 15.2 (Discriminatory Changes in Law or Specified Changes in Law); or (2) requires a Capital Modification for compliance therewith.

It is specifically understood, however, that none of the following shall constitute a "Change in Law Event":

(1) Any law, statute, code or regulation that has been enacted or adopted on or before the Technical Proposal Due Date to take effect after the Technical Proposal Due Date;

(2) The denial, delay in issuance of, or imposition of any term or condition in connection with, any Governmental Approval required for the Contract Services;

(3) A change in the nature or severity of the actions typically taken by a Governmental Body to enforce compliance with Applicable Law which was in effect as of the Technical Proposal Due Date;

(4) Any increase in any fines or penalties provided for under Applicable Law in effect as of the Technical Proposal Due Date; or

(5) Any act, event or circumstance that would otherwise constitute a Change in Law Event but that does not change the requirements imposed on the Developer by the Contract Standards in effect as of the Technical Proposal Due Date.

"Change in Ownership" means:

(1) any sale, transfer or disposal of any legal, beneficial or equitable interest in any or all of the shares, units or membership interests in the Developer, or in any Affiliate which controls or is controlled by the Developer;

(2) with respect to any of the shares, units or membership interests referred to in section (1) of this definition, any change in the direct or indirect control over:

(a) the voting rights conferred on those shares, units or membership interests;

(b) the right to appoint or remove directors; or

(c) the right to receive dividends or distributions; and

(3) any other arrangements that have or may have or which result in the same effect as section (1) or section (2) of this definition.

"Change Order" means a written order signed by the County and the Developer prior to Occupancy Readiness Date under this Project Agreement, making a Design and Construction Requirement Change. A Change Order shall be deemed to constitute a Project Agreement Amendment.

"Commissioning" means the commissioning of the Project conducted pursuant to Section 7.19 (Commissioning) and Appendix 7 (Commissioning).

"Commissioning Agent" has the meaning set forth in Appendix 7 (Commissioning).

"Commissioning Fine Tuning Period" means the period commencing after the Occupancy Readiness Date, at a time when the Courthouse can be operated under fully loaded occupancy cycles for two (2) years after the Occupancy Readiness Date whereby the Developer verifies through various testing that all key systems in the Courthouse, including heating, air conditioning, and ventilation, are functioning in accordance with the Design and Construction Requirements and the Facility Management Requirements.

"Commissioning Plan" means the commissioning plan for the Project prepared pursuant to Appendix 7 (Commissioning).

"Commissioning Tests" means the commissioning tests set forth in Appendix 7 (Commissioning).

"Compensation Event" means the occurrence of any of the following events or circumstances, the response to which or compliance with which materially expands the scope of or materially interferes with, delays, or increases the cost of performing the Contract Services:

(1) The existence of a Differing Site Condition, to the extent provided in Section 7.4 (Differing Site Conditions);

(2) The existence of a Regulated Site Condition, to the extent provided in Section 7.5 (Regulated Site Conditions);

(3) Compliance by the Developer, pursuant to subsection 9.1(E) (Emergency Orders and Directives) or otherwise, with an order or direction by police, fire officials or any comparable public authority having the legal authority to make such order or give such direction;

(4) Any placement or enforcement of any Encumbrance on the Project Site or the Project not consented to in writing by, or not arising out of any action or agreement entered into by, the party adversely affected thereby;

(5) The preemption, confiscation, diversion, destruction or other interference in possession or performance of materials or services by a Governmental Body in connection with a public emergency or any condemnation or other taking by eminent domain of any portion of the Project;

(6) A change in the requirements to obtain LEED Silver Certification of the Courthouse, as such requirements exist on the Technical Proposal Due Date, as provided in Section 7.21 (LEED Silver Certification);

(7) Any:

(a) non-compliance with Applicable Law by any County Indemnitee; or

(b) adverse act of prevention, hindrance, obstruction, or other non-cooperation by any County Indemnitee,

of the Developer's obligations under this Project Agreement during the course of the County carrying out a Capital Modification, as contemplated by Section 10.7 (Alternative Procedures for Implementing Capital Modifications);

(8) The issuance of an injunction (whether temporary, preliminary, interlocutory or permanent) or any other final order by a court of competent jurisdiction, with the result that the County or the Developer becomes unable to perform its obligations under this Project Agreement, provided however, this shall not apply to an injunction or other final order against the Developer arising from the Developer's breach of this Project Agreement or from a violation of Applicable Law;

(9) A County Fault, including under subsection 7.15(D) (Obligations as to County Furnished Equipment), under subsection 7.16(D) (Obligations as to SS Equipment) and under subsection 7.16(E) (Obligations as to Moveable Furniture, Fixtures and Equipment);

(10) A Change in Law Event;

(11) Prior to the Occupancy Readiness Date, (i) the failure (including extreme delays) or the material, prolonged and adverse act of prevention, hindrance, or of any

Governmental Body to provide and maintain direct roadway access to the Project Site upon all roadways immediately abutting the Project Site that are required to perform the Design-Build Work, and (ii) any adverse act of prevention, hindrance, obstruction, or other non-cooperation by the County of the Developer's obligations under this Project Agreement;

(12) County observations or tests revealing that the Design-Build Work complies with the Project Agreement pursuant to subsection 7.14(E)(b) where Developer, at the request of the County, took apart or uncovered for inspection or testing any previously-covered or completed Design-Build Work;

(13) Actions taken by the County under Section 19.3 (County's Temporary Step-In Rights During the Facility Management Period) or Section 19.4 (County's Rectification Rights) which interfered with, delayed or increased the cost of performing the Contract Services by the Developer;

(14) After the Technical Proposal Due Date, any modification of the requirements set forth in Appendix 19 (Department of Transportation and Public Works Adjacent Construction Manual);

(15) The release of any Hazardous Substances other than Developer Hazardous Substances into the Project Site at any time after the Project Site Construction Access Date that must be removed or remediated as a matter of Applicable Law or in accordance with the requirements of this Project Agreement; or

(16) Any other event set forth in this Project Agreement that is specified as a Compensation Event,

except, in each case, to the extent attributable to, arising from, or is caused by, directly or indirectly, by any Developer Fault, any breach of this Project Agreement, Applicable Law, or any Governmental Approval by, or any negligent act or negligent omission of, the Developer or any Project Contractor

"Confidential Information" means personal information, and information of a party that the party has designated as confidential and which is supplied, or to which access is granted, to or on behalf of the other party (whether before or after the Effective Date), either in writing, or in any other form, directly or indirectly pursuant to discussions with the other party and includes all analyses, compilations, studies and other documents whether prepared by or on behalf of a party which contain or otherwise reflect or are derived from such designated information.

"Construction Cost Index" has the meaning set forth in Appendix 3 (Financial Close Procedures and Conditions).

"Contingency and Crisis Management Plan" has the meaning set forth in Appendix 8 (Facility Management Requirements).

"Contract Administration Memorandum" has the meaning set forth in Section 25.7 (Project Agreement Administration).

"Contract Services" means the Design-Build Work, the Facility Management Services, and all other work and services necessary and contemplated by this Project Agreement for the financing, design, construction, delivery, operation and maintenance of the Courthouse.

"Contract Standards" means the standards, terms, conditions, methods, techniques and practices imposed or required by:

(1) Applicable Law and the County Legal Requirements;

(2) The Design and Construction Requirements;

(3) Good Design-Build Practice;

(4) The Facility Management Requirements;

(5) Good Facility Management Practice;

(6) The Design-Build Plans;

(7) The Facility Management Plans;

(8) Applicable written equipment manufacturers' specifications;

(9) Applicable Insurance Requirements; and

(10) Any other standard, term, condition or requirement specifically provided in this Project Agreement to be observed by the Developer.

subsection 1.2(S) (Applicability, Stringency and Consistency of Contract Standards) shall govern issues of interpretation related to the applicability, consistency and stringency of the Contract Standards.

"Contract Year" means each of:

(1) The period from the Financial Close Date to the next September 30th;

(2) Each subsequent period of 12 calendar months commencing on October 1st;

(3) The period from October 1st in the year in which this Project Agreement expires or is terminated (for whatever reason) to and including the Termination Date.

Any computation made on the basis of a Contract Year shall be adjusted on a pro rata basis to take into account any Contract Year of less than 365 or 366 days, whichever is applicable.

"Corrective Maintenance" means Maintenance relating to the repairing of systems and equipment in order to bring it back to original operating condition after breakdown, wear or malfunction.

"Cost Substantiation" has the meaning described in Section 16.13 (Cost Substantiation of Additional Work).

"County" means Miami-Dade County, a body corporate and political subdivision of the State of Florida, acting through motion, formal resolution or ordinance of its Board, unless the Board has delegated such authority to a designee or unless such delegation is specifically set forth in this Project Agreement.

"County Activities" means any activities carried on or to be carried on by the County, or other persons permitted by the County, in the Courthouse related to the administration of justice and any other lawful County purpose.

"County Conditions Precedent" has the meaning set forth in Appendix 3 (Financial Close Procedures and Conditions).

"County Environmental Assessments" means the Project Site information provided by the County as set forth in Appendix 1 (Project Site Information) of this Project Agreement.

"County Event of Default" has the meaning set forth in Section 21.1 (County Events of Default).

"County Facilities" means the Stephen P. Clark Center government building located at 111 NW 1st Street, Miami, Florida and the Cultural Center Plaza and buildings (including the Main Library and HistoryMiami Museum) located at 101 W. Flagler Street, Miami, FL.

"County Fault" means:

(1) A breach by the County of any of its obligations (other than payment obligations) under this Project Agreement; or

(2) A breach of any representation or warranty by the County under this Project Agreement; or

(3) Willful misconduct of a County Indemnitee; or

(4) A negligent act or material omission of a County Indemnitee; or

(5) Any failure by a County Indemnitee to comply with Applicable Law or any Governmental Approvals.

"County Furnished Equipment" means any loose furnishings or equipment that is used in connection with the Project procured, furnished, installed and paid for directly by a Government Entity, and shall include: telecommunications equipment; data network switches, routers and other data network equipment; desktop personal computers; computer networks; copiers; printers; scanners; telephone systems; and audio-visual systems.

"County Indemnitee" means:

(1) Any Government Entity;

(2) Government Person; or

(3) Any representative, agent or advisor (including legal and financial advisors) of any person referred to in items (1) or (2) above or any manager, official, employee, contractor or subcontractor (of any tier) thereof, in any such person's capacity as a provider of services directly or indirectly to the County in connection with the Project, other than the Developer, Project Contractors or Subcontractors.

"County Legal Requirements" means those legal requirements for the design and construction of the Project, any Capital Modifications, and during the operation and maintenance of the Courthouse, all as set forth in Appendix 2.

"County Representative" means one or more individuals specified in writing by the County as the representative(s) of the County from time to time for those specifically designated purposes of this Project Agreement; for example, the County may designate one individual for design plan reviews and processing; another to handle environmental concerns; another individual to address permit reviews and inspections, etc. The Design Criteria Professional shall be a designated County Representative.

"Courthouse" or "Facility" means the new Miami-Dade County Civil and Probate Courthouse and related structures and equipment to be designed, constructed, financed, operated and maintained on the Project Site pursuant to this Project Agreement, including all utility connections, landscaping and other Project Site improvements connected to or related to the Miami-Dade County Civil and Probate Courthouse and related structures, as further described in the Design and Construction Requirements and Facility Management Requirements.

"CPI-Linked" means the percentage change in the value of the index which is listed as "CPI-U (Miami-Ft. Lauderdale-West Palm Beach)" in Section 16.4(C) (Escalation) calculated with reference to the ratio of the most recently published monthly value for that index as of the calculation date to the most recently published values for that index as of the Financial Proposal Due Date; however, in respect of Section 9.4(B)(2) regarding the Vandalism Reserve Account, CPI-Linked means the percentage change in the value of the index which is listed as "Consumer Price Index" in Section 16.4(C) (Escalation) calculated with reference to the ratio of the most recently published monthly value for that index as of the calculation date to the most recently published values for that index as of the Financial Proposal Due Date.

"Credit Agreement" has the meaning set forth in the Lenders' Remedies Agreement.

"Critical Event" has the meaning set forth in Appendix 11 (Deductions).

"Debt" of any person at any date means, without duplication:

(a) all obligations of such person for borrowed money;

(b) all obligations of such person evidenced by bonds, debentures, notes or other similar instruments;

(c) all obligations of such person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business;

(d) all obligations of such person under leases which are or should be, in accordance with GAAP, recorded as capital leases in respect of which such person is liable, except leases arising in the ordinary course of business;

(e) all obligations of such person to purchase securities (or other property) which arise out of or in connection with the sale of the same or substantially similar securities (or property);

(f) all deferred obligations of such person to reimburse any bank or other person in respect of amounts paid or advanced under a letter of credit or other similar instrument;

(g) all Debt (as otherwise defined in this definition) of others secured by a charge, mortgage, lien, pledge, judgment, execution, security interest, restriction, claim

or encumbrance of any nature, including any claims of a Governmental Body, on any asset of such person, provided such Debt (as otherwise defined in this definition) is assumed by such person; and

(h) all Debt (as otherwise defined in this definition) of others guaranteed directly or indirectly by such person or as to which such person has an obligation substantially the economic equivalent of a guarantee.

"Deductions" means those deductions from the otherwise applicable Service Fee that the County is permitted to take as offsets on account of specified instances of non-performance as described in Appendix 11 (Deductions). A "Deduction" can refer to either an Unavailability Deduction or a Performance Failure Deduction.

"Deductions Credit" has the meaning set forth in Section 16.5 (Deductions Credit).

"Delay Period" means, to the extent that the Occupancy Readiness Date has not occurred by the Scheduled Occupancy Readiness Date, the aggregate number of days, as determined by the parties in accordance with the principles set out in Section 8.5 (Scheduled Occupancy Readiness Date and Longstop Date) beyond the Scheduled Occupancy Readiness Date that the Occupancy Readiness Date will be delayed solely as a direct result of the occurrence and subsistence of any Compensation Event(s) or any Force Majeure Event(s). In calculating the Delay Period, the parties shall exclude any days of delay that were caused, solely or concurrently, by Relief Events (exclusive of Force Majeure Events) or by the Developer.

"Deliverable Material" has the meaning set forth in subsection 7.1(H) (Deliverable Material).

"Demolition Work" means the work described in Section 7.3 (Deinstallation of Art and Demolition Work).

"Design and Construction Proposal Extracts" means extracts from the Proposal pertaining to the design and construction of the Project, including clarifications issued by the County and accepted by Developer after the date of submittal, as negotiated by the parties and appended hereto as Appendix 5 (Design and Construction Extracts).

"Design and Construction Requirement Change" means a change in the Design and Construction Requirements made by a Change Order:

(1) As a result of a Developer request agreed to by the County pursuant to Section 7.10 (Design and Construction Requirement Changes Made at Developer Request);

(2) On account of Compensation Events pursuant to Section 7.11 (Design and Construction Requirement Changes Made Due to Compensation Events); or

(3) At the direction of the County pursuant to Section 7.12 (Design and Construction Requirement Changes Made at County Direction).

"Design and Construction Requirements" means the requirements for the design and construction of the Project as set forth in the Design and Construction Standards and the Design and Construction Proposal Extracts, as modified from time to time in accordance with the provisions of Article 7 (Design and Construction) and Appendix 6 (Design-Build Work Review Procedures) and as construed in accordance with the provisions of subsection 1.2(S) (Applicability, Stringency and Consistency of Contract Standards).

"Design and Construction Standards" means the standards for the design, construction and performance of the Project as set forth in Appendix 4 (Design and Construction Standards) and any and all other standards of performance or requirements governing the Design-Build Work in the Project Agreement.

"Design and Construction Contracts" or the "Design-Build Contract" means the agreements between (1) the Developer and the Architect, and (2) the Developer and the Contractor, certified copies of which have been delivered by the Developer to the County, OR, if a design-build form of contracting and development is used, the design-build agreement between the Developer and the Design-Builder, a certified copy of which has been delivered by the Developer to the County.

"Design-Build Contract Price" means $262,767,000, the lump sum price payable by the Developer to the Design-Builder under the Design-Build Contract for the Design-Build Work as of the Effective Date.

"Design-Build Governmental Approvals" means all Governmental Approvals required from time to time during the Design-Build Period for the commencement and continuance of the Design-Build Work.

"Design-Build Period" means the period from and including the Financial Close Date through the Occupancy Readiness Date.

"Design-Build Plans" means the Communication Plan (see Appendix 16, Public Communications regarding certain County responsibilities and Developer responsibilities pertaining to communications), the Emergency/Spill Response Plan, the Hazardous Substances Management Program, each as further described in Appendix 6 (Design-Build Work Review Procedures) as well as the Commissioning Plan, the Design-Build Quality Management Plan, the Health and Safety Plan, and the Re-Commissioning Plan.

"**Design-Build Quality Management Plan**" means the Developer's plan for quality assurance and quality control in implementing the Design-Build Work to be developed in accordance with the requirements set forth in Appendix 6 (Design-Build Work Review Procedures).

"Design-Build Work" means everything required to be furnished and done for and relating to the design, construction and commissioning of the Project by the Developer pursuant to this Project Agreement during the Design-Build Period, including the Demolition Work.

"Design-Builder" means Tutor Perini Corporation, or any assignee or replacement permitted under this Project Agreement.

"Design Criteria Professional" means the entity specified by the County as the licensed design professional responsible for overseeing all aspects of the Design-Build Work on behalf of the County.

"Design Documents" means the Developer's plans, drawings, shop drawings, record drawings, specifications, sketches, graphic representations, calculations, electronic files and other design documents prepared in connection with the Design-Build Work.

"Developer" Developer means Plenary Justice Miami LLC, a limited liability company organized and existing under the laws of Delaware, which is registered to do business

in and is in good standing in the State, and its permitted successors and assigns and is the party responsible for the procurement and delivery of the Project.

"Developer Bankruptcy-Related Event" means a Bankruptcy-Related Event in respect of the Developer.

"Developer Conditions Precedent" has the meaning set forth in Appendix 3 (Financial Close Procedures and Conditions).

"Developer Default Notice" has the meaning set forth in subsection 20.3(A) (Notice and Remedy or Remedial Program).

"Developer Event of Default" has the meaning set forth in subsection 20.1(A) (Developer Events of Default Defined).

"Developer Fault" means:

(1) A breach by the Developer of any of its obligations under this Project Agreement;

(2) A breach of any representation or warranty made by the Developer under this Project Agreement;

(3) Willful misconduct of the Developer or any Developer Person; or

(4) A negligent act or material omission of the Developer or a Developer Person.

"Developer Hazardous Substances" means the presence of Hazardous Substances in, on or under the Project Site (including presence in air, surface water, groundwater, soils, or subsurface strata) which is introduced to the Project Site by, caused by or attributable to any acts or omissions of the Developer or any Developer Person.

"Developer Person" means:

(1) Any director, officer, employee or agent of the Developer in each case acting as such; or

(2) Any Project Contractor, any Subcontractor and any representative, advisor (including any legal and financial advisor) of the Developer, in any such person's capacity as a provider of services directly or indirectly to the Developer in connection with the Project.

"Developer's Project Manager" has the meaning set forth in subsection 4.2(B) (Developer's Project Manager).

"Developer Representative" means the individual or individuals specified in writing by the Developer as the representative of the Developer from time to time for all purposes of this Project Agreement.

"Differing Site Conditions" means (a) actual subsurface or latent physical conditions at the Project Site that differ materially from (i) those constituting the Geotechnical Baseline Conditions or (ii) any other reports or information provided in Appendix 1 (Project Site Information), (b) physical conditions at the Project Site which differ materially from those ordinarily encountered and generally recognized as inherent in work of the character required

herein, or (c) existing, subsurface Utilities which are not noted on the Underground Utility Survey or which would not have otherwise been inferable by the Developer based on a reasonable investigation prior to the Technical Proposal Due Date (understanding that Developer has not been provided an opportunity to drill or excavate the Project Site prior to the Technical Proposal Due Date); provided, however, that the term "Differing Site Conditions" excludes conditions: (1) described in the Project Site Geotechnical Exploration Report; (2) of which the Developer had actual knowledge as of the Financial Proposal Submittal Due Date; (3) buried Utilities that were disclosed in the Underground Utility Survey; or (4) that should have been discovered through a reasonable Project Site investigation performed by Developer or its agents prior to the Financial Proposal Submittal Due Date (understanding that Developer has not been provided an opportunity to drill or excavate the Project Site prior to the Technical Proposal Due Date).

"Disclosed Data" means the information and data contained in the documents included in Appendix 1 (Project Site Information), the Reference Documents and any other information or data provided by the County.

"Discriminatory Change in Law" means after the Technical Proposal Due Date, the enactment of, and the coming into effect of, any Applicable Law, or any modification (including repeal) of any Applicable Law existing on the Technical Proposal Due Date, including but not limited to revised professional and technical standards as set forth in subsection 7.1(G) (Technical Standards and Codes), which is materially different from Applicable Laws in effect on the Technical Proposal Due Date and which is principally directed at, and the effect of which is principally borne by:

(1) the Developer, Design-Builder, or Facility Manager related to work performed on the Project and not other projects or persons, or

(2) persons or entities that have contracted with the County or other Governmental Bodies to deliver capital projects on a design-build, finance, operate, maintain ("DBFOM") basis and which includes a performance-based infrastructure basis similar to the basis on which the Project was procured and delivered and not other persons.

"Dispute" means any disagreement, failure to agree or other dispute between the County and the Developer arising out of or in connection with this Project Agreement, including in respect of the interpretation, breach, performance, validity or termination of this Project Agreement, whether in the law of contract or any other area of law.

"Dispute Resolution Procedure" means the Dispute resolution procedures set forth in Article 18 (Dispute Resolution).

"Distribution" means, without duplication or double counting: Whether in cash or in kind, any:

(a) distribution to Unit Holders or other distribution in respect of Units;

(b) redemption or purchase of Units or reduction of limited liability company capital or the amount of a Unit Holder's contribution stated in the articles of organization or any other reorganization or variation to limited liability company capital;

(c) payment in respect of Junior Debt (whether of fees, principal, interest including capitalized interest and interest on overdue interest, breakage costs, or otherwise and whether or not such items are included or excluded from the definition of Junior Debt);

(d) payment, loan, contractual arrangement, including any management agreement or payment in respect thereof or transfer of assets or rights, in each case to the extent made or entered into after the Effective Date and not in the ordinary course of business and on commercially reasonable terms including to any current or former Unit Holder, or any current or former Affiliate of any current or former Unit Holder;

(e) conferral of any other benefit which is not conferred and received in the ordinary course of business and on commercially reasonable terms, including to any current or former Unit Holder, any current or former Affiliate of any current or former Unit Holder or the Developer;

(f) other payment to any current or former Unit Holder, any current or former Affiliate of any current or former Unit Holder or the Developer howsoever arising and whether made pursuant to the terms of an agreement or otherwise or in respect of any class of Units or other securities of or interests in the Developer if, in any such case, such payment would not have been made were it not for the occurrence of any Refinancing or Change in Control; or

(g) the early release of any reserves or any Contingent Funding Liabilities (as defined in Appendix 13 (Compensation on Termination)), the amount of such release being deemed to be a gain for the purposes of any calculation of Refinancing Gain,

and where any such Distribution is not in cash, the equivalent cash value of such Distribution will be calculated. A Distribution will be calculated in a manner that is consistent with the calculation of the Base Case Equity IRR in the Financial Model.

"Effective Date" has the meaning set forth in Section 3.1 of this Project Agreement and is the date reflected on Page 1 of this Project Agreement.

"Emergency Event" has the meaning set forth in Appendix 11 (Deductions).

"Employee Payments" means any liability that has been reasonably incurred by the Developer arising as a result of termination of this Project Agreement under collective bargaining agreements, employment agreements or under any other agreements with employees of the Developer, including severance (whether accrued or not), vacation pay and sick pay accrued, but excluding any Distribution.

"Encumbrance" means any Lien, lease, mortgage, security interest, judgment, judicial award, attachment or encumbrance of any kind with respect to the Project or Project Site.

"Energy Management Plan" has the meaning set forth in Appendix 8 (Facility Management Requirements).

"Environmental Management Plan" has the meaning set forth in Appendix 8 (Facility Management Requirements).

"Equity IRR" means the Developer's Nominal blended equity internal rate of return on the Units calculated on an after-tax basis at the level of the Developer in accordance with the Financial Model as shown in Appendix 17, having regard to Distributions made and projected to be made.

"Equity Member" means each person that directly holds an equity interest in the Developer.

"Event" has the meaning set forth in Appendix 11 (Deductions).

"Exempt Refinancing" means:

(1) A change in taxation or change in accounting treatment pursuant to changes in Applicable Law or GAAP;

(2) The exercise of rights, waivers, consents and similar actions which relate to day-to-day administrative and supervisory matters that are solely in respect of:

(a) breach of representations, warranties, covenants or undertakings;

(b) movement of monies between the Project Accounts (as defined in the Senior Financing Agreements) in accordance with the terms of the Senior Financing Agreements;

(c) late or non-provision of information or consents;

(d) amendments to Project Contracts;

(e) approval of revised technical and economic assumptions for financial model runs (to the extent required for forecasts under the Senior Financing Agreements);

(f) restrictions imposed by the Senior Lenders on the dates at which the financing provided by the Senior Lenders under the Senior Financing Agreements can be advanced to the Developer under the Senior Financing Agreements, and which are given as a result of any failure by the Developer to ensure that the Design-Build Work is carried out in accordance with the Project Schedule and which are notified in writing by the Developer or the Senior Lenders to the County prior to being given;

(g) changes to milestones for drawdown set forth in the Senior Financing Agreements and which are given as a result of any failure by the Developer to ensure that the Design-Build Work is carried out in accordance with the Project Schedule and which are notified in writing by the Developer or the Senior Lenders to the County prior to being given;

(h) failure by the Developer to obtain any consents from Governmental Bodies required by the Senior Financing Agreements; or

(i) voting by the Senior Lenders and the voting arrangements between the Senior Lenders in respect of the levels of approval required by them under the Senior Financing Agreements;

(3) An amendment, variation or supplement of an agreement approved by the County as part of any Capital Modification, Design and Construction Requirement Change or Facility Management Services Change;

(4) A sale of Junior Debt or Units in the Developer by Unit Holders or, in the case of Junior Debt, Affiliates of Unit Holders or securitization of the existing rights or interests attaching to Junior Debt or Units in the Developer;

(5) A Qualifying Bank Transaction;

(6) A conversion of Units into Junior Debt or of Junior Debt into Units, provided that the total principal amount of all Junior Debt outstanding immediately following the conversion plus amounts paid to the Developer by way of subscription for Units outstanding immediately following the conversion does not exceed the total amounts paid to the Developer by way of subscription for Units outstanding immediately prior to the conversion plus the total principal amount of all Junior Debt outstanding immediately prior to the conversion; or

(7) A secondary transaction in the Bond market.

"Existing Art" has the meaning set forth in Section 7.3(A) (Existing Art).

"Expiration Date" means the date that is 30 years following the Scheduled Occupancy Readiness Date.

"Extraordinary Item" has the meaning set forth in Section 16.6 (Extraordinary Items).

"Facility Component" means the system and equipment referenced in Table-1 of Section 11.1 of Appendix 8 (Facility Management Requirements) which are part of the Design and Construction Requirements.

"Facility Condition Index" has the meaning set forth in Section 3.3 (Facility Condition Index) of Appendix 8 (Facility Management Requirements).

"Facility Management Charge" has the meaning set forth in Section 16.4 (Facility Management Charge).

"Facility Management Notice" means a notice given by one party to the other hereunder relating to routine operational matters arising under this Project Agreement following the Occupancy Readiness Date specifically required hereunder to be given as a "Facility Management Notice".

"Facility Management Period" means the period between the Occupancy Readiness Date and the Termination Date.

"Facility Management Plans" means the plans set forth and described in Section 4 of Appendix 8 (Facility Management Requirements) and shall include the Start-up Plan, the Annual Service Plans, the Five-Year Maintenance Plan, the Life Cycle Schedule, the Life Cycle Plan, the Environmental Management Plan, the Energy Management Plan, the Contingency and Crisis Management Plan, and the Fire, Life Safety and Emergency Management Plan, each as further described and defined in Appendix 8 (Facility Management Requirements).

"Facility Management Proposal Extracts" means extracts from the Proposal pertaining to the operation, maintenance, repair, replacement and management of the Project, including clarifications issued by the County after the date of submittal and agreed to by Developer, as negotiated by the parties and appended hereto as Appendix 9 (Facility Management Extracts).

"Facility Management Representative" shall refer to: (a) the person, designated by the County, who shall act as the single point of contact for the County during the Facility Management Period and with respect to the Facility Management Services; and (b) the person, designated by the Developer, who shall act as the single point of contact for the Developer during the Facility Management Period and with respect to the Facility Management Services. The Facility Management Representative for the County shall be referred to as the "County's Facility Management Representative" and the Facility Management Representative for the Developer

shall be referred to as the "Developer's Facility Management Representative" and, each of the County and the Developer, acting reasonably, may designate in writing a new Facility Management Representative from time to time and may designate additional assistant Facility Management Representatives to assist their respective Facility Management Representative in performing his/her duties.

"Facility Management Requirements" means the standards for operation and maintenance of the Project outlining criteria and specifications for the maintenance and operation of the Courthouse during the Facility Management Period as specifically set forth in Appendix 8 (Facility Management Requirements) which, after the Effective Date, shall also be deemed to include the Facility Management Proposal Extracts; provided, however, that if there is a conflict between the Facility Management Requirements and the Facility Management Proposal Extracts, the more exacting and stringent standard shall apply.

"Facility Management Services" means everything required to be furnished and done for and relating to the operation and maintenance of the Project by the Developer pursuant to this Project Agreement during the Facility Management Period.

"Facility Management Services Agreement" means the agreement between the Developer and the Facility Manager, a certified copy of which has been delivered by the Developer to the County.

"Facility Management Services Change" means a change, including an addition, deletion, alteration, substitution or modification, to the Developer's Facility Management Services obligations under this Project Agreement, made pursuant to Section 10.8 (Facility Management Services Changes).

"Facility Management Services Change Certificate" means a certificate issued by the County describing and authorizing a Facility Management Services Change, the value or method of valuation of the Facility Management Services Change, and the adjustment, if any, to the Service Fee associated with the Facility Management Services Change.

"Facility Management Services Change Report" has the meaning set forth in subsection 10.8(B) (Developer Facility Management Services Change Report).

"Facility Manager" means Johnson Controls, Inc., or any assignee or replacement permitted under this Project Agreement.

"Facility User" means any person employed at, visiting or making use of the Project for any authorized purpose, whether on a regular or sporadic basis.

"Fair Market Value" means the amount at which an asset or a liability would be exchanged in an arm's length transaction between informed and willing parties, other than in a forced or liquidation sale.

"Fees and Costs" means reasonable fees and expenses of employees, attorneys, architects, engineers, expert witnesses, contractors, consultants and other persons, and costs of transcripts, printing of briefs and records on appeal, copying and other reimbursed expenses, and expenses reasonably incurred in connection with investigating, preparing for, defending or otherwise appropriately responding to any Legal Proceeding.

"Final Completion" means completion of the Design-Build Work in compliance with the Design and Construction Requirements and the requirements of Section 7.20 (Final Completion) and the issuance of a final certificate of occupancy.

"Final Warning Notice" has the meaning set forth in subsection 20.1(B)(3) (Persistent Breach).

"Financial Close" means satisfaction or waiver of the Financial Close Conditions in accordance with Appendix 3 (Financial Close Procedures and Conditions).

"Financial Close Conditions" means the Developer Conditions Precedent and the County Conditions Precedent.

"Financial Close Date" means the date on which Financial Close occurs.

"Financial Close Deadline" has the meaning set forth in Section 5.2 (Financial Close Deadline).

"Financial Close Security" means the one or more letters of credit required of the Developer pursuant to Section 5.3 (Financial Close Security) as security for the achievement of Financial Close in the form set forth in Transaction Form A (Financial Close Security).

"Financial Close Termination Sum" means:

(1) $500,000; plus

(2) The lesser of:

(a) The Developer's reasonable and proper costs (without mark-up for overhead or profit) incurred in performing Design-Build Work and seeking to achieve Financial Close from the Effective Date through the date of any notice of termination delivered pursuant to Appendix 3 (Financial Close Procedures and Conditions); and

(b) $500,000 or, in the event the Financial Close Deadline is extended, as provided in subsection 5.2(A) (Financial Close Deadline Defined), $1,000,000.

"Financial Model" means:

(1) For purposes of the Developer's representations as to the financial model as of the Effective Date and prior to the Financial Close Date, the Initial Base Case Financial Model; and

(2) For all other purposes, including the Developer's representations as to the financial model as of the Financial Close Date, the Base Case Financial Model, as updated and replaced from time to time in accordance with the terms of this Project Agreement.

"Financial Proposal Due Date" means July 31, 2019.

"Financing Costs" means, in respect of any Delay Period, the aggregate of:

(1) all amounts of principal that will fall due for payment under the Senior Financing Agreements during that Delay Period; and

(2) all amounts (excluding default interest) of interest that accrue under the Senior Financing Agreements during that Delay Period.

"Financing Period" means the period, if any, from and including the Effective Date through the Financial Close Date.

"Fine Tuning" means the detailed calibration of the systems and equipment designed to control the indoor environment of the Project, through fully loaded occupancy cycles of two years (or such earlier time as the County may reasonably agree) after the Occupancy Readiness Date, whereby the Developer verifies, through various systems and equipment testing, that all key systems in the Project, including heating, air conditioning and ventilation are functioning in accordance with the Contract Standards.

"Fine Tuning Reports" has the meaning set forth in Appendix 7 (Commissioning).

"Fire, Life Safety and Emergency Management Plan" has the meaning set forth in Appendix 8 (Facility Management Requirements).

"Fitch" means Fitch Ratings, Inc., or any of its successors and assigns. If such corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, "Fitch" shall be deemed to refer to any other nationally-recognized securities rating agency designated by the County.

"Five-Year Maintenance Plan" has the meaning set forth in Appendix 8 (Facility Management Requirements).

"Food Service Facility" or **"Restaurant"** means the casual cafeteria or deli-style restaurant establishment and Snack Bar, both of which shall be located within the Courthouse and shall serve a complementary menu reflective of then-current trends in the fast/casual food industry and the local consumer market, all for the benefit of Facility Users. The Developer shall design and construct the Restaurant in accordance with Appendix 4 (Design and Construction Standards) and shall operate and maintain the Restaurant in accordance with Appendix 8 (Facility Management Requirements) and Appendix 21 (Minimum Operating Standards for Food Services Facility), and as set forth in Section 9.8 (Food Service Facility).

"Force Majeure Event" means the occurrence of any of the following events after the date of this Project Agreement that directly causes either party (the "**Affected Party**") to be unable to comply with all or a material part of its obligations under this Project Agreement:

(1) any act of terrorism deemed a terrorism act by the County or the State or any certified acts of terrorism as defined by the Terrorism Risk Insurance Act ("TRIA") occurring during any period in which TRIA or a substantially identical federal law is in effect or, where no such equivalent law is in effect, any act of terrorism that otherwise could have been a certified act of terrorism under the TRIA;

(2) pressure waves caused by aircraft or other aerial devices traveling at supersonic speeds;

(3) war, civil war, invasion, violent act of foreign enemy or armed conflict, insurrection or disturbance (including armed violence and hostage taking), or sabotage;

(4) nuclear explosion or nuclear, radioactive, chemical or biological contamination unless the source or cause of the contamination is brought to or near the Project Site by the Developer, or a Project Contractor in breach of the Contract Standards, or is a result of a breach by the Developer of the terms of this Project Agreement;

(5) ionizing radiation unless the source of cause of the ionizing radiation is brought to or near the Project Site by the Developer, or a Project Contractor in breach of the Contract Standards, or is a result of a breach by the Developer of the terms of this Project Agreement;

(6) After the Occupancy Readiness Date, the failure (including extreme delays) of any Governmental Body or utility company having operational jurisdiction in the area in which the Project is located to provide and maintain Utilities and Utilities' services to the Project that are required to perform this Project Agreement; and

(7) Any of the following:

(a) riot or civil commotion;
(b) blockade or embargo;
(c) Epidemics, pandemics, quarantine or severe health alerts issued by a Governmental Body relating thereto; or
(d) official or unofficial strike, lockout, go-slow, or other labor dispute,

which is regional or national in nature and generally affecting the construction industry or a significant sector of it, the judicial system, or the building maintenance or facilities management industries generally.

"Force Majeure Termination Notice" has the meaning set forth in subsection 14.2(E)(1) (Failure to Agree; Right to Terminate).

"Functional Unit" has the meaning set forth in Appendix 11 (Deductions).

"GAAP" means generally accepted accounting principles in effect and consistently applied in the United States (including the accounting recommendations published in the Handbook of the American Institute of Certified Public Accountants).

"Geotechnical Baseline Conditions" means those soil, bedrock, and geological conditions described in the Project Site Information, Geotechnical Exploration Report (Appendix 1C).

"Good Design-Build Practice" means those methods, techniques, standards and practices which, at the time they are to be employed and in light of the circumstances known or reasonably believed to exist at such time, are generally recognized and accepted as good practice in the delivery of buildings similar to the Project on a design-build basis and, only in circumstances described in Section 4.7 (Good Design-Build Practice and Good Facility Management Practice), as such practices evolve over the Term.

"Good Facility Management Practice" means the methods, techniques, standards and practices which, at the time they are to be employed and in light of the circumstances known or reasonably believed to exist at such time, are generally recognized and accepted as good operation, maintenance, repair, replacement and management practices for buildings serving purposes similar to the Project and, only in circumstances described in Section 4.7 (Good Design-Build Practice and Good Facility Management Practice), as such practices evolve over the Term.

"Governmental Approvals" means all permits, licenses, authorizations, consents, certifications, exemptions, rulings, entitlements and approvals issued by a Governmental Body of whatever kind and however described which are required under Applicable Law to be obtained or maintained by any person with respect to the Contract Services.

"Governmental Body" means any federal, State, regional or local legislative, executive, judicial or other governmental board, department, agency, authority, commission, administration, court or other body, including the County, acting in its governmental, regulatory or quasi-judicial capacity (and not in its proprietary capacity as a party to this Project Agreement), or any official thereof, having jurisdiction in any way over or in respect of any aspect of the performance of this Project Agreement or the Project.

"Government Entity" means the County, the Eleventh Judicial Circuit Court in and for Miami-Dade County, Florida, Miami-Dade County State Attorney's Office, and/or the Clerk of Courts for Miami-Dade County, Florida.

"Government Person" means any elected or appointed judge, judicial officer, subordinate judicial officer, County Commissioner, County Mayor, director, officer, member or employee of a Government Entity.

"Handback Requirements" refers to the required condition that the Courthouse and each of its elements have to meet on the Expiration Date as set forth in Section 9.12.

"Handback Retainage Account" means a County interest-bearing account at a Qualified Commercial Bank where the Handback Retainage will be deposited.

"Handback Retainage" means the County's good faith estimated amount necessary to complete the Handback Work.

"Handback Survey" means an inspection and survey of the Facility that the Developer and the County shall jointly conduct in the Contract Year commencing four years prior to Expiration Date or promptly following any notice of an event or circumstance which would give either party a right to terminate the Project Agreement.

"Handback Work" means the replacement by the Developer of those Facility Components which are reasonably expected to reach its useful life expectancy at the Expiration Date as determined by the Independent Facility Management Expert.

"Handback Work Plan" means the Developer's plan to perform the Handback Work.

"Hazardous Substances" means any hazardous waste, hazardous product, contaminant, toxic substance, deleterious substance, dangerous goods, pollutant, waste, reportable substance, flammable materials, explosives, radioactive materials, infectious waste, environmental contaminants and any other substance, in respect of which the storage, manufacture, handling, disposal, treatment, generation, use, transport, remediation or release into or presence in the environment is prohibited, controlled or regulated under Applicable Law pertaining to the environment, including but not limited to: (a) "hazardous substances" as defined under CERCLA and "hazardous waste" as defined under the Resource Conservation and Recovery Act, 42 U.S.C.A. 6901 et seq., applicable regulations promulgated thereunder; (b) the Hazardous Materials Transportation Act, as amended (49 U.S.C. §§ 1801 et seq.);(c) the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. §§ 6901 et seq.); (d) the Water Pollution Control Act (33 U.S.C. § 1317); (e) the Florida Resource Recovery and Management Act, Fla. Stat. § 403.702-403.7893; (f) the Pollutant Spill Prevention and Control Act, Fla. Stat. §§ 376.011-376.21; (g) any material defined as "petroleum" or "petroleum products" under Fla. Stat. § 376.301, (h) contaminant, or hazardous substance as defined in Fla. Stat. § 376.301 or Fla. Stat. § 403.031, wastes as defined in Fla. Stat § 403.031; and (i) ground or water pollution as defined by Section 24-5 of the Miami-Dade County Code, each as amended from time to time.

"Health and Safety Plan" has the meaning set forth in subsection 7.13(B) (Safety and Security).

"Help Desk" shall refer to the facility management incident referral system to be developed, implemented, maintained and operated by the Developer during the Facility Management Period in accordance with Section 13 of Appendix 8 (Facility Management Requirements).

"Income Tax" means any Tax imposed on the income of a person by any federal, State or local Governmental Body.

"Incremental Facility" means the future design and build-out of one or more of the four shell courtroom sets, judicial office sets, or corresponding building support and public areas by the Developer in accordance with Section 10.5 (Capital Modifications at County Direction) and Section 10.6 (Primary Procedure for Implementing Capital Modifications) of the Project Agreement.

"Incremental Facility Management Charge" means the additional costs payable to the Developer as part of the County's Service Fee obligations for the provision of Facility Management Services to the Incremental Facility.

"Independent Building Expert" has the meaning set forth in Section 8.2 (Independent Building Expert) of this Project Agreement.

"Independent Facility Management Expert" means the qualified professional engaged by the parties for the purposes described in Section 9.12 of the Project Agreement.

"Index-Linked" means, a weighted average of the percentage change in each index value listed and weighted in Section 16.4 (Facility Management Charge) calculated with reference to the ratio of the most recently published monthly value for each index as of the calculation date to the most recently published value for each index as of the Financial Proposal Due Date.

"Initial Base Case Equity IRR" means 10.26%, being the Nominal post-Income Tax internal rate of return on equity investment over the full Term assuming no early termination or extension of this Project Agreement, projected for the Project under the Initial Base Case Financial Model.

"Initial Base Case Financial Model" means the Developer's financial model for the Project as of the Effective Date, which is attached in electronic format as Appendix 17 (Financial Model).

"Initial Warning Notice" has the meaning set forth in subsection 20.1(B)(1) (Persistent Breach).

"Insurance Proceeds" means the amount of any insurance proceeds received by a person in respect of a claim made under any policy of insurance required to be maintained by the Developer under this Project Agreement.

"Insurance Receivables" means Insurance Proceeds which a person is entitled to receive but which have not been received.

"Insurance Requirement" means any rule, regulation, code, or requirement issued by any insurer that has issued a policy of Required Insurance under this Project

Agreement, as in effect during the Term, compliance with which is a condition to the effectiveness of such policy.

"Insurance Trust Account" has the meaning set forth in subsection 14.3(E) (Insurance Trust Account).

"Insurance Trust Agreement" has the meaning set forth in subsection 14.3(E) (Insurance Trust Account).

"Insurance Unavailability Event" has the meaning set forth in subsection 14.5(A) (Insurance Unavailability Event).

"Intellectual Property" means any or all of the following and all rights, arising out of or associated therewith:

(1) National, international and foreign patents, and applications therefor and all reissues, divisions, renewals, extensions, provisionals, continuations and continuations-in-part thereof;

(2) Inventions (whether patentable or not), invention disclosures, improvements, trade secrets, proprietary information, know-how, technology, technical data and customer lists, product formulations and specifications, and all documentation relating to any of the foregoing throughout the world;

(3) Copyrights, copyright registrations and applications therefor, and all other rights corresponding thereto throughout the world;

(4) Industrial designs and any registrations and applications therefor throughout the world;

(5) Rights in any internet uniform resource locators (URLs), domain names, trade names, logos, slogans, designs, common law trademarks and service marks, trademark and service mark registrations and applications therefor throughout the world;

(6) Databases and data collections and all rights therein;

(7) Moral and economic rights of authors and inventors, however denominated, throughout the world; and

(8) Any similar or equivalent rights to any of the foregoing anywhere in the world.

"Joint Technical Performance Review" has the meaning set forth in subsection 9.6(B) (Joint Technical Performance Review).

"Judicial Impediment" has the meaning set forth in Appendix 11 (Deductions).

"Junior Debt" means indebtedness owing by the Developer to any of its Unit Holders or Affiliates of Unit Holders which ranks subordinate in all respects to the Senior Debt, excluding:

(1) All amounts not actually paid to the Developer by cash advance, rights entitling the Developer to a cash advance, or other consideration;

(2) All fees, including commitment fees, standby fees or other fees, paid or to be paid by the Developer, other than to any Unit Holder or any Affiliate of a Unit Holder; and

(3) Capitalized interest, and interest on overdue interest.

"Key Financial Event" has the meaning set forth in Appendix 3 (Financial Close Procedures and Conditions).

"Key Personnel" has the meaning set forth in Appendix 15 (Developer and Project Contractors Information).

"LEED Silver Certification" means formal certification of the Project as meeting the requirements for the Leadership in Energy and Environmental Design Green Building Rating System for New Construction, developed and maintained by the U.S. Green Building Council ("LEED") "silver" rating for new construction under the LEED-NC Rating System.

"LEED Specialist" has the meaning set forth in Appendix 7 (Commissioning).

"Legal Proceeding" means every action, suit, litigation, arbitration, administrative proceeding, and other legal or equitable proceeding having a bearing upon this Project Agreement, and all appeals therefrom.

"Legally Available Non-Ad Valorem Revenues" means all available revenues and taxes of the County derived from any source whatsoever other than ad valorem taxation on real and personal property and including "operating transfers in" and appropriable fund balances within all governmental, proprietary and fiduciary funds and accounts of the County (as defined by generally accepted accounting principles) over which the Board has full and complete discretion to appropriate the resources therein.

"Lenders' Remedies Agreement" means the agreement between the County, the Senior Lenders and the Developer in the form set forth in Transaction Form B (Lenders' Remedies Agreement).

"Lien" means any and every lien against the Project or against any monies due or to become due from the County to the Developer under this Project Agreement, for or on account of the Contract Services, including mechanics', materialmen's, laborers' and lenders' liens.

"Life Cycle Plan" has the meaning set forth in Appendix 8 (Facility Management Requirements).

"Life Cycle Schedule" has the meaning set forth in Appendix 8 (Facility Management Requirements).

"Liquidated Damage Right" has the meaning set forth in subsection 19.2(A) (County Liquidated Damage Rights Defined).

"Longstop Date" has the meaning set forth in subsection 8.5(B) (Longstop Date Defined).

"Loss-and-Expense" means, and is limited to, (in each case subject to Section 19.11 (No Special, Consequential or Punitive Damages)) any and all actual loss, liability, forfeiture, obligation, damage, fine, penalty, judgment, deposit, charge, assessment, Tax, cost or

expense for which a party is obligated to indemnify hereunder, including all Fees and Costs, except as explicitly excluded or limited under any provision of this Project Agreement.

"Maintained Element" means all elements of the Project, constructed or installed pursuant to this Project Agreement, County Furnished Equipment and SS Equipment.

"Maintenance" means commissioning, testing, servicing, maintenance, repair, renewal or replacement of the Maintained Elements.

"Market Disruption Event" has the meaning set forth in Appendix 3 (Financial Close Procedures and Conditions).

"Material Contracts" means:

(1) The Project Contracts; and

(2) Any agreement between the Developer and an Affiliate of the Developer with respect to the performance of the Contract Services.

"Mediator" means any person serving as a mediator of disputes hereunder pursuant to Section 18.2 (Non-Binding Mediation Generally).

"Moody's" means Moody's Investors Service, Inc. or any of its successors and assigns. If such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "Moody's" shall be deemed to refer to any other nationally-recognized securities rating agency designated by the County.

"Moveable Furniture, Fixtures and Equipment" has the meaning set forth in Section 7.16 (Moveable Furniture, Fixtures and Equipment and Security Systems Equipment).

"Net Present Value" has the meaning set forth in Section 1.1 of Appendix 18 (Calculation and Payment of Refinancing Gains).

"New Project Agreement" means an agreement on substantially the same terms and conditions as this Project Agreement (including any agreements entered into pursuant to this Project Agreement as at the Termination Date) but with the following amendments:

if this Project Agreement is terminated prior to the Occupancy Readiness Date, the extension of the Scheduled Occupancy Readiness Date and the Longstop Date by such reasonable period as is agreed by the County and the New Developer to meet such extended Scheduled Occupancy Readiness Date and

(a) Longstop Date;

(b) the term of such agreement will be equal in length to the term from the Termination Date until the date on which the Facility Management Period would otherwise have expired;

(c) the County may not terminate such agreement for reasons which arose prior to the Termination Date so long as the New Developer is using all reasonable efforts to remedy any breach of this Project Agreement that arose prior to the Termination Date and which is capable of being remedied; and

(d) any other amendments as may be specified by the County that do not adversely affect any compensation which would otherwise be payable to the Developer pursuant to Appendix 13 (Compensation on Termination).

"New Developer" means the person who has entered into or who will enter into the New Project Agreement with the County.

"Nominal" means calculated in nominal terms at current prices recognizing adjustment for indexation in respect of forecasted inflation.

"Non-Binding Mediation" means the voluntary system of dispute resolution established by Section 18.2 (Non-Binding Mediation Generally) for addressing disputes arising under this Project Agreement.

"Occupancy Readiness" means satisfaction of the Occupancy Readiness Conditions.

"Occupancy Readiness Certificate" means a certificate delivered by the County Representative in accordance with this Project Agreement.

"Occupancy Readiness Conditions" has the meaning set forth in Section 8.1 (Occupancy Readiness Conditions).

"Occupancy Readiness Date" means the date on which Occupancy Readiness of the Project occurs or is deemed to have occurred under Article 8 (Occupancy Readiness).

"Operating Hours" means 7:00 a.m. to 6:00 p.m., Eastern time on Business Days.

"Operational Condition" has the meaning set forth in Appendix 11 (Deductions).

"Orderly Cleanliness" means, in general, a level of cleanliness representative of the industry standard for similar structures and includes (a) floors and base moldings that shine or are bright and clean with no buildup in corners or along walls, but with up to two days' worth of dirt, dust, stains, or streaks allowed; (b) all vertical and horizontal surfaces that are clean, but with marks, dust, smudges, and fingerprints are noticeable with close observation allowed; (c) washroom, kitchenettes, locker rooms, and shower tile and fixtures that gleam and are odor-free; (d) supplies that are adequate; (e) trash containers and pencil sharpeners that are empty, clean, and odor-free; and (f) exterior fixtures, walls, windows that are in good condition.

"Overdue Rate" means a rate of interest equal to the Prime Rate for the Business Day on which a payment due hereunder becomes overdue, or if such date is not a Business Day, the Business Day next following such date.

"Performance Failure" has the meaning set forth in Appendix 11 (Deductions).

"Performance Failure Deduction" has the meaning set forth in Appendix 11 (Deductions).

"Performance Monitoring Report" means the report that the Developer will prepare and deliver to the County's Representative within five Business Days of the end of each Billing Period during the Facility Management Period and which provides the supporting detail for the Service Fee, as further described in Section 6.2 (Periodic Reporting) of Appendix 8 (Facility Management Requirements).

"Permanent Repair" has the meaning set forth in Appendix 11 (Deductions).

"Permanent Repair Deadline" has the meaning set forth in Appendix 11 (Deductions).

"Permitted Debt" means:

(1) trade or other similar indebtedness incurred in the ordinary course of business;

(2) Taxes and governmental charges, salaries, related Employee Payments and trade payables;

(3) contingent liabilities relating to the endorsement of negotiable instruments received in the normal course of business or incurred with respect to any Governmental Approvals, the Project Contracts or this Project Agreement; and

(4) Debt incurred by way of loans from Unit Holders;

but does not include any Senior Debt (other than the Senior Debt incurred or issued on the Financial Close Date).

"Permitted Encumbrances" means, as of any particular time, any one or more of the following:

(1) Applicable zoning and building bylaws and ordinances, municipal bylaws and regulations, which do not materially interfere with the construction of the Project and operation of the Project by the Developer;

(2) Encumbrances which are created before the Project Site Construction Access Date;

(3) Encumbrances which are created by a Change in Law Event after the Technical Proposal Due Date; and

(4) Any Encumbrance created by an act or omission by any Governmental Body or with respect to which the County has given its consent.

"Persistent Breach" means a breach for which a Final Warning Notice has been issued, that: (a) continues for more than thirty (30) consecutive days after the date of service of the Final Warning Notice; or (b) recurs three (3) or more times within the six (6)-month period after the date of service of the Final Warning Notice.

"Planned Refinancing" means a Refinancing that is identified as a Planned Refinancing in the Initial Base Case Financial Model and that was fully taken into account and set out in the calculation of the Service Fee payments or other payments hereunder and expressly set out in the Base Case Financial Model at Financial Close.

"Post-Refinancing Equity IRR" has the meaning set forth in Section 2.3 of Appendix 18 (Calculation and Payment of Refinancing Gains).

"Post-Refinancing Financial Model" has the meaning set forth in Section 2.2 of Appendix 18 (Calculation and Payment of Refinancing Gains).

"Pre-Refinancing Equity IRR" has the meaning set forth in Section 2.3 of Appendix 18 (Calculation and Payment of Refinancing Gains).

"Pre-Refinancing Financial Model" has the meaning set forth in Section 2.2 of Appendix 18 (Calculation and Payment of Refinancing Gains).

"Preventive Maintenance" means Maintenance relating to the planning and scheduling of maintenance activities and tasks that are aimed to prevent the breakdowns and failures of systems and equipment.

"Prime Rate" means the prime rate as published in The Wall Street Journal (Eastern Edition), or a mutually agreeable alternative source of the prime rate if it is no longer published in The Wall Street Journal (Eastern Edition) or the method of computation thereof is substantially modified.

"Project" means the Courthouse (including the Restaurant), inclusive of the performance of the Contract Services with respect thereto and Moveable Furniture, Fixtures and Equipment, Security Systems Equipment, and County Furnished Equipment only to the extent provided in Section 7.16 (Moveable Furniture, Fixtures and Equipment and Security Systems Equipment), Appendix 4 (Design and Construction Standards), Appendix 8 (Facility Management Requirements), and Section 7.15 (County Furnished Equipment). The Utilities' services to the Restaurant after the Occupancy Readiness Date and the payment thereof shall not constitute part of the Project.

"Project Agreement" means this Project Agreement, and includes the Transaction Forms, Appendices, any Change Orders agreed by the parties, any Contract Administration Memorandums agreed by the parties any amendments to the Project Agreement as provided in Section 25.8 (Project Agreement Amendments), and any Facility Management Services Change Certificates issued pursuant to subsection 10.8(F), and Reference Documents (as applicable).

"Project Agreement Amendment" has the meaning set forth in Section 25.8 (Project Agreement Amendments).

"Project Component" means each of the Project Components identified as such in Section 11 (Remaining Useful Life) to Appendix 8 (Facility Management Requirements).

"Project Contractor" means the Design-Builder, the Facility Manager, or any other entity with which the Developer contracts for the provision and delivery of the services contemplated by this Project Agreement.

"Project Contractor Collateral Agreement" means the agreement to be entered into among the County, a Project Contractor and the Developer in the form set forth in Transaction Form C (Project Contractor Collateral Agreement).

"Project Contracts" means the Design-Build Contract and the Facility Management Services Agreement.

"Project Equipment" means all manufactured equipment, systems, property or assets, whether or not constituting personal property or fixtures, constituting part of the Project, excluding in each case Moveable Furniture, Fixtures and Equipment, Security Systems Equipment, and County Furnished Equipment.

"Project Intellectual Property" means the Intellectual Property which is created, brought into existence, acquired, licensed or used by the Developer, any Project Contractor, any

Subcontractor or any other third party, directly or indirectly, for the purposes of the Contract Services, but does not include the Financial Model.

"Project Requirements" means the Design and Construction Requirements and the Facility Management Requirements.

"Project Schedule" has the meaning set forth in Appendix 6 (Design-Build Work Review Procedures).

"Project Site" or **"Facility Site"** means the real property described in Appendix 1 (Project Site Information) on which the Courthouse is to be constructed by the Developer and includes all Access Roads, Grounds and Landscaped Maintained Elements. The Project Site shall specifically include the area identified in Attachment 4A of Appendix 4 (Design and Construction Standards) required for the re-location of the Cultural Center Plaza Service Road for the duration of the Design-Build Period, the conclusion of which shall result in such area being excluded from the Project Site.

"Project Site Construction Access Date" means the date following the Financial Close Date.

"Project Site Geotechnical Exploration Report" means the Geotechnical Exploration Report, dated March 28, 2019, prepared by Wood Environment & Infrastructure Solutions, Inc. attached in Appendix 1 (Project Site Information).

"Proposal" means the proposal made by, or on behalf of, the Developer in response to the submittal requirements of the RFP and includes the technical proposal and financial proposal.

"Proposal Validity Period End Date" has the meaning set forth in Appendix 3 (Financial Close Procedures and Conditions).

"Public Records" has the meaning set forth in Chapter 119 of the Florida Statutes, as may be amended from time to time.

"Public Records Law" means Florida's Public Records Law, codified as Chapter 119 of Florida Statutes, including the applicable regulations promulgated thereunder, each as amended or superseded from time to time.

"Punch List" has the meaning set forth in subsection 8.4(A) (Punch List).

"Punch List Items" means any defects, deficiencies and items of outstanding work that would not materially impair court activities or the performance of the Facility Management Services and could be rectified with minimal interference to the occupancy, use and lawful operation of the Project.

"Qualified Commercial Bank" means a reputable domestic or foreign commercial bank:

(1) Whose long-term debt has at least two of the following ratings: "A2" or higher by Moody's, "A" or higher by Standard & Poor's, and "A" or higher by Fitch; and

(2) Which maintains a banking office, branch or agency in the United States.

"Qualified Investor" means those investors of the Developer that have been submitted to and approved by, the County, prior to the date of the Project Agreement.

"Qualified Insurer" means an insurer that:

(1) is allowed legally to do business in the State and acceptable to the County, acting reasonably; and

(2) has a Best's Financial Strength Rating of "A-" or better, and a Financial Size Category of "Class VII" or better in the latest evaluation of A.M. Best Company, Inc., or a comparable rating from any other nationally recognized rating agency, unless the County grants specific approval for an exception.

"Qualifying Bank Transaction" means:

(1) The disposition by a Senior Lender to a Qualifying Institution, any other Senior Lender or an Affiliate of such Senior Lender of any of its rights or interests in the Senior Financing Agreements;

(2) The assignment of its interest in or grant by a Senior Lender of any rights of participation in respect of the Senior Financing Agreements in favor of:

(a) any of its Affiliates or another Senior Lender;

(b) any Qualifying Institution or any trustee thereof; or

(c) a local authority or public authority; or

(3) The disposition or grant by a Senior Lender to a Qualifying Institution, any other Senior Lender or an Affiliate of such Senior Lender of any other form of benefit or interest in either the Senior Financing Agreements or the revenues or assets of the Developer, whether by way of security or otherwise.

"Qualifying Institution" means:

(1) A United States trust company, insurance company, investment company, pension fund or institution which has at least $500 million in assets, including entities wholly owned by any of the foregoing;

(2) a bank regulated by the Board of Governors of the Federal Reserve System of the United States or a United States bank, savings and loan institution, insurance company, investment company, employee benefit plan or other institution that has or manages at least $500 million in assets and would be a "qualified institutional buyer" under United States securities law, including entities wholly owned by any of the foregoing;

(3) an institution which is recognized or permitted under the law of any member state of the European Economic Area ("EEA") to carry on the business of a credit institution pursuant to Council Directive 2000/12/EC relating to the taking up and pursuit of the business of credit institutions or which is otherwise permitted to accept deposits in the United Kingdom or any other EEA member state;

(4) an institution which is recognized or permitted under the law of any member state of the Organization for Economic Cooperation and Development (in this definition, the "OECD") to carry on within the OECD member states the business of a credit institution, insurance company, investment company or pension fund and which

has or manages at least $500 million in assets, including entities wholly owned by any such institution;

(5) Any other institution the County designates in writing as a "Qualifying Institution";

(6) any municipal agency, public benefit corporation or public authority, advancing or insuring mortgage loans or making payments which, in any manner, assist in the financing, development, operation and maintenance of projects;

(7) (i) any pension fund, hedge fund, foundation or university or college endowment fund, (ii) any entity which is formed for the purpose of securitizing mortgages, whose securities are sold by public offering or to qualified investors under the U.S. Securities Act of 1933, as amended, (iii) any person engaged in making loans in connection with the securitization of mortgages, to the extent that the mortgage to be made is to be so securitized in a public offering or offering to qualified investors under the U.S. Securities Act of 1933, as amended, within one year of its making (provided, that an entity described in this clause only qualifies if it is subject to the jurisdiction of state and Federal courts in the State in any actions), each of (i) through (iii) that have at least $500 million in assets, including entities wholly owned by any of the foregoing; or

(8) (i) any "qualified institutional buyer" under Rule 144(a) of the Securities Act of 1933 or any other similar law hereinafter enacted that defines a similar category of investors by substantially similar terms and (ii) the holders of debt issued by any conduit issuer or the trustee for such holders, so long as the indenture trustee for such holders of debt itself is an Qualifying Institution.

"Qualifying Refinancing" means any Refinancing that will give rise to a Refinancing Gain greater than zero that is not an Exempt Refinancing or a Planned Refinancing, except to the extent that any Planned Refinancing gives rise to a Refinancing Gain over and above the gain anticipated in the Base Case Financial Model at Financial Close, and in such case only to the extent of such additional Refinancing Gain.

"Re-Commissioning Plan" means the re-commissioning plan for the Project prepared pursuant to Appendix 7 (Commissioning).

"Reconciliation" has the meaning set forth in subsection 15.1(F) (Financing Costs).

"Recording Frequency" has the meaning set forth in Appendix 11 (Deductions).

"Rectification" has the meaning set forth in Appendix 11 (Deductions).

"Reference Documents" means those documents listed as Reference Documents in the Table of Contents and included in Appendix 1 (Project Site Information) to this Project Agreement.

"Refinancing" means:

(1) The Developer incurring, creating, assuming or permitting to exist any Debt other than Permitted Debt;

(2) any transaction in which the County, with the consent or at the request of the Developer, grants rights to any person under an agreement similar to the Lenders' Remedies Agreement or any other agreement that provides for step-in rights or similar

rights to such person, other than the Lenders' Remedies Agreement entered into on the Effective Date, any amendment, variation, novation, supplement or replacement of any Senior Debt or Senior Financing Agreement or any refinancing of Senior Debt;

(3) the exercise of any right, or the grant of any waiver or consent, under any Senior Financing Agreement;

(4) the disposition of any rights or interests in, or the creation of any rights of participation in respect of, the Senior Financing Agreements or Senior Debt or the creation or granting of any other form of benefit or interest in the Senior Financing Agreements, the Senior Debt or the contracts, revenues or assets of the Developer whether by way of security or otherwise;

(5) the execution and delivery by the Developer of any instrument relating in any way to the financing of the Project or the Contract Services, other than the Senior Financing Agreements, instruments relating to the Junior Debt and the organizational agreement governing the Developer; or

(6) any other arrangement put in place by the Developer or another person which has an effect which is similar to any of (1) through (5) above or which has the effect of limiting the Developer's ability to carry out any of the actions referred to in (1) through (4) above.

"Refinancing Gain" has the meaning set forth in Section 3 (Calculation of the Refinancing Gain) of Appendix 18 (Calculation and Payment of Refinancing Gains).

"Regulated Site Condition" means, and is limited to,

(1) Surface or subsurface structures, materials, properties or conditions having historical, cultural, archaeological, religious or similar significance;

(2) The presence anywhere in, on or under the Project Site on the Technical Proposal Due Date of wells or underground storage tanks for the storage of Hazardous Substances;

(3) The presence of Hazardous Substances (other than Developer Hazardous Substances) in, on or under the Project Site (including presence in air, surface water, groundwater, soils or subsurface strata);

(4) The presence anywhere in, on or under the Project Site on the Technical Proposal Due Date of the habitat of an endangered or protected species as provided in Applicable Law; and

(5) Any fact, circumstance or condition constituting a violation of, or reasonably likely to result in, any loss, liability, forfeiture, obligation, damage, fine, penalty, judgment, deposit, charge, assessment, Tax, cost or expense under or in connection with any Applicable Law pertaining to the environment,

in each case to the extent not disclosed in or reasonably inferable from the County Environmental Assessments.

"Reinstatement Plan" has the meaning set forth in subsection 14.3(C) (Reinstatement Plan).

"Reinstatement Works" has the meaning set forth in subsection 14.3(A) (Draft Reinstatement Plan).

"Relief Event" means:

(1) a Force Majeure Event;

(2) a flood;

(3) a fire, explosion or earth movement such as an earthquake, shock, tremor, sinkhole, subsidence, landslide or any other similar earth movement (provided that any such movement caused by the normal operation of the County's transit facilities as described in Appendix 19 (Department of Transportation and Public Works Adjacent Construction Manual) shall not constitute a Relief Event);

(4) a tornado, hurricane, storm surge, earthquake, tsunami, or named windstorm and ensuing storm surges;

(5) prior to the Occupancy Readiness Date, the failure (including extreme delays) of any Governmental Body or utility company having operational jurisdiction in the area in which the Project is located to:

(a) timely perform and install Utilities;

(b) timely perform the relocation or removal of existing, underground Utilities noted on the Underground Utility Survey or that should have otherwise been inferable by the Developer based on a reasonable investigation prior to the Financial Proposal Due Date;

(c) enter into an agreement with Developer on terms customary for Utilities' providers affected by projects of similar size and scope as the Project; or

(d) provide and maintain Utilities' services,

to the Project that are required to perform the Developer's obligations under this Project Agreement;

(6) any accidental loss or damage to the Project Site or any roads servicing them if no reasonable, alternative route is available (including obstructed waterways); or

(7) the Developer's failure to obtain a necessary Design-Build Governmental Approval within 120 days of Developer's completed application, provided that the Developer diligently performed all activities reasonably required to obtain such Design-Build Governmental Approval,

except, in each case, to the extent attributable to any Developer Fault, or any breach of this Project Agreement, Applicable Law, or any Governmental Approval by, or any willful act, negligent act or negligent omission of any Project Contractor.

"Reported Event Time" has the meaning set forth in Appendix 11 (Deductions).

"Required Insurance" means the insurance specified in Appendix 10 (Insurance Requirements).

"Required Rectification Period" has the meaning set forth in Appendix 11 (Deductions).

"Required Response Time" has the meaning set forth in Appendix 11 (Deductions).

"Response Action" means any action taken in the investigation, removal, confinement, remediation, transportation, disposal or cleanup of a release of any Hazardous Substance, or to otherwise correct any non-compliance with Applicable Law pertaining to the environment or address any environmental condition as may be required by any relevant Governmental Body. "Response Action" includes any action which constitutes a "removal", "response", or "remedial action" as defined by section 101 of CERCLA.

"Restricted Change in Ownership" has the meaning set forth in subsection 23.2(A) (Restricted Change in Ownership).

"Restricted Person" means any person who (or any member of a group of persons acting together, any one of which):

(1) Is debarred, suspended, or otherwise disqualified from federal, State, or County contracting for any services similar in nature to the Contract Services or any portion thereof;

(2) Was or is subject to any material claim of the United States, State, or County in any proceedings (including regulatory proceedings) which have been concluded or are pending at the time at which the determination of whether the person falls within this definition is being made, and which (in respect of any such pending claim, if it were to be successful) would, in the County's view, in either case, be reasonably likely to materially affect the ability of the Developer to perform its obligations under this Project Agreement;

(3) In the case of an individual, he or she (or in the case of a legal entity, any of the members of the board of directors, officers, or its senior executives) has been convicted of a felony less than ten (10) years prior to the date at which the determination of whether the person falls within this definition is being made;

(4) Has, directly or indirectly, its principal or controlling office in a country that is subject to any economic or political sanctions imposed by the United States for reasons other than its trade or economic policies;

(5) Has as its primary business the illegal manufacture, sale, distribution or promotion of narcotic substances or arms, or is or has been involved in terrorism; or

(6) Has as its primary business the acquisition of distressed assets or investments in companies or organizations which are or are believed to be insolvent or in a financial standstill situation or potentially insolvent.

"Revenue Rights" means the sole and exclusive right to exercise, control, license, sell, authorize, establish the prices and other terms for, and contract with respect to all rights, revenues and rights to revenues arising from or related to the use, occupancy, operation, exploitation or existence of the Courthouse and the Project Site, whether now existing or developed in the future and whether or not in the current contemplation of the parties; provided, however, that "Revenue Rights" shall not include the Restaurant.

"RFP" means the County's Request for Proposals for the Miami-Dade County Civil and Probate Courthouse RFP 00953, issued on August 1, 2018, as amended.

"Routine Event" has the meaning set forth in Appendix 11 (Deductions).

"Safety Condition" has the meaning set forth in Appendix 11 (Deductions).

"Scheduled Maintenance" means all scheduled Corrective Maintenance, predictive maintenance and Preventive Maintenance, as required by Appendix 8 (Facility Management Requirements).

"Scheduled Occupancy Readiness Date" has the meaning set forth in Section 8.5 (Scheduled Occupancy Readiness Date and Longstop Date), and includes extensions for Supervening Events as provided in subsection 8.5(C) (Extension for Supervening Events).

"Scheduled Refinancing Date" means the date on which the Refinancing is expected to reach financial close.

"Security Systems Equipment" or "SS Equipment" means surveillance cameras, access control equipment, intercom/paging system equipment, access control and monitoring system equipment, video surveillance equipment, security monitoring and control systems, metal detector/x-ray screening stations, intrusion alarm system, mail room screening equipment, and all of other equipment specified or required by Appendix 4 (Design and Construction Standards).

"Senior Debt" means:

(1) All amounts outstanding, including interest and default interest accrued, from the Developer to the Senior Lenders under the Senior Financing Agreements, provided that default interest will not include any increased interest, fees or penalty amounts payable by the Developer for any reason other than a failure by the Developer to pay any amount when due;

(2) Senior Debt Breakage Amounts payable by the Developer (but not Senior Debt Breakage Amounts payable or credited to the Developer); and

(3) All other reasonable transaction fees, costs and expenses for which the Developer is responsible under the Senior Financing Agreements.

"Senior Debt Breakage Amounts" means any prepayment premiums or penalties, make-whole payments or other prepayment amounts, including costs of early termination of any hedging arrangement, that the Developer must pay, or that may be payable or credited to the Developer, under any Senior Financing Agreement or otherwise as a result of the payment, redemption, acceleration or reduction of all or any portion of the principal amount of Senior Debt prior to its scheduled payment date, excluding, however, any such amounts included in the principal amount of any Refinancing.

"Senior Financing Agreements" means the Credit Agreement and the security agreements entered into with respect to or in connection with the Credit Agreement or, in the event of any Refinancing, any agreements replacing the Credit Agreement, such security agreements and such other agreements in connection with such Refinancing.

"Senior Lenders" means the lenders to whom Senior Debt is owed.

"Service Fee" means the fee to be paid by the County to the Developer as compensation for the Developer's performance of the Contract Services, calculated in accordance with Article 16 (Service Fee and Other Payments).

"Small Scale Capital Modification" means a Capital Modification requested by the Developer, and not required as a result of Compensation Events or directed by the County, which has a cost of less than $50,000 (CPI-Linked).

"Snack Bar" means the snack bar located within the jury room within the Courthouse.

"Specified Change in Tax Law" means a Change in L aw Event which results in:

(1) A change in the sales Tax imposed by the State or by the County and paid by the Developer, the Project Contractor or any Subcontractors with respect to sales of goods purchased for the performance of the Contract Services; or

(2) A new Tax imposed by the United States, the State or the County and paid by the Developer, the Project Contractor or any Subcontractors with respect to the performance of the Contract Services, including any value added Taxes or any Taxes measured by gross receipts. New Taxes shall not include any Taxes based on or measured by net income; or any unincorporated business, payroll, franchise or employment Tax.

"Standard & Poor's" means Standard & Poor's Financial Services LLC, a division of The S&P Global Inc., or any of its successors and assigns. If such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "Standard & Poor's" shall be deemed to refer to any other nationally-recognized securities rating agency designated by the County.

"Start-up Plan" has the meaning set forth in Appendix 8 (Facility Management Requirements).

"State" means the State of Florida.

"Subcontract" means any contract entered into by a Project Contractor (except Project Contracts), or a subcontractor of a Project Contractor of any tier, with one or more persons in connection with the carrying out of the Developer's obligations under this Project Agreement, whether for the furnishing of labor, materials, equipment, supplies, services or otherwise.

"Subcontractor" means any person that enters into a Subcontract.

"Substantial Completion" has the meaning set forth in Section 7.18 (Substantial Completion).

"Supervening Event" means any Compensation Event or any Relief Event.

"Tax" means, from time to time, all taxes, surtaxes, duties, levies, imposts, rates, payments, assessments, withholdings, dues and other charges of any nature imposed by any Governmental Body, together with all fines, interest, penalties on or in respect of, or in lieu of or for non-collection of, those taxes, surtaxes, duties, levies, imposts, rates, payments, assessments, withholdings, dues and other charges.

"Technical Proposal Due Date" means July 17, 2019.

"Temporary Availability Condition" has the meaning set forth in Appendix 11 (Deductions).

"Temporary Repair" has the meaning set forth in Appendix 11 (Deductions).

"Temporary Repair Proposal" has the meaning set forth in Appendix 11 (Deductions).

"Term" has the meaning set forth in Section 3.1 (Effective Date and Term).

"Termination Amount" means the measure of compensation owing from the County to the Developer upon termination of this Project Agreement prior to the Expiration Date, as set forth in Appendix 13 (Compensation on Termination).

"Termination Amount Due Date" means the date on which the County must pay the Termination Amount to the Developer as provided for in Appendix 13 (Compensation on Termination).

"Termination by Court Ruling" means:

(A) the issuance of a final, non-appealable court order by a court of competent jurisdiction:

(1) permanently enjoining or prohibiting performance or completion of the Design-Build Work for a material portion of the Project or any portion of the Project, including due to a claim by the Federal Transit Administration or the Florida Department of Transportation, or

(2) requiring the County or the Developer to undertake additional or supplemental evaluations, studies or other work under any environmental approval that is impracticable in light of the purpose and intent of this Project Agreement, or

(3) having the effect of causing this Project Agreement to be materially or entirely void, unenforceable or impossible to perform in its entirety, except where the cause of (A)-(C) is where void, unenforceable or impossible to perform by reason of Developer Fault; or

(4) Upholding the binding effect on the Developer or the County of a Change in Law Event that causes impossibility of performance of a fundamental obligation by the Developer or the County under this Project Agreement or impossibility of exercising a fundamental right of the Developer or the County under this Project Agreement.

(B) the inability of the parties to reach agreement regarding modifications to this Project Agreement in accordance with subsection 1.2(O) to return the parties to the benefits of their original bargain following a court ruling holding that any material provision of this Project Agreement is unenforceable or invalid.

"Termination Date" means the earlier of the Expiration Date or the date of termination of this Project Agreement provided in subsection 22.2(D) (Termination Date).

"Termination for Convenience" has the meaning specified in subsection 22.2(A)(1) (County Termination Rights).

"Terrorism Risk Insurance Act" or **"TRIA"** means the Terrorism Risk Insurance Act of 2002.

"Total Courthouse Unavailability" has the meaning set forth in Appendix 11 (Deductions).

"Transaction Form" means any of the Transaction Forms appended to this Project Agreement and identified as such in the Table of Contents.

"Unavailable" or **"Unavailability"** has the meaning set forth in Appendix 11 (Deductions).

"Unavailability Deduction" has the meaning set forth in Appendix 11 (Deductions).

"Unavailability Event" has the meaning set forth in Appendix 11 (Deductions).

"Underground Utility Survey" means Appendix 1B (Underground Utility Survey).

"Unit Holders" means the holder or owner of Units.

"Units" means units or other equity interests of any class in the capital of the Developer.

"Use Condition" has the meaning set forth in Appendix 11 (Deductions).

"Useful Life Requirements" means the minimum remaining beneficial use, as measured in years, that the Developer shall provide for each Facility Component as described in Table-1 of Section 11.1 of Appendix 8 (Facility Management Requirements) and which are part of the Design and Construction Requirements.

"Utilities" means any and all utility installations whatsoever (including gas, water, sewer, electricity, telephone, chilled water and telecommunications), and all piping, wiring, conduit, and other fixtures of every kind whatsoever related thereto or used in connection therewith.

"Vandalism" means willful or malicious damage to the Project (including all mechanical equipment, structures, improvements, grounds and all other property constituting the Project) that is caused by a Facility User or any person visiting the Project, except to the extent such damage arises from or is contributed to, directly or indirectly, by any Developer Fault.

"Vandalism Reserve Account" has the meaning set forth in subsection 9.4(B) (Vandalism).

SECTION 1.2. INTERPRETATION.

This Project Agreement shall be interpreted according to the following provisions, except to the extent the context or the express provisions of this Project Agreement otherwise require.

(A) Gender and Plurality. Words of the masculine gender mean and include correlative words of the feminine and neuter genders and words importing the singular number mean and include the plural number and vice versa.

(B) Persons. Words importing persons include individuals, legal personal representatives, firms, companies, associations, general partnerships, limited partnerships, limited liability partnerships, limited liability companies, trusts, business trusts, corporations, governmental bodies, and other legal entities.

(C) Headings. The Table of Contents and any headings preceding the text of the Articles, Sections and subsections of this Project Agreement shall be solely for convenience of reference and shall not affect its meaning, construction or effect.

(D) References Hereto. The terms "hereby," "hereof," "herein," "hereunder" and any similar terms refer to this Project Agreement.

(E) References to Days and Time of Day. All references to days herein are references to calendar days, unless otherwise indicated, such as by reference to Business Days. Each reference to time of day is a reference to eastern standard time.

(F) References to Including. The words "include", "includes" and including" are to be construed as meaning "include without limitation", "includes without limitation" and "including without limitation", respectively.

(G) References to Statutes. Each reference to a statute or statutory provision includes any statute or statutory provision which amends, extends, consolidates or replaces the statute or statutory provision or which has been amended, extended, consolidated or replaced by the statute or statutory provision and includes any orders, regulations, by-laws, ordinances, codes of practice or instruments made under the relevant statute.

(H) References to Governmental Bodies. Each reference to a Governmental Body is deemed to include a reference to any successor to such Governmental Body or any organization or legal entity or organizations or entities which has or have taken over the functions or responsibilities of such Governmental Body.

(I) References to Business Days. If the time for doing an act falls or expires on a day that is not a Business Day, the time for doing such act shall be extended to the next Business Day.

(J) References to Documents and Standards. Each reference to an agreement, document, standard, principle or other instrument includes a reference to that agreement, document, standard, principle or instrument as amended, supplemented, substituted, novated or assigned.

(K) References to All Reasonable Efforts. The expression "all reasonable efforts" and expressions of like import, when used in connection with an obligation of either party, means taking in good faith and with due diligence, all commercially reasonable steps to achieve the objective and to perform the obligation, including doing all that can reasonably be done in the circumstances taking into account each party's obligations hereunder to mitigate delays and additional costs to the other party, and in any event taking no less steps and efforts than those that would be taken by a commercially reasonable and prudent person in comparable circumstances.

(L) Entire Project Agreement. This Project Agreement, contains the entire agreement between the parties hereto with respect to the transactions contemplated by this Project Agreement. Without limiting the generality of the foregoing, this Project Agreement, shall completely and fully supersede all other understandings and agreements among the parties with respect to such transactions.

(M) Delivery by Electronic Mail. Triplicates of this Project Agreement shall be executed by the Developer and delivered to the County. The County shall execute and deliver one executed copy of this Project Agreement to Developer.

(N) Governing Law. This Project Agreement shall be governed by and construed in accordance with the applicable laws of the federal government, the State and the County.

(O) Severability. Each provision of this Project Agreement shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Project Agreement is held to be invalid, unenforceable or illegal to any extent, such provision shall be severed and such invalidity, unenforceability or illegality shall not prejudice or affect the validity, enforceability and legality of the remaining provisions of this Project Agreement which shall be construed and enforced as if the Project Agreement did not contain such invalid or unenforceable provision or part. If any such provision of this Project Agreement is held to be invalid, unenforceable or illegal, the parties will (i) promptly endeavor in good faith, to the extent legally permissible, to negotiate new provisions to eliminate such invalidity, unenforceability or illegality and to restore this Project Agreement as nearly as possible to its original intent and effect, including an equitable adjustment to the Service Fee and (ii) if necessary or desirable, apply to the court or other decision maker (as applicable) which declared such invalidity for an interpretation of the invalidated portion to guide the negotiations.

(P) Drafting Responsibility. The parties waive the application of any rule of law which otherwise would be applicable in connection with the construction of this Project Agreement to the effect that ambiguous or conflicting terms or provisions should be construed against the party who (or whose counsel) prepared the executed agreement or any earlier draft of the same.

(Q) Interpolation. If any calculation hereunder is to be made by reference to a chart or table of values, and the reference calculation falls between two stated values, the calculation shall be made on the basis of linear interpolation.

(R) Accounting and Financial Terms. All accounting and financial terms used herein are, unless otherwise indicated, to be interpreted and applied in accordance with GAAP.

(S) Applicability, Stringency and Consistency of Contract Standards. Where more than one Contract Standard applies to any particular performance obligation of the Developer hereunder, each such applicable Contract Standard shall be complied with. In the event there are different levels of stringency among such applicable Contract Standards, the most stringent of the applicable Contract Standards shall govern. For example, as between the requirements of Article 7 (Design and Construction), Appendix 4 (Design and Construction Standards), and the Design and Construction Proposal Extracts and as between the requirements of Article 9 (Operation and Maintenance), Appendix 8 (Facility Management Requirements), and the Facility Management Proposal Extracts, those provisions which provide better or greater Project size, quantity, quality, integrity, durability and reliability shall take precedence. Any reference in this Project Agreement to materials, equipment, systems or supplies (whether such references are in lists, notes, specifications, schedules, or otherwise) shall be construed to require the Developer to furnish the same, at minimum, in accordance with the grades and standards therefor indicated in this Project Agreement.

(T) Obligations to Provide Assistance. The obligations of a party to cooperate with, to assist or provide assistance to the other party hereunder shall be construed as an obligation to use the party's personnel resources to the extent reasonably available in the context

of performance of their normal duties, and not to incur material additional overtime or third-party expense unless requested and reimbursed by the assisted party. Any failure of a party entitled to assistance hereunder to perform an obligation under this Project Agreement shall not be excused on account of any failure of the party obligated to provide assistance.

(U) Imputation of Knowledge to County. The County will not be imputed with knowledge of any fact, matter or thing unless that fact, matter or thing is within the actual knowledge of those of its employees, workers or agents (including the County Representative) who have responsibilities or would be expected to supervise or monitor the performance of the Contract Services or any material aspect of the Project.

(V) Imputation of Knowledge to Developer. The Developer will not be imputed with knowledge of any fact, matter or thing unless that fact, matter or thing is within the actual knowledge of those of its agents, employees or workers (including the Project Contractors and the Subcontractors) who have responsibilities or would be expected to supervise or monitor the performance of the Contract Services or any material aspect of the Project.

(W) Third-Party Rights. This Project Agreement is exclusively for the benefit of the County and the Developer and shall not provide, and is not intended to provide, any third parties (with the sole exceptions of the rights of any third-party County Indemnitees as provided in Section 24.1 (Developer's Obligation to Indemnify) and of the Senior Lenders as provided in the Lenders' Remedies Agreement) with any remedy, claim, liability, reimbursement, cause of action or other rights.

(X) Reference Documents. The County has provided the Reference Documents to the Developer. The Reference Documents are for information only and are not mandatory or binding on the Developer and the Developer is not entitled to rely on the Reference Documents as accurately describing existing conditions, presenting design, engineering, operating or maintenance solutions or directions, or defining means and methods for complying with the requirements of this Project Agreement, Governmental Approvals or Applicable Law. The County does not represent or warrant that the information contained in the Reference Documents is complete or accurate or that such information is in conformity with the requirements of this Project Agreement, Governmental Approvals or Applicable Law. Developer shall have no claim to a Supervening Event on account of any incompleteness or inaccuracy in the Reference Documents. The County shall not be responsible or liable in any respect for any causes of action, claims, or losses whatsoever suffered by the Developer, or anyone claiming through the Developer by reason of any use of the information contained in, or any action or forbearance in reliance on, the Reference Documents.

(Y) Order of Precedence. Each of the documents constituting this Project Agreement is an essential part of the agreement between the parties. A requirement appearing in one document is as binding as though occurring in all. The documents are intended to be complementary and to describe and provide for a complete agreement. In the event of any conflict, ambiguity or inconsistency among the documents that cannot be resolved by application of the most stringent standard set forth in subsection 1.2(S) herein, the order of precedence shall be as follows: this Project Agreement; County-provided Appendices; Developer-provided Appendices; then the Proposal itself.

ARTICLE 2

REPRESENTATIONS AND WARRANTIES

SECTION 2.1. REPRESENTATIONS AND WARRANTIES OF THE COUNTY.

The County represents and warrants, as of the Effective Date, that:

(A) Existence and Powers. The County is a body corporate and politic in the State and has full legal right, power and authority to execute, deliver and perform its obligations under this Project Agreement.

(B) Due Authorization. This Project Agreement has been duly authorized, executed and delivered by the County, and constitutes a legal, valid and binding obligation of the County, enforceable against the County in accordance with its terms, except to the extent that its enforceability may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights from time to time in effect and equitable principles of general application.

(C) No Conflict. To the best of its knowledge, neither the execution and delivery by the County of this Project Agreement nor the performance by the County of its obligations in connection with the transactions contemplated hereby or the fulfillment by the County of the terms or conditions hereof:

(1) Conflicts with, violates or results in a breach of any constitution, law or governmental regulation applicable to the County; or

(2) Conflicts with, violates or results in a material breach of any term or condition of any order, judgment or decree, or any contract, agreement or instrument, by which the County's properties or assets are bound, or constitutes a material default under any of the foregoing.

(D) No Approvals Required. No additional approval, authorization, order or consent of, or declaration, registration or filing with, any Governmental Body or referendum of voters is required for the valid execution and delivery by the County of this Project Agreement except otherwise as such have been duly obtained or made.

(E) No Litigation Affecting the County. Except as disclosed in writing to the Developer, to the best of its knowledge, there is no Legal Proceeding before or by any Governmental Body pending or overtly threatened or publicly announced against the County, in which an unfavorable decision, ruling or finding could reasonably be expected to have a material and adverse effect on the execution and delivery of this Project Agreement by the County or the validity, legality or enforceability of this Project Agreement against the County, or any other agreement or instrument entered into by the County in connection with the transactions contemplated hereby or on the ability of the County to perform its obligations hereunder or under any such other agreement or instrument.

(F) Information Supplied by the County. The information supplied and representations and warranties made by the County in this Project Agreement are true, correct and complete in all material respects.

(G) Ownership of Project Site. The County owns the Project Site, free and clear of any Encumbrances other than: (1) applicable zoning and building bylaws and ordinances, municipal bylaws and regulations existing as of the Technical Proposal Due Date; and (2) recorded covenants, conditions, restrictions and easements, as shown below, based upon a Title Search Report provided by National Title and Abstract Company on behalf of the County, certified as of February 27, 2018:

COVENANTS, CONDITIONS, RESTRICTIONS & EASEMENTS:

1. **Notification of an Extension to a Previously Approved Development of Regional Impact filed by the Miami Downtown Development Authority on September 8, 2008, in Official Records Book 26557, Page 223.**

2. **Notification of an Extension to a Previously Approved Development of Regional Impact filed by the Miami Downtown Development Authority on September 8, 2008, in Official Records Book 26557, Page 217.**

3. **Resolution No. R-895-97, adopting annual assessments for the Downtown Metrorail Project filed by Miami-Dade County on September 11, 1997, in Official Records Book 17785, Page 4160.**

4. **Resolution No. R-892-96, adopting annual assessments for the Downtown Metrorail Project filed by Miami-Dade County on August 23, 1996, in Official Records Book 17326, Page 3982.**

5. **Resolution No. R-975-95, adopting annual assessments for the Downtown Metrorail Project filed by Miami-Dade County on July 17, 1995, in Official Records Book 16851, Page 627.**

6. **Resolution No. R-1145-94, adopting annual assessments for the Downtown Metrorail Project filed by Miami-Dade County on August 16, 1994, in Official Records Book 16478, Page 889.**

7. **Resolution No. R-852-92, adopting annual assessments for the Downtown Metrorail Project filed by Miami-Dade County on August 7, 1992, in Official Records Book 15615, Page 986.**

8. **Resolution No. R-823-91, adopting annual assessments for the Downtown Metrorail Project filed by Miami-Dade County on August 27, 1991, in Official Records Book 15168, Page 1887.**

9. **Resolution No. R-696-90, adopting annual assessments for the Downtown Metrorail Project filed by Miami-Dade County on August 1, 1990, in Official Records Book 14646, Page 2358.**

10. **Resolution No. R-830-89, adopting annual assessments for the Downtown Metrorail Project filed by Miami-Dade County on August 2, 1989, in Official Records Book 14202, Page 2632.**

11. **Resolution No. R-1395-88, adopting annual assessments for the Downtown Metrorail Project filed by Miami-Dade County on November 3, 1988, in Official Records Book 13881, Page 99.**

12. **Resolution No. R-1091-87, adopting annual assessments for the Downtown Metrorail Project filed by Miami-Dade County on September 17, 1987, in Official Records Book 13410, Page 794.**

13. **Resolution No. R-1045-86, adopting annual assessments for the Downtown Metrorail Project filed by Miami-Dade County on September 16, 1986, in Official Records Book 13021, Page 751.**

14. **Ordinance 86-44, regarding special assessments for the Downtown Metrorail Project filed by Miami-Dade County on June 17, 1986, in Official Records Book 12923, Page 2622.**

15. **Resolution No. R-729-86, regarding special assessments for the Downtown Metrorail Project filed by Miami-Dade County on June 17, 1986, in Official Records Book 12923, Page 2618.**

COVENANTS, CONDITIONS, RESTRICTIONS & EASEMENTS: (continued)

16. **Resolution No. R-1299-85, adopting annual assessments for the Downtown Metrorail Project filed by Miami-Dade County on October 16, 1985, in Official Records Book 12669, Page 3181.**

17. **Resolution No. R-923-84, adopting annual assessments for the Downtown Metrorail Project filed by Miami-Dade County on August 30, 1984, in Official Records Book 12253, Page 1389.**

18. **Easements, restrictions and other notations contained in the Plat of Downtown Government Center – First Addition filed by Miami-Dade County on June 7, 1985, in Plat Book 127, Page 16.**

19. **Shown for Reference: Temporary Easement granted Florida East Coast Railway Company, a Florida corporation, to Miami-Dade County dated December 14, 1979, filed December 20, 1979, and recorded in Official Records Book 10606, Page 1457. (Note: This easement terminated on July 1, 1984)**

20. **Shown for Reference: Right of Way Map for the Flagler Street Bridge filed by the State of Florida State Road Department on January 16, 1969, in Plat Book 83, Page 44.**

21. **Road rights-of-way and other matters shown on the A. L. Knowlton Map of Miami recorded on September 1, 1896, in Plat Book "B", Page 41.**

22. **Agreement for Water and Sanitary Sewer Facilities between Miami-Dade County and City of Miami dated December 5, 2017, filed December 7, 2017 in Official Records Book 30784, Page 3844.**

23. **Perpetual Easement dated March 18, 2016, filed March 23, 2016 in Official Records Book 30010, Page 304.**

SECTION 2.2 REPRESENTATIONS AND WARRANTIES OF THE DEVELOPER

The Developer represents and warrants, as of the Effective Date, that:

(A) Existence and Powers. The Developer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, and has the authority to do business in the State and in any other state in which it conducts its activities, with the full legal right, power and authority to enter into and perform its obligations under this Project Agreement.

(B) Due Authorization and Binding Obligation. This Project Agreement has been duly authorized, executed and delivered by all necessary action of the Developer and constitutes a legal, valid and binding obligation of the Developer, enforceable against the Developer in accordance with its terms, except to the extent that its enforceability may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights from time to time in effect and equitable principles of general application.

(C) No Conflict. To the best of its knowledge, neither the execution nor delivery by the Developer of this Project Agreement nor the performance by the Developer of its obligations in connection with the transactions contemplated hereby or the fulfillment by the Developer of the terms or conditions hereof:

(1) Conflicts with, violates or results in a breach of any constitution, law, governmental regulation, by-laws or certificates of incorporation applicable to the Developer; or

(2) Conflicts with, violates or results in a material breach of any order, judgment or decree, or any contract, agreement or instrument to which the Developer or any of its Affiliates is a party or by which the Developer or any of its Affiliates or any of its properties or assets are bound, or constitutes a default under any of the foregoing.

(D) No Approvals Required. No approval, authorization, order or consent of, or declaration, registration or filing with, any Governmental Body is required for the valid execution and delivery of this Project Agreement by the Developer except as such have been duly obtained or made.

(E) No Litigation Affecting the Developer. Except as disclosed in writing to the County, to the best of its knowledge, there is no Legal Proceeding, at law or in equity, before or by any court or Governmental Body pending or, to the best of the Developer's knowledge, overtly threatened or publicly announced against the Developer or any of its Affiliates, in which an unfavorable decision, ruling or finding could reasonably be expected to have a material and adverse effect on the execution and delivery of this Project Agreement by the Developer or the validity, legality or enforceability of this Project Agreement against the Developer, or any other agreement or instrument entered into by the Developer in connection with the transactions contemplated hereby, or on the ability of the Developer to perform its obligations hereunder or under any such other agreement or instrument.

(F) No Litigation Affecting the Project Contractors. Except as disclosed in writing to the County, to the best of its knowledge, there is no Legal Proceeding, at law or in equity, before or by any court or Governmental Body pending or, to the best of the Developer's knowledge, overtly threatened or publicly announced against the Design-Builder or Facility Manager, in which an unfavorable decision, ruling or finding could reasonably be expected to have a material and adverse effect on the execution and delivery of any Project Contract by the respective Project Contractor or the validity, legality or enforceability of any Project Contract against the Design-Builder or Facility Manager that is party to the Project Contract, or on the ability of any Project Contractor to perform its obligations under its respective Project Contract.

(G) Intellectual Property. The Developer owns, or has express rights to use or can acquire on reasonable terms, all Intellectual Property necessary for the Project without any known material conflict with the rights of others.

(H) Information Supplied by the Developer. The information supplied and representations and warranties made by the Developer in all submittals made in response to the RFP and in all post-proposal submittals with respect to the Developer (and to the Developer's knowledge, all information supplied in such submittals with respect to the Project Contractors and the Subcontractors) are true, correct and complete in all material respects.

(I) Developer Reviews. The Developer has carefully reviewed the whole of this Project Agreement and has taken all steps it considers reasonably necessary to satisfy itself that nothing contained herein inhibits or prevents the Developer from performing and completing the Project in accordance with the Contract Standards.

(J) Compliance with Applicable Law Generally. The Developer is in compliance in all material respects with Applicable Law pertaining to the Developer's business and services.

(K) Representations as to the Initial Base Case Financial Model. The Developer represents to the County that the Initial Base Case Financial Model and formulas:

(1) Were prepared by or on behalf of the Developer in good faith;

(2) As of the Effective Date, are mathematically and formulaically correct and suitable for making reasonable projections and are realistic and reasonable for the Project; subject to the understanding that such projections are based upon a number of estimates and assumptions and are subject to significant business, economic and competitive uncertainties and contingencies;

(3) As of the Effective Date, Developer has reviewed all Applicable Laws relating to Taxes and has taken into account all requirements imposed by such Applicable Laws in preparing the Financial Model;

(4) Was audited and verified by an independent recognized model auditor immediately prior to the Effective Date and such audit will be updated within 48 hours after Financial Close;

(5) Fully discloses all cost, revenue and other financial assumptions and projections that the Developer used or is using in determining to enter into this Project Agreement and by Unit Holders in purchasing Units and Senior Lenders in entering into Senior Financing Agreements;

(6) Are the same financial formulas Developer utilized and is utilizing in the financial model in making its decision to enter into this Project Agreement and presented to and relied upon by the Senior Lenders in entering into the Senior Financing Agreements and by Unit Holders; and

(7) Is the only financial model used by the Developer for the purposes described in items (5) and (6) of this subsection.

SECTION 2.3. CONTINUING ACCURACY OF DEVELOPER REPRESENTATIONS AND WARRANTIES.

During the Term, the Developer shall not take any action, or omit to perform any act, that results in a representation and warranty made in subsections 2.2(A), (B), (C), (D), (G), (H), (I), and (J) (Representations and Warranties of the Developer) becoming untrue. The Developer shall promptly notify the County if any such representation and warranty becomes untrue. From time to time, the Developer shall provide the County, upon the County's request, with information reasonably requested by the County to substantiate the continuing accuracy of these representations and warranties.

ARTICLE 3

TERM

SECTION 3.1. EFFECTIVE DATE AND TERM.

(A) Term. This Project Agreement shall become effective, and the term hereof (the "**Term**") shall commence, on date that is the date the resolution of the Board approving this Project Agreement becomes effective (the "**Effective Date**"). The Term shall continue to the Expiration Date or, if this Project Agreement is earlier terminated by either party in accordance with their respective termination rights under Article 22 (Termination), to the Termination Date.

(B) Accrued Rights. No termination of this Project Agreement shall:

(1) Limit or otherwise affect the respective rights and obligations of the parties hereto accrued prior to the date of such termination; or

(2) Preclude either party from impleading the other party in any Legal Proceeding originated by a third-party as to any matter occurring during the Term.

SECTION 3.2. SURVIVAL.

Notwithstanding any other provision of this Project Agreement, the following provisions hereof will survive the expiration or any earlier termination of this Project Agreement:

(1) Section 4.8 (Financial Books and Records);

(2) Section 9.12 (Project Handback); provided that the survival of Section 9.12 (Project Handback) is limited to circumstances where this Project Agreement expires without an earlier termination of this Project Agreement;

(3) Article 18 (Dispute Resolution);

(4) Article 21 (County Events of Default);

(5) Article 22 (Termination) and Appendix 13 (Compensation on Termination), as applicable to the obligations of the parties following the Termination Date;

(6) Section 24.2 (Indemnification Procedures);

(7) Section 25.13 (Confidentiality);

(8) Section 25.14 (Public Records); and

(9) Section 1.2 (Professional Liability Insurance) of Appendix 10 (Insurance Requirements), to the extent 10-year extended reporting or discovery "tail" period provided therein has not expired on the Termination Date;

together with any provisions necessary to give effect to the above provisions.

ARTICLE 4

CONTRACT SERVICES GENERALLY

SECTION 4.1. GENERAL RESPONSIBILITIES OF THE PARTIES.

(A) Developer. The Developer shall, subject to the terms and conditions of this Project Agreement, design, construct, finance, operate and maintain the Project. The Developer shall perform all services, undertakings and obligations under the Project Agreement in compliance with Applicable Law.

(B) County. The County shall, subject to the terms and conditions of this Project Agreement, pay the Service Fee and the other amounts required to be paid by the County hereunder to the Developer for the performance of the Contract Services.

(C) Party Bearing Cost of Performance. All obligations undertaken by each party hereto shall be performed at the cost of the party undertaking the obligation or responsibility, unless the other party has explicitly agreed herein to bear all or a portion of the

cost either directly, by reimbursement to the other party or through an adjustment to the Service Fee.

SECTION 4.2. DESIGN-BUILD WORK PERSONNEL.

(A) Staffing Requirements. The Developer shall enforce discipline and good order during the Design-Build Period among the Developer's employees, all Project Contractors, and all Subcontractors. All persons engaged by the Developer for Design-Build Work shall have requisite skills for the tasks assigned. The Developer shall employ or engage and compensate engineers and other consultants to perform all engineering and other services required for the Design-Build Work. All firms and personnel performing Design-Build Work, including all Project Contractors and Subcontractor firms and personnel, shall meet the licensing and certification requirements imposed by Applicable Law.

(B) Developer's Project Manager. The Developer shall designate from time to time an employee of the Developer who is responsible for the Developer's performance in the execution of the Project Agreement and who, prior to Final Completion, may be an employee of any Affiliate or an employee of the Design-Builder as the Developer's construction manager (the "**Developer's Project Manager**"), who shall be present on the Project Site with any necessary assistants on a full-time basis when the Developer or any Project Contractor or Subcontractor is performing the Design-Build Work. The Developer shall also designate a contact person from the Architect. The Developer's Project Manager shall be appropriately trained, experienced and knowledgeable in all aspects of the Design-Build Work so as to knowledgeably interact and communicate with the County and the Project Contractors and all Subcontractors regarding the Project and appropriately oversee the day-to-day performance of the Design-Build Work. The Developer's Project Manager shall, among other things:

(1) Be familiar with the Design-Build Work and all requirements of this Project Agreement;

(2) Coordinate the Design-Build Work and give the Design-Build Work regular and careful attention and supervision;

(3) Maintain a daily status log of the Design-Build Work;

(4) Attend all monthly construction progress meetings with the County; and

(5) Coordinate, where appropriate, with the Design Criteria Professional.

The Developer shall keep the County continuously informed of all business telephones, mobile telephones, e-mail addresses and other means by which the Developer's Project Manager may be contacted. The Developer's Project Manager (or his/her designee with equal authority to bind and represent the Developer) shall be available to be contacted by the County on a continuous 24-hours per day, 7 days per week, 365 days per year basis for emergency response, information, coordination or any other purpose hereunder. The Developer shall notify the County of any potential change in the Developer's Project Manager and/or designee, and shall not make any such change if the new staffing change would, when viewed objectively and reasonably, adversely affect the ability of the Developer to provide the Design-Build Work in accordance with the Contract Standards.

SECTION 4.3. FACILITY MANAGEMENT SERVICES PERSONNEL.

(A) Staffing Requirements. The Developer shall staff the Project during the Facility Management Period in accordance with the Contract Standards with qualified personnel who meet the licensing and certification requirements of Applicable Law. The Developer shall

discipline or replace, as appropriate, any employee of the Developer, the Project Contractor, or any Subcontractor engaging in unlawful, unruly, offensive or significantly objectionable conduct. The Developer shall notify the County in writing of any material change in staffing levels and positions from time to time, and shall not make any such material change if, when viewed objectively and reasonably, the new staffing level would adversely affect the ability of the Developer to provide the Facility Management Services in accordance with the Contract Standards.

(B) Developer's Facility Management Representative. The Developer's Facility Management Representative shall act as a full-time manager of the Facility Management Services during the Facility Management Period and shall be trained, experienced and proficient in, and hold the appropriate credentials for, including any applicable licenses, the management and operation of institutional public buildings comparable to the Project, shall be appropriately certified under Applicable Law, and whose sole employment responsibility shall be managing the Developer's performance of the Facility Management Services and who shall be responsible for overall maintenance and contract administration matters on behalf of the Developer, including safety and environmental compliance, during the Facility Management Period. The Developer's Facility Management Representative shall be the individual tasked with interfacing with the County with respect to the Facility Management Services and other requirements of the Project Agreement. The Developer acknowledges that the performance of the individual serving from time to time as the Developer's Facility Management Representative will have a material bearing on the quality of service provided hereunder, and that effective cooperation between the County and the Developer's Facility Management Representative will be essential to effectuating the intent and purposes of this Project Agreement. Accordingly, not fewer than 60 days prior to the date on which any candidate for Developer's Facility Management Representative from time to time during the Term is proposed by the Developer to assume managerial responsibility for the Project, the Developer shall:

(1) Provide the County with a comprehensive resume of the candidate's licenses, training, experience, skills and approach to management and customer relations; and

(2) Afford the County an opportunity to interview the candidate with respect to such matters within 20 days of the Developer's notice to the County and provision of the candidate's information as set forth in subsection 4.3(B)(1) herein.

The County, acting reasonably, shall have the right to disapprove the hiring of the proposed candidate, which right of disapproval shall not be exercised unreasonably. The County shall provide notice of its approval or disapproval within 30 days following the interview, or, if no interview is had, within 30 days of the Developers' notice to the County and provision of the candidate's information as set forth in subsection 4.3(B)(1) herein together with a reasonably detailed written explanation of the grounds of any disapproval. Failure of the County to deliver such notice within such 30-day period shall be deemed an approval of the proposed Developer's Facility Management Representative by the County. The initial Developer's Facility Management Representative, a Key Personnel, shall not be replaced, unless otherwise approved by the County in its discretion, for a period of three years from the Occupancy Readiness Date, absent death, disability, retirement, resignation, cessation of employment, or early termination of its contract with the Developer. The Developer shall replace the Developer's Facility Management Representative at the request of the County, after notice and a reasonable opportunity for corrective action, in the event the County determines, in its discretion, that an unworkable relationship has developed between the Developer's Facility Management Representative and the County.

SECTION 4.4. KEY PERSONNEL.

Attached as Appendix 15 (Developer and Project Contractors Information) is a list of the Key Personnel that the Developer shall utilize in undertaking the Contract Services. With respect to each of the Key Personnel:

(1) The Developer, while the Key Personnel remain within its employment, shall use all reasonable efforts to deploy the Key Personnel to perform the duties for the Contract Services described in Appendix 15 (Developer and Project Contractors Information); and

(2) If for any reason a Key Personnel resigns, retires, dies, becomes disabled, receives maternity, parental or sick leave, is promoted or is terminated for cause, then the Developer shall retain a replacement with equivalent expertise and experience to the unavailable Key Personnel satisfactory to the County acting reasonably, and the Developer shall not replace such Key Personnel without the County's consent, acting reasonably.

SECTION 4.5. COMPLIANCE WITH APPLICABLE LAW.

(A) Compliance Obligation. The Developer shall perform the Contract Services in accordance with Applicable Law, and shall cause the Project Contractors and all Subcontractors to comply with Applicable Law.

(B) Governmental Approvals. The Developer shall make all filings, applications and reports necessary to be made in order to obtain and maintain all Governmental Approvals required for the performance of the Contract Services and shall comply with the terms of all Governmental Approvals.

(C) Registration, Licensing and Certification Requirements. The Developer shall ensure that all persons performing the Contract Services, including the Project Contractors and all Subcontractors, comply with all registration, licensing and certification requirements imposed by Applicable Law.

(D) Investigations of Non-Compliance. In connection with any actual or alleged event of non-compliance with Applicable Law in the performance of the Contract Services, the Developer shall, in addition to any other duties which Applicable Law may impose:

(1) Fully and promptly respond to all inquiries, investigations, inspections, and examinations undertaken by any Governmental Body;

(2) Attend all meetings and hearings with respect to the Project required by any Governmental Body;

(3) Provide all corrective action plans, reports, submittals and documentation required by any Governmental Body, and shall provide copies of any such plan, report, submittal or other documentation to the County;

(4) Promptly upon receipt thereof, provide the County with a true, correct and complete copy of any written notice of violation or non-compliance with Applicable Law, and true and accurate transcripts of any oral notice of non-compliance with Applicable Law, issued or given by any Governmental Body; and

(5) The Developer shall furnish the County with a prompt written notice describing the occurrence of any event or the existence of any circumstance which does or may result in any such notice of violation or non-compliance to the extent the Developer has knowledge of any such event or circumstance, and of any Legal Proceeding

alleging such non-compliance. To the greatest extent practicable, the Developer shall provide the County an opportunity to review and comment on any proposed Developer response to any non-compliance with Applicable Law hereunder prior to its implementing such response.

(E) Fines, Penalties and Remediation. Except to the extent excused by Supervening Events, in the event that the Developer, a Project Contractor or any Subcontractor fails at any time to comply with Applicable Law with respect to the Contract Services, the Developer shall:

(1) Immediately correct such failure and resume compliance with Applicable Law;

(2) Pay any resulting fines, assessments, levies, impositions, penalties or other charges;

(3) Indemnify, defend and hold harmless the County and the County Indemnitees in accordance with Section 24.1 (Developer's Obligation to Indemnify) from any Loss-and-Expense resulting therefrom;

(4) Make all changes in performing the Contract Services which are necessary to assure that the failure of compliance with Applicable Law will not recur; and

(5) Comply with any corrective action plan filed with or mandated by any Governmental Body in order to remedy a failure of the Developer, a Project Contractor or any Subcontractor to comply with Applicable Law.

SECTION 4.6. RESTRICTIONS ON DESIGN AND CONSTRUCTION REQUIREMENT CHANGES, CAPITAL MODIFICATIONS AND FACILITY MANAGEMENT SERVICES CHANGES.

The County shall not at any time during the Term require, and the Developer may refuse to implement, a Change Order (relating to a County-directed Design and Construction Requirement Change or a Design and Construction Requirement Change made due to a Compensation Event), a Capital Modification or a Facility Management Services Change which:

(1) Would be contrary to Applicable Law;

(2) Would render any policy of Required Insurance void or voidable unless the County agrees to provide replacement insurance or other security reasonably satisfactory to the Developer;

(3) Would cause the revocation of any Governmental Approval required for the Developer to perform its obligations under this Project Agreement, and such Governmental Approval would not, using reasonable efforts, be capable of amendment or renewal;

(4) Would require a new Governmental Approval for the Developer to perform its obligations under this Project Agreement, which Governmental Approval would not, using reasonable efforts by the Developer or the County, as applicable, be obtainable;

(5) Would materially and adversely affect the risk allocation and payment regime under this Project Agreement with respect to the Design-Build Work or the Facility Management Services, unless the material and adverse effects of such a Change Order on the Design-Build Work or the Facility Management Services Change (as the case may be) are remedied by the County to the Developer's reasonable satisfaction;

(6) The Developer would not, using commercially reasonable efforts, be able to implement within the time specified; or

(7) Would result in a change to the essential nature of the Project

SECTION 4.7. GOOD DESIGN-BUILD PRACTICE AND GOOD FACILITY MANAGEMENT PRACTICE.

Good Design-Build Practice and Good Facility Management Practice shall be utilized hereunder, among other things, to implement and in no event to displace or lessen the stringency of, the Contract Standards. In the event that, over the course of the Term, Good Design-Build Practice or Good Facility Management Practice evolves in a manner which in the aggregate materially and adversely affects the cost of compliance therewith by the Developer, the Developer shall be relieved of its obligation to comply with such evolved Good Design-Build Practice and Good Facility Management Practice (but not Good Design- Build Practice and Good Facility Management Practice as of the Effective Date) unless the County agrees to adjust the Service Fee on a lump sum or reimbursable basis (subject to Cost Substantiation), as appropriate, to account for such additional costs.

SECTION 4.8. FINANCIAL BOOKS AND RECORDS.

(A) Recordkeeping Requirements. The Developer shall prepare and maintain proper, accurate, current and complete financial books and records regarding the Contract Services, including all books of account, bills, vouchers, invoices, personnel rate sheets, cost estimates and bid computations and analyses, purchase orders, time books, daily job diaries and reports, correspondence, and any other documents showing all acts and transactions in connection with or relating to or arising by reason of the Contract Services, this Project Agreement, the Project Contracts, any Subcontract, any transactions in which the County has or may have a financial or other material interest hereunder, and to the extent required to determine the costs of Design and Construction Requirement Changes, Compensation Event costs, or other changes in or additions to the Service Fee for which the County is or may be responsible under this Project Agreement. The Developer shall produce such financial books and records for examination and copying promptly upon request by the County. All such information upon delivery to the County shall be presented in a format that will enable an independent auditor to perform a review of the information in accordance with GAAP. The Developer shall not be required to provide the County any income statement showing profit or loss, but recognizes that profit and loss information may become discernible to the County through the Cost Substantiation process, through the use of the Financial Model as contemplated hereunder, or otherwise upon the delivery of financial records for the purposes hereof. The Developer shall keep and maintain all such financial books and records with respect to each Contract Year until at least the seventh anniversary of the last day of each such Contract Year, or such longer period during which any Legal Proceeding with respect to the Project may be pending. In the event the Developer fails to prepare or maintain any financial books, records or accounts as required under this Section, the Developer shall not be entitled to any requested payments or adjustments to the extent such failure prevented verification or Cost Substantiation as required by this Project Agreement; provided, however, that Developer shall be entitled to any portion of such requested payments or adjustments that can be reasonably discerned from the financial books, records or accounts as maintained by the Developer.

(B) Inspection, Audit and Adjustment. The County shall have the right to perform or commission an inspection or independent audit of the financial information required to be kept under this Project Agreement. The County shall give the Developer reasonable advance notice (at least three Business Days) prior to any such audit, and such audit shall be performed during business hours. The County shall, or shall cause the party conducting the inspection or

audit, to provide a complete copy of the inspection or audit report to the Developer following receipt of such report. If an inspection or audit reveals that the Developer has overstated any component of the Service Fee, a County payment obligation under subsection 7.22(A), or any other County payment obligation arising out of this Project Agreement, then the Developer shall, at the election of the County, either immediately reimburse to the County or offset against Service Fee payments, as a Service Fee adjustment, the overstated amount plus interest at the Overdue Rate, from the time such amount was initially overpaid until reimbursed or credited to the County. If the overpayment exceeds 1% of the total amount that should have been properly paid by the County during the period audited, then the Developer shall, in addition, reimburse the County for any and all fees and costs incurred in connection with the inspection or audit. The foregoing remedies shall be in addition to any other remedies the County may have, including remedies for a Developer Event of Default.

(C) Commission Auditor. Pursuant to Section 9.10 of the Miami-Dade County Home Rule Amendment and Charter, the Office of the Commission Auditor was created and established, and the Office of the Commission Auditor has the powers and duties set forth in Sections 2-471 through 2-481 of the Code of Miami-Dade County, Florida. The Commission Auditor shall have the right to inspect and audit the books, records, financial statements and operations of Developer, Unit Holders, and its Project Contractors, all in accordance with Section 2-481 of the Code of Miami-Dade County, Florida, and Developer agrees to comply with same. Developer further agrees to include in the Design-Build Contract and in all of the Project Contracts a requirement that all parties comply with the provisions of Section 2-481 of the Code of Miami-Dade County, Florida.

(D) Inspector General Reviews/Audit & Compliance

(1) Independent Private Sector Inspector General Reviews. Pursuant to Miami-Dade County Administrative Order 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (hereinafter "**IPSIG**"), whenever the County deems it appropriate to do so. Upon written notice from the County, Developer shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Project Agreement and the Courthouse for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall Developer's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision herein apply to Developer, its successors and assigns, and any Subcontractors and Project Contractors. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities and performance of Developer in connection with, and as and when provided under, this Project Agreement. The terms of this paragraph shall not impose any additional liability on the County by Developer or any third party beyond those liabilities or obligations of the County otherwise set forth in this Project Agreement.

(2) Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs, all at no cost or expense to Developer. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and Applicable Law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders, if any, to a contract. The Inspector General

is empowered to retain, at no expense or cost to Developer, the services of IPSIGs to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of Developer, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

(E) Upon written notice to Developer from the Inspector General or IPSIG retained by the Inspector General, Developer shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying, at no cost or expense to the County. The Inspector General and IPSIG shall have the right to inspect and, at no cost or expense to Developer, copy all documents and records in the Developer's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

SECTION 4.9. DELIVERY OF DOCUMENTS.

(A) Developer. In this Project Agreement, the Developer is obligated to deliver reports, records, designs, plans, drawings, specifications, proposals and other documentary submittals in connection with the performance of its duties hereunder. Where this Project Agreement requires documents to be maintained and delivered in a certain format, the Developer shall comply with such requirements. In addition, the Developer agrees that all such documents shall be submitted to the County both in printed form (in the number of copies indicated) and, at the County's request, in digital form. Digital copies shall consist of computer readable data submitted in any standard interchange format which the County may reasonably request to facilitate the administration and enforcement of this Project Agreement. In the event that a conflict exists between the signed or the signed and stamped hard copy of any document and the digital copy thereof, the signed or the signed and stamped hard copy shall govern.

(B) County. The County shall make available, within a reasonable time, to the Developer upon request copies of all Public Records relating to the Project which is in the possession of the County and material to the Developer's performance hereunder, subject, however, to rights of attorney-client privilege and Applicable Law, including, for example, any confidentiality of records requirements.

ARTICLE 5

FINANCING PERIOD

SECTION 5.1. FINANCIAL CLOSE.

The Developer shall finance the Project in accordance with the requirements of Article 6 (Project Financing and Refinancing) and, in connection therewith, the parties shall comply with their respective obligations for the achievement of Financial Close, as set forth in Appendix 3 (Financial Close Procedures and Conditions). Without limiting anything set forth in Appendix 3, Financial Close shall not occur until each of the: Developer Conditions Precedent has been satisfied by the Developer or waived in writing by the County in its discretion; and each of the County Conditions Precedent has been satisfied by the County or waived in writing by the Developer in its sole discretion.

SECTION 5.2. FINANCIAL CLOSE DEADLINE.

(A) Financial Close Deadline Defined. The **"Financial Close Deadline"** is the date that is the later of (i) 60 days following the Effective Date and (ii) 180 days from the Financial Proposal Due Date. If, however:

(1) There shall be any Legal Proceeding, at law or in equity, before or by any court or Governmental Body, pending, which challenges, or might challenge, directly or indirectly, (a) the authorization, execution, delivery, validity or enforceability of this Project Agreement, (b) the interest of the County in the Project Site; or (c) which can reasonably be expected to materially and adversely affect the ability of the County or the Developer to comply with their respective obligations under this Project Agreement;

(2) Any Change in Law Event shall have occurred after the Effective Date and before the Financial Close Date that would make the authorization, execution, delivery, validity, enforceability or performance of this Project Agreement a violation of Applicable Law;

(3) Any event described in Appendix 3 (Financial Close Procedures and Conditions) occurs permitting an extension of the Financial Close Deadline; or

(4) Any Supervening Event shall have occurred after the Effective Date and before the Financial Close Date;

then the Financial Close Deadline shall, contingent upon a commensurate extension of the Financial Close Security, be extended for such period of time as any of the foregoing events shall be continuing; provided, however, that the Financial Close Deadline shall not be extended beyond 180 days following the Effective Date for any reason, except as such date may be extended by the County and the Developer, each at their respective discretion, and contingent upon a commensurate extension of the Financial Close Security. In the event that the Financial Close Deadline is extended in the manner provided in this Section, such extended date shall be considered the "Financial Close Deadline" for all purposes in this Project Agreement. The parties shall execute a Contract Administration Memorandum to reflect any extension of the Financial Close Deadline. The failure to achieve Financial Close by the Financial Close Deadline may result in termination of this Project Agreement, as and to the extent provided in Appendix 3 (Financial Close Procedures and Conditions).

SECTION 5.3. FINANCIAL CLOSE SECURITY.

(A) Requirements. On the Effective Date, the Developer shall provide security for the performance of its obligations to achieve Financial Close by delivering to the County one or more irrevocable direct pay letters of credit meeting the requirements set forth in this subsection (the **"Financial Close Security"**). The Financial Close Security shall be:

(1) Issued or confirmed by a Qualified Commercial Bank;

(2) In substantially in the form set forth in the Transaction Form A (Financial Close Security) and with an expiration date no earlier than 190 days following the Financial Close Deadline, provided that it can be terminated with notice from the Developer 10 Business Days following the Financial Close Date; and

(3) In an aggregate amount equal to $10,000,000.

(B) County Drawing Rights. The County shall have the right to draw upon the Financial Close Security in the full stated amount thereof solely under the circumstances specified in Section 8.1 (County Termination for Failure to Achieve Financial Close Deadline) of Appendix 3 (Financial Close Procedures and Conditions). The parties acknowledge and agree that the County's rights to retain for its own account the proceeds of a drawing on the Financial Close Security under the circumstances specified in Appendix 3 are in the nature of liquidated damages and subject to the terms and conditions of Section 19.2 (County Liquidated Damage Rights).

(C) Return of Financial Close Security. The County shall return the Financial Close Security to the Developer in accordance with Appendix 3 (Financial Close Procedures and Conditions) unless it has the right (including the contingent right) to draw on the Financial Close Security in accordance with subsection 5.3(B) (County Drawing Rights).

ARTICLE 6

PROJECT FINANCING AND REFINANCING

SECTION 6.1. DEVELOPER RIGHT AND RESPONSIBILITY TO FINANCE PROJECT.

(A) Developer Financing. The Developer is solely responsible for obtaining and repaying all construction and other financing necessary for the Project at its own cost and risk and without recourse to the County and, following the Financial Close Date, exclusively bears the risk of any changes in the interest rate, payment provisions or the other terms and conditions of its financing.

(B) Developer Liability. Notwithstanding any foreclosure or other enforcement of any security interest created by a Senior Financing Agreement, the Developer shall remain liable to the County for the payment of all sums owing to the County under this Project Agreement and the performance and observance of all of the Developer's covenants and obligations under this Project Agreement.

(C) Developer Cooperation with County Financings. The Developer shall provide reasonable assistance to the County in connection with any County financing for any capital costs the County is obligated to pay pursuant to subsection 6.7(A) (County Capital Costs), including cooperating with the County with respect to any continuing disclosure requirements that apply to the County in accordance with any Applicable Law.

SECTION 6.2. SENIOR DEBT NON-RECOURSE TO COUNTY.

All Senior Debt or other obligations, debt or otherwise, issued or incurred by the Developer in connection with this Project Agreement or the Project shall be issued or incurred only in the name of the Developer. The County shall have no obligation to pay debt service on any Senior Debt or such other obligations, or to join in, execute or guarantee any note or other evidence of indebtedness of the Developer or the Senior Financing Agreement.

SECTION 6.3. COMPLIANCE WITH SENIOR FINANCING AGREEMENTS.

The Developer shall keep the Senior Financing Agreements in good standing to the extent necessary to perform its obligations under this Project Agreement and will ensure that none of the terms and conditions of the Senior Financing Agreements will prevent the Developer from performing its obligations under this Project Agreement. If at any time the Developer receives a notice that an "event of default", any event entitling the Senior Lenders to enforce any security or any other similar event has occurred under the Senior Financing Agreements, the Developer shall deliver to the County a copy of such notice within five days receipt thereof.

SECTION 6.4. CHANGES TO SENIOR FINANCING AGREEMENTS.

The Developer shall not, without the prior written consent of the County, not to be unreasonably withheld or delayed, terminate, amend or otherwise modify the Senior Financing Agreements, or waive or exercise any of its rights under the Senior Financing Agreements if such action would materially adversely affect the Developer's ability to perform its obligations under this Project Agreement or have the effect of increasing any liability or potential liability of the County. If at any time any material amendment is made to any Senior Financing Agreement or the Developer enters into any replacement Senior Financing Agreement (or any agreement which affects the interpretation or application of any Senior Financing Agreement), the Developer shall deliver to the County a copy of each such material amendment or agreement no later than 10 Business Days prior to the date of its intended execution for the County's review, comment and, if required, consent and, after any execution, a copy thereof certified as a true copy by an officer of the Developer.

SECTION 6.5. REFINANCING.

(A) Consent Required for Refinancing. Other than an Exempt Refinancing or, with the prior written approval of the County, a Qualifying Refinancing, the Developer shall not enter into any Refinancing. Such consent will not be unreasonably withheld or delayed if such Qualifying Refinancing has no material and adverse effect on the Developer's ability to perform its obligations under this Project Agreement and does not increase any liability or potential liability of the County (unless the County agrees and is specifically compensated for such liability or potential liability).

(B) County's Share of Refinancing Gain. The County shall be entitled to receive a fifty percent (50%) share of any Refinancing Gain arising from a Qualifying Refinancing, to be determined as set forth in Appendix 18 (Calculation and Payment of Refinancing Gains) of this Project Agreement. The County shall not require a share greater than fifty percent (50%) share of the Refinancing Gain as a condition of receiving its consent to a Qualifying Refinancing.

(C) Developer Proposal to Refinance. The Developer shall promptly provide the County with full details of any proposed Qualifying Refinancing, as set forth in Section 2 (Data and Projections Required for the Calculation of Refinancing Gain) of Appendix 18 (Calculation and Payment of Refinancing Gains) of this Project Agreement. The County shall (before, during and within two years after any Qualifying Refinancing) have unrestricted rights of audit over any proposed Financial Model, books, records and other documentation (including any aspect of the calculation of the Refinancing Gain) used in connection with such Qualifying Refinancing.

(D) Payment to the County. Payment to the County of its portion of any Refinancing Gain shall be made as set forth in Section 5 (Payment of the County's Portion of Refinancing Gain) of Appendix 18 (Calculation and Payment of Refinancing Gains) of this Project Agreement.

(E) Calculation of Refinancing Gain. The Refinancing Gain shall be calculated as set forth in Section 3 (Calculation of the Refinancing Gain) of Appendix 18 (Calculation and Payment of Refinancing Gains) of this Project Agreement.

(F) Transaction Expenses. Each party will pay its own transaction costs incurred in connection with a Qualifying Refinancing.

(G) County Cooperation. The County shall cooperate, as reasonably requested by the Developer, in connection with the closing of any Refinancing, including entering into a Lenders' Remedies Agreement in connection therewith (provided the terms are reasonable,

consistent with the existing Lenders' Remedies Agreement and otherwise acceptable to the County) and providing customary legal opinions and instruments and other documents.

SECTION 6.6. [RESERVED. SECTION NOT USED].

SECTION 6.7. CAPITAL COSTS FOR WHICH THE COUNTY IS RESPONSIBLE.

(A) County Capital Costs. This Project Agreement obligates the County to pay costs for Capital Modifications required due to a Design and Construction Requirement Change made at the direction of the County pursuant to Section 7.12 (Design and Construction Requirement Changes Made at County Direction), due to a Compensation Event pursuant to Section 10.4 (Capital Modifications Required Due to Supervening Events) or at the County's direction pursuant to Section 10.5 (Capital Modifications at County Direction), along with any related operation, maintenance, repair and replacement costs directly attributable to any such Design and Construction Requirement Change made at the direction of the County or to a Capital Modification, but only to the extent such costs are not already covered by insurance. All such costs associated with a Design and Construction Requirement Change made at the direction of the County or a Capital Modification shall be subject to Cost Substantiation in accordance with Section 16.13 (Cost Substantiation of Additional Work) and shall be paid to the Developer. Alternatively, and at the option of the County, the costs can be paid on a negotiated lump sum basis in accordance with Section 16.12 (Negotiated Lump Sum Pricing of Additional Work). The County shall pay any such costs from currently available funds or from the proceeds of a County financing. The Developer shall have no obligation to finance any such costs and adjust the Service Fee on account of any Developer financing except following any agreement of the parties with respect thereto entered into based on a County request made pursuant to subsection (B) of this Section and memorialized in a Project Agreement Amendment. Any agreed adjustment to the Service Fee resulting from a Design and Construction Requirement Change made at the direction of the County or a Capital Modification shall be accounted for as an Extraordinary Item.

(B) Developer Financing. At the County's request, and subject to subsection 7.22(B) (Conditions to Certain Developer Performance Obligations During the Design-Build Period), the Developer shall use all reasonable efforts to obtain the financing required to pay the capital costs that the County is obligated to pay for as referred to in subsection (A) of this Section 6.7, on commercially reasonable terms and subject to the consent of the Senior Lenders, acting reasonably. To the extent the Developer is able to obtain such financing, the cost of the financing will be included in the adjustment of the Service Fee resulting from the implementation of the Design and Construction Requirement Change made at the direction of the County or the Capital Modification. The County shall pay the Developer, as an Extraordinary Item, an amount equal to the reasonable out-of-pocket expenses incurred by the Developer in seeking such financing, provided that the County approved such expenses prior to the Developer incurring them.

(C) No Senior Lender Obligation. The County acknowledges that the Senior Lenders have no obligation to provide the financing referred to in this Section or to subordinate or share their security.

ARTICLE 7

DESIGN AND CONSTRUCTION

SECTION 7.1. DESIGN-BUILD WORK GENERALLY.

(A) Commencement and Prosecution of Design-Build Work. On the Financial Close Date, the Developer shall promptly proceed to undertake, perform and complete the Design-Build Work in accordance with the Contract Standards. The Developer's failure to satisfy the Occupancy Readiness Conditions by or before the Scheduled Occupancy Readiness Date

shall result in the loss of Service Fee payments scheduled to be made by the County under Section 16.1 (Service Fee Generally) during the period of delay. Failure to satisfy the Occupancy Readiness Conditions by the Longstop Date shall constitute a Developer Event of Default upon which the County may terminate this Project Agreement for cause in accordance with subsection 22.2(A) (County Termination Rights).

(B) Developer Control of the Design-Build Work; No County Responsibility. The Developer shall have total control of the Design-Build Work and shall effectively direct and supervise the Design-Build Work so that it is undertaken in compliance with the terms of this Project Agreement. The Developer shall have the sole and exclusive responsibility and liability for the design, construction and performance of the Project hereunder, notwithstanding the fact that the RFP included certain minimum conceptual design criteria for the Design-Build Work and the Design and Construction Standards that the Project would be required to meet or the fact that in negotiating this Project Agreement, between the date the Developer was selected as the preferred proposer pursuant to the RFP and the Effective Date, the County participated in certain design development activities that resulted in the finalization of the Design and Construction Requirements. The Developer acknowledges that such minimum conceptual design criteria do not in any manner or to any degree impair the Developer's ability to perform the Design-Build Work and the Facility Management Services in compliance herewith. Nothing in this Project Agreement shall be interpreted as giving any responsibility for the Design-Build Work to the County, any County Indemnitee, the Design Criteria Professional, any other County Representative, or to the Independent Building Expert. The County's rights of review and comment with respect to any aspect of the Design- Build Work shall be for the County's benefit only, and no review or comment by the County Representative or any Government Person shall in any way relieve the Developer of its obligation for all aspects of the Design-Build Work of the Project. If, however, the County and the Developer agree to specific changes to the Contract Standards that agreement shall be reflected in a formal document, duly executed by both parties and shall be binding on the parties.

(C) Materials, Labor and Services. The Developer shall furnish all necessary architectural, design and engineering services, labor, materials, equipment, supplies, tools, scaffolding, transportation, Utilities and Utilities' services, insurance, , completed structures, assemblies, fabrications, acquisitions, installations, testing, accounting, recordkeeping and other things and services of every kind whatsoever necessary for the full performance and completion of the Developer's design, engineering, construction, start- up, Commissioning, obtaining and maintaining Governmental Approvals and related obligations with respect to the design, construction and Commissioning of the Project during the Design-Build Period under this Project Agreement. The materials, machinery, structures, improvements, and equipment to be furnished as part of the Design-Build Work shall be new, of recent manufacture, and meet or exceed the Design and Construction Standards.

(D) Project Sequencing, Schedule and Reports. The Developer shall not be limited in the sequencing or staging of the Design-Build Work, except to the extent that the Contract Standards impose limitations. The Developer shall prepare and provide the County with the "critical path method" Project Schedule for Design-Build Work in accordance with Appendix 6 (Design-Build Work Review Procedures). Throughout the Design- Build Period, the Developer shall submit to the County Representative a monthly progress schedule and report in accordance with the requirements of Appendix 6 (Design-Build Work Review Procedures). The Developer's submittal of the monthly progress schedule and report (or any revised progress schedule and report) is for the County's information only and shall not limit or otherwise affect the Developer's obligations to achieve Occupancy Readiness by the Scheduled Occupancy Readiness Date. The County's acceptance of the monthly progress schedule and report (or any revised progress schedule and report) shall not bind the County in any manner and shall not imply County approval or consent to any of the matters set forth therein.

(E) Design and Construction Requirements. The Developer shall design the Courthouse in accordance with Applicable Law, including, but not limited to, the Florida Building Code, and shall be responsible for obtaining any and all required Governmental Approvals, including building permits in the manner set forth in this Project Agreement and all appendices hereto. Developer shall perform the Design-Build Work in compliance with the Design and Construction Requirements. The Design and Construction Requirements are intended to include the basic design principles, concepts and requirements for the Design-Build Work but do not include the final, detailed design, plans or specifications or indicate or describe each and every item required for full performance of the physical Design-Build Work or for achieving Occupancy Readiness. The Developer acknowledges that the Courthouse is to be constructed, operated and maintained immediately adjacent to the County's transit facilities, as such facilities are described in Appendix 19 (Department of Transportation and Public Works Adjacent Construction Manual) and that, as a consequence, the Project Site may be subject to tremors and vibrations resulting from the transit facilities. The Developer shall design and construct the Courthouse in consideration of the adjacency of the transit facilities such that the foundations and superstructure of the Courthouse are protected and able to withstand any and resulting tremors and vibrations without damage to the Courthouse. The Developer agrees to prepare and furnish all necessary detailed designs, plans, drawings and specifications in conformity with the Design and Construction Requirements. The Developer further agrees that it shall not have the right to bring any claim whatsoever against the County, its employees, agents, or any of its consultants or subcontractors, arising out of any designs, plans, drawings or specifications included in the RFP or made available during the procurement process.

(F) Standards of Workmanship and Materials. Where this Project Agreement does not specify any explicit quality or standard for construction materials or workmanship, the Developer shall use only workmanship and new materials of a quality consistent with that of construction workmanship and materials specified elsewhere in the Design and Construction Requirements, and the Design and Construction Requirements are to be interpreted accordingly.

(G) Technical Standards and Codes. References in this Project Agreement to all professional and technical standards, codes and specifications, except as otherwise provided in Appendix 4 (Design and Construction Standards), are to the most recently published professional and technical standards, codes and specifications of the institute, organization, association, authority or society specified, all as in effect as of the Effective Date. Unless otherwise specified to the contrary, (1) all such professional and technical standards, codes and specifications shall apply as if incorporated in the Design and Construction Requirements and (2) if any material revision occurs, to the Developer's knowledge, after the Effective Date, and prior to completion of the applicable Design-Build Work, the Developer shall notify the County. If so directed by the County, the Developer shall perform the applicable Design-Build Work in accordance with the revised professional and technical standard, code, or specification.

(H) Deliverable Material. The Developer shall deliver to the County all design documents, reports, submittals and other materials (**"Deliverable Material"**) required to be delivered under Appendix 6 (Design-Build Work Review Procedures), Appendix 7 (Commissioning), Appendix 10 (Insurance Requirements) and Appendix 14 (Reports and Records). With respect to those Deliverable Materials required to be delivered within a certain number of days after the Effective Date under Appendix 4 (Design and Construction Standards), Appendix 6 (Design-Build Work Review Procedures), Appendix 7 (Commissioning), Appendix 10 (Insurance Requirements) and Appendix 14 (Reports and Records), such obligation to provide such Deliverable Materials shall be counted from the Effective Date. The County shall have the right from and after the Effective Date to use (or permit use of) all such Deliverable Material, all oral information received by the County in connection with the Design-Build Work, and all ideas or methods represented by such Deliverable Material, without additional compensation. The County's use of any such Deliverable Material for any purpose other than the Project shall be at its own risk and the Developer shall have no liability therefor.

(I) Payment of Costs. Except as otherwise expressly provided or referred to in Section 7.22 (Payment Obligations of the County During the Design-Build Period), the Developer shall pay directly all costs and expenses of the Design-Build Work of any kind or nature whatsoever, including all costs of permitting (regardless of permittee); regulatory compliance and Legal Proceedings brought against the Developer; obtaining and maintaining the Financial Close Security; obtaining and maintaining the Required Insurance pursuant to Developer's obligations under Appendix 10 (Insurance Requirements); financing costs; payments due under the Project Contracts and Subcontracts or otherwise for all labor and materials; legal, financial, engineering, architectural and other professional services of the Developer; sales, use and similar Taxes on building supplies, materials and equipment; general supervision by the Developer of all Design-Build Work; the preparation of schedules, budgets and reports; keeping all construction accounts and cost records; and all other costs required to achieve Substantial Completion, Occupancy Readiness and Final Completion.

(J) Quality Assurance and Quality Control. The Developer shall have full responsibility for quality assurance and quality control for the Design-Build Work, including compliance with the Design-Build Quality Management Plan, which shall be developed by the Developer in accordance with Appendix 6 (Design-Build Work Review Procedures).

(K) Naming and Signs. The County shall have the exclusive right to name the Project and any parts thereof. The Developer shall provide and maintain temporary Project identification and information signs during the Design-Build Period. No signs shall be erected (other than those required pursuant to subsection 7.13(B)(b) (Safety and Security) until their appearance, content, and location have been fully reviewed and approved by the County, which approval shall not unreasonably be withheld, conditioned or delayed. The Developer shall remove temporary signs from the Project Site when they are no longer necessary.

(L) Laydown Areas. Laydown and staging areas for construction materials shall be located on the Project Site or at other locations arranged and paid for by the Developer.

(M) Maintenance of the Project Site. During performance of the Design-Build Work following the Project Site Construction Access Date, the Developer shall be responsible for the overall maintenance and security of the Project Site. The Developer shall keep the Project Site neat, secure and orderly at all times, and shall clean up and remove all rubbish and construction debris from the Project Site as they accumulate in accordance with the Contract Standards.

(N) Title and Risk of Loss. Title to the structures, improvements, fixtures, machinery, equipment and materials constituting the Project shall pass to the County upon incorporation in the Project, free and clear of all Liens as provided in subsection (O) of this Section. The Developer shall, however, subject to the Supervening Event provisions hereof, bear all risk of loss concerning such structures, improvements, fixtures, machinery, equipment and materials until Substantial Completion, regardless of the extent to which the loss was insured or the availability of Insurance Proceeds.

(O) Encumbrances. The Developer shall not directly or indirectly, without the County's consent, create or permit to be created or to remain, and shall promptly discharge or bond, any Encumbrance arising on the Project, the Project Site or the Design-Build Work, other than Permitted Encumbrances, arising out of the Developer's construction of the Project.

(P) Compliance with Easements and Limits; Surveying. The Developer shall construct the Project in compliance with the requirements of the easements, exceptions to title, limits and setback requirements identified in Appendix 1 (Project Site Information); shall perform

all construction surveying necessary in connection therewith; and shall preserve or replace as necessary all existing property line and corner survey monuments encountered.

(Q) Utilities. The Developer shall make all arrangements necessary to secure the availability of all Utilities required to construct and operate the Project and the Restaurant in the capacities required hereunder. In furtherance and as part of this obligation, Developer shall be required to coordinate with, seek all necessary permissions from, make all necessary applications to, and undertake all work required by all Utility companies, Utility owners and owners of right-of-ways adjacent to the Project Site and owners of properties adjacent to the Project Site to ensure the construction and connection of Utilities necessary to build and service the Courthouse. Developer shall be required to coordinate with the County and undertake all work necessary to connect the Courthouse to the existing chilled water loop, including but not limited to, the construction of a connection outside of the Project Site.

(R) Relocation of Existing Utilities. The Developer shall be responsible for all construction activities required with regard to existing Utilities (e.g., conduits, pipelines, transmission mains and other Utility equipment and appurtenances), including any relocation of Utilities, whether such construction activities are performed by the Developer or by the owner of the existing Utility. To the extent requested by Developer and subject to Applicable Law, the County will provide to Developer the benefit of any provisions in recorded Utility or other easements on or under the Project Site which require the easement holders to relocate at their expense and the County will reasonably assist Developer in obtaining the benefit of all rights the County has under any Utility easement, permit or other right (including contractual rights) pertaining to Utilities on the Project Site, it being understood that such assistance will not entail the initiation of or participation in legal actions or proceedings or the expenditure of County funds.

(S) Software Programming. The Developer's obligation to perform the Design-Build Work includes the obligation to provide all software programming for the monitoring instrumentation and controls relating to the Project, as specifically set forth in Appendix 4 (Design and Construction Standards).

(T) Art in Public Places. This Project is subject to the Art in Public Places ("AIPP") provisions in Section 2.11.15 of the Code of Miami-Dade County, Florida and Administrative Order 3-11, as managed by the County's Department of Cultural Affairs pursuant to Procedure 358 in the Miami-Dade County Procedures Manual. The Developer shall transmit an amount equal to 1.5% of the Design-Build Contract Price to the Department of Cultural Affairs for the implementation of the AIPP program and public art into the Project. The Developer shall work collaboratively with the Department of Cultural Affairs on the implementation of the AIPP program into the Project.

(U) Notice of Default. The Developer shall provide to the County, promptly following the receipt thereof, copies of any notice of default, breach or non- compliance received under or in connection with any Governmental Approval, or Project Contract pertaining to the Design-Build Period that may have a material and adverse effect on performance by the Developer of its obligations under this Project Agreement.

(V) Indemnification in Project Contracts and Subcontracts. Any and all Project Contracts and all Subcontracts of any tier entered into by the Developer to design or build the Project shall require subcontractors to release the County and hold it harmless to the same extent required in Section 24.1 (Developer's Obligations to Indemnify). The release obligations set forth in the Project Contracts and Subcontracts shall name the County as an express third-party beneficiary with rights of enforcement of such obligation and shall entitle the County to succeed to Developer's rights under such Project Contract or Subcontract. The Developer shall include, or cause to be included, in the Project Contracts the requirements that all design and

construction shall be performed in accordance with Applicable Law and this Project Agreement. Developer shall provide the County with any and all Project Contracts upon request by the County. The County shall not, however, be construed as a party to any Project Contract related to the Project nor shall the County in any way be responsible for any or all claims of any nature whatsoever arising or which may arise from any such Project Contracts or Subcontracts.

(W) Cultural Center Plaza Service Road. The Developer shall re-locate the existing service road providing access to the Cultural Center Plaza that is part of the County Facilities, all as required by the Design and Construction Standards and Applicable Law. At the conclusion of the Design-Build Period, the County shall be responsible for operating and maintaining any portion of the relocated service road not contained within the Project Site. The Developer's performance of these obligations shall not, at any time, interfere with the County's ability to access the guideway and corresponding Metrorail and Metromover infrastructure, the Cultural Center Plaza and buildings (including the Main Library and HistoryMiami Museum).

SECTION 7.2. ACCESS TO AND SUITABILITY OF THE PROJECT SITE.

(A) Familiarity with the Project Site. The Developer acknowledges that the Developer's agents and representatives have visited, inspected and are familiar with the Project Site, its surface physical conditions relevant to the obligations of the Developer pursuant to this Project Agreement, including surface conditions, normal and usual soil conditions, roads, Utilities, topographical conditions and air and water quality conditions; that the Developer is familiar with all local and other conditions which may be material to the Developer's performance of its obligations under this Project Agreement (including transportation; seasons and climate; access, availability, disposal, handling and storage of materials and equipment; and availability and quality of labor and Utilities), and has received and reviewed all information regarding the Project Site provided to it hereunder or obtained in the course of performing its obligations under this Project Agreement, has made any other investigations that it deems necessary to make a determination as to the suitability of the Project Site; and that based on the foregoing, the Project Site constitutes an acceptable and suitable site for the construction of the Project in accordance herewith, and the Project can be constructed on the Project Site by the Scheduled Occupancy Readiness Date and within the construction cost upon which the Service Fee is based.

(B) Access to Project Site Prior to Commencement of Construction. The execution of this Project Agreement shall be deemed to constitute the granting of a license to the Developer for full access to the Project Site for the purposes of this Project Agreement, including mobilization and performing engineering, analysis and such additional subsurface and geotechnical studies or tests as deemed necessary by the Developer prior to commencement of construction, provided that, prior to February 20, 2020, Developer shall take no action and perform no test that causes damage to the Existing Art on the Project Site. The Developer shall assume all risks associated with such activities (except to the extent provided otherwise in Section 7.5 (Regulated Site Conditions) and shall, to the extent and in proportion to the degree of fault or negligence by the Developer in causing any harm, indemnify, defend and hold harmless the County and the County Indemnitees in accordance with Section 24.1 (Developer's Obligation to Indemnify) from and against all Loss-and-Expense arising therefrom. The County shall not in any way materially or unduly interfere with the Developer in the performance of its obligations (and exercising of its rights hereunder) under the Project Agreement in accordance with the terms of the Project Agreement (having regard always to the interactive nature of the activities of the County and of Developer). The Developer shall allow the County to access the Facility Site for the purposes of performing its obligations pursuant to Section 7.3 (Deinstallation of Art and Demolition Work).

(C) Vacating the Project Site and Commencement of Construction. The County shall vacate, and shall require all third parties using or occupying the Project Site to vacate, the Project Site on or before the Project Site Construction Access Date and shall remove all

improvements located thereon that the County desires to salvage, other than the bathroom facility existing on the Facility Site as of the Effective Date and the Existing Art which the County shall remove pursuant to Section 7.3. The Developer shall not commence the Demolition Work or construction of the Project, including physical Project Site preparation work, until the Project Site Construction Access Date.

SECTION 7.3. DEINSTALLATION OF ART AND DEMOLITION WORK.

(A) Existing Art. The Developer acknowledges and understands that a large art sculpture and associated plaque are currently on the Project Site (the "**Existing Art**"). Prior to February 20, 2020, the County shall, through its Department of Cultural Affairs, de-install and remove the components of the existing sculpture. If the County is unable to remove, or desires to have the Developer remove, the art sculpture and associated plaque, such work shall be undertaken by Developer, following a Change Order, as a Design and Construction Requirement Change made at the County direction and Developer shall transport same to a location within Miami-Dade County identified by the Department of Cultural Affairs. The Developer agrees that no adjustment to the Service Fee shall result from Developer undertaking the de-installation and removal of the existing sculpture and plaque. In the event that Developer undertakes such work, the Developer shall use the utmost care in the de-installation and removal of such sculpture so as to preserve all components and not cause permanent damage to same and shall have no responsibility for erecting or installing the sculpture at a new location. The County shall make arrangements for and be responsible for re-installation or storage of the existing sculpture and plaque.

(B) Demolition Work. The Developer shall demolish any improvements on the Project Site that remain located thereon as of the Project Site Construction Access Date, including all existing buildings, existing parking lot, existing paving and other existing site improvements, and associated Utilities not otherwise needed for the Project, but excluding the bathroom facility existing on the Project Site as of the Effective Date and the Existing Art; properly remove and dispose all demolition debris; and prepare the Project Site for construction of the Project, all in accordance with this Section, Section 3.6 (On-site and Offsite Improvements) of Appendix 4 (Design and Construction Standards) and Appendix 5 (Design and Construction Extracts) (the "**Demolition Work**"). The Developer shall pay the cost of all such Demolition Work, and have the right to any economic benefit associated with the sale or reuse of the demolition debris. The Demolition Work shall not include the bathroom facilities existing on the Facility Site as of the Effective Date, which shall be removed at the direction of the County prior to February 20, 2020. The Demolition Work shall include the abatement of Hazardous Substances described in the County Environmental Assessments, if any, and the restoration of all undeveloped areas of the Project Site to a stabilized condition, which at a minimum shall include an established stand of grass with minimal landscape plantings. The Developer shall determine the sequence and timing of the Demolition Work in accordance with the Project Schedule.

SECTION 7.4. DIFFERING SITE CONDITIONS.

(A) Further Investigations and Protection of Utilities. Prior to commencing any trenching or excavations, the Developer shall, taking into account the information in the Project Site Geotechnical Exploration Report, the Underground Utility Survey and in compliance with Good Design-Build Practice, conduct further site investigations, including exploratory excavations and further borings, to confirm the location and type of underground structures that could be damaged as a result of the excavations. Such underground structures include all Utilities and other piping, and manholes, chambers, electrical conduits, wires, tunnels and other existing subsurface work located within or adjacent to the Project Site. The Developer shall carefully sustain in their places and support or, if necessary, relocate all underground and surface structures and Utilities located within or adjacent to the Project Site. To the extent any

of Developer's work will or may impact the Utilities of the County Facilities and businesses or residents in the area surrounding the Project Site, Developer shall notify, at least five Business Days in advance of such work: (1) the County of any work that might impact Utilities of the County Facilities and businesses or residents in the area surrounding the Project Site; and (2) such businesses or residents of such work. To the extent that five Business Days' advance notice is not feasible, the Developer shall provide as much advance notice as is reasonably possible under the circumstances to the County and to impacted businesses and residents of the Developer's work.

(B) Discovery of Differing Site Conditions. The Developer and the County recognize the existence of certain surface and subsurface geotechnical conditions at the Project Site, as reflected in the Project Site Geotechnical Exploration Report. Upon discovering an alleged Differing Site Condition and before the condition is further disturbed, the Developer shall promptly, after taking appropriate measures to secure the affected Design- Build Work, notify the County of the alleged Differing Site Condition. The Developer's notice to the County shall be issued by telephone or in person and followed within 24 hours thereafter by written notice, providing a brief description of why the condition encountered is considered a Differing Site Condition. To the extent possible based on the Developer's knowledge at the time of such notice, the Developer's written notice shall describe the specific subsurface geotechnical condition encountered that is alleged to constitute a Differing Site Condition and the measures taken to deal with such Differing Site Condition. Promptly upon, but in no event later than 3 Business Days following receipt of the Developer's notice, the County will investigate or cause to be investigated the alleged Differing Site Condition set out in the Developer's notice. Notwithstanding anything set forth in subsection (C) (Relief for Differing Site Conditions) of this Section or in Article 13 (Supervening Event Procedures), no relief based on the occurrence of a Compensation Event shall be allowed for any alleged Differing Site Condition unless the Developer provides the County with notice in accordance with this subsection.

(C) Relief for Differing Site Conditions. If the actual conditions encountered during construction: (1) meet the criteria for a Differing Site Condition, and (2) meet the criteria for a Compensation Event, then the Developer shall be entitled to relief based on the occurrence of a Compensation Event as and to the extent provided in Article 15 (Compensation Events and Changes in Law).

SECTION 7.5. REGULATED SITE CONDITIONS.

(A) County Environmental Assessments. The County has made the County Environmental Assessments available to the Developer. Without limiting the Developer's rights hereunder, the authors of the County Environmental Assessments do not permit the Developer or any entity other than the County to rely on the information contained therein. The County has taken no steps to verify the accuracy of such information but is not aware of any errors in the County Environmental Assessments.

(B) Regulated Site Conditions - Avoidance of Exacerbation. In performing the Design-Build Work, the Developer shall exercise due care, in light of all relevant facts and circumstances, to avoid exacerbating any Regulated Site Condition after the location and existence of such Regulated Site Condition has been disclosed to the Developer in County Environmental Assessments, or becomes actually known by the Developer through physical observation (including any such observation made during excavations).

(C) Certain Regulated Site Conditions - County Obligations. If at any time the County receives written notice from a Governmental Body or the Developer, or the Developer receives a written notice from a Governmental Body, that a Regulated Site Condition that differs from those described in the County Environmental Assessments has been determined to exist which:

(1) Reasonably requires a Response Action or other action in order to comply with Applicable Law; or

(2) interferes or delays with the performance of the Design-Build Work; or

(3) Increases the cost to the Developer of performing the Design-Build Work; or

(4) If not remediated or otherwise corrected, would reasonably be expected to result in the Developer incurring costs, liabilities or obligations,

then the County shall promptly commence and diligently prosecute Response Actions or other actions as may be necessary under Good Design-Build Practice to dispose of, remediate, rectify or otherwise correct such Regulated Site Condition in compliance with Applicable Law. The County shall have the right to contest any determination of such a Regulated Site Condition and shall not be required to take any action under this subsection so long as: (1) the County is contesting any determination of a Regulated Site Condition in good faith by appropriate proceedings conducted with due diligence; (2) Applicable Law permits continued design or construction of the Project pending resolution of the contest, so that the Developer shall have no liability as a result of the failure of the County to remediate or otherwise correct such a Regulated Site Condition during the period of contest; and (3) unless the County affords the Developer appropriate relief, the pendency of the County's contest is not otherwise having an adverse effect on the Developer; provided that the Developer shall be entitled to perform any Response Action to correct any such Regulated Site Conditions (at the County's expense, subject to the resolution of any such contest) after affording the County a reasonable opportunity to take such Response Action.

(D) Relief for Certain Regulated Site Conditions. A Regulated Site Condition that differs from those described in the County Environmental Assessments constitutes a Compensation Event, and the Developer shall be entitled to relief in accordance with Section 15.1 (Compensation Events), except to the extent the Developer fails to exercise due care with respect to a disclosed or known Regulated Site Condition as provided in subsection (B) of this Section and to the extent covered by the Required Insurance.

(E) Hazardous Substances. The parties acknowledge and agree that the Developer is not the generator, operator, arranger or transporter of any Hazardous Substances present in, on or under the Project Site prior to the Project Site Construction Access Date (irrespective of when such Hazardous Substances are discovered), shall not be identified as such on any waste manifests and documentation required under Applicable Law, and shall have no liability for any such Hazardous Substances except as set forth herein. Developer shall have no liability for Hazardous Substances except for Developer Hazardous Substances. If at any time after the Effective Date, there exists Developer Hazardous Substances, the Developer shall be responsible to undertake, pay for, and complete any remediation or mitigation work that is required on the Project Site by Applicable Law, inclusive of any monitoring required thereafter and satisfying any closure conditions.

SECTION 7.6. DESIGN-BUILD GOVERNMENTAL APPROVALS.

(A) Generally. The Developer shall make all applications and take all other action necessary to obtain and maintain all Design-Build Governmental Approvals and shall pay all fees, costs and charges due in connection therewith. Where required under Applicable Law, such applications shall be made in the name of the County, subject to the County's rights hereunder. The Developer shall manage the process of obtaining the Design-Build Governmental Approvals in a manner which affords the County a reasonable opportunity to review and

comment upon such submittals and all material documentation submitted to and issued by any Governmental Body in connection therewith as provided in Appendix 6 (Design-Build Work Review Procedures). The Developer shall not knowingly take any action in any application, data submittal or other communication with any Governmental Body regarding the Design-Build Governmental Approvals or the terms and conditions thereof that would impose any unreasonable cost or burden on the County or that would contravene any County policies with respect to the matters contained therein. The County reserves the right to reject, modify, alter, amend, delete or supplement any information supplied, or term or condition proposed, by the Developer which would have the effect described in the preceding sentence.

(B) Permitting Assistance by the County. The County shall provide reasonable assistance to the Developer in connection with the Developer's obligation to obtain and maintain the Design-Build Governmental Approvals required under this Section, including signing permit applications, attending public hearings and meetings of the Governmental Bodies charged with issuing the Design-Build Governmental Approvals, and providing the Developer with existing relevant data and documents that are within the County's custody or control or are reasonably obtainable by the County and which are reasonably required for such purpose; provided, however, that the County's obligation to provide such reasonable assistance shall be limited, in light of the Developer's primary role in the permitting and development of the Project, only to those actions which are legally required to be taken by the County as permittee or which involve providing information which is in the possession of or reasonably obtainable by the County. The County shall dedicate at least one member of its building permit staff and make available other appropriate staff to serve as a liaison for the Developer to assist with seeking to expedite the permitting process and other Governmental Approvals for the Design-Build Work. Among other things, such liaison shall use reasonable, diligent efforts to: seek the expeditious processing of permits; meet with the Developer's Representative and the Design-Builder; act as a liaison to coordinate any necessary inspections from County agencies or regulatory bodies; and coordinate meetings between the Developer's Representative and County staff necessary to address questions associated with processing applications to County agencies and regulatory bodies. The covenants contained in this subsection 7.6(B) shall not obligate the County to staff the Developer's permitting or development efforts, to undertake any new studies or investigations with respect to the Project, or to affirmatively seek to obtain the issuance of the Design-Build Governmental Approvals, nor shall they impair, waive or supersede the County's Sovereign rights in accordance with Section 25.11 (Actions of the County in its Governmental Capacity).

(C) Developer Assumption of Permitting Risk for Design-Build Work. The Developer explicitly assumes the risk of obtaining and maintaining the Design-Build Governmental Approvals, including the risk of delay, non-issuance or imposition of any term or condition in connection therewith by a Governmental Body. In assuming this risk, the Developer acknowledges in particular that the Governmental Body issuing any Design-Build Governmental Approval may impose terms and conditions which require the Developer to make changes or additions to the Project or Project operations which may increase the cost or risk to the Developer of performing the Contract Services, all of which costs or risks shall be for the account of and borne by the Developer.

SECTION 7.7. DEVELOPER DESIGN – GENERAL.

(A) Design Considerations. The design for the Project undertaken and performed by the Developer shall:

(1) Be undertaken by a design team exercising such degree of care, skill and diligence as would reasonably be expected from consultants qualified to perform services similar in scope, nature and complexity to the design, as of the date of this Project Agreement, and the Developer shall appoint a design team that:

(a) is so qualified;

(b) includes (as required by Applicable Law) licensed or registered professional engineers and architects; and

(c) has sufficient expertise and experience to expeditiously and efficiently perform all of the design in a proper and professional manner to the standard set out in this Project Agreement;

(2) include specific consideration of "constructability," the adjacency of the Project to the transit facilities described in Appendix 19 (Department of Transportation and Public Works Adjacent Construction Manual) and "life cycle" cost issues at all stages of design, as appropriate; and

(3) include consideration of efficient and cost-effective operation and maintenance.

(B) County Review and Comment on Design Documents. The Developer shall provide the County with the design submittal protocol in accordance with the specific requirements set forth in Appendix 6 (Design-Build Work Review Procedures). The County shall have the right to review and comment on all Design Documents as provided in Appendix 6 (Design-Build Work Review Procedures) in order to confirm the compliance and consistency of the Design Documents with the Design and Construction Requirements. In no event shall the Developer proceed with the physical construction of any particular segment of the Design-Build Work without first complying with the requirements of the design submittal protocol and Appendix 6 (Design-Build Work Review Procedures). The Developer shall give due consideration and provide written responses, in the time and manner provided in Appendix 6 (Design-Build Work Review Procedures), to any comments delivered by the County as to the Developer's design submittals. Save to the extent the Developer is entitled to a Compensation Event pursuant to subsection 7.14(E) (Notice of Covering Design-Build Work), neither compliance by the Developer with the Design and Construction Requirements, nor review and comment by the County of the Developer's Design Documents, nor any failure or delay by the County in commenting on any design submittals shall in any way relieve the Developer of full responsibility for the design, construction, performance, operation and maintenance of the Project in accordance with the Contract Standards, subject to the last sentence of subsection 7.1(B) (Developer Control of the Design-Build Work; No County Responsibility).

(C) Documents at the Project Site. The Developer shall maintain at the Project Site all design and construction documents, including a complete set of record drawings. These documents shall be available to the County for reference, copying and use, and a complete set thereof shall be delivered to the County upon completion of the Design- Build Work.

(D) Ownership of Design. The County shall own the Design Documents upon the earlier of: the Occupancy Readiness Date or, making payment of the Termination Amount. Except for reference purposes, the Design Documents shall not be used by the County, the Developer, the Architect, the Design-Builder, the Project Contactors, or any Affiliates on any other project. The County is the owner of the Proposal and the Design and Construction Requirements.

SECTION 7.8. DEVELOPER DESIGN - REQUIREMENTS.

The Developer shall prepare all Design Documents necessary or appropriate to carry out and complete the Design-Build Work. As of the Effective Date, the Developer's design for the Project is not complete. The Design and Construction Requirements shall form the basis of design for the Project and all design work shall be completed in accordance therewith. All the

Developer working and final Design Documents shall comply with the Design and Construction Requirements and shall ensure that the Project is constructed to a standard of quality, integrity, durability and reliability which is equal to or better than the standard established by the Design and Construction Requirements, subject to the last sentence of subsection 7.1(B) (Developer Control of the Design-Build Work; No County Responsibility).

SECTION 7.9. CHANGES TO DESIGN AND CONSTRUCTION REQUIREMENTS GENERALLY.

The Developer acknowledges the County's material interest in each provision of the Design and Construction Requirements, and agrees that, subject to Section 7.11 (Design and Construction Requirement Changes Made Due to Compensation Events), no change to the Design and Construction Requirements shall be made except with the consent of the County, which consent may be withheld or conditioned in its reasonable discretion taking into account the standards of quality, integrity, durability and reliability established for the Project by the Contract Standards. Any such changes shall be evidenced by a Contract Administration Memorandum, Project Agreement Amendment, or Change Order, as applicable. The County shall review and comment upon the final design of the Project, which shall also be subject to the approval of the County. The Developer shall design the Project such that the appearance of the Project is in compliance with the Design and Construction Requirements applicable to such matters. The parties acknowledge that reasonable, minor variations from the Design and Construction Requirements shall be permitted in the final design of the Project with County and Developer approval or consent, to be granted, denied or condition by each party acting reasonably, and to be followed by the execution of a Contract Administration Memorandum. Examples of elements of the Design and Construction Requirements from which there may be reasonable, minor variations in the final design with approval by the County and Developer evidenced by a Contract Administration Memorandum include thickness, level and composition of individual structural members; exact dimensions of rooms (to the extent overall functionality is not impaired or total square footage decreased); exact size, weight and height of mechanical components; and dimensions, ratings and positions of electrical cables, and control panels.

SECTION 7.10. DESIGN AND CONSTRUCTION REQUIREMENT CHANGES MADE AT DEVELOPER REQUEST.

The Developer shall give the County written notice of, and reasonable opportunity to review and comment upon, any Design and Construction Requirement Changes proposed to be made at the Developer's request. The notice shall contain sufficient information for the County to determine that the Design and Construction Requirement Change:

(1) Does not diminish the capacity of the Project to be operated so as to meet the Contract Standards;

(2) Does not impair the quality, integrity, durability and reliability of the Project;

(3) Is reasonably necessary or is advantageous for the Developer to fulfill its obligations under this Project Agreement; and

(4) Is feasible.

The County shall have the right, acting reasonably, to accept, reject or modify any Design and Construction Requirement Change proposed by the Developer. Any such Design and Construction Requirement Change accepted or modified by the County, and any related change in the terms and conditions of this Project Agreement, shall be reflected in a Change Order.

SECTION 7.11. DESIGN AND CONSTRUCTION REQUIREMENT CHANGES MADE DUE TO COMPENSATION EVENTS.

Upon the occurrence of a Compensation Event prior to the Occupancy Readiness Date, the County shall promptly proceed, subject to Article 13 (Supervening Event Procedures), to make or cause to be made all Design and Construction Requirement Changes reasonably necessary, if any, to address the Compensation Events. The Developer and the County shall consult concerning possible means of addressing and mitigating the effect of any Compensation Event, and the Developer and the County shall cooperate in order to minimize any delay, lessen any additional cost and modify the Project so as to permit the Developer to continue providing the Contract Services in light of such Compensation Events. The design and construction costs resulting from any such Design and Construction Requirement Change, to the extent payable by the County pursuant to Article 15 (Compensation Events and Changes in Law), shall be paid directly by the County to the Developer during the Design-Build Period in accordance with Section 7.22 (Payment Obligations of the County During the Design-Build Period). Any increase in the operation, maintenance, repair and replacement costs directly related to Design and Construction Requirement Changes reasonably necessary to address the Compensation Events shall be borne by the County (through an adjustment of the Service Fee payable solely following the Occupancy Readiness Date, subject to Article 15 (Compensation Events and Changes in Law) and determined pursuant to Section 16.13 (Cost Substantiation of Additional Work) in this Project Agreement requiring cost substantiation. Any Design and Construction Requirement Change made on account of Compensation Events, and any related change in the terms and conditions of this Project Agreement, shall be reflected in a Change Order. The Developer's obligation to perform the design and construction work resulting from the Design and Construction Requirement Change is subject to the conditions set forth in subsection 7.22(B) (Conditions to Certain Developer Performance Obligations During the Design-Build Period).

SECTION 7.12. DESIGN AND CONSTRUCTION REQUIREMENT CHANGES MADE AT COUNTY DIRECTION.

The County shall have the right, but not the obligation, to make Design and Construction Requirement Changes at any time prior to the Occupancy Readiness Date at its discretion for any reason whatsoever, whether and however the exercise of such rights affects this Project Agreement so long as such Design and Construction Requirement Change does not contravene the limitations referred to in Section 4.6 (Restrictions on Design and Construction Requirement Changes, Capital Modifications and Facility Management Services Changes). The design and construction costs resulting from any such Design and Construction Requirement Change made at the County's direction under this Section shall be paid directly by the County to the Developer during the Design-Build Period in accordance with Section 7.22 (Payment Obligations of the County during the Design-Build Period). Any related operation, maintenance, repair and replacement costs or expenses to the provisions of the Facility Management Services, as reasonably determined to exist and quantified by the Developer and the County, directly attributable to Design and Construction Requirement Changes made at the County's direction shall be borne by the County through an adjustment to the Service Fee. Any such Design and Construction Requirement Change and any related change in the terms and conditions of this Project Agreement shall be reflected in a Change Order. The Developer's obligation to perform the work related to a Design and Construction Requirement Change is subject to the conditions set forth in subsection 7.22(B) (Conditions to Certain Developer Performance Obligations During the Design-Build Period).

SECTION 7.13. CONSTRUCTION PRACTICE, SAFETY AND SECURITY.

(A) Means and Methods. The Developer shall perform the Design- Build Work in accordance with the Contract Standards and shall have exclusive responsibility for all construction means, methods, techniques, sequences, and procedures necessary or desirable for

the correct, prompt, and orderly prosecution and completion of the Design-Build Work as required by this Project Agreement. The responsibility to provide the construction means, methods, techniques, sequences and procedures referred to above shall include, but shall not be limited to, the obligation of the Developer to provide the following construction requirements: temporary offices and construction trailers; required design certifications; required approvals; weather protection; clean-up and housekeeping of the Project Site; construction trade management; temporary parking; vehicle traffic; safety and first aid Facility and equipment; correction of or compensation for defective work or equipment; Project Contractor and Subcontractors' insurance; storage areas; workshops and warehouses; temporary fire protection; security of the Project Site; temporary Utilities; potable water; sanitary services; Project Contractor, Subcontractor and vendor qualification; receipt and unloading of delivered materials and equipment; erection rigging; temporary supports; and construction coordination.

(B) Safety and Security. The Developer shall maintain safety and security at the Project Site at all times prior to the Occupancy Readiness Date at a level consistent with the Contract Standards. Without limiting the foregoing, the Developer shall:

(a) Take all necessary precautions for the safety and security of the Design-Build Work and provide all necessary protection to prevent damage, injury or loss caused by trespass, negligence, vandalism, malicious mischief or any other course related to the Design-Build Work, for:

(i) Workers at the Project Site and all other persons who may be involved with deliveries or inspections;

(ii) Visitors to the Project Site;

(iii) Passersby, neighbors and adjacent properties;

(iv) Materials and equipment under the care, custody or control of the Developer or Subcontractors on the Project Site;

(v) Other property constituting part of the premises or the Project under construction; and

(vi) County property;

(b) Establish and enforce all necessary safeguards for safety and protection, including posting danger signs and other warnings against hazards;

(c) Implement a comprehensive safety program in accordance with Applicable Law;

(d) Give all notices and comply with all Applicable Law relating to the safety of persons or property or their protection from damage, injury or loss;

(e) Operate and maintain all equipment in a manner consistent with the manufacturer's safety requirements;

(f) Provide for safe and orderly vehicular movements;

(g) Comply with Appendix 19 (Department of Transportation and Public Works Adjacent Construction Manual); and

(h) Develop and implement a written site-specific health and safety plan (the "**Health and Safety Plan**") that includes management commitment to maintaining a safe workplace, employee participation, hazard evaluation and controls, employee training and periodic inspections which shall:

(i) Designate an appropriately certified safety professional with a minimum of five years of construction safety experience who is to develop and sign the Health and Safety Plan including all safety rules at the Project Site;

(ii) Designate a qualified safety professional stationed full- time at the Project Site during on-site construction activities whose primary/only duty shall be the implementation of safety rules at the Project Site, the prevention of fires and accidents, monitoring compliance with the Health and Safety Plan, and the coordination of such activities as shall be necessary with the County and all Governmental Bodies having jurisdiction;

(iii) Require the Project Contractors and all Subcontractors to work and implement the Health and Safety Plan;

(iv) Comply with the Developer's on-site safety requirements and to designate a qualified safety professional whose duty shall be the implementation of safety rules at the Project Site and monitoring compliance of Project Contractor and Subcontractor employees with the Health and Safety Plan; and

(C) Department of Transportation and Public Works Adjacent Construction Manual. The Developer shall perform all activities provided for by this Project Agreement only as approved by the County and in accordance with Appendix 19 (Department of Transportation and Public Works Adjacent Construction Manual). The Developer acknowledges that Appendix 19 (Department of Transportation and Public Works Adjacent Construction Manual) contains minimum requirements and that the Developer shall be responsible for all costs associated with complying with those minimum requirements. The Developer further acknowledges the County may impose more stringent requirements as to construction of the Courthouse if the County reasonably determines that more stringent requirements are warranted to adequately protect the Metrorail and Metromover systems and its operation, provided that the County shall (a) impose such requirements at the earliest stage of the approval process for the Design Documents when the matter of concern is or should be apparent, and (b) cooperate and work in good faith with the Developer to mitigate any safety standards and requirements that would materially increase construction costs or materially delay construction through alternative practices and procedures that are mutually acceptable to the County and to the Developer to facilitate the construction of the Courthouse without such increase in costs or delays in construction wherever reasonably possible, provided that such alternative practices and procedures shall not jeopardize the safety of the Metrorail and Metromover systems or the users of the systems or of any employees, agents, licensees and permittees of the County.

SECTION 7.14. CONSTRUCTION MONITORING, OBSERVATIONS, TESTING, UNCOVERING, AND CORRECTION OF WORK.

(A) Observation and Design Review Program. During the progress of the Design-Build Work through Final Completion, the Developer shall at all times afford the County every reasonable opportunity for observing all Design-Build Work, and shall comply with the Design-Build Work review procedures set forth in Appendix 6 (Design-Build Work Review Procedures). The Developer shall use all reasonable efforts to provide County employees with safe access to the Design-Build Work. During any such observation, all representatives of the County shall comply with the Health and Safety Plan for the Design- Build Work applicable to areas visited and all reasonable instructions or directions made by the Design-Builder in this

respect, and shall not interfere with the Developer's performance of any Design-Build Work. The Developer shall, upon reasonable notice, cooperate with the County to arrange for tours of the Project Site at reasonable times during normal working hours during construction for interested judges and other Government Persons, provided that all such tours do not interfere with the progress of the Design-Build Work. The Developer shall provide the County reasonable advance notice of all scheduled inspections by governmental authorities to determine compliance of the construction with Applicable Laws.

(B) Developer Tests and Inspections. The Developer shall conduct all tests of the Design-Build Work (including shop tests) or inspections required by the Contract Standards. The Developer shall give the County reasonable advance notice (at least one Business Day) of tests or inspections prior to the conduct thereof; provided, however, that in no event shall the County's inability, failure or refusal to attend or be present at or during any such test or inspection delay the conduct of such test or inspection or the performance of the Design-Build Work. All analyses of test samples shall be conducted by persons appearing on lists of laboratories authorized to perform such tests by the County or federal agency having jurisdiction and shall be subject to the approval of the County, which approval shall not be unreasonably withheld. In addition to the foregoing, Commissioning Tests of the completed Project shall be conducted in accordance with Section 7.19 (Commissioning) and Appendix 7 (Commissioning).

(C) County Tests, Observations and Inspections. The County, its employees, agents, representatives and contractors (which may be selected in the County's discretion), specifically including the Design Criteria Professional, shall have the right, at all times but following at least one Business Day's prior notice, to review the Design Documents to confirm compliance of the Project with the Design and Construction Requirements and Applicable Law, and, at any reasonable time and with reasonable notice, to inspect the Project during construction, conduct such on-site observations and inspections, and such civil, structural, mechanical, electrical, chemical, or other tests as the County deems necessary or desirable to ascertain whether the Design-Build Work complies with this Project Agreement, including but not limited to, testing construction materials. The County's costs of any such test, observation or inspection shall be borne by the County, unless such test, observation or inspection reveals a material failure of the Design-Build Work to comply with this Project Agreement or Applicable Law, in which event the Developer shall pay all reasonable costs and expenses of such observation, inspection or test within 30 Business Days of receipt of an invoice from the County. In the event that any requested test, observation or inspection causes a delay in the construction schedule, the Scheduled Occupancy Readiness Date shall be adjusted to reflect the actual period of time needed for completion as directly caused by the requested testing, but only if such testing, observation or inspection does not reveal any material failure or non-compliance as set forth herein.

(D) Certificates and Reports. The Developer shall secure and deliver to the County promptly, at the Developer's sole cost and expense, all required certificates of inspection, test reports, work logs, certified payroll and approvals with respect to the Design-Build Work as and when required by the Contract Standards. The Developer shall provide to the County, immediately after the receipt thereof, copies of any notice of default, breach or non-compliance received by the Developer under or in connection with any Governmental Approval, Project Contract, or Subcontract pertaining to the Design-Build Period.

(E) Notice of Covering Design-Build Work. The Developer shall give the County reasonable advance notice of its upcoming schedule with respect to the covering and completion of any Design-Build Work, and shall update such notice, if necessary, within a reasonable time period before such covering and completion. The County shall give the Developer reasonable notice (a minimum of 48 hours) of any intended inspection or testing of such Design-Build Work in progress prior to its covering or completion, which notice shall be sufficient to afford the County a reasonable opportunity to conduct a full inspection of such Design-Build Work. At the

County's written request, the Developer shall take apart or uncover for inspection or testing any previously-covered or completed Design-Build Work; provided, however, that: (1) the County's right to make such requests shall be limited to circumstances where there is a reasonable basis for concern by the County as to whether the disputed Design-Build Work complies with the requirements of this Project Agreement; and (2) the cost of uncovering, taking apart, or replacing such Design-Build Work, along with the costs related to any delay in performing Design-Build Work caused by such actions, shall be borne as follows:

(a) By the Developer, if:

(i) such Design-Build Work was covered prior to any observation or test required by the Contract Standards or prior to any observation or test for which the County was not provided reasonable advance notice hereunder and did not have the appropriate observers observe the test; or

(ii) such observation or test reveals that the Design-Build Work does not comply with this Project Agreement; and

(b) By the County, promptly following receipt of an invoice therefor from the Developer, if such observation or test reveals that the Design- Build Work complies with this Project Agreement.

(F) Meetings and Design-Build Work Review. During the Design-Build Period, the Developer and the County shall conduct periodic meetings in accordance with Appendix 6 (Design-Build Work Review Procedures).

(G) Correction of Design-Build Work. Throughout the Design-Build Period, the Developer shall complete, repair, replace, restore, re-perform, rebuild and correct promptly any Design-Build Work which does not conform with the Contract Standards. The County may elect by Change Order, at the Developer's request, to accept non-conforming Design- Build Work and charge the Developer (through an adjustment to the Service Fee) an amount agreed upon by the parties by which the value of the Developer's services or Design-Build Work has been reduced. The obligations specified in this subsection establish only the Developer's specific obligation to correct the Design-Build Work and shall not be construed to establish any limitation with respect to any other obligations or liabilities of the Developer under this Project Agreement. This subsection is intended to supplement (and not to limit) the Developer's obligations under the Commissioning Tests, Occupancy Readiness Conditions and any other provisions of this Project Agreement or Applicable Law.

SECTION 7.15. COUNTY FURNISHED EQUIPMENT.

(A) Developer Responsibilities. Excluding County Furnished Equipment, the Developer shall procure, furnish, pay for and install all general facility/building system requirements for the Project set forth in Appendix 4 (Design and Construction Standards) and the appendices thereto as a responsibility of the Developer and otherwise required by the Contract Standards which shall include, but not be limited to, all of the building systems infrastructure (wiring, conduits, etc.) required for the proper installation and functioning of the County Furnished Equipment.

(B) Selection, Payment, and Installation of County Furnished Equipment. The County shall identify, select, purchase and install in its discretion all County Furnished Equipment the County requires for the Project as more specifically set forth in Appendix 4 (Design and Construction Standards) and the appendices thereto as a responsibility of the County or any other Government Entity. The County shall determine the locations at which the County Furnished Equipment is to be installed. The County shall advise the Developer, in

connection with the establishment and periodic revision of the Project Schedule, as to the nature and quantity of the County Furnished Equipment the County plans to supply, and the expected dates of delivery and installation. The parties shall agree on a schedule for the delivery and installation of the County Furnished Equipment that is consistent with and will not cause a material delay in the Project Schedule; provided, however, that the Developer shall provide the County and its contractors, consultants, and installers with access to the Courthouse in accordance with the schedule specified in subsection 7.15(C) herein to allow the County, its contractors, consultants, and installers to configure, deploy, and install County Furnished Equipment. The County shall be responsible for the delivery and installation of any County Furnished Equipment, and shall not unreasonably interfere with the Design-Build Work in connection therewith. The Developer shall provide reasonable assistance to the County in all coordination, scheduling, delivery and installation activities related to the County Furnished Equipment. At a minimum, during the required access periods specified in subsection 7.15(C) herein, the Developer shall provide: stable, steady, and continuous air-conditioning, power, and lighting; the presence of the Developer's low voltage installation contractor while the County is working; complete and accurate set of Design Documents and as-built diagrams; a staging area with secure locks for delivery; finished information technology-related rooms and spaces that are free from dust and conducive for the successful configuration, deployment, and commissioning of County Furnished Equipment in the Courthouse; and coordinated daily trash pick-up by the Developer.

(C) Courthouse Access Schedule. The Developer shall provide access to the Courthouse, including the loading dock, for the County, its contractors, consultants, and installers for the installation of County Furnished Equipment as described herein:

(1) On or before six months prior to the Scheduled Occupancy Readiness Date, 20% of the floor area of the Courthouse, to include Functional Space Nos. 29.57 (Network Operations Center), 29.61 (Server Room), and a proportionate number of 29.62 (Telecom/Low Voltage Rooms), shall be available for County access;

(2) On or before five months prior to the Scheduled Occupancy Readiness Date, 40% of the floor area of the Courthouse, to include the areas identified in subsection 7.15(C)(1) above, shall be available for County access;

(3) On or before four months prior to the Scheduled Occupancy Readiness Date, 60% of the floor area of the Courthouse, to include the areas identified in subsection 7.15(C)(2) above, shall be available for County access;

(4) On or before three months prior to the Scheduled Occupancy Readiness Date, 80% of the floor area of the Courthouse, to include those areas identified in subsection 7.15(C)(3) above, shall be available for County access;

(5) On or before two months prior to the Scheduled Occupancy Readiness Date, 100% of the floor area of the Courthouse, to include those areas identified in subsection 7.15(C)(4) above, shall be available for County access.

(D) Obligations As To County Furnished Equipment. County Furnished Equipment shall be deemed to be part of the Project only to the extent of the Developer's obligations with respect thereto as provided in this subsection. The County Furnished Equipment shall not be deemed to be part of the Project, and the County shall be responsible for the maintenance, repair and replacement thereof. The Developer shall be entitled to claim the occurrence of a Compensation Event during the Facility Management Period to the extent that the County does not maintain, repair, remove or replace the County Furnished Equipment in accordance with Good Facility Management Practice and such failure has an adverse effect on the Developer's performance of, or the Developer's cost of providing, the Contract Services.

SECTION 7.16. MOVEABLE FURNITURE, FIXTURES AND EQUIPMENT AND SECURITY SYSTEMS EQUIPMENT.

(A) Base Furniture, Fixtures and Equipment. Other than Moveable Furniture, Fixtures and Equipment and other than Security Systems Equipment that are identified as a County responsibility in Appendix 4 (Design and Construction Standards), the Developer shall furnish, pay for and install all furniture, fixtures and equipment required for the Project under the Contract Standards, to include the provision of all necessary infrastructure; furniture, fixtures, and equipment; décor; and supplies required for the proper furnishing and operation of the Restaurant.

(B) Selection and Installation of Moveable Furniture, Fixtures and Equipment and Security Systems Equipment. At least one (1) year prior to the Scheduled Occupancy Readiness Date, the County shall identify and select, in its discretion and in consultation with the Developer, all furniture, fixtures and equipment the County requires for the Project (the "**Moveable Furniture, Fixtures and Equipment**") that are not described in the Design and Construction Requirements as furniture, fixtures and equipment that the Developer is required to furnish, pay for and install as part of the Project. A preliminary list of expected Moveable Furniture, Fixtures and Equipment is set forth in Appendix 4 (Design and Construction Standards). The County shall identify and select, in its discretion and in consultation with the Developer, the SS Equipment. The Developer shall be responsible for the procurement of the Moveable Furniture, Fixtures and Equipment and the SS Equipment identified and selected by the County and the Developer shall undertake such procurement processes in accordance with any requirements imposed by Applicable Law, including but not limited to, the inclusion of Small Business Enterprise Program measures. Developer shall be responsible for accepting delivery of all Moveable Furniture Fixtures and Equipment and the SS Equipment and for the placement and installation thereof within the Courthouse. The County shall determine the locations at which the Moveable Furniture, Fixtures and Equipment and the SS Equipment is to be installed. The parties shall agree on a schedule for the delivery and installation of the Moveable Furniture, Fixtures and Equipment and of the SS Equipment that is consistent with and will not cause a material delay in the Project Schedule.

(C) Payment and Reimbursement for Moveable Furniture, Fixtures and Equipment and SS Equipment. The Developer shall seek competitive bids or price quotations for the Moveable Furniture, Fixtures and Equipment and the SS Equipment (to include delivery, installation, and assembly) identified and selected by the County but shall not directly place any orders or make payment for the purchase of the Moveable Furniture, Fixtures and Equipment or the SS Equipment. The County shall be responsible for issuance of all purchase orders and for making direct payment to third party vendors and suppliers for the purchase, delivery, installation, and assembly of Moveable Furniture Fixtures and Equipment and SS Equipment. The Developer, in conjunction with the County, shall arrange for delivery and installation of the Moveable Furniture, Fixtures and Equipment and of the SS Equipment in a timely and proper manner. Moveable Furniture, Fixtures and Equipment and SS Equipment shall be deemed to be part of the Project only to the extent of the Developer's obligations with respect thereto as provided expressly in this Project Agreement. The Developer and the County shall cooperate and shall make any and all necessary amendments to this Project Agreement in order to ensure that the County's purchase of the Moveable Furniture, Fixtures and Equipment and the SS Equipment is completed on a tax-exempt basis.

(D) Obligations As To SS Equipment. SS Equipment shall be deemed to be part of the Project only to the extent of the Developer's obligations with respect thereto as provided in this subsection. The SS Equipment shall not be deemed to be part of the Project, and the County shall be responsible for the maintenance, repair and replacement thereof. The Developer shall be entitled to claim the occurrence of a Compensation Event during the Facility

Management Period to the extent that the County does not maintain, remove, repair or replace the SS Equipment in accordance with Good Facility Management Practice and such failure has a material and adverse effect on the Developer's performance of, or the Developer's cost of providing, the Contract Services.

(E) Obligations As to Moveable Furniture, Fixtures and Equipment. Moveable Furniture, Fixtures and Equipment shall be deemed to be part of the Project only to the extent required for the Developer to fulfill its obligations with respect thereto as provided in this subsection. Moveable, Furniture, Fixtures and Equipment shall be deemed to be part of the Project for the purposes of Developer's obligations during the Facility Management Period for the upkeep and cleaning of the Moveable Furniture, Fixtures and Equipment as required in the Facility Management Requirements. However, the County shall be responsible for the repair and maintenance of the Moveable Furniture, Fixtures and Equipment during the Facility Management Period. The Developer shall be entitled to claim the occurrence of a Compensation Event during the Facility Management Period to the extent that the County does not remove, repair or replace the Moveable Furniture, Fixture and Equipment in accordance with Good Facility Management Practice and such failure has a material and adverse effect on the Developer's performance of, or the Developer's cost of providing, the Contract Services.

SECTION 7.17. WARRANTIES OF DESIGN-BUILD WORK.

The Developer shall, for the protection of the County, obtain from the Project Contractors, all Subcontractors, vendors, suppliers and other persons from which the Developer procures structures, improvements, fixtures, machinery, equipment and materials to be incorporated in the Project such warranties and guarantees as are normally provided with respect thereto or, to the extent superior in scope or length, as are specifically required in Appendix 4 (Design and Construction Standards) and the Contract Standards, each of which shall be assigned to the Facility Manager to the full extent of the terms thereof and subject to the security interest of the Senior Lenders under the Senior Financing Agreements. No such warranty shall relieve the Developer of any obligation hereunder, and no failure of any warranted or guaranteed structures, improvements, fixtures, machinery, equipment or material shall be the cause for any increase in the Service Fee or excuse any non-performance of the Design-Build Work. The Developer shall enforce such warranties and guarantees as provided in Section 9.11 (Enforcement of Project Warranties).

SECTION 7.18. SUBSTANTIAL COMPLETION.

(A) Conditions to Substantial Completion. "**Substantial Completion**" shall occur only when all of the following conditions have been satisfied, as determined by the County Representative and, in the case of a dispute, by the Independent Building Expert, except to the extent that any or all of such conditions have been waived by the County:

(1) Physical Completion. Construction of the Project is physically complete and all Design-Build Work pertaining to the Project, except the Commissioning Tests and the items on the Punch List, is complete and in all respects is in compliance with this Project Agreement;

(2) Project Equipment, SS Equipment, and Movable Furniture, Fixtures and Equipment. The Project Equipment, the SS Equipment, and the Moveable Furniture, Fixtures and Equipment are installed such that the Project Equipment, the SS Equipment and the Moveable Furniture, Fixtures and Equipment is ready for its intended use, in good and working order, and free from any defects, except for Punch List Items;

(3) Certificate of Occupancy. Final certificate of occupancy is issued by the Governmental Body having jurisdiction or, in the event of a temporary certificate of

occupancy, it will be in the County's sole and absolute discretion as to whether the temporary certificate of occupancy contains acceptable conditions so as to render its issuance sufficient to satisfy this condition towards substantial completion.

(4) Safety and Security Systems. The Project's security and safety systems are functional in accordance with the requirements set forth in this Project Agreement; and

(5) Utilities. All Utilities specified or required under this Project Agreement to be arranged for or by the Developer are connected and functioning properly.

(B) Notice of Substantial Completion. The Developer shall give the County Representative and the Independent Building Expert at least 30 days prior written notice of the expected date of Substantial Completion. The County shall promptly (but within 10 Business Days) coordinate with the Developer to arrange for inspection and certification for the Project's Substantial Completion. The County will issue a certificate of either rejection or acceptance of the Developer's Substantial Completion certification within 10 days of completing the County's inspection of the Project, but no later than 10 days following the Developer's expected date for Substantial Completion.

SECTION 7.19. COMMISSIONING.

(A) Commissioning Generally. The Developer shall comply with the Commissioning requirements of Appendix 7 (Commissioning) and shall, as provided therein:

(1) Prepare a detailed Commissioning Plan for the conduct of the Commissioning Tests, meeting the minimum requirements set forth therein;

(2) Include criteria for achieving LEED Silver Certification for the Project;

(3) Conduct Commissioning activities during design and construction;

(4) Perform Commissioning Tests necessary to demonstrate occupancy

(5) Conduct Commissioning Tests during the Commissioning Fine Tuning Period.

(B) Commissioning Tests Report. Promptly upon its completion of the Commissioning Tests, the Developer shall deliver to the County Representative a copy of the Commissioning Tests report prepared by or on behalf of the Developer pursuant to Appendix 7 (Commissioning).

SECTION 7.20. FINAL COMPLETION.

(A) Requirements. "**Final Completion**" shall occur when all of the following conditions have been satisfied:

(1) Occupancy Readiness. The Developer has achieved Occupancy Readiness in accordance with Article 8 (Occupancy Readiness);

(2) Design-Build Work Completed. All Design-Build Work (including all items on the Punch List and all clean up and removal of construction materials and demolition debris) is complete and in all respects is in compliance with this Project Agreement and a Certificate of Occupancy has been issued by the appropriate Governmental Body;

(3) Deliverable Material. The Developer shall have delivered to the County all Deliverable Material required by subsection 7.1(H) (Deliverable Material) needed to achieve Final Completion;

(4) Equipment Warranties and Manuals. The Developer shall be in possession of, and shall have delivered to the County, copies of the warranties of equipment and fixtures constituting a part of the Project required to be obtained under Section 7.17 (Warranties of Design-Build Work), together with copies of all related operating manuals supplied by the equipment supplier;

(5) Spare Parts In Storage. All spare parts required by the applicable Design and Construction Requirements have been delivered and are in storage at the Project;

(6) Record Drawings. The Developer has delivered to the County a final and complete red-lined set of construction record drawings;

(7) Equipment Manufacturers' Certificate. The Developer has delivered to the County written certification from the equipment manufacturers (including manufacturers of information technology systems and instrumentation and controls) that all major items of machinery and equipment included in the Project have been properly installed and tested in accordance with the manufacturers' recommendations and requirements; and

(8) Claims Statement. The Developer has delivered to the County a consent of surety identifying all outstanding claims known to it of every kind whatsoever of the Developer connected with, or arising out of, the Design-Build Work, and arising out of or based on events prior to the date when the Developer gives such statement to the County.

(B) Obligation to Achieve Final Completion; Punch List Items. The Developer shall achieve Final Completion within 120 days after the Occupancy Readiness Date, and shall complete and rectify all Punch List Items as provided in Section 8.4 (Punch List Items). The Developer shall give the County Representative and the Independent Building Expert at least 30 days prior written notice of the expected date of Final Completion. The County shall promptly (but within 10 Business Days) coordinate with the Developer to arrange for inspection and certification for the Project's Final Completion. The County will issue a certificate of either rejection or acceptance of the Developer's Final Completion certification within 10 days of completing the County's inspection of the Project, but no later than 10 days following the Developer's expected date for Final Completion.

SECTION 7.21. LEED SILVER CERTIFICATION.

The Developer shall obtain LEED Silver Certification of the Project in accordance with Appendix 4 (Design and Construction Standards) and shall further, as follows:

(1) Registration. Within 10 Business Days of the Effective Date, the Developer shall register the Project with the United States Green Building Council.

(2) Required Rating. The Developer shall achieve all necessary prerequisites, record keeping, standards, credits and points necessary to achieve at least a LEED Silver Certification for the Project. The Developer shall formally apply for LEED Silver Certification of the Project within 540 days following the Occupancy Readiness Date. Thereafter, the Developer shall pursue the application process with due diligence to completion, and obtain LEED Silver Certification for the Project.

(3) County LEED Requirements. The Developer shall comply with all requirements of the County's Sustainable Buildings Program, as set forth in Sections 9-71 through 9-75 of the County Code and Implementing Order 8-8.

SECTION 7.22. PAYMENT OBLIGATIONS OF THE COUNTY DURING THE DESIGN-BUILD PERIOD.

(A) County Payment Obligations. The County shall pay the Developer pursuant to Section 16.12 (Negotiated Lump Sum Pricing of Additional Work) or Section 16.13 (Cost Substantiation of Additional Work), during the Design-Build Period, at the times provided for herein and from funds provided by the County in accordance with subsection (B) of this Section, the following:

(1) the amounts specified in Section 7.11 (Design and Construction Requirement Changes Made Due to Compensation Events);

(2) the amounts specified in Section 7.12 (Design and Construction Requirement Changes Made at County Direction);

(3) the amounts specified in subsection 7.14(C) (County Tests, Observations and Inspections) and subsection 7.14(E) (Notice of Covering Design-Build Work);

(4) the amounts specified in subsection 15.1(D) (Compensation Relief for Compensation Events Occurring Prior to the Occupancy Readiness Date); and

(5) the amounts specified in subsection 15.2(A) (Changes Prior to the Occupancy Readiness Date), relating to a Discriminatory Change in Law or Specified Change in Tax Law.

(B) Conditions to Certain Developer Performance Obligations During the Design-Build Period. The Developer shall have no obligation to perform any of the obligations referred to in subsection (A) of this Section, that pertain to Design-Build Work, unless and until (1) the parties have agreed upon a scope, price and schedule for the performance of such obligations in accordance with all applicable provisions of this Project Agreement, and (2) the County has provided written assurances acceptable to the Developer, acting reasonably, that funds necessary to pay the cost of performing such obligations will be available for such purposes in the amounts and on the schedule agreed upon by the parties. The schedule changes may include changes to the Scheduled Occupancy Readiness Date and the Longstop Date, and the price changes may reflect delay costs. Any such changes shall be reflected in a Change Order.

(C) Limitations. Except as provided or referred to in this Section, the County shall have no payment obligations to the Developer during the Design-Build Period.

ARTICLE 8

OCCUPANCY READINESS

SECTION 8.1. OCCUPANCY READINESS CONDITIONS.

(A) Conditions. The following conditions shall constitute the "**Occupancy Readiness Conditions**", each of which shall be and remain satisfied in all material respects by the Developer in order to achieve Occupancy Readiness and establish the Occupancy Readiness Date:

(1) Substantial Completion. Substantial Completion has occurred;

(2) Ready for Use. The Project in its entirety is "ready for use" (defined below) for the purposes of normal courtroom, court office and other related County operations, except for Punch List Items;

(3) Architect Letter. The Architect has issued a letter of confirmation to the County Representative, with a copy to the Independent Building Expert, indicating that all buildings and systems at the Project are ready for use, except for Punch List Items, and to the best of its knowledge, have been designed and built in accordance with this Project Agreement;

(4) No Encumbrances. There are no Encumbrances registered or recorded on the Project Site or any part of the Project other than Permitted Encumbrances;

(5) Successful Commissioning. The Developer has completed Commissioning the Project in accordance with the Commissioning Plan, and the Commissioning Tests have been successfully performed and satisfied (subject to such Commissioning which is identified in the Commissioning Plan to be conducted after the Occupancy Readiness Date);

(6) Required Insurance. The Developer has obtained and submitted to the County certificates of insurance that meet all Required Insurance that are the Developer's responsibility as specified in Appendix 10 (Insurance Requirements);

(7) Life Cycle Schedule. The Developer has delivered to the County a Life Cycle Schedule as required by Appendix 8 (Facility Management Requirements); and

(8) Start-up Plan. The Developer has delivered to the County a Start-up Plan as required by Appendix 8 (Facility Management Requirements).

(B) "Ready for Use". For purposes of subsection (A) of this Section, in determining whether the Project, Moveable Furniture, Fixtures and Equipment or Project Equipment are "ready for use," the following factors shall be taken into account:

(1) compliance with the requirements of this Project Agreement;

(2) the ability of public and Facility Users to access the Project, and the risk of injury to members of the public and all Facility Users;

(3) the security requirements set forth in Appendix 4 (Design and Construction Standards) and Appendix 8 (Facility Management Requirements) of this Project Agreement are operational;

(4) the absence of any apparent hazard or nuisance;

(5) the ability to conduct court operations in a reasonably quiet and stable environment free from dust, chemical, smoke and other health and safety concerns;

(6) the proper installation of all Project Equipment, County Furnished Equipment and Moveable Furniture, Fixtures and Equipment, and the functionality of all Project Equipment; and

(7) such other considerations as a reasonable person of ordinary prudence would take into account if asked to decide whether the Project is suitable for the commencement of court proceedings and ancillary government functions performed at

the Courthouse, all so that, subject to the Punch List Items, the Project in its entirety is ready to use for the purposes of normal courtroom, court office, the Clerk of Courts, and other related tenants. This factor shall not be construed to impose additional obligations on the Developer beyond the Contract Standards.

SECTION 8.2. INDEPENDENT BUILDING EXPERT.

(A) Engagement of Independent Building Expert. At the option of either the County or the Developer, but in no event earlier than 90 days prior to the date on which the Developer anticipates the Project will be in a condition necessary to satisfy the Occupancy Readiness Conditions, the County and the Developer shall engage a person or an entity that possesses skills in design review (including architectural review, structural peer review, and mechanical, electrical and plumbing) for compliance with design requirements and technical specifications similar to the Design and Construction Requirements; institutional building construction involving complex structural systems similar to the Courthouse; construction cost consulting; construction claims adjusting and structural retrofit construction (**"Independent Building Expert"**) in order to resolve any disagreements between the County and Developer as to whether the Developer has satisfied the Occupancy Readiness Conditions. Such skills of the Independent Building Expert may be acquired through a joint venture, association or, with the approval of the County and the Developer, a subcontractor. The Independent Building Expert is not, and will not purport to be, a partner, joint venture or agent of either the County or the Developer. Upon notice by either the County or the Developer, as applicable, that the other party desires the selection and retention of an Independent Building Expert, both the County and the Developer shall have the right to present in writing, within 10 days of the notice of a party's election to retain an Independent Building Expert, up to 3 candidates for consideration by the parties. In proposing, and ultimately selecting, the Independent Building Expert, the Developer and the County shall consider the duties and obligations of the Independent Building Expert as set forth in subsection 8.2(B) below and its ability to fulfill them. The written notice of the candidates for consideration shall include each candidate's qualifications to act as Independent Building Expert and their proposed rates or fees to provide the requested services. The County and the Developer shall cooperate with one another in order to appoint the Independent Building Expert as soon as reasonably practicable but in no event later than 10 days' after the presentation of candidates. In the event that the County and the Developer are unable to agree within such time period to the selection of an Independent Building Expert, the matter may be handled by the Dispute Resolution Procedures under Article 18 (Dispute Resolution).

(B) Duties and Obligations of Independent Building Expert.

(1) The Independent Building Expert shall act impartially and independently of the County and the Developer in the performance of its duties as contemplated in this Project Agreement and shall use its best skill and judgment in providing the services and making any certifications related to the Occupancy Readiness Conditions. Nothing in this Project Agreement shall be interpreted as giving the Independent Building Expert any responsibility or authority for any aspect of the Design-Build Work or for satisfying the Occupancy Readiness Conditions, or as relieving the Developer of its responsibility for the Design- Build Work or for meeting the Occupancy Readiness Conditions as set out in this Project Agreement.

(2) All determinations of fact and the drawing of conclusion based upon any facts so determined shall be made in the exercise of the Independent Building Expert's independent professional judgment. Although the Independent Building Expert should take account of any opinions or representations made by the County and the Developer, and their respective professional advisors and consultants, the Independent Building Expert shall not be bound to comply with any opinions, representations , requests or directions made by either the County, the Developer, or their respective professional

advisors and consultants in connection with any matter on which the Independent Building Expert is required to exercise its professional judgment. Notwithstanding the foregoing, the Independent Building Expert shall accept all agreed statements of fact made jointly by the County and the Developer.

(3) The Independent Building Expert shall have no direct or indirect material interest in or connection with any person, trust, partnership,joint venture or other entity that is not at arm's length to the County or the Developer. The Independent Building Expert shall have no direct or indirect material interest in, and will not at any time have a direct or indirect interest in, the certification of Occupancy Readiness with respect to the Project except with respect to the performance of its services and the payment of its fee. The Independent Building Expert shall be required to agree that, during the term of its agreement with the County and Developer relating to the Project, if any conflict or risk of conflict of interest arises, or there is reasonable apprehension that a conflict of interest has arisen or may arise, the Independent Building Expert shall immediately notify the County and the Developer in writing of that conflict or risk of conflict and shall take such steps as may be required by the County and the Developer to avoid, or (where it is not possible to avoid that conflict) mitigate that conflict or risk to the greatest extent possible, or (where it is not possible to avoid that conflict, and the County and the Developer jointly request) resign.

(4) The Independent Building Expert shall have no authority to give any directions to the County or the Developer, or either of their officers, employees, contractors, consultants or agents, and shall have no authority to waive or alter any terms of the Project Agreement, nor to discharge or release either the County or the Developer from any of its obligations under the Project Agreement.

(5) The Independent Building Expert shall be required to act in accordance with the joint direction of the County and the Developer, provided that the directions are not inconsistent with the other terms of this Project Agreement and do not vary or prejudice the Independent Building Expert's exercise of its professional judgment under this Project Agreement. The Independent Building Expert shall be required to provide copies to the County and the Developer of all reports, communications, certificates and other documentation that it provides to either the County or the Developer.

(C) Actions by the County and Developer Regarding the Independent Building Expert.

(1) No Interference. Neither the County nor the Developer shall in any way obstruct or otherwise impede or interfere with the performance of the duties and obligations of the Independent Building Expert. All instructions given to the Independent Building Expert by the County and the Developer shall be in writing.

(2) Joint Approval Required. The County and the Developer shall not, without the other's prior written approval, which approval shall not be unreasonably withheld or delayed, terminate, repudiate or discharge the Independent Building Expert for any reason, or enter into a separate agreement with the Independent Building Expert in connection with the Project.

(3) Cooperation and Costs. The County and the Developer shall cooperate with one another generally in relation to all matters within the scope of the Independent Building Expert. All instructions and representations issued or made by either the County or the Developer shall be simultaneously copied to the other and both the County and the Developer shall be entitled to attend all inspections undertaken by, or meetings involving, the Independent Building Expert. All costs of the Independent Building Expert shall be borne equally by the Developer and the County.

(D) Additional Services. The County and the Developer may at any time agree in writing to engage the services of the Independent Building Expert to resolve other disagreements of a technical nature between the County and the Developer that are not directly related to the satisfaction of the Occupancy Readiness Conditions. If the Developer and the County agree to use the Independent Building Expert to resolve technical disputes under this Project Agreement, the agreement with the Independent Building Expert shall be amended to include such additional scope of work.

SECTION 8.3. OCCUPANCY READINESS CERTIFICATE.

(A) Generally. The Developer shall give the County and, if retained, the Independent Building Expert, not less than 60 days' written notice of the date on which it anticipates the Project will be in a condition necessary to satisfy the Occupancy Readiness Conditions and the dates on which it is intended that the County Representative carries out the inspection of the Project. After the Developer provides the 60 days' advance notice, but in no event earlier than 30 days following the 60 days' notice, the Developer shall give the County an application for an Occupancy Readiness Certificate (the "Occupancy Readiness Notice") setting forth all material information required by Section 8.1 above. Upon the delivery of the Occupancy Readiness Notice by the Developer, the County Representative shall inspect the Project as soon as possible but no later than ten Business Days following such a request, and determine whether to issue the Occupancy Readiness Certificate in accordance with this Project Agreement.

(B) Certificate Issuance. In determining whether there is an entitlement for the issuance of an Occupancy Readiness Certificate, the County Representative shall witness such tests and investigations and make such inquiries as are reasonably necessary or advisable to the question as to whether the Occupancy Readiness Conditions have been satisfied. Provided, however, that the obligation to witness tests and investigations and make inquiries shall not apply where it is clear that the Occupancy Readiness Conditions have not been met. If the County Representative determines that the Occupancy Readiness Conditions have been satisfied, the County Representative shall deliver, within five Business Days from the inspection referred to in subsection (A), a duplicate signed original Occupancy Readiness Certificate to the Developer.

(C) Deficiencies. If, upon inspection and review, the County Representative determines that any of the Occupancy Readiness Conditions have not been satisfied, the County shall identify any deficiencies in a written report delivered as soon as possible but no later than five (5) Business Days following the date of the inspection performed under subsection (A) and may also engage the services of the Independent Building Expert to resolve any disagreements at this time, or any time, that exist between the County and Developer regarding the satisfaction of the Occupancy Readiness Conditions. The Developer shall thereupon act with the highest level of diligence and expediency to rectify all such matters or, if the Developer disagrees with the County, may request that the Independent Building Expert review the County's written deficiencies' report, inspect the Project, and take any other actions within the scope of the Independent Building Expert's authority to resolve the disagreement between the County and the Developer regarding to the Occupancy Readiness Conditions. As soon as the Developer has completed all required rectification actions, the Developer may give a new Occupancy Readiness Notice. Upon the Developer's notification of such rectification to the County and issuance of a new Occupancy Readiness Notice, the County Representative shall confirm such rectification and issue a duplicate signed original Occupancy Readiness Certificate to the Developer as soon as possible but no later than three (3) Business Days following the date the County Representative determines that such rectification has been completed or shall issue a revised report identifying all deficiencies that need to be corrected. This process shall continue until the Occupancy Readiness Certificate has been issued.

(D) Effect of Issuance. The Occupancy Readiness Certificate shall establish the Occupancy Readiness Date and be final and binding on the County and the Developer with respect to the occurrence of the Occupancy Readiness Date.

(E) Matters Not Affected By Certificate Issuance. Neither the issuance of the Occupancy Readiness Certificate, nor any use by the County of any part of the Project or the commencement of any court activities under the terms of this Project Agreement, shall:

(1) Limit the obligations of the Developer under this Project Agreement, including its obligation to complete the Design-Build Work in accordance with this Project Agreement and to remedy any defects, deficiencies or items of outstanding Design-Build Work existing or discovered prior to or after the date of the Occupancy Readiness Certificate or the date of the Punch List;

(2) Be construed as an approval by the County of the Project or the manner in which the Design-Build Work has been carried out by the Developer; or

(3) Have any effect other than as specified in subsection (D) of this Section.

The County shall retain all of its rights with respect to any matter not affected by the issuance of the Occupancy Readiness Certificate.

SECTION 8.4. PUNCH LIST ITEMS.

(A) Punch List. The County Representative, in conjunction with the Developer, shall, prior to inspection of the Project to determine whether the Project has met the Occupancy Readiness Conditions, prepare a list of all Punch List Items (the "**Punch List**") identified at that time and an estimate of the cost and the time for rectifying such Punch List Items. The County shall not withhold the Occupancy Readiness Certificate by reason solely that there are Punch List Items, understanding, however that the existence and scope of Punch List items may impede the satisfaction of the Occupancy Readiness Conditions. The Punch List shall be a statement of repairs, corrections and adjustments to the Design-Build Work, and incomplete aspects of the Design-Build Work, which, in the County Representative's and Developer's reasonable estimations:

(1) The Developer can complete before the Final Completion deadline provided in Section 7.20 (Final Completion), and with minimal interference to the occupancy and use of the Project; and

(2) Would represent, to perform or complete, a total cost of not more than 1% of the portion of the price payable under the Design-Build Contract.

Either the County or the Developer may engage the services of the Independent Building Expert to resolve any disagreements regarding the items that are to be included in the Punch List.

(B) Minimal Impact on Project Operations. The Punch List shall contain the schedule for the completion and rectification of the Punch List Items. In determining the relevant time for rectifying Punch List Items, the Developer shall schedule the completion and rectification of Punch List Items so as to minimize, to the greatest extent reasonably possible, any impairment of Facility Users' use and enjoyment of the Project, disruption of the Facility Management Services and the court activities.

(C) Waiver of Occupancy Readiness Requirements. The County may, in its discretion, waive (in writing) any Occupancy Readiness Condition, and the failure to meet any such requirement shall constitute a Punch List Item.

(D) Rectification of Punch List Items. The Developer shall complete and rectify all Punch List Items within 120 days of the Occupancy Readiness Date. The Developer acknowledges and agrees that the completion and rectification of Punch List Items may require work outside of normal working hours in order to accommodate the efficient operation of the Project and conduct of County Activities.

(E) Failure to Rectify Punch List Items. In the event that the Developer fails to complete and rectify the Punch List Items specified in the Punch List within the time period specified pursuant to subsection (D) of this Section:

(1) the County may withhold from the Service Fee a holdback amount that is 200% of the amount estimated by the County Representative for the County to complete and rectify Punch List Items (to the extent then outstanding); and

(2) the County may engage others to perform the work necessary to complete and rectify the Punch List Items, at the risk and cost of the Developer, and the County may deduct such cost from the holdback amount set forth in subsection (E)(1) of this Section.

Upon completion and rectification of all of the Punch List Items pursuant to this subsection, the County shall release to the Developer the then remaining amount of the holdback. If the cost of such completion and rectification exceeds the amount of such holdback, then the Developer shall reimburse the County for all such excess cost.

SECTION 8.5. SCHEDULED OCCUPANCY READINESS DATE AND LONGSTOP DATE.

(A) Scheduled Occupancy Readiness Date Defined. The Scheduled Occupancy Readiness Date is the date that is 1,460 days following the Financial Close Date, as such date may be extended as provided in subsection (C) of this Section.

(B) Longstop Date Defined. The Longstop Date is the date that is 365 days following the Scheduled Occupancy Readiness Date, as such date may be extended as provided in subsection (C) of this Section.

(C) Extension for Supervening Events. If a Supervening Event occurs between the Financial Close Date and the Scheduled Occupancy Readiness Date, the Scheduled Occupancy Readiness Date and the Longstop Date shall be extended for such time as is reasonable in the circumstances to take account of the effect of the delay on any critical path matter in the Project Schedule caused by the Supervening Event.

SECTION 8.6. FAILURE TO ACHIEVE OCCUPANCY READINESS BY THE SCHEDULED OCCUPANCY READINESS DATE.

(A) Loss of Service Fee Payments. The obligation of the County to pay the Service Fee shall commence on the later of (i) the Occupancy Readiness Date or (ii) the Scheduled Occupancy Readiness Date, as provided in Section 16.1 (Service Fee Generally). The Developer acknowledges, accordingly, that any delay in achieving Occupancy Readiness beyond the Scheduled Occupancy Readiness Date will result in the loss of Service Fee payments to which the Developer otherwise would have been entitled during the period of delay.

(B) Incremental Move-In Costs. The Developer shall keep the County regularly apprised as to the date on which the Developer reasonably expects the Occupancy Readiness Date to occur. Not later than 60 days prior to the Scheduled Occupancy Readiness Date, the Developer shall notify the County in writing as to the date on which the Occupancy Readiness

Date is definitively expected to occur. The County may rely on such notice in planning its move-in activities. If the proposed Occupancy Readiness Date is earlier than the Scheduled Occupancy Readiness Date, the County shall notify the Developer within 30 days as to whether it intends to take occupancy on such proposed Occupancy Readiness Date. If the Developer fails to achieve Occupancy Readiness by the proposed Occupancy Readiness Date (as such proposed Occupancy Readiness Date may be extended on account of Supervening Events) and the County incurs additional incremental direct, arm's length out of pocket costs as a result of reliance on the proposed Occupancy Readiness Date (such costs to be reasonably incurred and evidenced to the Developer through reasonable substantiation of costs related to the move of court personnel and equipment into the Courthouse), the Developer shall pay such costs to the County. If the proposed Occupancy Readiness Date is earlier than the Scheduled Occupancy Readiness Date and the County does not notify the Developer that it intends to take occupancy on such proposed Occupancy Readiness Date, then the Developer shall not incur any liability under this Section unless and until the actual Occupancy Readiness Date occurs after the Scheduled Occupancy Readiness Date. Notwithstanding anything contained in this Project Agreement, the liability of the Developer under this subsection shall not exceed $3,400per day.

SECTION 8.7. FAILURE TO ACHIEVE OCCUPANCY READINESS BY THE LONGSTOP DATE.

In the event the Developer fails to satisfy the Occupancy Readiness Conditions by the Longstop Date, a Developer Event of Default hereunder shall be deemed to have occurred and the County may pursue all remedies available under Article 19 (Remedies of the Parties and County Step-In Rights) and Article 22 (Termination) in accordance with the terms thereof.

SECTION 8.8. COUNTY RIGHT OF OCCUPANCY.

(A) Commencement of Use and Occupancy. The right of the County to occupy and use the Project under this Project Agreement shall commence on the Occupancy Readiness Date, except as provided in subsection (B) of this Section.

(B) Early Occupancy. In the event the Developer determines during the Design-Build Period that the Occupancy Readiness Date may occur prior to the Scheduled Occupancy Readiness Date and that it wishes to offer early occupancy of the Project, it shall so advise the County. The County shall be under no obligation to take early occupancy of the Project or commence payment of the Service Fee prior to the Scheduled Occupancy Readiness Date, but may do so in its discretion under terms and conditions negotiated by the parties.

ARTICLE 9

OPERATION AND MAINTENANCE

SECTION 9.1. DEVELOPER OBLIGATIONS GENERALLY.

(A) Responsibility. Commencing on the Occupancy Readiness Date, the Developer shall operate, maintain, repair, and replace the Project on a 24-hour per day, 7-day per week basis during the Term in accordance with the Facility Management Requirements and the other Contract Standards.

(B) Scope. The Developer shall furnish all labor, materials, equipment, supplies, tools, storage, transportation, insurance, sales, delivery, accounting, record-keeping and other things and kinds of services whatsoever necessary for the full performance of the Developer's operation, maintenance, repair, replacement, management, obtaining and maintaining Governmental Approvals and related obligations under this Project Agreement.

(C) Maintenance of County Furnished Equipment, SS Equipment and Moveable Furniture, Fixtures and Equipment. The Facility Management Services do not include the obligation to provide any maintenance, repair or replacement of County Furnished Equipment or of SS Equipment, the costs and responsibility for which shall be borne by the County.

(D) Special Events. The County shall have the right to utilize the Courthouse for planned, special events or activities outside of Operating Hours upon reasonable notice to the Developer. In the event that the County's use of the Courthouse for planned, special events or activities outside of Operating Hours materially interferes with or materially increases the cost of performing the Contract Services, Developer shall notify the County of the additional costs associated with the County's special events and the County shall have the right to continue to use the Courthouse for special events provided the County pays Developer for such additional costs. All such additional costs associated with the County's special events shall be provided to the County by the Developer in an itemized and detailed format to allow the County to assess and evaluate the accuracy of such costs and all such the County and all said costs shall be reasonable and necessary for the special events.

(E) Emergency Orders and Directives. The Developer shall comply with all orders and directives given or issued by the County or any Governmental Body having police power or regulatory jurisdiction based on an emergency condition.

(F) Facility Management Services' Safety Requirements. In addition to all other requirements imposed by Applicable Law, the Developer shall perform all Facility Management Services in accordance with Appendix 19 (Department of Transportation and Public Works Adjacent Construction Manual), as may be amended from time to time, and as otherwise provided in subsection 7.13(C) (Department of Transportation and Public Works Adjacent Construction Manual).

(G) Indemnification in Project Contracts and Subcontracts. Any and all Project Contracts and Subcontracts of any tier entered into by the Developer to operate, maintain, repair, and replace the Project shall require Subcontractors to release the County and hold it harmless to the same extent required in Section 24.1 (Developer's Obligations to Indemnify). The release obligations set forth in the Project Contracts and Subcontracts shall name the County as an express third-party beneficiary with rights of enforcement of such obligation and shall entitle the County to succeed to Developer's rights under such Project Contract or Subcontract. The Developer shall include, or cause to be included, in the Project Contracts the requirements that all operations, maintenance, repair, and replacement shall be performed in accordance with Applicable Law and this Project Agreement. Developer shall provide the County with any and all Project Contracts upon request by the County. The County shall not, however, be construed as a party to any Project Contract related to the Project nor shall the County in any way be responsible for any or all claims of any nature whatsoever arising or which may arise from any such Project Contracts or Subcontracts.

SECTION 9.2. UTILITIES.

(A) Supply. The Developer shall arrange for and establish the physical connection for the supply of electric, gas, water, sewer and other utility service required for the Project, inclusive of the Restaurant, in accordance with Appendix 4 (Design and Construction Standards).

(B) Service. Following the issuance of the Occupancy Readiness Certificate, the County shall negotiate, establish and contract for all electric, gas, water, sewer and other utility service required for the Project with the utility providers selected by the County and will

be responsible for all metering arrangements and paying utilities directly without recourse to the Developer. To the extent requested by Developer and subject to Applicable Law, the County will provide to the Developer the benefit of any provisions in recorded Utility or other easements on or under the Project Site which require the easement holders to relocate at their expense and the County will reasonably assist the Developer in obtaining the benefit of all rights the County has under such Utility easements, permits or other rights pertaining to Utilities on the Project Site, it being understood that such assistance will not entail the initiation of or participation in legal actions or proceedings or the expenditure of any County funds. The Developer shall negotiate, establish and contract for all electric, gas, water, sewer and other utility service required for the Restaurant with the utility providers selected by the County and will be responsible for all metering arrangements and paying utilities for the Restaurant directly without recourse to the County.

(C) Payment for Utilities. The County, following the Occupancy Readiness Date, shall timely pay all utility bills for the Project excluding the Restaurant.

(D) Energy Efficiency. The Developer shall maintain the energy efficiency of the Project in accordance with the requirements of Appendix 4 (Design and Construction Standards) and Appendix 8 (Facility Management Requirements) and as set forth in the Energy Management Plan and Appendix 9 (Facility Management Extracts). Any failure of the Developer to perform its maintenance and other obligations relating to the energy efficiency of the Courthouse shall result in a Deduction as provided in Appendix 11 (Deductions).

SECTION 9.3. DOCUMENTS AND REPORTS.

(A) Plans, Programs, Reports and Documents. The Developer shall provide the County with the plans, programs, reports and documentation required with respect to the Facility Management Services under Appendix 8 (Facility Management Requirements).

(B) Default Reports. The Developer shall provide to the County, immediately after the receipt thereof, copies of any written notice of a material default, breach or non-compliance received or sent under or in connection with any Material Contract with respect to the Facility Management Services.

SECTION 9.4. ORDINARY MAINTENANCE.

(A) Ordinary Maintenance and Repair. The Developer, except as provided in subsection 9.1(C) (Maintenance of County Furnished Equipment, SS Equipment, and Moveable Furniture, Fixtures and Equipment) and subsection (B) of this section, shall perform all normal and ordinary maintenance of the mechanical equipment, structures, improvements, grounds and all other property constituting the Project, and shall keep the Project in good working order, condition and repair and in a neat and orderly condition all in accordance with the Facility Management Requirements. The Developer shall provide or make provisions for all labor, materials, supplies, equipment, spare parts, consumables and services which are necessary for the normal and ordinary maintenance of the Project and shall conduct all Scheduled Maintenance. The Developer's obligation to provide consumables described in this section shall include, but not be limited to, all bathroom consumables required for the operation and maintenance of the Facility.

(B) Vandalism.

(1) If any maintenance, repair or replacement of the Project is required due to Vandalism from any cause or to any extent, the Developer shall perform such maintenance, repair or replacement. The County shall continue to have the right to

impose Deductions for Unavailability Events and Performance Failures relating to Vandalism, in accordance with Appendix 11 (Deductions).

(2) No later than the Occupancy Readiness Date, the Developer shall establish and fund a reserve account (**"Vandalism Reserve Account"**) to remediate acts of Vandalism. The Developer shall allocate such funds to the Vandalism Reserve Account at the rate of $10,000 (CPI-Linked) per Contract Year (such amount to be prorated to accommodate any partial Contract Year of operation of the Project by the Developer). Amounts in the Vandalism Reserve Account that remain unused in any Contract Year will roll into the next Contract Year. Unused funds upon the Termination Date will be deducted from the final Service Fee payment or otherwise credited to the County in the final Annual Settlement Statement or calculation of the Termination Amount, as applicable. Subject to paragraph (3) of this subsection, the Developer may withdraw funds from the Vandalism Reserve Account in such amounts and at such times as needed to pay amounts attributable to the reasonable, actual costs that have been incurred by the Developer in respect of maintenance, repair or replacement activities that are required to remediate acts of Vandalism. If such costs exceed the total funds available in the Vandalism Reserve Account at any time, the cost of additional remediation shall be paid by the County as an Extraordinary Item.

(3) The Developer shall provide the County on a monthly basis (or at other times as reasonably requested by the County) with a written report indicating any amounts that have been withdrawn from the Vandalism Reserve Account during the month, together with evidence of the costs that are the subject of such drawings; the purpose for which funds have been used; evidence that all Project Contractors and Subcontractors have waived any rights to Liens; the balance remaining in the Vandalism Reserve Account; and such other supporting information as the County may reasonably require. Any amounts that are found to have been improperly withdrawn shall, at the election of the County, either be immediately returned to the Vandalism Reserve Account or offset against Service Fee payments, as a Service Fee adjustment. For purposes of this paragraph, the term "improperly withdrawn" refers to the Developer's withdrawal of funds in circumstances where the Developer cannot provide evidence establishing that the funds were used to remediate acts of Vandalism in accordance with paragraph (2) of this Section.

SECTION 9.5. MAJOR MAINTENANCE, REPAIR AND REPLACEMENTS.

(A) Major Maintenance, Repair and Replacements Generally. The Developer, in addition to its ordinary maintenance obligations described in Section 9.4 (Ordinary Maintenance) and except as provided in subsection 9.1(C) (Maintenance of County Furnished Equipment, SS Equipment and Moveable Furniture, Fixtures and Equipment), shall prepare, maintain and comply with its obligations under the Facility Management Plans required pursuant to Appendix 8 (Facility Management Requirements) and shall perform all major maintenance, repair and replacement of the equipment, systems, structures, improvements and all other property constituting the Project during the Term required under the Contract Standards, including all maintenance, repair and replacement which may be characterized as "major" or "capital" in nature. The County's approval for any such maintenance, repair or replacement shall not be required unless it constitutes a Capital Modification under Article 10 (Capital Modifications and Facility Management Services Changes). The obligations of the Developer under this Article are intended to assure that the Project is fully, properly and regularly maintained, repaired and replaced in order to preserve its long-term reliability, durability and efficiency, and that in any event the Project is returned to the County at the end of the Term in a condition which fully complies with the Handback Requirements.

(B) Major Equipment Repair and Replacement Schedule and Schedule Changes. The parties acknowledge that, in light of the long-term nature of this Project Agreement and the practical limitations on predicting with specificity the life cycle of any particular asset of the Project, it may be appropriate from time to time to alter the Life Cycle Plan or the Five-Year Maintenance Plan. Accordingly, the Developer shall have the right to request County approval of alterations to the Life Cycle Schedule, Life Cycle Plan or the Five- Year Maintenance Plan at any time during the Term, provided that no such alterations shall be made unless the Developer demonstrates to the satisfaction of the County that the sum of all major maintenance, repairs and replacements performed to date by the Developer, and all major maintenance, repairs and replacements to be performed under any such alterations, shall result in a standard of overall Project maintenance, repair and replacement which is equal to or better than the standard represented by the activities to be performed under the current Life Cycle Schedule, Life Cycle Plan and Five-Year Maintenance Plan. Any alterations to the Life Cycle Schedule, Life Cycle Plan or the Five-Year Maintenance Plan shall be identified and justified in a Contract Administration Memorandum and shall be subject to the County's approval, acting reasonably. The Developer shall cooperate with the County in identifying any such alterations which may be desirable in order to anticipate or address the technical obsolescence or inefficient operation of any component, system or process of the Project, and in proposing such alterations for the County's approval. In no event shall any such alteration of the Life Cycle Schedule, Life Cycle Plan or the Five-Year Maintenance Plan result in a change to the Service Fee. The Facility Management Charge shall constitute the only compensation available to the Developer for the performance of its major maintenance, repair and replacement obligations under this Article.

SECTION 9.6. MAINTENANCE INSPECTIONS AND JOINT TECHNICAL PERFORMANCE REVIEW.

(A) Maintenance Inspections. The County may at any time perform a limited or full-scale inspection and review of the state of repair, working condition and performance capability of the Project, including testing of equipment and systems to determine their physical and operational condition. Any such inspection and review shall be performed at the County's expense, and shall take place at such time as the County shall determine upon reasonable notice to the Developer. The inspection may include a concurrent review of all relevant data, records and reports. The Developer shall cooperate fully with the inspections, which shall not interfere unreasonably with the Developer's performance of the Contract Services.

(B) Joint Technical Performance Review. In accordance with Section 3.4 (Joint Technical Performance Review) of Appendix 8 (Facility Management Requirements), at the end of each five-year period through the first 15 years and at the end of each three year period throughout the remaining Facility Management Period, the Developer and the County, supported by a duly qualified independent inspector and such technical resources as are mutually deemed necessary, will conduct a Joint Technical Performance Review (the "**Joint Technical Performance Review**") of the Project. The independent inspector shall be experienced in conducting facility condition assessments for courthouses and other similar public Facility that are critical to a local, state or federal government. The Joint Technical Performance Review will assess the performance and effectiveness of both the Scheduled Maintenance and life cycle works completed over the previous period and the work planned and scheduled for the upcoming five-year period in accordance with the then-current Five-Year Maintenance Plan and Life Cycle Plan as further described in Appendix 8 (Facility Management Requirements). The cost of the independent inspector engaged to conduct a Joint Technical Performance Review will be split equally between the County and the Developer.

SECTION 9.7. UNAVAILABILITY EVENTS AND PERFORMANCE FAILURES.

(A) Deductions. The County shall have the right to impose Deductions for Unavailability Events and Performance Failures as and to the extent provided in Article 16 (Service Fee and Other Payments) and Appendix 11 (Deductions).

(B) Additional Developer Obligations. In the event the same Unavailability Event or Performance Failure occurs repeatedly or persistently, and the Developer is not excused from performance as a result of a Supervening Event, the Developer shall, in addition to incurring Deductions, take any action (including making all capital investments, improvements or modifications or repairs, replacements and operating and management practices changes) necessary in order to continue or resume performance hereunder and eliminate the cause of, and avoid or prevent recurrences of such Unavailability Event or Performance Failure. Further, if any such Unavailability Event or Performance Failure involves a violation of Applicable Law, the Developer shall (1) promptly provide the County, within 24 hours, with copies of any notices sent to or received from any Governmental Body having regulatory jurisdiction with respect to any violations of Applicable Law and (2) pay any other resulting fines, levies, assessments, impositions, penalties or other charges resulting therefrom.

(C) Minimizing Interruption to County Activities. The Developer shall perform its maintenance, repair, replacement and related obligations, including such maintenance, repair, replacement and related obligations required in response to an Unavailability Event or Performance Failure, in a manner that minimizes disruption or interference with County Activities. Notwithstanding anything to the contrary in subsection 25.5(B) (Mitigation by the County) the County has no obligation to conduct County Activities at a time or location or otherwise to accommodate any maintenance, repair, replacement or related activities, including such maintenance, repair, replacement and related obligations required in response to an Unavailability Event or Performance Failure (subject to Section 3.2 (Functional Units Unavailable But Nonetheless Used) of Appendix 11 (Deductions)).

SECTION 9.8. FOOD SERVICE FACILITY.

(A) General Operations and Staff. The Developer shall provide all services required for the successful operation of the Restaurant, including but not limited to purchasing, food preparation, janitorial, inventory control/security, and customer service. The Developer shall provide sufficient staffing at the Restaurant to meet customer demands, to include a full-time on-site manager having experience in the management of food services operations. Developer shall provide uniforms which shall be worn by all Restaurant staff. The Developer shall operate the Restaurant in an orderly manner and as not to disturb the operation of the Courthouse. The Developer shall be responsible for the conduct, demeanor, and appearance of all staff providing food services.

(B) Operating Hours. The Developer shall operate the Restaurant continuously and uninterruptedly to serve customers, at a minimum, from 7:00 AM until 4:00 PM during all Business Days; provided, however, that the Developer shall operate the Snack Bar continuously and uninterruptedly to serve customers, at a minimum, from 7:30 a.m. to 11:00 a.m. during all Business Days.

(C) Pricing, Payments. The Developer shall maintain a pricing schedule at the Restaurant that is comparable to off-site operations in the surrounding area. The Developer shall provide for multiple payment options to its Restaurant customers, including cash and credit card payments. The Developer shall have the right to retain all revenues and profits derived from performance of Contract Services in the Restaurant.

(D) Permits, Regulations, and Certifications. The Developer shall obtain any and all necessary licenses, permits, and/or approvals that are required for the operation of the Restaurant in accordance with Applicable Laws. Upon receipt, the Developer shall make available

all health department inspections to the County. All Restaurant staff shall possess a current food handlers' certification from the governing local or state jurisdiction. All managers shall possess a valid National Restaurant Association ServSafe® certification. The Developer shall, every three (3) years, update its Hazard Analysis Critical Control Point Plan (to be required as part of the plans that are to be submitted in the Facility Management Requirements).

(E) Food Safety Investigations. The Developer shall promptly notify the County of any potential incidents related to food-borne illness at the Restaurant. Upon notification of a potential food-borne illness or food safety violation, the Developer shall immediately investigate all claims or concerns. The Developer shall take immediate corrective action to ensure the health and safety of all Restaurant customers. The Developer shall document and maintain records of all potential incidents, including at a minimum: 1) a description of the issue, 2) the date the County was notified, 3) the steps taken to investigate the claims or concerns, 4) a description of the resolution, including any corrective actions taken to address the incident.

(F) Minimum Operating Standards. The Developer shall at all times comply with the minimum operating standards for the Restaurant contained in Appendix 21 (Minimum Operating Standards for Food Service Facility).

(G) Modification of Food Service Facility Requirements. If, notwithstanding Developer's diligent, good faith efforts to make the Restaurant profitable, the Restaurant is consistently operating at a loss, then the Developer may request a modification of the Food Service Facility requirements set forth in this Section 9.8 (Food Service Facility). Any such request from the Developer shall be accompanied by an accounting evidencing the Restaurant's claimed losses, a description of the Developer's diligent, good faith efforts to make the Restaurant profitable over the relevant time period, and a description of the Developer's requested modifications to these requirements. The County will consider any such requested modifications and act reasonably in approving or disapproving any mutually agreed-upon changes to these requirements through a Contract Administration Memorandum.

SECTION 9.9. COVENANT OF NON-INTERFERENCE.

The operations of the Department of Transportation and Public Works and use of its transit facilities, as such facilities are described in Appendix 19 (Department of Transportation and Public Works) is paramount. Developer's operations, repairs, and maintenance of the Facility shall not materially and adversely interfere with, obstruct or restrict the Department of Transportation and Public Works' customary and reasonable operations or the public's use of transit facilities, unless prior arrangements have been made in writing between the Department of Transportation and Public Works and the Developer. Developer shall be required to notify the Department of Transportation and Public Works a minimum of thirty (30) days in advance of any planned activities to be performed or commissioned by the Developer that may impact the Department of Transportation and Public Works' transit facilities and/or operations. At its sole discretion, the Department of Transportation and Public Works may require that its employees or representatives are present on site to coordinate, oversee, and/or monitor such activities. If Developer fails to allow such employees or representatives to be on site or pay for same, such activities shall not commence. In the event of an inconsistency between this Section 9.9 and Appendix 19 (Department of Transportation and Public Works Adjacent Construction Manual), Appendix 19 shall prevail.

SECTION 9.10. DISPOSAL OF SURPLUS EQUIPMENT.

The Developer may, at the direction of the County, remove, dispose of and sell, in accordance with Applicable Law, equipment constituting part of the Project that is unused or obsolete and no longer needed. All proceeds from any sale made at the County's request, net of the Developer's actual and reasonable expense in removing the equipment and arranging the

sale, shall be the property of the County (except any equipment, fixtures, or materials from the Restaurant owned by the Developer or Developer Person). The County may also, at its election, remove, dispose and sell, in accordance with Applicable Law, equipment constituting part of the Project (except any equipment, fixtures, or materials from the Restaurant owned by the Developer or Developer Person) that is unused and obsolete and no longer needed and keep all proceeds from the sale.

SECTION 9.11. ENFORCEMENT OF PROJECT WARRANTIES.

At Final Completion, Developer shall assign all warranties for components and systems of the Courthouse to the County. During the Term, the Developer shall be responsible for meeting the maintenance obligations under all manufacturers' warranties on new equipment purchased and installed in the Project by the Developer, and shall be the agent of the County in enforcing all equipment warranties and guarantees, including warranties and guarantees of the Design-Build Work obtained by the Developer pursuant to Section 7.17 (Warranties of Design-Build Work). The Developer shall not be required to commence or maintain any litigation with respect to such warranties or guarantees, but may do so in its discretion. The Developer shall cooperate with and assist the County if the County seeks to enforce warranties and guarantees through litigation. The Developer shall not take or omit any act which voids or impairs any of the manufacturer's warranties on new equipment purchases and installed in the Project by Developer.

SECTION 9.12. PROJECT HANDBACK.

(A) Required Project Condition. On the Expiration Date (and not on any earlier Termination Date), the Project and each Facility Component comprising the Project shall be in a condition which is:

(1) Consistent with the Project and each of the elements of the Project having been designed and constructed in accordance with the applicable design life requirements set forth in the Appendix 4 and Appendix 5 and related appendices; and

(2) Consistent with the Developer having performed the Facility Management Services in accordance with the Facility Management Requirements.

In any event:

(3) The Facility Condition Index for the Facility shall be no worse than .10; and

(4) the Remaining Useful Life of each Facility Component shall be no less than the required Useful Life Requirements set forth in Section 11.1 of Appendix 8 (Facility Management Requirements).

The requirements of this subsection (A) constitute the **"Handback Requirements"**.

(B) Handback Survey. In conjunction with the preparation of the Annual Service Plan for the Contract Year commencing four years prior to the Expiration Date, the Developer and the County shall conduct the Handback Survey. The procedure for conducting this Handback Survey will be performed by the Independent Facility Management Expert in a manner consistent with the Technical Performance Review described in Section 3.4 of the Facility Management Requirements. The Handback Survey shall, at a minimum, identify:

(1) the Project's compliance with subsection 9.12(A) of this Project Agreement;

(2) the Handback Work, if any, to be completed by the Developer;

(3) the Remaining Useful Life of all Facility Components;

(4) an estimated value for the Remaining Useful Life of all Facility Components at the Expiration Date; and

(5) any other facility condition information as requested and agreed to by the County and the Developer

(C) Handback Work Due to Handback Survey. If the Handback Survey requires the Developer to perform any Handback Work, within 60 days of completion of the Handback Survey the Developer shall deliver to the County:

(1) The Handback Work Plan including the method and schedule for performing the Handback Work without interruption to the day-to-day operation of the Facility. Where applicable, the Handback Work Plan will be consistent with, and integrated into, the Annual Service Plan, Life Cycle Plan and Five-Year Maintenance Plan then in effect; and

(2) A cost estimate for the Handback Work.

(D) Determination of Handback Retainage. Upon submittal of the items required by subsection (B) of this Section, the County:

(1) Shall review and comment on the Developer's Handback Work Plan in accordance with the Project Agreement and the Facility Management Requirements; and

(2) Shall establish the Handback Retainage amount in an amount equal to:

(a) The reasonable costs for the Handback Work;

(b) Without duplication, an additional retainage amount equal to the estimated value of additional work required for the Facility to meet the Required Project Condition described in subsection 9.12(A) of the Project Agreement. For the purpose of meeting the Useful Life Requirements, the retainage amount shall equal the estimated value of all Facility Components with a Useful Life as described in Section 11.1 of Appendix 8 (Facility Management Requirements) minus the estimated value of the Remaining Useful Life of all existing Facility Components at the Expiration Date, as determined by the Independent Facility Management Expert.

(E) Establishment and Use of Handback Retainage Account. The County shall hold back and retain a proportional amount from the Service Fee payments until a total amount of deposits equal to the pro-rated amount of the Handback Retainage over the subsequent number of months prior to the Expiration Date has been deposited in the Handback Retainage Account. The account shall be the property of the County, subject to the Developer's withdrawal rights under this Section. The Developer shall have the right, upon the submittal of certified requisitions to the County with full supporting receipts or other substantiated evidence of payment, to withdraw from such account amounts necessary to reimburse itself for amounts actually expended in the performance of the Handback Work. In lieu of the Handback Retainage being held back from the Service Fee, the Developer shall be entitled to post an irrevocable letter of credit with the County in an amount equal to the Handback Retainage or may request that the County accept a performance bond, or other cash collateral or security. The County may

decline any such request for a performance bond or other cash collateral or security in its discretion.

(F) Performance of the Handback Work and Further Inspection. The Developer shall implement the Handback Work Plan and take all other steps necessary to assure compliance with the Handback Requirements, notwithstanding the County's participation in the Handback Survey or review of the Handback Work Plan or the fact that the actual cost of compliance may be higher than the Handback Retainage or other agreed upon cash collateral or security. At least 240 days prior to the Expiration Date, the Developer and the County shall conduct a further joint inspection and survey of the condition of the Facility and the progress of the Handback Work. Notwithstanding the County's participation in the Handback Survey or review of the Handback Work Plan, the Handback Retainage or other agreed upon cash collateral or security, or the complete or partial performance of the Handback Work, the Developer shall not be released from any obligation to conduct any other inspection or to provide any other Facility Management Services in accordance with the Project Agreement.

(G) Substantial Deviation. In case of significant inflation, spike in material costs or any unforeseen condition that may result in a depletion of the Handback Retainage Account before the completion on the Handback Work, the County will hold back and retain additional amounts, as reasonably agreed by the Developer, from the Service Fee payments in order to address the differential cost between the original Handback Retainage and the new expected cost of the Handback Work.

(H) Final County Condition Assessment. On, or within five Business Days after, the Expiration Date, the County shall either:

(1) Issue to the Developer a handback certificate confirming compliance with the Handback Requirements and return any remaining amount in the Handback Retainage Account related to the Handback Work to the Developer; or

(2) Notify the Developer of its decision not to issue the handback certificate, setting out each respect in which the Handback Work was not properly performed or the Facility does not comply with the Handback Requirements and stating the County's reasonable estimate of the cost it reasonably believes is necessary to complete all work required for the Facility to comply with the Handback Requirements. The County will reserve the right to retain any remaining amounts in the Handback Retainage Account to ensure full compliance with the Handback Requirements.

(I) Final Developer Condition Assessment. The Developer may, within 30 days after receipt of the notice given in accordance with subsection (H) of this Section, object to any matter set forth in the notice giving details of the grounds of each such objection and setting out the Developer's proposals in respect of such matters.

(J) Final Compliance. If the Facility did not, at the Expiration Date, comply in all respects with the Handback Requirements, the Developer shall complete any work necessary to cause such compliance within 60 days following the Expiration Date or pay to the County no later than 60 days after the Expiration Date an amount equal to the cost of completing any outstanding Handback Work based on the County's cost estimate pursuant to subsection 9.12(D)(2), net any amount remaining in the Handback Retainage Account related to the Handback Work, so that the Facility is in a condition which complies with the Handback Requirements. Upon payment being received in full by the Developer, the County will issue the handback certificate and if such payment is not received from the Developer when due, the County may draw any unpaid amounts against the Handback Retainage Account and release any balance to the Developer.

(K) Termination Prior to Expiration Date. If the Termination Date occurs prior to the Expiration Date, the amount standing to the credit of the Handback Retainage Account shall be withdrawn and paid to the County. Any amount payable to the Developer in respect of the Handback Retainage Account balance pursuant to Appendix 13 (Compensation on Termination) shall be withdrawn and paid to the Developer and credited against the County's payment obligation in respect thereof.

ARTICLE 10

CAPITAL MODIFICATIONS AND FACILITY MANAGEMENT SERVICES CHANGES

SECTION 10.1. CAPITAL MODIFICATIONS GENERALLY.

(A) County Approval. The County shall have the right, in its discretion, to accept, reject, approve or modify all Capital Modifications. All Capital Modifications and related changes to the terms and conditions of this Project Agreement shall be reflected in a Project Agreement Amendment.

(B) Small Scale Capital Modifications. The County's rights under subsection (A) of this Section with respect to Small Scale Capital Modifications shall extend only to those affecting the functional or aesthetic quality of the Project as originally constructed.

(C) Conditioned Approvals. The County shall have the express right to condition its approval of Capital Modifications upon a sharing of any net cost savings expected to result therefrom or upon any further term or condition that the County may seek to establish with respect thereto.

(D) Responsibility for Costs. All Capital Modifications shall be made and implemented in accordance with this Article. The Developer shall bear the cost and expense of all Small Scale Capital Modifications and all Capital Modifications required in accordance with Section 10.3 (Capital Modifications Arising From Repairs and Replacements or Required to Remedy a Developer Fault). The responsibility for the cost and expense of any Capital Modifications requested by the Developer in accordance with Section 10.2 (Capital Modifications at Developer Request) shall be determined by the County in its discretion in accordance with its approval rights under this Article. The County shall bear the cost and expense of all Capital Modifications made pursuant to Section 10.4 (Capital Modifications Required Due to Supervening Events) and pursuant to Section 10.5 (Capital Modifications at County Direction).

(E) No Developer Ownership. In no event shall the Developer have any ownership interest in the Project as a result of any Capital Modification.

(F) Safety Requirements. In addition to all other requirements imposed by Applicable Law, the Developer shall perform all Capital Modifications in accordance with Appendix 19 (Department of Transportation and Public Works Adjacent Construction Manual), as may be amended from time to time, and as otherwise provided in subsection 7.13(C) (Department of Transportation and Public Works Adjacent Construction Manual).

SECTION 10.2. CAPITAL MODIFICATIONS AT DEVELOPER REQUEST.

The Developer shall give the County written notice of, and reasonable opportunity to review and comment upon, any Capital Modification proposed to be made at the Developer's request. To assist the County in the exercise of its approval rights under Section 10.1 (Capital Modifications Generally), the notice shall contain sufficient information for the County to determine that the Capital Modification:

(1) Does not materially diminish the capacity of the Project to be operated so as to meet the Contract Standards;

(2) Does not materially impair the quality, integrity, durability and reliability of the Project;

(3) Is reasonably necessary or is advantageous for the Developer to fulfill its obligations under this Project Agreement; and

(4) Is feasible; and

(5) Will or will not result in an adjustment to the Service Fee and the estimated amount thereof.

Except as otherwise agreed to by the County, the design and construction costs of any such Capital Modification proposed to be made at the Developer's request, and any related operation, maintenance, repair and replacement costs directly attributable to the Capital Modification, shall be borne by the Developer.

SECTION 10.3. CAPITAL MODIFICATIONS ARISING FROM REPAIRS AND REPLACEMENTS OR REQUIRED TO REMEDY A DEVELOPER FAULT.

In the event that (1) any repair or replacement proposed to be performed by the Developer in satisfaction of its obligations under Article 9 (Operation and Maintenance), or (2) any capital investment, improvement or modification required to be made by the Developer in order to remedy a breach of this Project Agreement, can be reasonably expected to result in a material change to the Project, such repair, replacement, capital investment, improvement or modification shall constitute a Capital Modification. In no event shall the rejection or modification of any such Capital Modification by the County relieve the Developer of its obligation to perform maintenance, repair and replacement required under Article 9 (Operation and Maintenance) or perform any other obligation hereunder. Except as otherwise agreed to by the County, the design and construction costs of any such Capital Modification, and any related operation, maintenance, repair and replacement costs, shall be borne by the Developer.

SECTION 10.4. CAPITAL MODIFICATIONS REQUIRED DUE TO SUPERVENING EVENTS.

Upon the occurrence of a Supervening Event, the Developer shall promptly proceed to make or cause to be made all repairs, replacements and restoration to the Project reasonably necessary to address the Supervening Event, as provided in Article 13 (Supervening Event Procedures), Article 14 (Relief Events), and Article 15 (Compensation Events and Changes in Law), as applicable. The County shall have the right, but not the obligation, to direct the Developer to make Capital Modifications in connection with any such repair, replacement or restoration work. The design and construction costs attributable to any such Capital Modification and any increased operation, maintenance, repair and replacement costs directly related to such Capital Modification shall be borne by the County but only to the extent that such costs are not already covered by insurance. The Developer shall not be required to undertake any Capital Modification under this Section unless and until (1) the parties have agreed upon a scope, price and schedule for the implementation of the Capital Modification in accordance with all applicable provisions of this Project Agreement including Section 10.6 (Primary Procedure for Implementing Capital Modifications), (2) the County has provided written assurances acceptable to the Developer, acting reasonably, that funds necessary to pay the cost of the Capital Modification (or agreed-upon portion thereof) will be available for such purposes in the amounts and on the schedule agreed upon by the parties, and (3) the parties have agreed upon any

resulting increase or decrease in the operation, maintenance, repair and replacement costs directly related to the Capital Modification and the corresponding adjustments to the Service Fee.

SECTION 10.5. CAPITAL MODIFICATIONS AT COUNTY DIRECTION.

The County shall have the right to make Capital Modifications at any time and for any reason whatsoever after the Occupancy Readiness Date, whether and however the exercise of such rights affects this Project Agreement so long as the implementation of such Capital Modification does not contravene the limitations referred to in Section 4.6 (Restrictions on Design and Construction Requirement Changes, Capital Modifications and Facility Management Services Changes). The design and construction costs of any such Capital Modification made at the County's direction under this Section, and any related operation, maintenance, repair and replacement costs directly attributable to such Capital Modification, shall be borne by the County pursuant to this Article and, for the Incremental Facility, pursuant to Section 16.4. The Developer shall not be required to undertake any Capital Modification under this Section unless and until (1) the parties have agreed upon a scope, price and schedule for the implementation of the Capital Modification in accordance with all applicable provisions of this Project Agreement including Section 10.6 (Primary Procedure for Implementing Capital Modifications), (2) the County has provided written assurances acceptable to the Developer, acting reasonably, that funds necessary to pay the cost of the Capital Modification (or agreed-upon portion thereof) will be available for such purposes in the amounts and on the schedule agreed upon by the parties, and (3) the parties have agreed upon any resulting increase or decrease in the operation, maintenance, repair and replacement costs directly related to the Capital Modification and the corresponding adjustments to the Service Fee.

SECTION 10.6. PRIMARY PROCEDURE FOR IMPLEMENTING CAPITAL MODIFICATIONS.

(A) Primary Implementation Procedure. Subject to Section 10.7 (Alternative Procedures for Implementing Capital Modifications), the implementation procedure set forth in this Section shall apply with respect to all Capital Modifications except Small Scale Capital Modifications, which the Developer may implement by means of its own choosing in accordance with Applicable Law.

(B) Initial Assessment. When a Capital Modification is required or is proposed by either party, the Developer, at its cost and expense, shall prepare and deliver to the County an initial assessment of the matter. The initial assessment shall describe the need for or objective of the Capital Modification, set forth an overview of potential approaches to addressing the need or objective, and contain a preliminary assessment of potential cost and schedule considerations. The purpose of the initial assessment shall be to furnish the County with a reasonable basis for authorizing funds to pay for a conceptual plan and implementation proposal provided for in subsections (C) and (D) of this Section.

(C) Developer Conceptual Plan and County Review. Following the initial assessment made pursuant to subsection (B) of this Section, at the request of the County and, except with respect to Capital Modifications made pursuant to Section 10.3 (Capital Modifications Arising from Repairs or Replacements, or Required to Remedy a Developer Default) at the cost and expense of the County, the Developer shall prepare and deliver to the County a conceptual plan for the implementation of the Capital Modification. The conceptual plan shall include the Developer's recommendations as to technology, design, construction, equipment, materials, and operating and performance impacts. The foregoing recommendations shall seek to allow for maximum competition in price and shall not favor the Developer or any of its Affiliates. Preliminary schedule and capital and operating cost estimates shall be included, together with an assessment of possible alternatives. The conceptual plan shall specifically evaluate reasonable alternatives to the mix of Capital Modifications and changed operating and

management practices which the Developer is recommending. The County shall review the Developer's conceptual plan and recommendations, and undertake discussions with the Developer in order to reach agreement on a basic approach to the Capital Modification. At the County's option, Developer may be asked by the County to skip the conceptual plans for Capital Modifications and to instead simply provide the County with options on the approach to the Capital Modifications.

(D) Developer Implementation Proposal. Following agreement on a basic approach to the Capital Modification, at the request of the County and, except with respect to Capital Modifications made pursuant to Section 10.3 (Capital Modifications Arising From Repairs and Replacements or Required to Remedy a Developer Fault), at the County's expense, the Developer shall submit a formal implementation proposal to the County for its consideration. With respect to any Capital Modification to be undertaken at the County's expense and as otherwise required by Applicable Law, the implementation proposal shall contain: (1) a Developer services element, to be implemented through a Project Agreement Amendment, and (2) a third-party services element, to be implemented through third-party contracting.

(1) Developer Services Element. The Developer services element shall contain: (a) the Developer's offer to perform design, construction management and commissioning test services and obtain and maintain Governmental Approvals with respect to the Capital Modification for a fixed price, and shall include a guarantee of the performance of the Capital Modification through a commissioning test and a guaranteed maximum construction price if so requested by the County and agreed to by the Developer; and (b) as applicable, the Developer's offer to operate, maintain, repair, replace, permit and manage the Capital Modification following construction and commissioning for compensation paid as an adjustment to the Facility Management Charge with a revision of the composition or weighting of the indices used to adjust the Facility Management Charge in Section 16.4 (Facility Management Charge), as appropriate, and shall include long-term performance guarantees appropriate to the Capital Modification.

(2) Third-Party Services Element. The third-party services element shall be a proposal by the Developer to conduct, as allowed by Applicable Law, either a qualifications-based selection process for design engineers and a bidding process for the construction work or a competitive proposal process for the design-build work involved in completing the Capital Modification. The resulting design services and construction contracts or design-build contract shall be held by and executed in the name of the Developer, unless required to be held by the County under Applicable Law. A "competitive proposal process" referred to herein may include a qualifications-based request for proposals and a design-build contract award to the most advantageous proposer. All such third-party services work for design and construction services shall be undertaken in accordance with the County Legal Requirements set forth in Appendix 2.

(E) Negotiation and Finalization of Developer Implementation Proposal. The parties shall proceed, promptly following the County's review of the Developer's submittal and quotation, to negotiate to reach an agreement on price and any adjustment to the terms and conditions of this Project Agreement resulting from the Capital Modification. Any final negotiated agreement for the implementation of a Capital Modification under this Section shall address, as applicable:

(1) Design requirements;

(2) Construction management services;

(3) Commissioning tests, standards and procedures;

(4) A guarantee of completion;

(5) Performance guarantees;

(6) Any changes to the Contract Standards to take effect as a consequence of the Capital Modification;

(7) A payment schedule for the design and construction management-related services;

(8) Any adjustments to the Service Fee resulting from the Capital Modification, including any related operation, maintenance, repair and replacement costs directly attributable to such Capital Modification;

(9) A financing plan; and

(10) Any other appropriate amendments to this Project Agreement.

The Developer shall not be obligated to undertake any Capital Modification under Section 10.4 (Capital Modifications Required Due to Supervening Events) or Section 10.5 (Capital Modifications at County Direction) except following agreement as scope, price and schedule and the delivery by the County of assurances as to the availability of funds, as provided in such Sections. Except as otherwise specifically provided in this Section, the County shall have no obligation to reimburse the Developer for any costs incurred pursuant to this Section except as part of a negotiated amendment to this Project Agreement.

(F) Implementation Procedures. With respect to each Capital Modification to be made by the Developer, other than Small Scale Capital Modifications, the County shall have the same substantive and procedural rights that it has with respect to the design, construction, commissioning, final completion and handback of the Project, as set forth in this Project Agreement.

SECTION 10.7. ALTERNATIVE PROCEDURES FOR IMPLEMENTING CAPITAL MODIFICATIONS.

With respect to any Capital Modification to be undertaken at the County's expense and as otherwise required by Applicable Law, the County shall be under no obligation to utilize the primary implementation procedure for Capital Modifications set forth in Section 10.6 (Primary Procedure for Implementing Capital Modifications), and may instead, in its discretion, utilize any other implementation procedure available to it or required under Applicable Law. Alternative implementation procedures may include contracting with the Developer or any third party to implement the Capital Modification on a sole source or any competitive basis using any project delivery method available under Applicable Law. The County may determine to proceed with an alternative implementation procedure for Capital Modification at any time, whether before or after entering into negotiations with the Developer under the primary implementation procedure specified under Section 10.6 (Primary Procedure for Implementing Capital Modifications). No alternative implementation procedure for Capital Modifications shall contravene the limitations referred to in Section 4.6 (Restrictions on Design and Construction Requirement Changes, Capital Modifications and Facility Management Services Changes) or unreasonably interfere with the Developer's performance of its obligations under this Project Agreement. Unless otherwise agreed by both parties, the Developer shall have no liability for the work performed by a third party chosen by the County under this Section.

SECTION 10.8. FACILITY MANAGEMENT SERVICES CHANGES.

(A) Generally. The County may, on a quarterly basis each Contract Year during the Term (except more frequently as may be appropriate to address urgent County governmental circumstances), subject to Section 4.6 (Restrictions on Design and Construction Requirement Changes, Capital Modifications and Facility Management Services Changes), require the Developer to implement a Facility Management Services Change in accordance with this Section. The implementation procedure set forth in this Section shall apply with respect to all Facility Management Services Changes which the County may require during the Term. In the event the County requests a Facility Management Services Change, the County shall issue to the Developer a written notice including a sufficient description of the contemplated Facility Management Services Change.

(B) Developer Facility Management Services Change Report. Within 15 Business Days, or such longer period as the parties agree acting reasonably, after receipt of the County's notice delivered pursuant to subsection (A) of this Section, the Developer shall prepare and deliver to the County a report for the contemplated Facility Management Services Change (**"Facility Management Services Change Report"**). A Facility Management Services Change Report shall include, to the extent that it is relevant to the proposed Facility Management Services Change:

(1) A description of the scope of the contemplated Facility Management Services Change with respect to the Facility Management Services;

(2) A comparison of the scope of Facility Management Services as a result of the contemplated Facility Management Services Change as compared to the scope prior to the Facility Management Services Change;

(3) An estimate of all costs, if any, reasonably necessary for and directly associated with the contemplated Facility Management Services Change, as further described in subsection (C) of this Section, including the following, as applicable:

(a) all Facility Management Services labor, material and equipment costs, supported as the case may be by quotations from the applicable Facility Manager and Subcontractors;

(b) any costs related to the Developer's management and oversight of the Project that should reasonably be included in the contemplated Facility Management Services Change;

(c) all costs of an amendment or renewal of a Governmental Approval required by the contemplated Facility Management Services Change; and

(d) all financing costs;

(4) An estimate of the cost savings, if any, resulting from the contemplated Facility Management Services Change;

(5) A description of any changes to the Senior Financing Agreements that would be required to reflect a change in the risk profile of the Project arising from the contemplated Facility Management Services Change;

(6) A description of any changes to the Service Fee that are required to reflect any costs or cost savings described in items (3) and (4) above;

(7) Identification of any amounts payable by the County to the Developer, if any, other than the Service Fee;

(8) The Developer's proposal as to how any increased costs to the Developer resulting from the contemplated Facility Management Services Change may be funded;

(9) The value of the loss or reduction of benefits resulting from the contemplated Facility Management Services Change;

(10) A description of any additional consents or approvals required, including amendments, if any, of any Governmental Approvals required to implement the contemplated Facility Management Services Change;

(11) A description of any impact on the obligations of the Developer under any Material Contracts;

(12) A description of the extent to which the contemplated Facility Management Services Change or the implementation thereof would interfere with the Developer's ability to comply with any of its obligations under this Project Agreement, the Material Contracts and any Governmental Approvals;

(13) The name of the Subcontractor, if any, which the Developer intends to engage for the purposes of implementing the contemplated Facility Management Services Change;

(14) A description of any further effects (including, without limitation, benefits and impairments to the Facility Users) which the Developer foresees as being likely to result from the contemplated Facility Management Services Change or the implementation thereof;

(15) A description of any actions that would be reasonably required by the County to implement the contemplated Facility Management Services Change;

(16) A description of the steps the Developer will take to implement the contemplated Facility Management Services Change, in such detail as is reasonable and appropriate; and

(17) A description of any impact on expected usage of Utilities for the current Contract Year and subsequent Contract Years.

If the Developer prepares a Facility Management Services Change Report pursuant to this subsection and the County elects not to proceed with the contemplated Facility Management Services Change, then the County shall pay the Developer's Facility Management Services Change Report preparation costs subject to Cost Substantiation. Notwithstanding the foregoing, the County shall not be responsible for any Developer costs associated with a Facility Management Services Change Report prepared pursuant to subsection (J) of this Section. Notwithstanding anything contained in this Project Agreement to the contrary, all costs payable by the County shall first be estimated in advance of the work and the estimate shall be provided to the County in advance of the work, and the final cost of any such work shall be within the previous estimate provided and shall be reasonable.

(C) Valuation of Facility Management Services Changes. The County and the Developer shall negotiate in good faith the costs or savings associated with any Facility Management Services Change in accordance with subsection (E) of this Section. If the parties fail to agree on the costs or savings of such Facility Management Services Change, the costs or savings shall be determined as set forth in this subsection. The costs or savings of a Facility Management Services Change shall be the net incremental additional costs or savings of

implementing the Facility Management Services Change, calculated as the aggregate cost, if any, of any additions to the Developer's Facility Management Services obligations required to implement the Facility Management Services Change minus the aggregate cost savings, if any, from all reductions in the Developer's Facility Management Services obligations resulting from the implementation of such Facility Management Services Change. A Facility Management Services Change may have a net cost, a net saving, or may result in no net cost or saving. The costs of a Facility Management Services Change are the aggregate of the costs reasonably incurred by the Developer or the Facility Manager to implement the Facility Management Services Change, supported by invoices, purchase orders, time sheets and other customary industry documentation, as follows:

(1) The amounts of all Subcontractor or supplier agreements;

(2) The direct costs incurred for the Facility Management Services personnel, based on the number of personnel hours required to undertake the Facility Management Services Change;

(3) The direct costs incurred for the procurement of materials, consumables and equipment, for the supply and delivery of such materials, consumables and equipment, including the costs of any associated testing, commissioning, spare parts, manuals and software, and including any related design and engineering costs;

(4) The costs incurred for the evaluation of proposals and award of a contract for work associated with the Facility Management Services Change, and the supervision and management of such contracts;

(5) All direct costs incurred by the Developer in procuring and managing the Facility Management Services Change (including costs of advisers and extra costs under any management services agreements entered into by the Developer); and

(6) All other additional direct costs pertaining to the Facility Management Services Change, including disposal, insurance, bonding, financing, Governmental Approvals and directly attributable overheads, calculated at the direct cost to the entity that directly incurs such costs, and the costs incurred or borne by the Developer in preparing a Facility Management Services Change Report.

The costs applied pursuant to this subsection shall be no greater than the market rates prevailing at the time of the implementation of the Facility Management Services Change paid between parties contracting at arm's length. In addition to the costs incurred by the Developer or Facility Manager described above in this subsection, a mark-up shall be applied without duplication to such aggregate costs as full payment for all other costs, including indirect overhead costs and profit in accordance with subsection 16.13(E) (Mark-Ups).

(D) Justification and Supporting Documentation. The Developer shall use, or will cause the Facility Manager to use, reasonable efforts to obtain competitive quotations and proposals for all work, equipment and materials required to implement a Facility Management Services Change. The cost estimates included in a Facility Management Services Change Report shall be in sufficient detail to allow evaluation by the County and will include such supporting information and justification as is necessary to demonstrate that:

(1) The Developer has used all reasonable efforts, including utilizing competitive quotes or proposals, to minimize the cost of a contemplated Facility Management Services Change and maximize potential related cost savings;

(2) The Developer and Facility Manager have valued the Facility Management Services Change as described in subsection (C) of this Section, and have not included other margins or mark-ups;

(3) The full amount of any and all expenditures that have been reduced or avoided (including any Capital Expenditure) have been fully taken into account; and

(4) The Developer has mitigated or will mitigate the impact of the contemplated Facility Management Services Change, including on the performance of the Facility Management Services, the expected usage of Utilities, and the direct costs to be incurred.

(E) Agreement on a Facility Management Services Change. Within 30 Days, or such longer period as the parties agree acting reasonably, following receipt by the County of a Facility Management Services Change Report prepared in accordance with subsection (B) of this Section, the County may deliver to the Developer any requests for clarifications or amendments, and the parties' representatives shall meet and use all reasonable efforts to agree to the Facility Management Services Change Report. Such agreement shall include the costs, payments (including payment of direct costs and adjustments to the Service Fee, if any) and other information contained in the Facility Management Services Change Report. If the County would be required by Applicable Law to require the Developer to competitively solicit any contract in relation to a contemplated Facility Management Services Change, the County may require the Developer to seek and evaluate competitive proposals for the proposed Facility Management Services Change. The County may modify any Facility Management Services Change request notice delivered pursuant to subsection (A) of this Section, in writing, at any time prior to the parties reaching an agreement on the Facility Management Services Change Report pursuant to this subsection. In the event the County delivers notice of any such modification to the Developer, the Developer shall notify the County of any changes to the Facility Management Services Change Report within 20 Business Days after receipt of such modification notice.

(F) Facility Management Services Change Certificate. Upon agreement of the parties with respect to the Facility Management Services Change in accordance with subsection (E) of this Section, the County shall issue a signed Facility Management Services Change Certificate to the Developer. In the event the County and the Developer do not agree on the Facility Management Services Change, the County may issue a Facility Management Services Change Certificate in accordance with subsection (G) of this Section. The Developer shall not proceed with a Facility Management Services Change prior to receiving a signed Facility Management Services Change Certificate from the County. A Facility Management Services Change Certificate issued in accordance with this subsection shall be binding upon the County and the Developer. Upon receipt of a Facility Management Services Change Certificate the Developer shall implement the Facility Management Services Change, without prejudice to the Developer's right to refer any dispute concerning the Facility Management Services Change to Non-Binding Mediation or the Dispute Resolution Procedure, including valuation of the Facility Management Services Change in accordance with subsection (C) of this Section.

(G) Disagreement on Facility Management Services Change Report. In the event the County and the Developer cannot agree on a Facility Management Services Change Report, the County may elect not to proceed with the Facility Management Services Change described in the notice delivered to the Developer in accordance with subsection (A) of this Section. Alternatively, the County may issue the Facility Management Services Change Certificate to the Developer stating the County's determination of the matters referred to in the Facility Management Services Change Report, and if the Developer disagrees with all or any of the determinations set forth in the Facility Management Services Change Certificate, then the Developer may deliver the County a notice identifying any such disagreements within 10 Business Days of receipt of the Facility Management Services Change Certificate. Following

delivery of the notice to the County identifying any points of disagreement to the Facility Management Services Change Certificate, the Developer may, (1) pursuant to its rights under Section 4.6 (Restrictions on Design and Construction Requirement Changes, Capital Modifications and Facility Management Services Changes) refuse to implement the Facility Management Services Change or (2) without prejudice to its rights with respect to such disagreements which may be addressed pursuant to the provisions of Article 18 (Dispute Resolution), use all reasonable efforts to implement the Facility Management Services Change as directed in the Facility Management Services Change Certificate. If the Developer fails to timely deliver the notice to the County identifying any points of disagreement with the Facility Management Services Change Certificate as set forth in this subsection, the Developer shall be deemed to have waived any such objections to the Facility Management Services Change Certificate.

(H) Responsibility and Payment for Facility Management Services Changes. Except as specifically provided in this Project Agreement, the County shall bear no risk or liability whatsoever arising from any Facility Management Services Change other than the liability to make payment in connection therewith. The County shall bear the cost and expense of all Facility Management Services Changes made pursuant to this Section. Payments by the County and any adjustments to the Service Fee with respect to Facility Management Services Changes shall be made in accordance with Sections 16.6 (Extraordinary Items) and 16.13 (Cost Substantiation of Additional Work).

(I) Cost Savings. In the event any Facility Management Services Change is reasonably expected to result in a net cost savings to the Developer, the parties shall negotiate in good faith the extent to which any such net cost savings shall be shared with the County, and the Service Fee shall be reduced accordingly.

(J) Facility Management Services Changes at Developer Request. The Developer may give the County written notice of, and reasonable opportunity to review and comment upon, any Facility Management Services Change proposed to be made at the Developer's request. The County shall have the right, in its discretion, to accept, reject, approve or modify all such Facility Management Services Change requests made by the Developer. The responsibility for the cost and expense of any Facility Management Services Change requested by the Developer in accordance with this subsection shall be determined by the County in its discretion. The written notice provided by the Developer shall contain sufficient information for the County to determine that the Facility Management Services Change:

(1) Does not diminish the capacity of the Project to be operated so as to meet the Contract Standards;

(2) Does not impair the quality, integrity and reliability of the Facility Management Services;

(3) Is reasonably necessary or is advantageous for the Developer to fulfill its obligations under this Project Agreement;

(4) Is feasible; and

(5) Will or will not result in an adjustment to the Service Fee and the estimated amount thereof.

The County shall not unreasonably deny any Facility Management Services Change request made by the Developer that complies with the requirements of this subsection and will result in cost savings to both the County and the Developer. Any Facility Management Services Change proposed to be made at the Developer's request,

and accepted by the County, shall be implemented as set forth in this Section, except that the notice provided by the Developer pursuant to this subsection shall take the place of the notice provided by the County pursuant to subsection (A) of this Section.

SECTION 10.9. COUNTY REVENUE RIGHTS.

Except as set forth in Section 9.8 (Food Service Facility), the Developer shall have no Revenue Rights to the Courthouse or the Project Site. The County, or other Government Entity or third party identified by the County, shall have all of the Revenue Rights in each case on such terms and conditions as the County shall determine in its sole discretion and in accordance with Applicable Law. The County or other Government Entity, as applicable, shall have the sole and exclusive right to collect, receive and retain all revenues and other consideration of every kind and description arising from or relating to the Revenue Rights. The Revenue Rights shall include, but not be limited to, the following rights, and the revenues and rights to revenues arising from the exercise, control, license, sale, authorization, issuance or operation of such rights for any of the following:

(A) Any and all costs, fees, fines, forfeitures, impositions, or otherwise charged, assessed, billed, levied or claimed by any Government Entity;

(B) Advertising anywhere on, about, above, under, upon, within, or on the exterior of the Courthouse or the Project Site;

(C) Leases, licenses, or other agreements with third parties for the use, occupancy, staging or other event in or on the Courthouse or Project Site whether on a temporary or long-term basis;

(D) Concession agreements for the sale, display and distribution of food, beverages, publications, merchandise, formal or casual restaurants or food shops, or any other goods or services (including shoe polishing services, copy services, etc.) throughout the Courthouse and the Project Site;

(E) Naming rights for the Courthouse, the Project Site or any part thereof; and

(F) Placement and contracts for vending machines throughout the Courthouse and Project Site.

ARTICLE 11

CONTRACTING AND LABOR PRACTICES

SECTION 11.1. USE OF PROJECT CONTRACTORS AND SUBCONTRACTORS.

(A) Project Contractors and Subcontractors. The County acknowledges that the Developer may carry out the Design-Build Work and the Facility Management Services by contracting such obligations to Project Contractors, who in turn may contract all or part of their obligations under any Project Contract to one or more Subcontractors.

(B) Use of Project Contractors and Key Personnel. The Developer shall use the Project Contractors and Key Personnel listed in Appendix 15 (Developer and Project Contractors Information) or such others as the County may approve, acting reasonably and without unreasonable delay, for the performance of the Contract Services in the roles indicated in Appendix 15 (Developer and Project Contractors Information).

(C) Restricted Persons. In providing the Contract Services, the Developer shall not contract with, or allow any of its Project Contractors or any Subcontractors to contract with, any person that at the time of such contracting, in the reasonable opinion of the County, is a Restricted Person.

SECTION 11.2. PROJECT CONTRACTS AND SUBCONTRACTS.

(A) Terms and Actions. The Developer shall retain full responsibility to the County under this Project Agreement for all matters related to the Contract Services. No failure of any Project Contractor or Subcontractor used by the Developer in connection with the provision of the Contract Services shall relieve the Developer from its obligations hereunder to perform the Contract Services. The Developer shall be responsible for settling and resolving with all Project Contractors and Subcontractors all claims arising from the actions or inactions of the Developer or a Project Contractor or Subcontractor.

(B) Indemnity for Claims. The Developer shall pay or cause to be paid to the Project Contractors and all Subcontractors all amounts due in accordance with their respective Project Contracts and Subcontracts. No Project Contractor or Subcontractor shall have any right against the County for labor, services, materials or equipment furnished for the Contract Services. The Developer acknowledges that its indemnity obligations under Section 24.1 (Developer's Obligation to Indemnify) shall include all claims for payment or damages by any Project Contractor or Subcontractor who furnishes or claims to have furnished any labor, services, materials or equipment in connection with the Contract Services to the extent that those claims fall within the scope of the indemnity in Section 24.1 (Developer's Obligation to Indemnify).

(C) Assignability. All Project Contracts or Subcontracts entered into by the Developer with respect to the Project shall be assignable to the County, solely at the County's election and without cost or penalty, upon the expiration or termination of this Project Agreement, subject to the terms of the Project Contractor Collateral Agreement and provided that no Termination Amount is outstanding.

(D) Payment and Performance Bond. The Developer shall execute, furnish the County with, and record in the public records of Miami-Dade County, a payment bond and a performance bond in accordance with the provisions of Section 255.05, Florida Statutes and in accordance with Appendix 2 (County Legal Requirements) within 15 days following the Financial Close Date in an amount equal to the portions of the Design-Build Contract Price that cover all construction activities, materials and supplies. Alternatively, the Developer shall: (i) cause its Design-Builder to furnish the County with a payment and performance bond in accordance with the provision of Section 255.05, Florida Statutes and in accordance with the County Legal Requirements within 15 days following the Financial Close Date in an amount equal to the portions of the Design-Build Contract Price that cover all construction activities, materials and supplies; and (ii) furnish an alternate form of security in the amount and in accordance with the County Legal Requirements. The Developer shall cause the County to be named, upon issuance of such payment bond and performance bond, as an additional obligee and beneficiary thereunder, and shall deliver a certified copy thereof, with the multiple obligee rider or other comparable documentation, to the County within 10 days after issuance. The County's rights in respect of all such securities shall be subject to the rights of the Senior Lenders under the Lenders' Remedies Agreement.

(E) County Legal Requirements. In selecting, contracting with, and managing the contracts of, the Design-Builder and all Subcontractors for the design and construction of the Project, the Developer shall comply with, and shall cause its Design-Builder and Subcontractors to comply with, all County Legal Requirements as set forth in Appendix 2.

SECTION 11.3. MATERIAL CONTRACTS.

(A) County Consents. Unless the Developer has, at its earliest practicable opportunity, submitted to the County notice of the proposed course of action (and any relevant documentation) and the County has consented to such course of action, such consent not to be unreasonably withheld or delayed, the Developer shall not:

(1) Terminate, or agree to or permit the termination of, all or any material part of any Material Contract;

(2) Make, or agree to or permit the making of:

(a) any material amendment of any Material Contract; or

(b) any departure by any party from any material provision of any Material Contract;

(3) Permit any Project Contractor to assign or transfer to any person any of such Project Contractor's rights or obligations under a Material Contract other than by way of a Subcontract that is not a subcontract of all or substantially all of the obligations under the Material Contract; or

(4) Enter into, or permit the entering into, of any Material Contract other than those entered into with the Project Contractors listed in Appendix 15 (Developer and Project Contractors Information).

(B) Timeframe for Consents. The County shall give or deny such consent within:

(1) 10 Business Days of receipt of such notice and all relevant documentation, if the Developer is seeking to terminate a Material Contract immediately; and

(2) 20 Business Days of receipt of such notice and all relevant documentation in all other cases.

If the County fails to give or deny its consent within such time periods it shall be deemed to have given its consent. The giving or denial of consent by the County shall not create any liability of the County to the Developer or to any third party.

(C) Costs of Request for Consent. The Developer shall pay, without duplication, the County's reasonable internal administrative and personnel costs and all out- of-pocket costs in connection with considering any request for consent by the Developer pursuant to this Section. At the time of the request, the Developer shall make a payment to the County against its obligation under this Section of $15,000 (Index-Linked). After the County's decision is rendered, the County will either refund any overpayment or invoice the Developer for any additional amounts due under this Section with reasonable substantiation of such costs.

SECTION 11.4. REPLACEMENT MATERIAL CONTRACTS.

If any Material Contract at any time lapses, terminates, or otherwise ceases to be in full force and effect (whether by reason of expiration or otherwise), unless the goods, services or rights which were the subject matter of such Material Contract are no longer reasonably required for the Project, the Developer:

(1) Will forthwith enter into, or cause to be entered into, a replacement contract or contracts upon the same or substantially similar terms as the contract so replaced (to the extent reasonably practicable) and in accordance with the County Legal Requirements; and

(2) Will forthwith enter into, or cause the replacement Project Contractor to enter into, a Project Contractor Collateral Agreement.

SECTION 11.5 DELIVERY OF AMENDED OR REPLACEMENT MATERIAL CONTRACTS

If at any time any amendment is made to any Material Contract, or a replacement Material Contract (or any agreement which materially affects the interpretation or application of any Material Contract) is entered into, the Developer shall deliver to the County a copy of each such amendment or agreement within 10 Business Days of the date of its execution or creation, certified as a true copy by an officer of the Developer.

SECTION 11.6. PAYMENT OF LIVING WAGES DURING THE FACILITY MANAGEMENT PERIOD.

As of the Effective Date, the County's living wage is set forth and codified in Section 2-8.9 of the Code of Miami-Dade County, Florida. The Developer, the Facility Manager and any Subcontractors shall pay not less than the then-current County living wage rates to applicable Developer Persons in accordance with Applicable Law with respect to the Facility Management Services, as such wages rates may be amended from time to time.

SECTION 11.7. LABOR RELATIONS AND DISPUTES.

(A) Labor Relations. The Developer shall furnish labor that can work in harmony with all other elements of labor employed for the performance of the Contract Services. The Developer shall have exclusive responsibility for disputes or jurisdictional issues among unions or trade organizations representing or seeking to represent employees of the Developer, the Project Contractor and Subcontractors. The County shall have no responsibility whatsoever for any such disputes or issues and the Developer shall indemnify, defend and hold harmless the County and the County Indemnitees in accordance with Section 24.1 (Developer's Obligation to Indemnify) from any and all Loss-and-Expense resulting from any such labor dispute, except to the extent that such labor dispute is a Compensation Event.

(B) Labor Disputes. If the Developer has knowledge of an actual or potential labor dispute that may affect any of the Contract Services, the Developer shall promptly:

(1) Give notice thereof to the County, including all relevant information related to the dispute of which the Developer has knowledge; and

(2) Take all reasonable steps to ensure that such labor dispute does not affect the performance of any of the Contract Services including by applying for relief to appropriate tribunals or courts. The Developer acknowledges that if the labor dispute involves workers of a Project Contractor or Subcontractor, or of anyone employed by or through them, the County will not be required to provide any Facility, space or assistance in the Project or on the Project Site for the purposes of such workers or any applicable union.

ARTICLE 12

INSURANCE, DAMAGE AND DESTRUCTION

SECTION 12.1. INSURANCE.

(A) Required Insurance. At all times during the Design-Build Period and the Facility Management Period, as applicable, the Developer and County, in accordance with each party's responsibility under Appendix 10 (Insurance Requirements), shall obtain or cause to be obtained, maintain and comply with the terms and conditions of the Required Insurance, and shall pay all premiums with respect thereto as the same become due and payable.

(B) Project Contractors and Subcontractors. The Developer shall ensure that all Project Contractors and Subcontractors secure and maintain all insurance coverage and other financial sureties required by Applicable Law in connection with their presence and the performance of their duties at or concerning the Project.

(C) Compliance with Insurer Requirements. The Developer and the County shall comply promptly with the requirements of all insurers pertaining to the Project Site and the Project under any policy of Required Insurance to which such is a named insured, a co-insured, or an additional insured person. Neither party to this Project Agreement shall knowingly do or permit anything to be done or fail to take any reasonable action that results in the cancellation or the reduction of coverage under any policy of Required Insurance to which such party is a named insured, a co-insured, or an additional insured person.

(D) Failure to Provide Insurance Coverage. For the Required Insurance that is the Developer's responsibility pursuant to Appendix 10 (Insurance Requirements), if the Developer fails to pay any premium for such Required Insurance, or if any insurer cancels any such Required Insurance policy and the Developer fails to obtain replacement coverage so that such Required Insurance is maintained on a continuous basis, or if the Developer fails to provide evidence of such Required Insurance to the County in accordance with Appendix 10 (Insurance Requirements), the County may, but is not obligated to, pay such premium or procure similar insurance coverage from another insurer and upon such payment by the County the amount thereof shall be immediately reimbursable to the County by the Developer. Subject to Section 14.5 (Unavailability of Insurance), the failure of the Developer to obtain and maintain any such Required Insurance shall not relieve the Developer of its liability for any losses intended to be insured thereby, be a satisfaction of any Developer liability under this Project Agreement or in any way limit, modify or satisfy the Developer's indemnity obligations hereunder.

(E) Reductions for Insurance Proceeds and Insurance Receivables. Whenever this Project Agreement obligates the County to pay any amount to the Developer in respect of an event or circumstance for which, or with respect to the consequences of which, an insurance claim may be made by the Developer under the Required Insurance, the amount which the County is obligated to pay will be reduced by the amount of Insurance Proceeds and Insurance Receivables which the Developer recovers or would have been entitled to recover if it had complied with the requirements of this Project Agreement or any policy of Required Insurance.

(F) Property Insurance Proceeds. Property Insurance Proceeds shall be deposited, held and applied as provided in subsection 14.3(E) (Insurance Trust Account).

SECTION 12.2. PROTECTION OF PROJECT AND PRIVATE PROPERTY FROM LOSS, DAMAGE AND DESTRUCTION.

(A) Protection. The Developer shall use care and diligence, and shall take all reasonable and appropriate precautions, to protect the Project from loss, damage or destruction. The Developer shall report to the County and the insurers, immediately upon obtaining knowledge thereof, any damage or destruction to the Project and as soon as practicable thereafter shall submit a full report to the County. The Developer shall also submit to the County within

24 hours of receipt copies of all accident and other reports filed with, or given to the Developer by, any insurer, adjuster or Governmental Body.

(B) Repair of Property. The Developer shall promptly repair or replace all property owned by the County or any other public or private owner that is damaged by the Developer or any Developer Person in connection with the performance of, or the failure to perform, the Contract Services. The repair and replacements shall restore the damaged property, to the maximum extent reasonably practicable, to its character and condition existing immediately prior to the damage.

SECTION 12.3. PROJECT AGREEMENT NOT AFFECTED BY DAMAGE OR DESTRUCTION

Except as otherwise expressly provided herein, the partial destruction or damage or complete destruction of the Project by fire or other casualty will not permit either party to terminate this Project Agreement or entitle the Developer to surrender possession of the Project or to demand any increase in any amounts payable to the Developer under this Project Agreement.

ARTICLE 13

SUPERVENING EVENT PROCEDURES

SECTION 13.1. SUPERVENING EVENTS GENERALLY.

(A) Extent of Relief Available to the Developer. If a Supervening Event occurs, the Developer may seek relief from its obligations, may seek extensions of time, may claim compensation, and may exercise a termination right under this Project Agreement, in each case as and to the extent permitted pursuant to this Article, Article 14 (Relief Events), and Article 15 (Compensation Events and Changes in Law) and in accordance with Section 14.3 (Developer's Obligations Upon Material Damage or Destruction).

(B) Mitigation Given Effect. Any relief to which the Developer is entitled under this Article on account of Supervening Events shall be adjusted to account for the effect of the mitigation measures which were or should have been taken by the Developer in compliance with its duty to mitigate under Section 25.5 (General Duty to Mitigate).

(C) Applicable Law Compliance. Nothing in this Article shall be interpreted as relieving the Developer of its obligation, following any and all Supervening Events, to perform its obligations under this Project Agreement in compliance with Applicable Law.

SECTION 13.2. PROCEDURES UPON THE OCCURRENCE OF A SUPERVENING EVENT.

(A) Notice and Written Report. In order to assert an entitlement based on the occurrence of a Supervening Event, the Developer shall give notice of the occurrence of the Supervening Event to the County as soon as practicable, and in any event within 15 Business Days of the date the Developer has knowledge that the Supervening Event has caused or is likely to cause an entitlement under this Project Agreement. As soon as practicable thereafter and in any event within 30 Business Days of the date the Developer has knowledge of the Supervening Event, the Developer shall submit a written report to the County (based on information available to the Developer at the time of submission):

(1) Describing the Supervening Event and the cause thereof, to the extent known;

(2) Stating the date on which the Supervening Event began and its estimated duration, if such estimated duration can be reasonably estimated;

(3) Summarizing the consequences of the Supervening Event and the expected impact on the performance of the Developer's obligations under this Project Agreement, to the extent such impact can be reasonably ascertained; and

(4) Indicating the nature and scope of the Developer's potential entitlement to relief, including specifically but not limited to, the specific reference to the applicable sections of the Project Agreement that result in such claim of entitlement.

(B) Updates. The Developer shall provide the County with periodic updates, together with further details and supporting documentation, as it receives or develops additional information pertaining to the Supervening Event and the matters described in subsection (A) of this Section. In particular, the Developer shall notify the County as soon as the Supervening Event has ceased and of the time when performance of its affected obligations can be resumed.

(C) Submittal of Relief Request. The Developer shall submit to the County a further notice making its request for specific relief, the basis therefor and the event giving rise to the requested relief within 30 days after the notice referred to in subsection (A) of this Section. If the specific relief cannot reasonably be ascertained within such 30-day period, the Developer at the conclusion of such 30-day period shall furnish a further notice to the County establishing the expected date by which the appropriate requested relief shall be definitively requested and the basis for such extension. The Developer shall then specify the specific relief by the date established in such further notice or submit a further extension notice with a further expected date and the basis for such extension, which further extension shall be subject to the County's approval, acting reasonably.

(D) Delay in Notification. If any Supervening Event notice or any required information is submitted by the Developer to the County after the dates required under this Section, then the Developer shall still be entitled to relief provided due to the occurrence of the Supervening Event except such relief shall be equitably adjusted to the extent that the ability to mitigate was adversely affected as a result of the delay in providing such notice or information.

(E) Multiple and Overlapping Claims. The Developer may make multiple but not duplicative claims with respect to a Supervening Event.

(F) Burden of Proof and Mitigation. The Developer shall bear the burden of proof in establishing the occurrence of a Supervening Event and the entitlement to relief based thereon, and shall demonstrate that the Developer complied with its mitigation obligations under Section 25.5 (General Duty to Mitigate).

(G) Resumption of Performance. Promptly following the occurrence of a Supervening Event, the Developer shall use all reasonable efforts to eliminate the cause thereof and resume performance of this Project Agreement.

(H) Developer Information. The County shall provide the Developer information reasonably requested in order for the Developer to reasonably assert a Supervening Event claim.

(I) County Response. Within 30 days after receipt of a relief request by the Developer pursuant to subsection (C) of this Section, the County shall issue a written determination as to the extent, if any, to which it concurs with the Developer's request, and the reasons therefor.

(J) Agreement or Dispute. The agreement of the parties as to the specific relief to be given the Developer on account of a Supervening Event shall be evidenced by a Contract Administration Memorandum, a Project Agreement Amendment or a Change Order, as applicable. Either party may refer any dispute regarding a Supervening Event to Non-Binding Mediation or to the Dispute Resolution Procedure.

ARTICLE 14

RELIEF EVENTS

SECTION 14.1. RELIEF EVENTS.

(A) Developer Reinstatement. If all or any part of the Project is damaged or destroyed on account of a Relief Event, the Developer shall promptly repair, replace or restore the part of the Project so damaged or destroyed to at least the character or condition with materials of like kind and quality and without deduction for depreciation at the time and place of loss, and in compliance with Applicable Law, and in accordance with the requirements of Section 14.3 (Developer's Obligations Upon Material Damage or Destruction).

(B) Schedule Relief. If a Relief Event occurs:

(1) The Scheduled Occupancy Readiness Date and the Longstop Date shall be extended as and to the extent provided in Section 8.5 (Scheduled Occupancy Readiness Date and Longstop Date); and

(2) The occurrence of the Relief Event shall not extend the period of time during which the Developer is obligated to provide the Contract Services and entitled to receive the Service Fee beyond 30 years from the Scheduled Occupancy Readiness Date.

(C) Termination Relief. If any Developer Event of Default or breach of this Project Agreement would not have occurred but for the occurrence of the Relief Event, such Developer Event of Default or breach will be deemed to have not occurred for the purposes of this Project Agreement. Notwithstanding the foregoing, nothing in this Article will have the effect of 1) relieving either party from performing any payment obligations contemplated in this Project Agreement, including, but not limited to, payment of the Service Fee or 2) preventing the County from assessing any Deductions (whether or not such Deductions were caused by the relevant Relief Event).

SECTION 14.2. FORCE MAJEURE EVENTS.

(A) General. In addition to the provisions of Article 14.1 (Relief Events), the provisions of this Article apply with respect to Force Majeure Events.

(B) No Breach Obligations. Neither party may bring a claim for a breach of obligations under this Project Agreement by the other party or incur any liability to the other party for any losses or damages incurred by that other party if a Force Majeure Event occurs and the Affected Party is prevented from carrying out its obligations by that Force Majeure Event; provided, however, that the occurrence of a Force Majeure Event shall not excuse either party from performing any payment obligations contemplated in this Project Agreement including, but not limited to, payment of the Service Fee. No Deductions will be taken for instances of Unavailability Event or Performance Failures occurring as a direct result of a Force Majeure Event.

(C) Consultation and Notification. Promptly (and in any event within ten (10) Business Days) after any notification of a Force Majeure Event under subsection 13.2(A) (Notice and Written Report): (1) if the Developer is an Affected Party, it shall provide written notice to the County stating that it is an Affected Party and setting forth the obligations in the Project Agreement it is unable to perform, and (2) the parties shall consult with each other in good faith and use all reasonable efforts to agree on appropriate terms to mitigate the effects of the Force Majeure Event in accordance with the terms of Section 25.5 (General Duty to Mitigate) and facilitate the continued performance of this Project Agreement. Promptly, and in any event within thirty (30) days after any notification of a Force Majeure Event under subsection 13.2(A) (Notice and Written Report), if the County is an Affected Party, the County shall provide written notice to the Developer stating that it is an Affected Party and setting forth the obligations in the Project Agreement it is unable to perform.

(D) Compensation Prior to Occupancy Readiness Date. To the extent that any Financing Costs become due for payment or repayment by the Developer during the Delay Period, the County shall pay to the Developer an amount equal to such Financing Costs in accordance with the procedures set forth in subsection 15.1(F) (Financing Costs) below.

(E) Failure to Agree; Right to Terminate.

(1) If:

(i) as a result of a Force Majeure Event, the Affected Party is unable to comply with any of its material obligations under this Project Agreement for a continuous period of more than one hundred eighty (180) days after the date such Force Majeure Event occurred; and

(ii) within such one hundred eighty (180) day period, the parties are unable to agree on appropriate terms to mitigate the effects of the Force Majeure Event and facilitate the continued performance of this Project Agreement,

either party may deliver notice to the other party that it wishes to terminate this Project Agreement (a "**Force Majeure Termination Notice**"). A Force Majeure Termination Notice must (A) provide a proposed date of termination and (B) be delivered to the other party at least thirty (30) days before such proposed date of termination.

(2) If:

(i) the County delivers a Force Majeure Termination Notice to the Developer in accordance with subsection 14.2(E)(1); or

(ii) the Developer delivers a Force Majeure Termination Notice to the County in accordance with subsection 14.2(E)(1) during the Design-Build Period,

this Project Agreement will terminate on the date of termination stated in such Force Majeure Termination Notice.

(3) If the Developer delivers a Force Majeure Termination Notice to the County in accordance with subsection 14.2(E)(1) during the Facility Management Period, subsection 14.2(F) (County Options) will apply.

(F) County Options.

(1) If the Developer delivers a Force Majeure Termination Notice in accordance with 14.2(E) (Failure to Agree; Right to Terminate) during the Facility Management Period,

the County shall, within fifteen (15) Business Days of receiving such notice, deliver a notice to the Developer stating that the County either:

(i) accepts that this Project Agreement will terminate on the date stated in the Force Majeure Termination Notice; or

(ii) requires this Project Agreement to continue.

(2) If the County issues a notice under subsection 14.2(F)(1)(i) or fails to deliver any notice under subsection 14.2(F)(1), this Project Agreement will terminate on the date set out in the Force Majeure Termination Notice delivered by the Developer in accordance with subsection 14.2(E)(1) (Failure to Agree; Right to Terminate).

(3) If the County delivers a notice under subsection 14.2(F)(1)(ii):

(i) this Project Agreement will not terminate and will continue until the County provides written notice (of at least thirty (30) days) to the Developer that it wishes this Project Agreement to terminate; and

(ii) until such time as the County terminates this Project Agreement in accordance with subsection 14.2(F)(3)(i):

(A) the Developer shall, to the extent practicable, continue to perform the Facility Management Services; and

(B) subject to the Developer complying with subsection 14.2(F)(3)(ii)(A), the County shall pay to the Developer each Service Fee from the day after the date on which this Project Agreement would have terminated under subsection 14.2(F)(2) as if the Facility Management Services were being fully provided in accordance with the requirements of this Project Agreement and all other amounts, including losses and expenses caused by any damage or delay (to the extent not covered by insurance proceeds) resulting from the Force Majeure Event.

(G) If this Project Agreement is terminated pursuant to subsection 14.2(E)(2) (Failure to Agree; Right to Terminate) or subsection 14.2(F)(2) (County Options), the County shall pay compensation to the Developer in accordance with Appendix 13 (Compensation on Termination).

SECTION 14.3. DEVELOPER'S OBLIGATIONS UPON MATERIAL DAMAGE OR DESTRUCTION.

(A) Draft Reinstatement Plan. If the Project suffers damage or destruction, that is likely to cost more than $1,000,000 (CPI-Linked), to repair, replace and restore, the Developer shall, as soon as practicable and in any event within 30 days of such damage or destruction, and before undertaking any material remedial work (other than any emergency work required to stabilize other parts of the Project or to facilitate the continued provision of the Facility Management Services to other parts of the Project, provide the County with a draft plan (the **"Draft Reinstatement Plan"**) for the carrying out of the works necessary (the **"Reinstatement Works"**) to repair, replace and restore the damaged or destroyed portions of the Project and related assets, and containing to the extent possible the details required to be included in the Reinstatement Plan under subsection (C) of this Section.

(B) No Reinstatement in Same Form. As soon as reasonably practicable and in any event within 30 days after the delivery of the Draft Reinstatement Plan, the County:

(1) Shall provide the Developer with any comments it may have on the Draft Reinstatement Plan; and

(2) If it has decided that the Project is not required to be reinstated in the same form as prior to the damage or destruction, will issue a preliminary Capital Modification instruction to that effect.

(C) Reinstatement Plan. As soon as reasonably practicable and in any event within 15 Business Days after receipt of the County's comments, the Developer shall deliver to the County a revised plan (the "**Reinstatement Plan**") to reasonably take into account the comments received from the County and making changes to the Draft Reinstatement Plan necessary to reflect the contractual terms agreed (as negotiated and finalized) with the person effecting the Reinstatement Works.

(D) Reinstatement Plan Details. The Reinstatement Plan shall set forth in as much detail as is reasonable in the circumstances:

(1) The identity of the person, or (if the Developer is conducting a competitive process) persons, intended to effect the Reinstatement Works;

(2) The terms and timetable or (if not then established) the reasonably anticipated terms and timetable upon which the Reinstatement Works are to be effected (including the date upon which the Project is reasonably expected to become fully operational again and the Facility Management Services to be fully provided);

(3) The impact that implementation of the Reinstatement Plan will have on the revenues of the Developer under this Project Agreement and on the payment obligations of the Developer under the Project Contracts, including in respect of life cycle requirements;

(4) The total cost or (if not then established) the reasonably anticipated total cost of the Reinstatement Works; and

(5) The impact of any Capital Modification requested by the County as part of the reinstatement.

(E) Insurance Trust Account. The parties shall cause an insurance trust account ("**Insurance Trust Account**") to be created and held pursuant to the terms of an insurance trust agreement ("**Insurance Trust Agreement**") to which the County, the Developer and the Senior Lenders are parties and which has been approved by the County. The Insurance Trust Agreement shall be consistent with this Project Agreement in all material respects.

(F) Application of Property Insurance Proceeds Available for Repair, Replacement or Restoration. All property Insurance Proceeds available for the repair, replacement or restoration of the Project shall be deposited in the Insurance Trust Account and at all times applied to such repair, replacement or restoration purposes in accordance with the terms of this Project Agreement.

(G) Insurance Deductibles and Exceedances. The Developer shall be responsible for and bear all costs associated with insurance deductibles and any claims exceeding policy limits in accordance with Appendix 10 (Insurance Requirements). The County shall be responsible for and bear all costs associated with insurance deductibles and any claims exceeding policy limits in accordance with Appendix 10 (Insurance Requirements). Developer shall be responsible to fund Reinstatement Works necessary as a direct result of a Force Majeure

Event only to the extent of all Insurance Proceeds available for repair, replacement or restoration of the Project.

SECTION 14.4 STANDARDS OF REPLACEMENT, REPAIR OR RECONSTRUCTION.

Any replacement, repair, or reconstruction of the Project or any part thereof pursuant to the provisions of Section 14.3 (Developer's Obligations Upon Material Damage or Destruction) shall be made or done in compliance with the Design and Construction Standards, the County Legal Requirements, and the requirements set forth in Appendix 6 (Design-Build Work Review Procedures), subject to any agreement made between the County and the Developer to revise the Design and Construction Standards or the requirements set forth in Appendix 6 (Design-Build Work Review Procedures) as they pertain to the replacement, repair or reconstruction work.

SECTION 14.5. UNAVAILABILITY OF INSURANCE.

(A) Insurance Unavailability Event. If during the Term:

(1) Any Required Insurance that is the Developer's responsibility in accordance with Appendix 10 (Insurance Requirements) is not available to the Developer with Qualified Insurers; or

(2) The insurance premium payable or the terms and conditions for any Required Insurance that is the Developer's responsibility in accordance with Appendix 10 (Insurance Requirements) at the same levels and on the terms required by this Project Agreement are at such cost that the County, owners or others having a substantially similar interest in property such as the Project are not insuring against such risk with Qualified Insurers, and such premium payable, terms or conditions do not arise, directly or indirectly from Developer Fault or the fault of any Project Contractor;

then such circumstance shall constitute an "**Insurance Unavailability Event**" hereunder.

(B) Termination by County. If and for so long as an Insurance Unavailability Event has occurred and is continuing, after the exhaustion of the cure period as specified in subsection 20.3(A)(2)(a) (Notice and Remedy or Remedial Program), the County may by notice to the Developer terminate this Project Agreement, whereupon the Developer shall be entitled to compensation upon termination as provided in Section 3 (No-Fault Termination) of Appendix 13 (Compensation on Termination).

(C) Continuance of Project Agreement. During any period prior to the Termination Date in which an Insurance Unavailability Event has occurred and is continuing, and the County has not exercised its termination right under subsection (B) of this Section or the County has exercised such right but the Termination Date has not yet occurred:

(1) The Developer will not be obligated to maintain such Required Insurance and references in this Project Agreement to such Required Insurance will be construed accordingly. During such period the Service Fee shall be adjusted in accordance with Section 16.6 (Extraordinary Items) by agreement of the parties, acting reasonably, to reflect any savings in the Developer's insurance cost as a result of the Developer not having to provide such Required Insurance; and

(2) On the occurrence of any property damage with respect to which an Insurance Unavailability Event has occurred, the County will pay to the Developer an amount equal to the insurance proceeds that would have been payable directly to the Developer or to the relevant third party (in the case of third-party liability insurance)

under the relevant policy of insurance had the relevant insurance continued to be available and in effect, and this Project Agreement will continue.

(D) Subrogation. If the County makes any payment to the Developer pursuant to subsection (C)(2) of this Section, then the County, to the extent of the amount paid, will be subrogated to the Developer's rights against any third party (other than Developer Persons) in respect of the occurrence or claim as a result of which the payment was made.

(E) County Right to Purchase Replacement Insurance Coverage. During the continuance of any Insurance Unavailability Event, the County may, but shall not be obligated to, purchase insurance policies in the commercial insurance market providing the coverage intended to be provided by the Required Insurance that is unavailable due to an Insurance Unavailability Event. The Service Fee shall be adjusted in accordance with Section 16.6 (Extraordinary Items) to reflect a credit in the amount of the cost to the County of any such replacement insurance coverage, but only to the extent that such costs would be considered commercially reasonable without giving effect to the occurrence of the Insurance Unavailability Event. By way of example, if the premium on a policy of Required Insurance was costing the Developer $5 and it suddenly jumps to $100 due to an Insurance Unavailability Event, the Service Fee reduction would be $5, not $100.

SECTION 14.6. CONTINUING ATTEMPTS TO OBTAIN INSURANCE.

During any period when an Insurance Unavailability Event has occurred and is continuing, the Developer shall approach the insurance market on a regular basis and in any event at regular intervals of no longer than six months to establish whether the Required Insurance remains unavailable.

ARTICLE 15

COMPENSATION EVENTS AND CHANGES IN LAW

SECTION 15.1. COMPENSATION EVENTS.

(A) Developer Reinstatement. If all or any part of the Project is damaged or destroyed on account of a Compensation Event, the Developer shall promptly repair, replace or restore the part of the Project so damaged or destroyed to at least the character or condition with materials of like kind and quality and without deduction for depreciation at the time and place of loss, and in compliance with Applicable Law, and in accordance with the requirements of Section 14.3 (Developer's Obligations Upon Material Damage or Destruction).

(B) Schedule Relief. If a Compensation Event occurs:

(1) The Scheduled Occupancy Readiness Date and the Longstop Date shall be extended as and to the extent provided in Section 8.5 (Scheduled Occupancy Readiness Date and Longstop Date); and

(2) The occurrence of a Compensation Event shall not extend the period of time during which the Developer is obligated to provide the Contract Services and entitled to receive the Service Fee beyond 30 years from the Scheduled Occupancy Readiness Date.

(C) Performance Relief. If a Compensation Event occurs, the Developer shall be relieved from its relevant obligations under this Project Agreement to perform the Contract Services in accordance with Article 13 (Supervening Event Procedures), and the County shall not

have the right to impose Deductions for Unavailability Events or Performance Failures, to the extent caused by a Compensation Event.

(D) Compensation Relief for Compensation Events Occurring Prior to the Occupancy Readiness Date. If a Compensation Event occurs prior to the Occupancy Readiness Date, the County shall pay the Developer an amount equal to the Change in Costs to the Developer of performing the Design-Build Work or the Facility Management Services in accordance with Applicable Law (including increased design, construction, operation, maintenance, repair and replacement costs, including the Developer's own increased costs as well as increased amounts payable to the Design-Builder, the Facility Manager, or subcontractors), to the extent resulting from such Compensation Event, which amount shall be payable as soon as practicable by the County following agreement of the parties, pursuant to Section 16.12 (Negotiated Lump Sum Pricing of Additional Work) or Section 16.13 (Cost Substantiation of Additional Work), as applicable, as to such cost or other appropriate relief measures; and

An amount equal to the Financing Costs, in accordance with subsection 15.1(F) (Financing Costs).

No amounts other than those provided for in this subsection shall be payable by the County on account of such Compensation Event that occurs prior to the Occupancy Readiness Date. The obligation of the Developer to perform the work necessitated by the occurrence of a Compensation Event occurring prior to the Occupancy Readiness Date for which the Developer is entitled to compensation as provided in this subsection is conditioned on the availability of funds as provided in subsection 7.22(B) (Conditions to Certain Developer Performance Obligations During the Design-Build Period).

(E) Compensation Relief for Compensation Events On or After the Occupancy Readiness Date. If a Compensation Event occurs on or after the Occupancy Readiness Date, the Service Fee shall continue to be payable, but shall be:

(1) Reduced by an amount equal to Avoidable Costs; and

(2) Increased by an amount necessary to compensate the Developer for any Change in Costs to the Developer of performing the Contract Services in compliance with Applicable Law (including increased design, construction, operation, maintenance, repair and replacement costs), to the extent resulting from the Compensation Event.

(F) Financing Costs.

(1) To the extent that any Financing Costs become due for payment or repayment by the Developer during the Delay Period, the County shall pay to the Developer an amount equal to such Financing Costs no later than ten (10) Business Days prior to the date that such Financing Costs become due for payment or repayment provided the Developer provides the County with an invoice for such amounts no less than ten (10) Business Days prior to the date that payment is required from the County to the Developer.

(2) No later than twenty (20) Business Days after the Occupancy Readiness Date, the parties shall calculate (such calculation being referred to below as the "**Reconciliation**"), in accordance with Section 17.2 (Financial Model Updates), the extent to which Developer, taken as a whole, was left in a better or worse position as a result of the Delay Period, taking into account the payments made to the Developer by the County pursuant to subsections 15.1(D) and 15.1(F)(1).

(3) To the extent that the Reconciliation demonstrates that the Developer, taken as a whole, was left in a worse position notwithstanding the payments made to the Developer by the County pursuant to subsection 15.1(F)(2) or otherwise as a result of the Compensation Event or the Force Majeure Event, the County shall, within thirty (30) days of completion of the Reconciliation, make a lump-sum payment to the Developer in an amount equal to that which would result in the Developer, taken as a whole, being left in a no better and no worse position.

(4) To the extent that the Reconciliation demonstrates that the Developer, taken as a whole, was left in a better position as a result of the payments made to the Developer by the County pursuant to subsection 15.1(F)(2) or otherwise as a result of the Compensation Event or the Force Majeure Event, the Developer shall make a lump-sum payment to the County in an amount equal to that which would result in Developer, taken as a whole, being left in a no better and no worse position; provided, however, that the parties understand and agree that payment by the County of Financing Costs prior to the Occupancy Readiness Date shall result in a commensurate adjustment to the Capital Charge portion of the Service Fee during the Facility Management Period.

(5) Any reference in this Project Agreement to "**no better and no worse**" or to leaving the Developer in a "**no better and no worse position**" will be construed by reference to the Developer's:

(i) rights, duties and liabilities under or arising pursuant to performance of this Project Agreement, the Senior Financing Agreements, the Project Contracts and the performance bonds and the payment bonds; and

(ii) ability to perform its obligations and exercise its rights under this Project Agreement, the Senior Financing Agreements, the Project Contracts and the performance bonds and the payment bonds.

SECTION 15.2. DISCRIMINATORY CHANGES IN LAW OR SPECIFIED CHANGES IN TAX LAW.

(A) Changes Prior to the Occupancy Readiness Date. If a Discriminatory Change in Law or a Specified Change in Tax Law occurs prior to the Occupancy Readiness Date, the Developer or the County, as applicable, shall be entitled to additional compensation for any revenue loss for the Developer or any Unit Holder (as the case may be) directly attributable thereto, such additional compensation to the Developer shall be payable by the County directly to the Developer pursuant to Section 7.22 (Payment Obligations of the County During the Design-Build Period) and any revenue gain to the Developer shall result in a reduction of the Service Fee payable by the County.

(B) Changes On or After the Occupancy Readiness Date. If a Discriminatory Change in Law or a Specified Change in Tax law occurs on or after the Occupancy Readiness Date, the Developer or the County shall be entitled to additional compensation for any revenue loss or revenue gain relative to the most recent Financial Model to the Developer or any Unit Holder (as the case may be) directly attributable thereto and any such revenue gain to the Developer or any Unit Holder shall result in a reduction of the Service Fee payable by the County.

SECTION 15.3. AD VALOREM TAXES.

Under Applicable Law and as of the Effective Date of this Project Agreement, the County and the Project Site are immune from ad valorem taxation. If any ad valorem real property taxes shall be levied in respect of the interest of the Developer in the Courthouse during

the Term of this Project Agreement, the Developer shall, to the extent permitted by then Applicable Law, be permitted to increase the amount of the Service Fee otherwise due to the Developer by the County by the amount of the ad valorem tax.

ARTICLE 16

SERVICE FEE AND OTHER PAYMENTS

SECTION 16.1. SERVICE FEE GENERALLY.

(A) Service Fee Payment Obligation. From and after the later of the (1) Scheduled Occupancy Readiness Date and (ii) the Occupancy Readiness Date, and through the Termination Date, except as provided in subsection (B) of this Section, the County shall pay the Service Fee to the Developer as compensation for the Developer's performance of the Contract Services.

(B) Service Fee Payments Where Occupancy Readiness Date Occurs Prior to Scheduled Occupancy Readiness Date. In the event the Occupancy Readiness Date occurs prior to the Scheduled Occupancy Readiness Date, the County shall have no obligation to pay the Service Fee and no right to occupy the Project during the period between the Occupancy Readiness Date and the Scheduled Occupancy Readiness Date, except as may be agreed by the parties in accordance with Section 8.8 (County Right of Occupancy).

(C) Limitation on Payments. Other than the revenues and profits to be derived by Developer at the Restaurant pursuant to subsection 9.8(C) and the payments and compensation amounts expressly provided for herein, the Developer shall have no right to any further payment from the County in connection with the Contract Services or otherwise in connection with the Project.

SECTION 16.2. SERVICE FEE FORMULA.

The Service Fee shall be calculated in accordance with the following formula:

SF = CC + FMC ± DC ± EI ± IFMC
Where,

SF = Service Fee

CC = Capital Charge

FMC = Facility Management Charge

DC = Deductions Credit

EI = Extraordinary Items

IFMC = Incremental Facility Management Charge

SECTION 16.3. CAPITAL CHARGE.

(A) Capital Charge Amount. The Capital Charge per 12 month Contract Year shall be $21,296,266, shall be adjusted as and to the extent required under or pursuant to

subsection (B) of this Section, shall be fixed for the Term as of the Financial Close Date, and shall not be Index-Linked.

(B) Adjustments to the Capital Charge. The Capital Charge may be adjusted pursuant to Section 11 (Revision of the Capital Charge to Reflect Changes in Benchmark Interest Rate Risk) of Appendix 3 (Financial Close Procedures and Conditions) and Section 12 (Revision of the Capital Charge to Reflect Changes in Design-Build Contract Price Following the Proposal Validity Period End Date) of Appendix 3. The parties shall execute a Contract Administration Memorandum on the Financial Close Date reflecting the effect of any such adjustments as of the Financial Close Date.

SECTION 16.4. FACILITY MANAGEMENT CHARGE.

(A) Facility Management Charge. The Facility Management Charge per 12 month Contract Year shall be $3,758,165.

(B) Incremental Facility Management Charge. The Incremental Facility Management Charge per 12 month Contract Year after the completion of the Incremental Facility shall be $12,240.

(C) Escalation. On the Occupancy Readiness Date and at the start of each subsequent Contract Year the Index-Linked percentage change will be calculated and that percentage change will be used to escalate each monthly Facility Management Charge and each monthly Incremental Facility Management Charge for that Contract Year. The indexes and weightings used to calculate the Index-Linked percentage change are as follows:

Index	**Percentage of Facility Management Charge to be Escalated**	**Source**
CPI-U (Miami-Fort Lauderdale- West Palm Beach)	53.36%	https://www.bls.gov/regions/southeast/fl_miami_msa.htm
GDP Deflator	46.43%	https://fred.stlouisfed.org/series/GDPDEF
Consumer Price Index (CPI)	0.21%	https://www.bls.gov/cpi/

SECTION 16.5. DEDUCTIONS CREDIT.

The Deductions Credit shall be the sum of all Deductions imposed pursuant to Appendix 11 (Deductions) hereunder. Examples of the calculation of Deductions are included in Appendix 12 (Example Calculations of Deductions from Service Fee).

SECTION 16.6. EXTRAORDINARY ITEMS.

(A) Extraordinary Items. The Extraordinary Items component of the Service Fee, which may be a charge or a credit, shall be equal to the net amount of the following items (each an "**Extraordinary Item**" hereunder):

(1) Any adjustments reflecting the County's share of any Refinancing Gain payable under Section 6.5 (Refinancing);

(2) Any amount payable by the County on account of reasonable out-of-pocket expenses incurred by the Developer in seeking such financing contemplated by subsection 6.7(B) (Developer Financing);

(3) Any payment relating to Hazardous Substances to be made by or to the County pursuant to subsection 7.5(E) (Hazardous Substances);

(4) Any amount payable by the County on account of a County-directed Design and Construction Requirement Charge which is chargeable to the County hereunder pursuant to Section 7.12 (Design and Construction Requirement Changes Made at County Direction), net of any Avoidable Costs incurred by the Developer that would have been saved or avoided if the Developer had acted reasonably and in accordance with this Project Agreement;

(5) Any adjustment (including additions or deductions) to the Service Fee resulting from Vandalism pursuant to subsection 9.4(B) (Vandalism);

(6) Any adjustment to the Service Fee resulting from increased or decreased operation, maintenance, repair and replacement costs directly attributable to a Capital Modification or a Facility Management Services Change under the provisions of Article 10 (Capital Modifications and Facility Management Services Changes) or resulting from a Design and Construction Requirement Change made at the direction of the County pursuant to Section 7.12 (Design and Construction Requirement Changes Made at County Direction), but only to the extent such costs are not already covered by insurance;

(7) Any adjustment reflecting savings in insurance costs, or additional insurance costs paid by the County for replacement insurance coverage, pursuant to Section 14.5 (Unavailability of Insurance);

(8) Any amount payable by the County for increased operation, maintenance or other costs incurred on account of subsection 15.1(E) (Compensation Relief for Compensation Events On or After the Occupancy Readiness Date), net of any Avoidable Costs achieved by the Developer in mitigating the effects of the occurrence of such a Compensation Event;

(9) Any adjustment resulting from the exercise by the County of its rights under Article 19 (Remedies of the Parties and County Step-In Rights);

(10) Any indemnification payments owed by the Developer pursuant to Section 24.1 (Developer's Obligation to Indemnify) or any other provision hereof;

(11) Any payments required to be made by the Developer pursuant to Appendix 8 (Facility Management Requirements);

(12) Any payments required to be made by the County to the Developer on account of additional costs associated with special events pursuant to section 9.1(D) (Special Events); and

(13) Any other payment or increase or reduction in the Service Fee provided for under any other provision of this Project Agreement.

(B) Payment. Each Extraordinary Item shall be paid as a lump sum in accordance with Section 16.7. If the County determines that a lump sum payment for an Extraordinary Item is not feasible, the County and the Developer shall confer to determine the most cost efficient method of funding or financing such amounts. To the extent that any such alternative funding arrangement is agreed to by both parties, a Contract Administration Memorandum and a Project Agreement Amendment, as applicable, shall be executed.

SECTION 16.7. BILLING AND PAYMENT.

(A) Installments. The County shall pay the Service Fee in monthly installments in an amount equal to the sum of:

(1) One-twelfth (1/12) of the Capital Charge as scheduled in Section 16.3;

(2) One-twelfth (1/12) of the Facility Management Charge and one-twelfth (1/12) of the Incremental Facility Management Charge as scheduled and Index-Linked in Section 16.4;

(3) Any Deductions Credit;

(4) Any Extraordinary Items that are determined on a monthly basis; and

(5) Any adjustments, plus or minus, to reconcile any prior Service Fee payments.

Any overpayment from prior monthly periods shall be credited against the next monthly Service Fee payment.

(B) Invoicing and Service Fee Payment Due Date. The Developer shall provide the County with an invoice for each Billing Period by the fifteenth day following the end of such Billing Period. The invoice shall set forth the amount of the Service Fee due with respect to such Billing Period and, in addition, shall state the annual Service Fee and each component thereof as calculated for the then-current Contract Year, together with the accumulated payments for each component to the date of such invoice and such other documentation or information as the County may reasonably require to determine the accuracy and appropriateness of the invoice in accordance with this Project Agreement. It is the policy of Miami-Dade County that payment for all purchases by the County be made in a timely manner and that interest payments be made on late payments. In accordance with Section 218.74 of the Florida Statutes, and Section 2-8.1.4 of the Code of Miami-Dade County, the time at which payment shall be due from the County or the Public Health Trust shall be forty-five (45) days from receipt of a proper invoice. All payments due from the County, and not made within the time specified by this section shall bear interest from thirty (30) days after the due date at the rate of one percent (1%) per month on the unpaid balance. In accordance with Miami-Dade County Implementing Order 3-9, Accounts Receivable Adjustments, if money is owed by the Developer to the County, whether under this Project Agreement or for any other purpose, the County reserves the right to retain such amount from payment due by County to the Developer under this Contract. Such retained amount shall be applied to the amount owed by the Developer to the County. The Developer shall have no further claim to such retained amounts which shall be deemed full accord and satisfaction of the amount due by the County to the Developer for the applicable payment due herein.

Invoices and associated back-up documentation shall be submitted in duplicate by the Developer to the County as follows:

Miami-Dade County
Internal Services Department
111 NW 1st Street, Suite 2100
Miami, FL 33128
Attention: Dan Chatlos

The County may at any time designate a different address and/or contact person by giving written notice to the other party.

(C) Late Service Fee Payments. In the event the County fails to make a Service Fee Payment when due under subsection (B) of this Section:

(1) Interest shall accrue thereon, as and to the extent provided in subsection 16.7(B); and

(2) If such failure continues for the period described in subsection 21.1(1) (County Events of Default), then such failure shall constitute a County Event of Default as provided in such subsection and the Developer shall have the right to terminate this Project Agreement as provided in subsection 22.2(B) (Developer Termination Rights).

SECTION 16.8. ESTIMATES AND ADJUSTMENTS.

(A) First and Last Billing Periods. If the first or last Billing Period is a partial month, any computation made on the basis of a Billing Period shall be adjusted on a pro-rata basis to take account of the partial period of service.

(B) Annual Service Fee Estimate for County Budgeting Purposes. For County budgeting purposes, the Developer shall provide to the County a written estimate statement setting forth for such upcoming Contract Year its aggregate Index-Linked Service Fee, each component thereof, and all calculation in support thereof. Upon concurrence by the County, this written estimate statement shall establish the basis for Billing Period invoicing for such upcoming Contract Year, subject to annual settlement pursuant to this Article. However, this estimate shall not be binding on the Developer.

SECTION 16.9. ANNUAL SETTLEMENT.

Within 60 days after the end of each Contract Year during the Facility Management Period, the Developer shall provide to the County an annual settlement statement (the "**Annual Settlement Statement**") setting forth the actual aggregate Service Fee payable with respect to such Contract Year and a reconciliation of such amount with the amounts actually paid by the County with respect to such Contract Year (taking into account intra-Contract Year reconciliations pursuant to subsection 16.7(A)(5) (Installments)). The County or the Developer, as appropriate, shall pay all known and undisputed amounts within 60 days after receipt or delivery of the Annual Settlement Statement. If any amount is then in dispute or is for other reasons not definitely known at the time the Annual Settlement Statement is due, the Annual Settlement Statement shall identify the subject matter and reasons for such dispute or uncertainty and, in cases of uncertainty, shall include a good faith estimate by the Developer of the amount in question. When the dispute is resolved or the amount otherwise finally determined, the Developer shall file with the County an amended Annual Settlement Statement which shall, in all other respects, be subject to this Section.

SECTION 16.10. SALES TAXES.

The Developer acknowledges that construction materials and supplies initially acquired by the Developer, the Project Contractors or any Subcontractors in connection with the Design-Build Work or any Capital Modification, and operating supplies relating to the performance of the Facility Management Services, are subject to State and local sales tax, and that these taxes have been priced into the Service Fee. The Developer shall pay all such taxes without reimbursement from the County.

SECTION 16.11. RISK OF ADVERSE TAX OR ACCOUNTING TREATMENT.

There shall be no adjustment of the Service Fee or any other amount payable to, and no relief from any obligation of, the Developer hereunder on account of:

(1) Except as provided in Section 15.1 (Compensation Events) with respect to a Discriminatory Change in Law, any change in any provision of Income Tax law to take effect after the Effective Date pertaining to the transactions contemplated hereby which affects the Developer or any other person (including, without limitation, any provisions thereof pertaining to Income Tax rates or to the Income Tax treatment of the Service Fee or any other payment between the parties), notwithstanding any assumptions made by the Developer in entering into this Project Agreement or any Material Contract as to the provisions of Income Tax law which would be applicable to this transaction or their effect on the Developer or such other person,

(2) Any administrative or judicial determination which is adverse to the Developer or any other person as to any Income Tax treatment or consequence arising in connection herewith, including any such determination made with respect to depreciation, amortization or credits with respect to equity invested in the Project or with respect to the exclusion of interest on any obligation issued to finance the Project where such interest was intended to be excludable from taxpayer gross income,

(3) Any inability of the Developer or other person to fully utilize any Income Tax benefits which may have been assumed to accrue on account of the transactions contemplated hereby, or

(4) Any application of or change in accounting standards to the transactions contemplated hereby which may be inconsistent with the accounting standards or application thereof which may have been assumed by the Developer or any other person in connection with such transactions.

SECTION 16.12. NEGOTIATED LUMP SUM PRICING OF ADDITIONAL WORK.

This Project Agreement obligates the County to pay for certain additional costs resulting from Compensation Events and otherwise as more specifically provided herein. It is the expectation of the parties, in general, that the County will pay for such costs in accordance with Section 16.13 (Cost Substantiation of Additional Work) below based on an itemized and competitively bid prices for labor, time, and materials. However, alternatively, Developer and the County can agree on a lump sum basis, and, in such case, the lump sum price will be negotiated in advance of the Developer's performance of the work. To facilitate the determination and Cost Substantiation or, for lump-sum pricing, to facilitate such negotiations, the Developer shall furnish the County with all information reasonably required by the County regarding the Developer's expected costs of performing the work and its mark-up. If the parties agree to a lump sum price, the Developer's actual costs of performance shall not be subject to Cost Substantiation unless after-the-fact Cost Substantiation with respect to all or a portion of the Developer's actual costs was agreed to by the parties in establishing the lump sum price.

SECTION 16.13. COST SUBSTANTIATION OF ADDITIONAL WORK.

(A) Cost Substantiation Generally. The Developer shall provide a Cost Substantiation Certificate in accordance with subsection (C) of this Section for any additional costs for which the County is financially responsible hereunder, unless the County opts to instead undergo a lump sum price negotiation. For costs which are or may be subject to Cost Substantiation, the Developer shall utilize competitive practices to the maximum reasonable extent (including, where practicable, obtaining three competing quotes or estimates for costs

expected to be in excess of $10,000 (CPI-Linked)), and shall enter into Subcontracts on commercially reasonable terms and prices in light of the work to be performed and the County's potential obligation to pay for it; provided, however, that during the Design-Build Period, the Developer shall not be required to utilize competitive practices for additional work self-performed by a Subcontractor that is an original party to (and not an assignee under) Subcontracts that pre-existed the need and request for additional work. If the Developer is not required to utilize competitive practices, it shall instead demonstrate to the County that the costs for which the County is financially responsible are commercially reasonable. The County shall approve, in advance, all cost estimates, contracts and budgets for additional costs for which it is responsible hereunder and Developer shall not incur any costs for which it expects County reimbursement without the County's prior, written approval. Cost Substantiation shall be provided as soon as reasonably practicable after the costs which require substantiation have been determined by the Developer and prior to entering into any contracts or undertaking any work. Cost Substantiation shall also be required where the parties agree that the Developer shall perform additional work on a guaranteed maximum price basis, subject to the limitations set forth in subsection (D) of this Section.

(B) Emergency Work. In the case of a condition that creates, or where there is an imminent threat that a condition will be created, that poses a likelihood of (1) serious bodily harm or injury, including death, to Facility Users, Developer Persons, or the public, or (2) significant physical damage to the Courthouse or other real property in the vicinity of the Courthouse, either of which must be remedied immediately and without sufficient time to provide, in advance, all of the Cost Substantiation in accordance with the procedures set forth herein and for which costs the County is financially responsible hereunder, then Developer shall notify the County Representative in writing as soon as is practicable of the aforementioned condition to seek the County Representative's approval to undertake the necessary work immediately and to provide the Cost Substantiation at a later date. The County Representative shall use commercially reasonable efforts to respond to the request within twenty-four (24) hours. For clarity, the procedure set forth in this subsection 16.13(B) shall apply exclusively to emergency work that constitutes additional work pursuant to subsection 16.13(A) above.

(C) Cost Substantiation Certificate. Any certificate delivered hereunder to substantiate cost shall state the amount of such cost and the provisions of this Project Agreement under which such cost is chargeable to the County, shall describe the competitive or other process utilized by the Developer to obtain the commercially reasonable price, and shall state that such services and materials are reasonably required pursuant to this Project Agreement. The Cost Substantiation certificate shall be accompanied by copies of such documentation as shall be necessary to reasonably demonstrate that the cost as to which Cost Substantiation is required has been paid. Such documentation shall be in a format reasonably acceptable to the County and shall include reasonably detailed information concerning all Subcontracts and, with respect to self-performed work:

(1) The amount and character of materials, equipment and services furnished or utilized, the persons from whom purchased, the amounts payable therefor and related delivery and transportation costs and any sales or personal property Taxes;

(2) A statement of the equipment used and any rental payable therefor;

(3) Employee hours, duties, wages, salaries, benefits and assessments; and

(4) Profit, administration costs, bonds, insurance, Taxes, premiums overhead, and other expenses.

The Developer's entitlement to reimbursement for the costs of self-performed work shall be subject to Cost Substantiation and the limitations set forth in this Section.

(D) Evidence of Costs Incurred. To the extent reasonably necessary to confirm direct costs subject to Cost Substantiation, copies of timesheets, invoices, canceled checks, expense reports, receipts and other documents, as appropriate, shall be delivered to the County, with the request for reimbursement of such costs.

(E) Mark-Ups. For any self-performed work requiring Cost Substantiation, the Developer shall be entitled to a mark-up of 15% for a combination of overhead, risk, profit and contingency for costs of its own personnel. For any subcontracted work requiring Cost Substantiation, the Developer shall be entitled to a mark-up of 5% for a combination of overhead, risk, profit and contingency for costs of its Subcontractors.

SECTION 16.14. COUNTY'S RIGHT OF SET OFF.

Once the County determines that any credits, payments, reimbursements or liquidated damages are owed to the County in accordance with the terms and conditions of this Project Agreement and have not been reflected in any previously submitted Billing Statement, the County shall notify the Developer and the Developer shall include such amounts as an Extraordinary Item in the next Billing Period invoice provided to the County under this Article. In the event the Developer does not include such amounts in the next Billing Period invoice provided to the County in accordance with this Section, the County shall have the right to offset the Service Fee otherwise payable for such Billing Period invoice by the amount of such credits, payments, reimbursements or liquidated damages. Notwithstanding the foregoing, the County shall have the right to offset the Service Fee otherwise payable to the Developer for the final three Billing Period invoices during the Term by the amount of any credits, payments, reimbursements or liquidated damages due to the County under this Project Agreement.

SECTION 16.15. BILLING STATEMENT DISPUTES.

If the County disputes in good faith any amount billed by the Developer, the County shall pay all undisputed amounts when due but may withhold payment of the disputed amount, and shall provide the Developer with a written objection indicating the amount being disputed and the reasons then known to the County for the dispute. When any billing dispute is finally resolved, if payment by the County to the Developer of amounts withheld is required, such payment shall be made within 30 days of the date of resolution of the dispute, without interest.

ARTICLE 17

FINANCIAL MODEL

SECTION 17.1. FINANCIAL MODEL.

(A) Copy Accessible. A copy of the Financial Model is accessible to the parties as detailed in Appendix 17 (Financial Model).

(B) Risk of Errors or Omissions. The Developer shall bear the entire risk of any errors in or omissions from the Financial Model and shall not be entitled to any compensation from or other redress against the County in relation to any loss or damage that it suffers in consequence of such error or omission.

(C) No Guaranteed Return. In no event shall the agreement of the parties to establish and maintain the Financial Model for certain purposes hereunder be construed to mean that the Developer is entitled to receive a guaranteed rate of return on equity invested in connection with the Project.

SECTION 17.2. FINANCIAL MODEL UPDATES.

(A) Updates. The Financial Model shall only be updated in the following circumstances:

(1) At Financial Close in accordance with Appendix 3 (Financial Close Procedures and Conditions) of this Project Agreement;

(2) In connection with a Qualifying Refinancing in accordance with Section 6.5 (Refinancing) of this Project Agreement; and

(3) As otherwise required from time to time, to reflect changes as required by this Project Agreement (including Compensation Events and Force Majeure Events), upon agreement of both parties.

The Financial Model update shall only incorporate (a) changes to revenues and expenses that arise directly from the circumstances described above, and (b) consequential changes to the Senior Debt draw down schedule, funding and release of reserves, financing costs, debt service profile, equity draw down schedule, and the Developer's profile of Distributions. The Financial Model update shall not (x) generally update projections through the end of the Term based on current market conditions, or (y) incorporate information or assumptions based on the Developer's actual financial performance, except by mutual agreement as set forth in Section 2 (Data and Projections Required for the Calculation of Refinancing Gain) of Appendix 18 (Calculation and Payment of Refinancing Gains) of this Project Agreement. Following approval by the County, the Financial Model update shall become the Financial Model and shall be attached to this Project Agreement.

(B) Financial Model Audits. Any Financial Model update required under subsection (A) of this Section shall be audited by an independent audit firm, and the Developer shall deliver a copy of the firm's audit and opinion to the County prior to such Financial Model update becoming effective under this Project Agreement. In such a case, the Developer shall solely bear the cost of the audit.

(C) Developer Preparation. The Developer shall prepare the Financial Model updates and shall provide the County with each Financial Model update and a complete set of the updated and revised assumptions, and other data that form a part of the Financial Model as updated, including updated and revised Projections and calculations with respect to revenues, expenses, the repayment of Senior Debt and Distributions.

(D) Access and Challenges. The County shall have the right at all times to gain access, on an open book basis, to the Financial Model and each Financial Model update and the set of updated and revised assumptions and other data that form part of each such model. The County shall have the right to challenge the validity, accuracy or reasonableness of any Financial Model update or the related updated and revised assumptions and data. In the event of a challenge, the immediately preceding Financial Model version that has not been challenged shall remain in effect pending the outcome or the challenge or until a new Financial Model update is issued and unchallenged by the County.

(E) Changes to Financial Model Formulas. In no event shall the Financial Model formulas be changed except with the prior written agreement of both parties.

(F) County Audit. Prior to making any use of the output of the Financial Model, the County may, at its own expense, review and audit the Financial Model and all amendments and updates thereto prepared by the Developer. The Developer shall provide such information as is reasonably required by the County to conduct such audit on an annual basis and as otherwise required from time to time.

ARTICLE 18

DISPUTE RESOLUTION

SECTION 18.1. FORUM AND PROCESS FOR DISPUTE RESOLUTION.

The Developer and the County each agree that the exclusive venue for all Legal Proceedings related to this Project Agreement or to the Project or to any rights or any relationship between the parties arising therefrom or to any Dispute shall be the dispute resolution procedures under this Article which shall exclusively govern claims under this Project Agreement. The Developer and the County further agree that: (i) the speedy resolution of any Disputes between them pursuant to this Section 18.1 (Forum and Process for Dispute Resolution) is a mutual and material inducement to enter into this Project Agreement; (ii) the party initiating and filing for the commencement of a Dispute Resolution Procedures proceeding shall pay any filing fees associated therewith; and (iii) the Dispute Resolution Procedures under this Section 18.1 is intended to be the sole and exclusive dispute resolution mechanism with respect to Disputes under this Project Agreement and otherwise relating to the Project.

(A) In the event the Developer and the County are unable to resolve any Dispute, either the Developer or the County may initiate a resolution of said Dispute in accordance with the procedure set forth in this Article 18. The Developer shall also be permitted to join any Project Contractor to the dispute resolution process set forth herein to the extent that it is necessary to allow a full resolution of the pending Disputes. Whomever initiates a dispute under this Article 18 shall pay for all costs of the Hearing Examiner, technical expert, filing fees, and court reporter fees until final resolution of the Dispute. Exhaustion of these procedures shall be a precondition to any lawsuit permitted hereunder.

(B) Any and all Disputes arising under this Project Agreement shall be decided by a Hearing Examiner jointly selected and appointed by the County and the Developer. If the Developer and the County are unable to agree upon and appoint a Hearing Examiner, then either the Developer or the County may submit a request to the court of competent jurisdiction for the appointment of a Hearing Examiner. The decisions rendered by the Hearing Examiner, as applicable (and interchangeably referred to herein as the Hearing Examiner) shall be binding on the parties.

(C) As soon as practicable, the Hearing Examiner shall adopt a schedule for the Developer and the County to file written submissions stating their respective positions and the bases therefore. The written submissions shall include copies of all documents and sworn statements in affidavit form from all witnesses relied on by each party in support of its position. If the Dispute(s) involve matters of a technical nature for which the Hearing Examiner reasonably determines an independent technical expert is necessary, the Hearing Examiner shall have the right to retain the services of a technical expert to assist it in evaluating the evidence and argument presented by the parties. The costs of any such technical expert shall be borne by the party initiating the Dispute until such time as the Dispute is finally resolved. Within 30 Days of the date on which such written submissions are filed, or such longer period as is reasonably necessary as a result of the Hearing Examiner's retention of a technical expert, the Hearing Examiner shall afford each party an opportunity to present a maximum of one hour of argument.

The Hearing Examiner may decide the Dispute on the basis of the affidavits and other written submissions if, in his opinion, there is no issue of material fact and the party is entitled to a favorable resolution pursuant to the terms of this Project Agreement. As part of such decision, the Hearing Examiner shall determine the timeliness and sufficiency of each notice of claim and claim at issue as provided in this Article. The Hearing Examiner shall have the authority to rule on questions of law, including Disputes over contract interpretation, and to resolve claims, or portions of claims, via summary judgment where there are no disputed issues of material fact. Furthermore, the Hearing Examiner is authorized by both parties to strike elements of claims seeking relief or damages not available under the contract (such as, but not limited to, claims for lost profits, off-site overhead, loss of efficiency or productivity claims or claim's preparation costs) via summary judgment.

(D) In the event that the Hearing Examiner determines that the affidavits or other written submissions present issues of material fact he shall allow the presentation of evidence in the form of lay or expert testimony directed solely to the issues which he may specifically identify to require factual resolution. The testimonial portion of the process, including opening statements and closing arguments, shall be conducted expeditiously, as determined by the Hearing Examiner at his reasonable discretion.

(E) No formal discovery shall be allowed in connection with any proceeding under this Section 18.1. Notwithstanding the foregoing, both parties agree that all of the audit, document inspection, information and documentation requirements set forth elsewhere in this Project Agreement shall remain in force and effect throughout the proceeding. Hearing Examiner shall not schedule the hearing until both parties have made all their respective records available for inspection and reproduction and the parties have been afforded reasonable time to analyze the records. Hearsay evidence shall be admissible but shall not form the sole basis for any finding of fact. Failure of any party to participate on a timely basis, to cooperate in the proceedings, or to furnish evidence in support of a defense of a claim shall be a criteria in determining the sufficiency and validity of a claim.

(F) The Hearing Examiner shall issue a written decision within 30 Business Days after conclusion of any testimonial proceeding, and if no testimonial proceeding is conducted, within 45 Business Days of the filing of the last written submission. The Hearing Examiner's written decision must set forth the reasons for the disposition of the Dispute and a breakdown of any specific issues or claims. The decision of the Hearing Examiner shall be conclusive, final, and binding on the parties, subject only to the limited right of review specified herein. If either party wishes to appeal the decision of the Hearing Examiner, such party may commence an appeal in the Appellate Division of the Circuit Court for the Eleventh Judicial Circuit of Florida (or similar appellate court of competent jurisdiction) no later than 30 calendar days from the issuance of the Hearing Examiner's written decision, it being understood that the review of the court shall be limited to the question of whether or not the Hearing Examiner's determination was arbitrary and capricious, unsupported by any competent evidence, or so grossly erroneous to evidence bad faith.

(G) The prevailing party shall be relieved of any responsibility for the costs of the hearing, including but not limited to, the costs of the hearing room, the Hearing Examiner, any technical expert retained by the Hearing Examiner, the court reporter appearance fees and transcript fees if required by the Hearing Examiner. If the prevailing party initially paid for all such costs, then the non-prevailing party shall reimburse the prevailing party within 30 days of the issuance of the Hearing Examiner's final decision for all such costs. If both parties prevailed on issues raised in the Dispute Resolution process, then the Hearing Examiner shall make a determination as to a reasonable allocation of the costs of the hearing between the County and the Developer and the paying party shall be reimbursed accordingly by the non-paying party with respect to the costs of the hearing.

(H) Pending final decision of a Dispute hereunder, the Developer and the County shall proceed diligently with the performance of the Project Agreement and in accordance with the County's interpretation. This Article 18 shall survive the expiration or termination of this Project Agreement.

SECTION 18.2. NON-BINDING MEDIATION GENERALLY.

(A) Rights to Request and Mandatory Mediation. Either party may request Non-Binding Mediation of any dispute arising under this Project Agreement, whether technical or otherwise. Non-Binding Mediation shall not be a pre-condition to the procedures set forth in Section 18.1 above. The non-requesting party may decline the request for Non-Binding Mediation. If there is concurrence that any particular matter shall be mediated, the provisions of this Section shall apply. The costs of the Mediator shall be divided equally between the County and the Developer.

(B) Procedure. The Mediator shall be a professional mutually acceptable to the parties who has no current or on-going relationship to either party. The Mediator shall have full discretion as to the conduct of the mediation. Each party shall participate in the Mediator's program to resolve the dispute until and unless the parties reach agreement with respect to the disputed matter or one party determines in its discretion that its interests are not being served by the mediation.

(C) Non-Binding Effect. Mediation is intended to assist the parties in resolving disputes over the correct interpretation of this Project Agreement. No Mediator shall be empowered to render a binding decision.

(D) Relation to Dispute Resolution Procedures. Nothing in this Section shall operate to limit, interfere with or delay the right of either party under this Article to commence the Dispute Resolution Procedures upon a breach of this Project Agreement by the other party or in respect of any Dispute under this Project Agreement, whether in lieu of, concurrently with, or at the conclusion of any Non-Binding Mediation.

ARTICLE 19

REMEDIES OF THE PARTIES AND COUNTY STEP-IN RIGHTS

SECTION 19.1. REMEDIES FOR BREACH.

The parties may exercise their rights and remedies for breach as and to the extent provided in Section 19.9 (Exercise of Remedies). Neither party shall have the right to terminate this Project Agreement for breach except as provided or referred to in Section 20.4 (County Termination Right), Section 21.2 (Developer Options Upon County Event of Default) or Article 22 (Termination). The foregoing is subject to the provisions of Section 19.11 (No Special, Consequential or Punitive Damages) and Section 19.2 (County Liquidated Damage Rights).

SECTION 19.2. COUNTY LIQUIDATED DAMAGE RIGHTS.

(A) County Liquidated Damage Rights Defined. The County's rights under this Project Agreement include the right (each of the following, a "**Liquidated Damage Right**"):

(1) To retain the proceeds of a draw on the Financial Close Security under the circumstances set forth in Appendix 3 (Financial Close Procedures and Conditions); and

(2) To impose Deductions from the Service Fee under the circumstances set forth in Appendix 11 (Deductions).

(B) Sole Remedy; Exceptions. The parties acknowledge and agree that the County's actual damages or losses in each such circumstance are impossible to ascertain as of the Effective Date and that the amounts payable to, or to be retained by, the County through the exercise of any Liquidated Damage Right are a fair and reasonable estimate of fair compensation to the County for the intended circumstance, as applicable, shall constitute liquidated damages in each such circumstance and are not a penalty against the Developer. The Developer is expressly estopped from claiming, and waives any right to claim, that the exercise of any Liquidated Damage Right by the County amounts to a penalty or is not enforceable. The liquidated damages resulting from the County's exercise of a Liquidated Damage Right shall constitute the only damages payable by the Developer to the County to compensate the County for the damages or losses resulting from the specific circumstances contemplated by such Liquidated Damage Right, and the exercise of such right by the County shall constitute the County's sole remedy in respect of such circumstances; provided, however, that such limitation is subject and without prejudice to:

(1) Any entitlement of the County to specific performance of any obligation of the Developer under this Project Agreement;

(2) Any right of the County under subsection 9.7(B) (Additional Developer Obligations) to require the Developer to take additional action upon the repeated or persistent occurrence of unexcused Unavailability Events or Performance Failures;

(3) Any entitlement of the County to injunctive relief;

(4) The County's step-in rights under this Article;

(5) Any right of the County to declare the occurrence of a Developer Event of Default under subsection 20.1(A) (Developer Events of Default Defined), including a Developer Event of Default resulting from the significant accumulation of Deductions based on the occurrence of Unavailability Events or Performance Failures;

(6) The Developer's indemnification obligations under Article 24 (Indemnification) in respect of third-party claims;

(7) The determination of Developer liability in respect of a termination for Developer Event of Default made pursuant to Section 4.1 (Calculation) of Appendix 13 (Compensation on Termination); or

(8) Any other express right of the County pursuant to this Project Agreement.

SECTION 19.3. COUNTY'S TEMPORARY STEP-IN RIGHTS DURING THE FACILITY MANAGEMENT PERIOD.

If during the Facility Management Period the County reasonably considers that a breach by the Developer of any obligation under this Project Agreement or an event:
(a) Has resulted in a public health or safety emergency or is imminently likely to create an immediate and serious threat to the health or safety of any Facility User, any property, the environment or the long-term integrity of, or public confidence in, the Project and any related operations, or (b) is prejudicial to the ability to carry on County Activities to a material degree, then the County, acting reasonably, may either:

(1) If it considers that there is sufficient time and that it is likely that the Developer shall be willing and able to provide assistance, require the Developer by notice to take such steps as are necessary or expedient to mitigate or rectify such state of affairs including, if applicable due to breach of any terms or conditions of this Project Agreement, and the Developer shall use all reasonable efforts to comply with the County's requirements as soon as reasonably practicable; or

(2) If it considers there is not sufficient time, or that the Developer is not likely to be willing and able to take the necessary steps, take such steps as it considers are appropriate (either itself or by engaging others) to mitigate or rectify such state of affairs and to ensure performance of the relevant Contract Services to the standards required by this Project Agreement (or as close as possible to those standards as the circumstances permit). The County will carry out such steps as quickly as is practicable, and in such manner as will minimize interference with the Developer's performance of its obligations under this Project Agreement.

The Developer shall ensure that all Project Contracts and Subcontracts permit the County to exercise its rights under this Article.

SECTION 19.4. COUNTY'S RECTIFICATION RIGHTS.

If the County gives notice to the Developer under Section 19.3 (County's Temporary Step-In Rights During the Facility Management Period) and the Developer either:

(1) Does not confirm, within five Business Days of such notice, or such shorter period as is appropriate in the case of an emergency, that it is willing to take such steps as are required in such notice or present an alternative plan to the County to mitigate, rectify and protect against such circumstances then the County may, within a further five Business Days, or such shorter period as is appropriate in the case of an emergency, accept or reject, acting reasonably; or

(2) Fails to take the steps as are referred to or required in such notice or accepted alternate plan within such time as set forth in such notice or accepted alternate plan or within such time as the County, acting reasonably, will stipulate, then the County may take such steps as it considers necessary or expedient to mitigate, rectify or protect against such circumstances either itself or by engaging others to take any such steps. Such steps may include the partial or total suspension of the right and obligation of the Developer to provide the relevant Contract Services, but only for so long as the circumstances referred to in Section 19.3 (County's Temporary Step-In Rights During the Facility Management Period) subsist.

SECTION 19.5. NOTICE OF CAPITAL MODIFICATION.

The County shall notify the Developer of any Capital Modification which the County intends to make pursuant to the exercise of the County's rights under Section 19.3 (County's Temporary Step-In Rights During the Facility Management Period) or Section 19.4 (County's Rectification Rights) and provide the Developer a reasonable opportunity, taking into account all the circumstances, to comment on the proposed Capital Modification. In making such Capital Modification, the County will reasonably consider comments received in a timely manner from the Developer on the proposed Capital Modification.

SECTION 19.6. NO EFFECT ON CONTRACT SERVICES.

The exercise by the County of any of its rights under this Article 19 (Remedies of the Parties and County Step-In Rights) shall not reduce or affect in any way the Developer's responsibility hereunder to perform the Contract Services.

SECTION 19.7. ALLOCATION OF COSTS AND PROVISION OF RELIEF FOR COUNTY'S EXERCISE OF STEP-IN RIGHTS.

To the extent that any of the circumstances set forth in Section 19.3 (County's Temporary Step-In Rights During the Facility Management Period) arise as a result of any breach by the Developer of its obligations under this Project Agreement, then the Developer shall pay the County the amount of all costs and expenses reasonably incurred by the County in exercising its rights under Section 19.3 (County's Temporary Step-In Rights During the Facility Management Period) or Section 19.4 (County's Rectification Rights) and an additional mark-up of 20% of such costs and expenses in respect of indirect costs and overhead not otherwise directly attributable to the exercise of such rights. In all other cases, the County shall: (a) compensate the Developer, and provide schedule and performance relief to the Developer, for actions taken by the County under Section 19.3 (County's Temporary Step-In Rights During the Facility Management Period) or Section 19.4 (County's Rectification Rights) in the manner provided in Article 15 (Compensation Events and Changes in Law) which materially interfered with, delayed or increased the cost of performing the Contract Services by the Developer as if such circumstances constituted a Compensation Event affecting the Developer; and (b) any Deduction that would have or that did accrue for circumstances addressed by the County in exercising its rights under Section 19.3, shall be deemed to have not accrued.

SECTION 19.8. WAIVER OF REMEDIES.

No failure to exercise, and no delay in exercising, any right or remedy under this Project Agreement will be deemed to be a waiver of that right or remedy. No waiver of any breach of any provision of this Project Agreement will be deemed to be a waiver of any subsequent breach of that provision or of any similar provision.

SECTION 19.9. EXERCISE OF REMEDIES.

(A) Remedies Exclusive. The respective rights and remedies of the parties set out in this Project Agreement shall be the exclusive rights and remedies for breach of this Project Agreement, and the parties shall have no obligations or liabilities in connection with this Project Agreement and the Contract Services except as expressly set out in this Project Agreement.

(B) Similar Rights and Remedies. A party will not be prevented from enforcing a right or remedy on the basis that another right or remedy hereunder deals with the same or similar subject matter.

(C) Single or Partial Exercise of Remedies. No single or partial exercise by a party of any right or remedy precludes or otherwise affects the exercise of any other right or remedy to which that party may be entitled.

SECTION 19.10. NO DUPLICATIVE RECOVERY OR CLAIMS OUTSIDE CONTRACT.

Every right to claim compensation, indemnification or reimbursement under this Project Agreement shall be construed so that recovery is without duplication to any other amount recoverable under this Project Agreement. Neither party shall be entitled to make any claim against the other party for compensation, indemnification or reimbursement other than as provided under this Project Agreement.

SECTION 19.11. NO SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES.

In no event shall either party hereto be liable to the other or obligated in any manner to pay to the other party any special, incidental, consequential, punitive or similar losses or damages based upon claims arising out of or in connection with the performance or non-performance of its obligations or otherwise under this Project Agreement, or any representation made in this Project Agreement being materially incorrect, whether such claims are based upon contract, tort, negligence, warranty or any other legal theory. This Section shall not limit the recovery of any such losses or damages under Article 24 (Indemnification) in respect of claims by third parties.

ARTICLE 20

DEVELOPER EVENTS OF DEFAULT

SECTION 20.1. DEVELOPER EVENTS OF DEFAULT.

(A) Developer Events of Default Defined. For the purposes of this Project Agreement, "**Developer Event of Default**" means any of the following events or circumstances:

(1) The occurrence of a Developer Bankruptcy-Related Event;

(2) The Developer discontinues work on the Project during the Design-Build Period by failing to perform a material part of the Contract Services for a continuous period in excess of 30 days (not taking into account any days impacted by a Supervening Event) where such failure is not consistent with the Project Schedule, as applicable, and is not expressly permitted or excused by the terms of this Project Agreement other than pursuant to its right to suspend performance or terminate in accordance with this Project Agreement;

(3) The Financial Close Date does not occur before the Financial Close Deadline as provided in Section 5.2 (Financial Close Deadline) and Appendix 3 (Financial Close Procedures and Conditions);

(4) The Occupancy Readiness Date does not occur on or before the Longstop Date as provided in Section 8.7 (Failure to Achieve Occupancy Readiness by the Longstop Date);

(5) The Developer breaches Section 6.5 (Refinancing);

(6) A Restricted Change in Ownership occurs;

(7) The Developer fails to comply with Section 23.1 (Assignment and Transfer by Developer; Fundamental Changes);

(8) A Persistent Breach by the Developer occurs;

(9) During the Design-Build Period, a Bankruptcy-Related Event arises with respect to the Design-Builder or any member comprising the Design-Builder or any Design-Builder guarantor, unless:

(a) the Developer enters into a replacement design-build contract or guarantee (as applicable) with a reputable counterparty that possesses the

technical and financial capability to perform all remaining Design-Build Work, reasonably acceptable to the County within ninety (90) days of the relevant Bankruptcy-Related Event, or within such longer period as agreed with the County (acting reasonably) not to exceed one hundred-twenty (120) days which is reasonably necessary to effect such replacement, so long as the Developer is diligently pursuing such replacement; or

(b) in the absence of entering into a replacement design-build contract or guarantee, the Developer demonstrates to the satisfaction of the County that either (i) the Developer possesses the technical and financial capability to perform all remaining Design-Build Work in accordance with this Project Agreement or (ii) with respect to (A) Design-Builder that is a joint venture or (B) a Design-Builder guarantor, the Developer demonstrates to the satisfaction of the County that the remaining Design-Builder member or Design-Builder guarantor, as applicable, with respect to which a Bankruptcy-Related Event has not occurred possesses the technical and financial capability to perform all remaining Design-Build Work in accordance with this Project Agreement;

(10) A Bankruptcy-Related Event arises with respect to a Facility Manager, unless:

(a) the Developer enters into a replacement facilities management services agreement or guarantee (as applicable) with a reputable counterparty that possesses the technical and financial capability to perform all Facility Management Services, reasonably acceptable to the County within ninety (90) days of the relevant Bankruptcy-Related Event, or within such longer period as agreed with the County (acting reasonably) not to exceed one hundred-twenty (120) days which is reasonably necessary to effect such replacement, so long as the Developer is diligently pursuing such replacement; or

(b) in the absence of entering into a replacement facilities management services agreement or guarantee (as applicable), the Developer demonstrates to the reasonable satisfaction of the County that either (i) the Developer possesses the technical and financial capability to perform all remaining Facility Management Services in accordance with this Project Agreement or (ii) the Facility Manager or the Facility Manager guarantor, as applicable, possesses the technical and financial capability to perform all remaining Facility Management Services in accordance with this Project Agreement;

(11) The Design-Build Contract is terminated (other than non-default termination on its scheduled termination date) and the Developer has not entered into a replacement design-build contract or guarantee, as applicable, with a reputable counterparty that possesses the technical and financial capability to perform all remaining Design-Build Work, reasonably acceptable to the County, within ninety (90) days of the termination of the Design-Build Contract, or within such longer period as agreed with the County (acting reasonably) not to exceed one hundred-twenty (120) days which is reasonably necessary to effect such replacement, so long as the Developer is diligently pursuing such replacement;

(12) The Facility Services Management Agreement is terminated (other than non-default termination on its scheduled termination date) and the Developer has not either:

(a) entered into a replacement facilities services management agreement or guarantee (as applicable) with a reputable counterparty that possesses the technical and financial capability to perform all Facility

Management Services, reasonably acceptable to the County, within ninety (90) days of the termination of the Facility Services Management Agreement, or within such longer period as agreed with the County (acting reasonably) not to exceed one hundred-twenty (120) days which is reasonably necessary to effect such replacement, so long as the Developer is diligently pursuing such replacement; or

(b) in the absence of entering into a facilities services management agreement or guarantee, as applicable, the Developer demonstrates to the reasonable satisfaction of the County that either (i) the Developer possesses the technical and financial capability to perform all remaining Facility Management Services in accordance with this Project Agreement or (ii) the Facility Manager or the Facility Manager guarantor, as applicable, to perform all remaining Facility Management Services in accordance with this Project Agreement;

(13) A failure by the Developer to:

(a) Maintain the policies of Required Insurance to be maintained by the Developer under this Project Agreement and to comply with its obligation under Appendix 10 (Insurance Requirements) to name the County as an insured party; or

(b) Provide the payment bond and performance bond required under subsection 11.2(D) (Payment and Performance Bond) and Appendix 2 (County Legal Requirements) of this Project Agreement;

(14) A failure by the Developer to comply with its obligation under:

(a) Section 14.1 (Relief Events) to repair, replace or restore the Project following the occurrence of a Relief Event; or

(b) Section 15.1 (Compensation Events) to repair, replace or restore the Project following the occurrence of a Compensation Event;

(15) The Developer fails to immediately take all appropriate and action required by this Project Agreement in the event that the County notifies the Developer under 19.3 (County's Temporary Step-In Rights During the Facility Management Period) that a public health or safety emergency exists or is imminently likely to exist due to the Developer's failure to comply with the Contract Standards, including all action required under Section 19.3 (County's Temporary Step-In Rights During the Facility Management Period);

(16) The Developer fails to comply with any Governmental Approval or Applicable Law in any material respect;

(17) The Developer fails to promptly comply with any written suspension order issued by the County in accordance with Section 19.4 (County's Rectification Rights), except to the extent that such failure arises as a direct result of a Supervening Event;

(18) The Developer makes any written repudiation of this Project Agreement; or

(19) A failure by the Developer to pay any amount due and owing to the County under this Project Agreement on the due date (which amount is not being disputed in good faith).

(B) Persistent Breach

(1) If the Developer commits a breach of this Project Agreement (other than (x) any breach for which a Deduction could have been assessed or (y) any breach that arises as a direct result of the occurrence of a Supervening Event) that:

(a) continues for more than thirty (30) consecutive days; or

(b) occurs more than three (3) times in any six (6)-month period, the County may serve a notice (an "**Initial Warning Notice**") on the Developer, in accordance with subsection 20.1(B)(2).

(2) An Initial Warning Notice must:

(a) specify that it is an Initial Warning Notice;

(b) give reasonable details of the relevant breach; and

(c) state that the relevant breach is a breach which, if it recurs frequently or continues, may result in termination of this Project Agreement for Persistent Breach.

(3) If, after the date of service of the Initial Warning Notice, the breach specified in the Initial Warning Notice:

(a) continues for more than thirty (30) consecutive days; or

(b) recurs three (3) or more times within the six (6)-month period after such date,

the County may serve another notice (a "**Final Warning Notice**") on the Developer, in accordance with subsection 20.1(B)(4).

(4) A Final Warning Notice must:

(a) specify that it is a Final Warning Notice;

(b) state that the breach specified has been the subject of an Initial Warning Notice served within the six (6)-month period prior to the date of service of the Final Warning Notice; and

(c) state that if the breach:

(i) continues for more than thirty (30) consecutive days after the date of service of the Final Warning Notice; or

(ii) recurs three (3) or more times within the six (6)-month period after the date of service of the Final Warning Notice,

a Developer Event of Default will occur under subsection 20.1(A) (Developer Events of Default Defined) and this Project Agreement may be terminated.

(5) An Initial Warning Notice must not be served with respect to any incident or breach for which an Initial Warning Notice or Final Warning Notice has been served and is outstanding.

SECTION 20.2. NOTIFICATION BY THE DEVELOPER.

The Developer shall notify the County of the occurrence, and details, of any Developer Event of Default and of any event or circumstance which is likely, with the passage of time or otherwise, to constitute or give rise to a Developer Event of Default, in either case promptly on the Developer becoming aware of its occurrence.

SECTION 20.3. CURE AND REMEDIAL PROGRAM.

(A) Notice and Remedy or Remedial Program.

(1) After the occurrence of a Developer Event of Default and while it is subsisting, the County may serve a notice (**"Developer Default Notice"**) on the Developer specifying in reasonable detail the type and nature of the Developer Event of Default.

(2) Upon receipt of a Developer Default Notice, the Developer shall have the following cure periods:

(a) for a Developer Event of Default under subsections 20.1(A)(2), and 20.1(A)(13), 20.1(A)(14), 20.1(15), and 20.1(19) a period of 20 Business Days after the Developer received the Developer Default Notice;

(b) for a Developer Event of Default under subsections 20.1(A)(16), 20.1(A)(17), and 20.1(A)(18):

(i) a period of 20 Business Days after the Developer receives the Developer Default Notice; or

(ii) if, despite the Developer's commencement of meaningful steps to cure immediately after receiving the Developer Default Notice, the Developer Event of Default cannot be cured within such 20 Business Day period, the Developer will have such additional period of time, up to a maximum cure period of one hundred fifty (150) days, as is reasonably necessary to cure the Developer Event of Default;

(c) for a Developer Event of Default under subsections 20.1(A)(1), 20.1(A)(3), 20.1(A)(4), 20.1(A)(5), 20.1(A)(6), 20.1(A)(7), 20.1(A)(8), 20.1(A)(9), 20.1(A)(10), 20.1(A)(11), and 20.1(A)(12), there is no cure period.

(3) A Developer Event of Default under subsection 20.1(A)(16) will be regarded as cured when the adverse effects of such Developer Event of Default are cured.

(4) If either the County (as set forth in its notice) or the Developer reasonably considers that a Developer Event of Default cannot reasonably be remedied within any relevant cure period set out in subsection 20.3(A)(2) (Notice and Remedy or Remedial Program), the Developer shall deliver to the County within 10 Business Days of such Developer Default Notice, a reasonable remedial program (set forth, if appropriate, in stages) for remedying the Developer Event of Default. The remedial program will specify in reasonable detail the manner in, and the latest date by which the Developer Event of Default is proposed to be remedied.

(B) County Acceptance or Non-Acceptance. If the Developer puts forward a remedial program in accordance with subsection (A)(4) of this Section, the County will have 10 Business Days from receipt of the remedial program within which to notify the Developer that the County, acting reasonably, does not accept the remedial program. The County's failure to provide notice of a rejection within 10 Business Days shall be deemed an acceptance of the

proposed remedial program. If the County notifies the Developer that it does not accept the remedial program as being reasonable, the parties will use all reasonable efforts within the following five Business Days to agree to any necessary amendments to the remedial program put forward. In the absence of an agreement within such five Business Days, the question of whether the remedial program (as it may have been amended by agreement) will remedy such Developer Event of Default in a reasonable manner and within a reasonable time period (and, if not, what would be a reasonable program) may be referred by either party to Non- Binding Mediation. If the County notifies the Developer that its remediation program is acceptable, the Developer shall implement such remediation program in accordance with its terms.

(C) Remediable Program. The remedial program provisions of this Section shall apply only to those Developer Events of Default referred to in subsections 20.3(A)(2)(a) and 20.3(A)(2)(b).

SECTION 20.4. COUNTY TERMINATION RIGHT.

(A) Termination Right. If:

(1) Any Developer Event of Default occurs;

(2) The Developer Event of Default has not been cured within any relevant cure period set out in subsection 20.3(A)(2); and

(3) Either:

(i) No remedial program has been put forward by the Developer under subsection 20.3(A)(4) (Notice and Remedy or Remedial Program);

(ii) The Developer puts forward a remedial program pursuant to subsection 20.3(A)(4) (Notice and Remedy or Remedial Program) which has been accepted by the County (including after agreement under Section 20.3 (Cure and Remedial Program) to amendments to the program) and the Developer fails to achieve any material element of the remedial program or the end date for the remedial program, as the case may be; or

(iii) Any remedial program put forward by the Developer pursuant to subsection 20.3(A)(4) (Notice and Remedy or Remedial Program), after good faith negotiations, is rejected by the County as not being reasonable, then the County may (if the Developer Event of Default continues unwaived and unremedied), subject to subsection 22.2(G) (Continued Performance) and the terms of the Lenders' Remedies Agreement, terminate this Project Agreement by notice to the Developer. The right of the County to terminate this Project Agreement under this Section is in addition, and without prejudice, to any other right which the County may have in connection with the Developer's non-compliance with this Project Agreement, including those set forth in Article 19 (Remedies of the Parties and County Step-In Rights).

(B) Supervening Events Affecting Performance of Remedial Program. For the purposes of subsection (A)(3)(ii) of this Section, if the Developer's performance of the remedial program is adversely affected by the occurrence of a Supervening Event or a breach by the County of its obligations under this Project Agreement, then, subject to the Developer complying with the mitigation and other requirements in this Project Agreement concerning such events, the

time for performance of the program or any relevant element of it will be deemed to be extended by a period equal to the delay caused by such events.

(C) Lenders' Remedies Agreement. The rights of the County under this Section are subject to the terms of the Lenders' Remedies Agreement.

ARTICLE 21

COUNTY EVENTS OF DEFAULT

SECTION 21.1. COUNTY EVENTS OF DEFAULT.

For the purposes of this Project Agreement, "**County Event of Default**" means any of the following events or circumstances:

(1) A failure by the County to pay the Service Fee within 15 days of the due date for the Service Fee as provided in subsection 16.7(B);

(2) A failure by the County to pay an amount due during the Design-Build Period as provided or referred to in Section 7.22 (Payment Obligations of the County During the Design-Build Period) within 15 days of the due date for such amount as provided in subsection 16.7(B);

(3) A failure by the County to pay such Termination Amount within 15 days of the Termination Amount Due Date as provided in subsection 16.7(B);

(4) A failure by the County to pay any other amount due from the County to the Developer hereunder within 15 days of the due date for such amount as provided in subsection 16.7(B);

(5) Any failure by the County to comply with Section 23.4 (Assignment by the County); or

(6) Except as provided in subsections (1), (2), (3), (4), or (5) of this Section, a breach, or series of breaches, by the County of any material term, covenant or undertaking to the Developer (other than a breach that arises as a direct result of the occurrence of a Supervening Event that is not caused by a Government Entity) or any representation or warranty made by the County to the Developer in Section 2.1 (Representations and Warranties of the County) of this Project Agreement being incorrect, misleading or inaccurate when made, which has a material and adverse effect on the Developer.

SECTION 21.2. DEVELOPER OPTIONS UPON COUNTY EVENT OF DEFAULT

After the occurrence of a County Event of Default and while a County Event of Default is continuing, the Developer may, at its option, serve notice on the County of the occurrence and specifying the details of such a County Event of Default. If the relevant matter or circumstance has not been rectified or remedied by the County:

(1) in the case of a County Event of Default under subsections 21.1(1), (2), (3), (4) or (5) within 10 days of such notice; or

(2) in the case of a County Event of Default under subsection 21.1(6) within 30 days of such notice or within such longer period, not to exceed 150 days, as is reasonably required for the County to rectify or remedy such County Event of Default as long as the County is diligently pursuing such rectification or remedy, the Developer may serve a further notice on the County and, if no favorable resolution to the County Event of Default is reached, terminating this Project Agreement with immediate effect and, in the case of a County Event of Default under subsections 21.1(1), (2), (3), (4), or (5) within 30 days of such notice, the Developer also may bring an action to enforce payment of the amount due.

ARTICLE 22

TERMINATION

SECTION 22.1. EXCLUSIVE RIGHTS OF TERMINATION.

(A) Termination Prior to Financial Close Date. Prior to the Financial Close Date, the parties' sole right to terminate this Project Agreement shall be as set forth in Appendix 3 (Financial Close Procedures and Conditions).

(B) Termination Subsequent to Financial Close Date. Subsequent to the Financial Close Date, the parties' sole right to terminate this Project Agreement shall be as set forth in this Article (other than subsection (A) of this Section).

(C) Exclusive Termination Rights. This Article, together with any other provisions of this Project Agreement expressly referred to in this Article and (subsequent to the Financial Close Date) the provisions of the Lender's Remedies Agreement, contain the entire and exclusive provisions and rights of the parties regarding termination of this Project Agreement, and any and all other rights to terminate at law or in equity are hereby waived to the maximum extent permitted by Applicable Law; provided that termination of this Project Agreement shall not relieve the Developer, insurer, surety or financial institution that provides security for performance hereunder of its obligation for claims arising prior to termination.

SECTION 22.2. TERMINATION RIGHTS.

(A) County Termination Rights. This Project Agreement may be terminated by the County prior to the Expiration Date:

(1) In its discretion and for its convenience at any time, by delivery of notice to the Developer stating that the termination is for the convenience of the government (a "**Termination for Convenience**"), together with a written summary of the basis for its reasonable expectation that it will be able to pay the applicable Termination Amount in full and in a timely manner, both of which must be delivered no less than 60 days prior to the intended Termination Date;

(2) In connection with a Developer Event of Default, pursuant to Article 20 (Developer Events of Default);

(3) In connection with a Force Majeure Event, pursuant to Section 14.2 (Force Majeure Events);

(4) In connection with the unavailability of Required Insurance pursuant to Section 14.5 (Unavailability of Insurance);

(5) In the event of a Termination by Court Ruling; or

(6) In connection with a Key Financial Event, pursuant to Appendix 3, Section 5.1,

(B) Developer Termination Rights. This Project Agreement may be terminated by the Developer prior to the Expiration Date:

(1) In connection with a County Event of Default, pursuant to Article 21 (County Events of Default);

(2) In connection with a Force Majeure Event, pursuant to Section 14.2 (Force Majeure Events);

(3) In the event of a Termination by Court Ruling; or

(4) In connection with a Key Financial Event or Market Disruption Event, pursuant to Appendix 3, Section 5.2.

(C) Extent of Termination Rights. Except as provided or referred to in subsections (A) and (B) of this Section or subsection 22.1(A) (Termination Prior to Financial Close Date), neither party shall have the right to terminate this Project Agreement.

(D) Termination Date. The Termination Date for any early termination of this Project Agreement as provided in subsections (A) or (B) of this Section shall be the date specified in the table below, subject to the rights of the Senior Lenders under the Lenders' Remedies Agreement. It shall not be a condition to the establishment of the Termination Date that the County shall have made the applicable Termination Amount, provided, however that the obligations and covenants regarding the payment of the Termination Amount shall survive termination of the Project Agreement.

Termination Circumstance	Termination Date
Termination for Convenience by the County	The date specified in the County's written notice of termination which shall be no less than 60 days after the date on which such termination notice is given
Termination Upon an Event of Default	The date notice of termination is delivered by the terminating party
Termination by Court Ruling	The date of issuance of a final, non-appealable court order by a court of competent jurisdiction
Termination for Extended Force Majeure	The date that is 30 days from the delivery of notice thereof by the terminating party

(E) Termination Amount Due Date. The County shall pay the Termination Amount by the date provided in Section 7.1 (Termination Amount Due Date) of Appendix 13 (Compensation on Termination).

(F) Consideration for Convenience Termination Amount. The right of the County to terminate this Project Agreement for its convenience and in its discretion in accordance with this Article constitutes an essential part of the overall consideration for this Project Agreement, and the Developer shall not be entitled to any damages (other than damages for

failure to pay the Termination Amount provided for in Appendix 13 (Compensation on Termination) by reason of a County breach of this Project Agreement, including a breach of the County's implied covenant of good faith and fair dealing, in the exercise of its right to terminate this Project Agreement under subsection 22.2(A)(1) (County Termination Rights) for the convenience of the government.

(G) Continued Performance. The parties shall continue to perform their obligations under this Project Agreement (including the County continuing to pay the Service Fee) until the Termination Date, notwithstanding the giving of any notice of default or notice of termination.

(H) Completion or Continuance by County. After the Termination Date, subject to Section 22.4 (Transitional Arrangements), the County may at any time (but without any obligation to do so) take any and all actions necessary or desirable to continue and complete the Contract Services so terminated, including entering into contracts with other operators and contractors.

SECTION 22.3. TRANSFER TO THE COUNTY OF ASSETS, CONTRACTS AND DOCUMENTS

(A) Transfer Responsibilities. On or promptly after the Termination Date:

(1) If the Termination Date occurs prior to the Occupancy Readiness Date:

(a) the Developer shall preserve and protect the structures, equipment, materials and other property comprising the Project as so far constructed; and

(b) insofar as any transfer will be necessary to fully and effectively transfer property to the County, the Developer shall transfer to, and there will vest in, the County, free from all financial encumbrances, such part of the Project as has been constructed on or has become affixed to the Project Site and, if the County so elects:

(i) the construction plant and equipment will remain available to the County for the purposes of completing the Design-Build Work; and

(ii) all other Project-related plant and all materials on or near the Project Site will remain available to the County for the purposes of completing the Design-Build Work, subject to payment by the County of the Design-Builder's reasonable charges, provided those charges have not already been accounted for and included in the Termination Payment;

(2) If the County so elects, the Developer shall cause any or all of the Project Contracts (and any related contracts which govern the obligations between the Developer and the Project Contractor whose obligations have been assigned (such as a coordination or interface agreement)) to be novated or assigned to the County, provided that if termination occurs under Section 21.2 (Developer Options Upon County Event of Default) the consent of the applicable Project Contractor will be required;

(3) The Developer shall, or will cause all Project Contractors to, offer to sell to the County at the Fair Market Value, free from any security interest all or any part of the stocks of material and other assets, spare parts and other moveable property owned by the Developer or any Project Contractor and reasonably required by the County in connection with the operation of the Project or the provision of the Contract Services;

(4) The Developer shall deliver to the County (to the extent not already delivered to the County):

(a) all existing designs, plans and other documents produced in connection with the Project and in the control of the Developer or all Project Contractors;

(b) one complete set of existing constructions drawings showing all alterations made to the Project since the commencement of operation of the Project;

(c) one complete set of existing, up-to-date maintenance, operation and training manuals for the Project, subject to reasonable generally applicable third-party licensing terms;

(d) relevant information pertaining to any Legal Proceedings against the Developer by the Project Contractors, any Subcontractors or other third parties relating to the termination of the Design-Build Work or the Facility Management Services (or any Subcontracts); and

(e) copies of all Subcontracts, together with a statement of:

(i) the items ordered and not yet delivered pursuant to each agreement;

(ii) the expected delivery date of all such items;

(iii) the total cost of each agreement and the terms of payment; and

(iv) the estimated cost of canceling each agreement;

(5) The Developer shall use all reasonable efforts to ensure that the benefit of existing Project Intellectual Property and all warranties in respect of mechanical and electrical plant and equipment used or made available by the Developer under this Project Agreement and included in the Project but not previously assigned or licensed to the County are assigned, licensed or otherwise transferred to the County;

(6) To the extent permitted by Applicable Law, the Developer shall assign to the County all Governmental Approvals;

(7) The Developer shall deliver to the County all books, records and files required to be kept by the Developer hereunder (the Developer having the right to retain copies thereof) unless such documents are:

(a) required by Applicable Law to be retained by the Developer or a Project Contractor or Subcontractor, in which case complete copies will be delivered to the County; or

(b) privileged from production pending resolution of any outstanding dispute, in which case such records will be delivered forthwith upon resolution of such dispute, provided that any records that are necessary for the performance of the Contract Services will be delivered to the County no later than the Termination Date;

(8) The Developer shall give written notice of termination of the Project Agreement, promptly under each policy of Required Insurance maintained by the Developer pursuant to its obligations under Appendix 10 (Insurance Requirements) (with a copy of each such notice to the County), but permit the County to continue such policies thereafter at its own expense, if possible; and

(9) The Developer shall take such other actions, and execute such other documents as may be necessary to effectuate and confirm the foregoing matters, or as may be otherwise necessary or desirable to minimize the County's costs, and take no action which shall increase any amount payable by the County under this Project Agreement.

(B) No Additional Compensation. The Developer shall ensure, subject to the security interest of the Senior Lenders, that provision is made in all applicable contracts to ensure that the County will be in a position to exercise its rights, and the Developer shall be in a position to comply with its obligations, under this Section without additional payment or compensation to any person.

(C) Use of Design Documents Following Termination During the Design- Build Period. If this Project Agreement is terminated during the Design-Build Period and the County (or any designee of the County) uses any Design Documents or other Intellectual Property developed by or on behalf of the Developer without the involvement of the Design-Builder and the Architect for such work, then the Design-Builder and the Architect are hereby thereupon released from all liability on account of such use, except to the extent caused by any of the matters referred to in subsections (1) though (6), inclusive, of Section 24.1 (Developer's Obligation to Indemnify).

SECTION 22.4. TRANSITIONAL ARRANGEMENTS.

(A) Vacating the Project and Stoppage of Contract Services. The Developer shall, in connection with the expiration or termination of this Project Agreement:

(1) Stop the Contract Services on the Termination Date;

(2) On the Termination Date deliver to the County:

(a) all keys, access codes or other devices required to operate the Project; and

(b) any Project Intellectual Property required to be delivered by the Developer pursuant to subsection 22.3(A)(5) (Transfer Responsibilities);

(3) As soon as practicable after the Termination Date vacate, and cause the Developer Persons to vacate, the Project Site, and leave the Project Site and the Project in a safe, clean and orderly condition;

(4) On request by the County and on payment of the Developer's reasonable costs by the County, for a period not to exceed 90 days after the Termination Date, co-operate fully with the County and any successor providing to the County services in the nature of any of the Contract Services or any part of the Contract Services, in order to achieve a smooth transfer of the manner in which the County obtains services in the nature of the Contract Services and to avoid or mitigate in so far as reasonably practicable any inconvenience or any risk to the health and safety of the employees of the County and members of the public;

(5) As soon as practicable following the Termination Date, remove from the Project Site all property of the Developer or any Developer Person that is not acquired by the County pursuant to Section 22.3 (Transfer to the County of Assets, Contracts and Documents) (or not belonging to the County) and if it has not done so within 60 days after any notice from the County requiring it to do so, the County may (without being responsible for any loss, damage, costs or expenses) remove and sell any such property and will hold any proceeds less all costs incurred to the credit and direction of the Developer; and

(6) Comply with all requirements of Section 9.12 (Project Handback), except in the event of an early termination.

SECTION 22.5. DEVELOPER TO COOPERATE.

After the Termination Date, Developer shall, upon the written request of the County, cooperate with the County and assist any new entity providing Contract Services, including but not limited to, by providing information in the Developer's control or possession which the County or the new entity providing Contract Services may reasonably require. If any such post-Termination Date services are required of the Developer, the Developer shall be entitled to reimbursement for all reasonable out of pocket expenses and internal costs incurred in connection with the foregoing services. If the County wishes to conduct a competition prior to the Termination Date with a view to entering into an agreement for the provision of services (which may or may not be the same as, or similar to, the Contract Services or any of them) following the Termination Date, the Developer shall prior to the Termination Date cooperate with the County fully in such competition process, including by:

(1) Providing any information in the Developer's control or possession which the County may reasonably require to conduct such competition, except that information which is commercially sensitive to the Developer or a Developer Person (and, for such purpose commercially sensitive means information which would if disclosed to a competitor of the Developer or a Developer Person give that competitor a material competitive advantage over the Developer or the Developer Person and thereby prejudice the business of the Developer or the Developer Person); and

(2) Assisting the County by providing any participants in such competition process with access to the Project Site and the Project provided such access does not affect the Contract Services in a way that results in any reduction in Service Fee.

ARTICLE 23

ASSIGNMENT AND CHANGE IN CONTROL

SECTION 23.1. ASSIGNMENT AND TRANSFER BY DEVELOPER; FUNDAMENTAL CHANGES.

(A) Assignment by the Developer. Subject to subsection 23.1(B) (Security), the Developer shall not assign, transfer, mortgage, pledge or otherwise encumber or dispose of any of its rights or obligations under this Project Agreement without the written consent of the County.

(B) Security. The provisions of subsection 23.1(A) (Assignment by the Developer) do not apply to the grant of any security, substantially in a form approved by the County, acting reasonably, for any financing or loan made to the Developer (directly or indirectly) under any Senior Financing Agreement and provided the Senior Lenders enter into the Lenders' Remedies Agreement or to the enforcement of the same.

(C) Change of Organization or Name. The Developer shall not change the legal form of its organization without providing prior written notice to the County. If either party changes its name, such party agrees to promptly (and in any event within ten (10) Business Days of such change) furnish the other party with written notice of such name change and appropriate supporting documentation.

SECTION 23.2. CHANGE IN OWNERSHIP.

(A) Restricted Change in Ownership. For purposes of this Project Agreement a "**Restricted Change in Ownership**" will constitute a Developer Event of Default for purposes of subsection 20.1(A) (Developer Events of Default Defined) and will arise if:

(1) prior to the second (2nd) anniversary of Occupancy Readiness Date, without the prior written consent of the County, any Qualified Investor ceases to own or control (directly or indirectly) the same percentage of the issued shares, units or membership interests in the Developer that it owned or controlled (directly or indirectly) on the date of this Project Agreement, other than as a result of an Additional Equity Investment;

(2) any Change in Ownership occurs which involves the transfer of any shares or membership interests to a Restricted Person; or

(3) any Change in Ownership occurs which would be reasonably likely to have a material adverse effect on the Developer's ability to perform its obligations under this Project Agreement with respect to the Facility Management Services, taking into account the financial strength and integrity of the transferee, compared to that of the transferor.

(B) Exceptions. A Restricted Change in Ownership will not arise pursuant to subsection 23.2(A) (Restricted Change in Ownership) as a direct result of:

(1) The grant, enforcement or the exercise of rights of security in favor of the Senior Lenders over or in relation to any shares, units or membership interests in the Developer or an Equity Member under a Senior Financing Agreement;

(2) A change in legal or beneficial ownership of any shares or other securities that are listed on a recognized public stock exchange, including such transactions involving any initial public offering;

(3) A change in possession of the power to direct or control the management of Developer or a material aspect of its business due solely to a bona fide transaction involving beneficial interests in the ultimate parent organization of an Equity Member (but not if the Equity Member is the ultimate parent organization); or

(4) A transfer of interests to or between managed entities that are under common control or ownership interests (whether directly or indirectly) or to or between the general partners, manager or the parent company of such general partner or manager and any managed entities under common ownership or control with such general partner or manager (or parent company of such general partner or manager), if the transfer to relevant entities and the general partner or manager of such entities (or the parent company of such general partner or manager) would not reasonably be likely to have a have a materially adverse effect on the Developer's ability to perform its obligations under

this Project Agreement, taking into account the financial strength and integrity of the transferee, compared to that of the transferor.

For the purposes of this Section 23.2 (Change in Ownership), a person will only be deemed to own shares or membership interest in another person if such person owns the legal, beneficial, and equitable interest in the relevant shares or membership interest of that other person.

SECTION 23.3. FACTORS THE COUNTY MAY CONSIDER.

In determining whether to provide its consent under subsections 23.1(A) (Assignment by the Developer), and without limiting the County's discretion thereunder, it will be reasonable for the County to refuse its consent if:

(1) The proposed assignee or the new party in control of the Developer, as the case may be, or any of their Affiliates, is a Restricted Person;

(2) The proposed assignee cannot comply with the County's conflict of interest requirements or other requirements of Applicable Law;

(3) The proposed assignee or the new party in control of the Developer, as the case may be, is, in the reasonable opinion of the County, less creditworthy than the assignor;

(4) The experience, background or reputation of the proposed assignee and the Key Personnel in operating projects or Facility of a similar nature, in the reasonable opinion of the County, is not sufficient to meet the Developer's obligations under this Project Agreement; or

(5) The assignment or Change in Control could, in the reasonable opinion of the County, have a material and adverse effect on the County or the Project.

SECTION 23.4. ASSIGNMENT BY THE COUNTY.

The County may, upon prior written notice to the Developer, but without the Developer's consent, assign, transfer or otherwise dispose of all or any portion of its rights, title and interest in and to this Project Agreement, the Project, the Project Site or the performance bond to any other Government Entity that:

(1) Succeeds to the governmental powers and authority of the County;

(2) Has sources of funding to perform the payment obligations of the County under this Project Agreement that are at least as adequate and secure as the County's, or has a credit rating that is at least as high as the County's, at the time of assignment; and

(3) Assumes all of the County's obligations under this Project Agreement.

Notwithstanding the foregoing, the County may assign, transfer or otherwise dispose of all or any portion of its rights, title and interest in and to this Project Agreement, the Project Site, or the performance bond to any other entity that does not satisfy the conditions set forth above provided the County first obtains the prior written consent of the Developer.

SECTION 23.5. NOTIFICATION; COSTS OF REQUEST FOR CONSENT.

With respect to any change in legal or beneficial ownership that requires the County's consent pursuant to this Article 23 (Assignment and Change in Control), the Developer shall provide the County with at least thirty (30) days' prior written notice of any Change in Ownership. If the Developer requests consent to an assignment, transfer or disposition pursuant to this Article 23 (Assignment and Change in Control), the Developer shall pay the County's reasonable internal administrative and personnel costs and all out-of-pocket costs in connection with considering any such request. After the decision of the County is rendered, the County will invoice the Developer for the amounts due under this Section with reasonable substantiation of such costs and Developer shall remit payment to the County within thirty (30) days from the date of the invoice.

ARTICLE 24

INDEMNIFICATION

SECTION 24.1. DEVELOPER'S OBLIGATION TO INDEMNIFY.

The Developer shall defend, indemnify and keep each County Indemnitee indemnified at all times from and against all Loss-and-Expense that any County Indemnitee may sustain (except to the extent such Loss-and-Expense is caused by, in each case, the misconduct, negligence or other intentional act of the County Indemnitee seeking indemnity) in connection with (i) any loss of or physical damage to property or assets of any County Indemnitee, or (ii) any claim made by one or more third parties (including for loss of or physical damage to property or assets), or (iii) any claim for, or in respect of, the death, personal injury, disease or illness of any person, including any County Indemnitee, arising by reason of any:

(1) Breach of any representation or warranty by the Developer under this Project Agreement;

(2) Negligent act or omission of the Developer in connection with the Project Agreement;

(3) Willful misconduct of the Developer in connection with the Project Agreement;

(4) Non-compliance by the Developer with any of the provisions of this Project Agreement or any document, instrument or agreement delivered to the County as required under this Project Agreement;

(5) Developer Hazardous Substances; or

(6) Breach by the Developer of, or non-compliance by the Developer with, any Governmental Approval or Applicable Law, or the failure of the Developer to obtain all necessary Governmental Approvals in accordance with this Project Agreement, except to the extent caused by a County Fault, or a County Event of Default. The Developer's indemnity obligations under this Section shall not be limited by any coverage exclusions or other provisions in any policy of Required Insurance or other insurance maintained by the Developer which is intended to respond to such events. This Section may be relied upon by the County Indemnitees and may be enforced directly by any of them against the Developer in the same manner and for the same purpose as if pursuant to a contractual indemnity directly between them and the Developer.

SECTION 24.2. INDEMNIFICATION PROCEDURES.

(A) Notice. If a County Indemnitee receives any notice, demand, letter or other document concerning any claim for which it appears that the County Indemnitee is, or may become entitled to, indemnification or compensation under this Project Agreement in respect of the claim, the County Indemnitee shall give notice in writing to the Developer as soon as reasonably practicable and in any event within 20 Business Days of receipt thereof, provided, however, that failure to give notice within 20 Business Days shall not relieve Developer of its indemnity and defense obligations unless it has been materially prejudiced by said belated notice.

(B) Developer Right to Dispute Claim. If notice is given as provided in subsection (A) of this Section, the Developer shall be entitled to dispute the claim in the name of the County Indemnitee at the Developer's own expense and take conduct of any defense, dispute, compromise, or appeal of the claim and of any incidental negotiations. The County Indemnitee will give the Developer all reasonable cooperation, access and assistance for the purposes of considering and resisting such claim.

(C) Conflicts of Interest. In defending any claim as described in subsection (B) of this Section in which there is a conflict of interest between the Developer and the County Indemnitee, the County Indemnitee may appoint independent legal counsel in respect of such claim and, if it is determined that the County Indemnitee is entitled to indemnification by or compensation from the Developer, all reasonable costs and expenses incurred by the County Indemnitee in so doing (including but not limited to the cost and expense of in-house legal counsel) will be included in the indemnity or compensation from the Developer.

(D) Rights and Duties of the Parties. With respect to any claim conducted by the Developer pursuant to subsection (B) of this Section:

(1) The Developer shall keep the County Indemnitee reasonably informed and consult with it about material elements of the conduct of the claim;

(2) The Developer shall demonstrate to the County Indemnitee, at the reasonable request of the County Indemnitee, that the Developer has sufficient means to pay all costs and expenses that it may incur by reason of conducting the claim; and

(3) The Developer shall not pay or settle such claims without the consent of the County Indemnitee, such consent not to be unreasonably withheld or delayed.

(E) County Indemnitee Rights to Conduct Defense. The County Indemnitee may take conduct of any defense, dispute, compromise or appeal of the claim and of any incidental negotiations if:

(1) The Developer is not entitled to take conduct of the claim in accordance with subsection (B) of this Section; or

(2) The Developer fails to notify the County Indemnitee of its intention to take conduct of the relevant claim within 30 days of the notice from the County Indemnitee under subsection (B) of this Section or notifies the County Indemnitee that it does not intend to take conduct of the claim; or

(3) The Developer fails to comply in any material respect with subsection (D) of this Section.

(F) Transfer of Conduct of Claim to County Indemnitee. The County Indemnitee may at any time give notice to the Developer that it is retaining or taking over, as the case may be, the conduct of any defense, dispute, compromise, settlement or appeal of any claim,

or of any incidental negotiations, to which subsection (B) of this Section applies. On receipt of such notice the Developer will promptly take all steps necessary to transfer the conduct of such claim to the County Indemnitee, and will provide to the County Indemnitee all reasonable co-operation, access and assistance for the purposes of considering and resisting such claim.

(G) Infringement of Intellectual Property Rights. In response to any claim of infringement or alleged infringement of the Intellectual Property rights of any person, the Developer may replace such infringing or allegedly infringing item provided that:

(1) The replacement is performed without cost to the County; and

(2) The replacement has at least equal quality performance capabilities when used in conjunction with the Project.

SECTION 24.3. COUNTY'S OBLIGATION TO INDEMNIFY.

The County agrees to defend and indemnify Developer from and against any Loss-and-Expense that the Developer, Project Contractor or any of their respective subcontractors may sustain (except to the extent such Loss-and-Expense is caused by, in each case, the misconduct, negligence or other intentional act of any Developer Person) in connection with any claim made by one or more third parties in connection with such Hazardous Substances (except for Developer Hazardous Substances); provided that: (1) the Developer shall promptly (and in any event within ten Business Days' receipt of any written notice thereof) notify the County of incidents, potential claims and matters which would reasonably be expected to give rise to any such third-party claim; (2) the County may give written notice to the Developer to tender defense of any such third-party claim to the County at any time, in which case the Developer shall promptly tender defense of such claim and cooperate with the County as necessary or reasonably requested by the County to defend such third-party claim; (3) unless and until the County assumes defense of any third-party claim, the Developer shall keep the County reasonably informed at all times regarding such third-party claim; and (4) the Developer shall not enter into any agreements or settlement with respect to any such third-party claim without the prior written approval of the County. The County shall have no other defense or indemnity obligations to any Developer Person except as expressly set forth in this Section 24.3.

ARTICLE 25

MISCELLANEOUS PROVISIONS

SECTION 25.1. OWNERSHIP OF THE PROJECT.

The Project shall be owned by the County at all times.

SECTION 25.2. RELATIONSHIP OF THE PARTIES.

The Developer is an independent contractor of the County and the relationship between the parties shall be limited to performance of this Project Agreement in accordance with its terms. Neither party shall have any responsibility with respect to the services to be provided or contractual benefits assumed by the other party. Nothing in this Project Agreement shall be deemed to constitute either party a partner, agent or legal representative of the other party. No liability or benefits, such as workers compensation, pension rights or liabilities, or other provisions or liabilities arising out of or related to a contract for hire or employer/employee relationship shall arise or accrue to any party's agent or employee as a result of this Project Agreement or the performance thereof.

SECTION 25.3. NO OTHER BUSINESS.

The Developer shall not engage in any business or activity other than the business or activities conducted for the purposes of the Project or otherwise as expressly permitted hereunder.

SECTION 25.4. DEVELOPER PERSONS.

The Developer shall, as between itself and the County, be responsible for, and not relieved of its obligations hereunder by, the acts, omissions, breaches, defaults, non- compliance, negligence and willful misconduct of each Developer Person, and all references in this Project Agreement to any act, omission, breach, default, non-compliance, negligence or willful misconduct of the Developer shall be construed accordingly to include any such act, omission, breach, default, non-compliance, negligence or willful misconduct committed by a Developer Person.

SECTION 25.5. GENERAL DUTY TO MITIGATE.

(A) Mitigation by the Developer. In all cases where the Developer is entitled to receive any relief from the County or exercise any rights, including the right to receive any payments, costs, damages or extensions of time, whether on account of Supervening Events or otherwise, the Developer shall use all reasonable efforts to mitigate such amount required to be paid by the County to the Developer under this Project Agreement, or the length of the extension of time. Such mitigation measures shall include reasonable, good faith efforts to comply with all procedures and other requirements necessary to obtain any available waiver or exemption from Taxes that would otherwise be borne directly or indirectly by the County. Upon request from the County, the Developer shall promptly submit a detailed description, supported by all such documentation as the County may reasonably require, of the measures and steps taken by the Developer to mitigate and meet its obligations under this subsection.

(B) Mitigation by the County. In all cases where the County is entitled to receive from the Developer any compensation, costs or damages, but not in any other cases, the County shall use all reasonable efforts to mitigate such amount required to be paid by the Developer to the County under this Project Agreement, provided that such obligation shall not require the County to:

(1) Take any action which is contrary to the public interest, as determined by the County in its reasonable discretion;

(2) Undertake any mitigation measures that might be available arising out of its status as a Governmental Body, but which measure would not normally be available to a private commercial party; or

(3) Alter the amount for Deductions it is entitled to make in accordance with Appendix 11 (Deductions).

The County shall have no obligation to mitigate, implied or otherwise, except as set forth in this subsection or otherwise as expressly provided in this Project Agreement. Upon request by the Developer, the County shall promptly submit a detailed description, supported by all such documentation as the Developer may reasonably require, of the measures and steps taken by the County to mitigate and meet its obligations under this subsection.

SECTION 25.6. OPPORTUNITIES.

Except as may be specifically agreed in writing between the County and the Developer during the Term and except for the Restaurant, the County reserves the right to all commercial and other opportunities for, or related to, the Project.

SECTION 25.7. PROJECT AGREEMENT ADMINISTRATION.

(A) Authority of County Representative. The Developer understands and agrees that the County Representative has only limited authority with respect to the implementation of this Project Agreement, and cannot bind the County with respect to any Project Agreement Amendment, to waivers, or to incurring costs in excess of the amounts appropriated therefor. Within such limitations, the Developer shall be entitled to rely on the written directions of the County Representative. The County Representative shall have the right at any time to issue the Developer a written request for information relating to this Project Agreement. Any written request designated as a "priority request" shall be responded to by the Developer within three Business Days.

(B) Facility Management Notices. Facility Management Notices hereunder shall be given by e-mail, and may be given personally or by telephone promptly followed by e-mail confirmation. Facility Management Notices to the Developer shall be given by the County Representative and Facility Management Notices to the County shall be given by the Developer Representative.

(C) Administrative Communications. The parties recognize that a variety of contract administrative matters will routinely arise throughout the Term. These matters will by their nature involve requests, notices, questions, assertions, responses, objections, reports, claims, and other communications made personally, in meetings, by phone, by mail and by electronic and computer communications. The purpose of this Section is to set forth a process by which the resolution of these matters, once resolution is reached, can be formally reflected in the common records of the parties so as to permit the orderly and effective administration of this Project Agreement.

(D) Contract Administration Memoranda. The principal formal tool for the administration of routine matters arising under this Project Agreement between the parties which do not require a Project Agreement Amendment shall be a "**Contract Administration Memorandum**". A Contract Administration Memorandum shall be prepared, once all preliminary communications have been concluded, to evidence the resolution reached by the County and the Developer as to matters of interpretation and application arising during the course of the performance of their obligations hereunder. Such matters may include, for example:

(1) Issues as to the meaning, interpretation or application of this Project Agreement in particular circumstances or conditions;

(2) Calculations required to be made;

(3) Notices, waivers, releases, satisfactions, confirmations, further assurances, consents and approvals given hereunder; and

(4) Other similar routine contract administration matters.

(E) Procedure. Either party may request the execution of a Contract Administration Memorandum. When resolution of the matter is reached, a Contract Administration Memorandum shall be prepared by or at the direction of the County reflecting the resolution. Contract Administration Memoranda shall be serially numbered, dated, signed by the County Representative and the Developer Representative. The County and the Developer each shall maintain a parallel, identical file of all Contract Administration Memoranda, separate

and distinct from Project Agreement Amendments and all other documents relating to the administration and performance of this Project Agreement.

(F) Effect. Executed Contract Administration Memoranda shall serve to guide the ongoing interpretation and application of the terms and conditions of this Project Agreement.

SECTION 25.8. PROJECT AGREEMENT AMENDMENTS.

(A) Amendments Generally. Notwithstanding the provisions of Section 25.7 (Project Agreement Administration), no change, alteration, revision or modification of the terms and conditions of this Project Agreement shall be made except through a written amendment to this Project Agreement (a "**Project Agreement Amendment**") duly authorized, approved or ratified by the County and duly authorized by the Developer. Project Agreement Amendments shall be dated and signed by the County Representative and the Developer Representative. Notwithstanding the foregoing, and prevailing over any other contrary provision in this Project Agreement, consent or approval for Project Agreement Amendments that: (1) increase the financial commitments of the County to the Developer or for the Project beyond those authorized and approved by the Board via resolution; (2) materially changes the Design and Construction Standards for the Project; (3) materially changes the Facility Management Requirements for the Project; or (4) provide extensions of time to the Occupancy Readiness Date beyond those authorized and approved by the Board via resolution, will only be effective following the approval of the Board, and those Project Agreement Amendments that materially amend this Project Agreement will only be effective following the consent of the Federal Transit Administration, the Florida Department of Transportation, and the Board. The County covenants and agrees to present, through the County Mayor or Mayor's designee, all proposed Project Agreement Amendments that materially amend this Project Agreement to: (1) the Federal Transit Administration and the Florida Department of Transportation for their review and approval within ten Business Days of the preparation and agreement in principal of the proposed Project Agreement Amendment by the Developer Representative and the County Representative; and (2) the Board for its consideration within 30 days of the Federal Transit Administration's and Florida Department of Transportation's approval of the proposed Project Agreement Amendment.

(B) Project Agreement Amendments and Contract Administration Memoranda. In order to maintain a complete file of all agreements made with respect to the administration of this Project Agreement, when a Project Agreement Amendment or other agreement with respect to this Project Agreement is entered into and executed by the parties, a Contract Administration Memorandum shall be prepared attaching and acknowledging this Project Agreement Amendment or other agreement, but need not be executed by the Developer Representative.

SECTION 25.9. COUNTY APPROVALS AND CONSENTS.

When this Project Agreement requires any approval or consent by the County to a Developer submittal, request or report, the approval or consent shall, within the limits of the authority of subsection 25.7(A) (Authority of County Representative), be given by the County Representative in writing and such writing shall be conclusive evidence of such approval or consent, subject only to compliance by the County with the Applicable Law that generally governs its affairs. Unless expressly stated otherwise in this Project Agreement, and except for (1) approvals provided for in Section 4.3 of Appendix 6 (Design-Build Work Review Procedures), which shall be governed by the terms of such Appendix, and (2) requests, reports and submittals made by the Developer that do not, by their terms or the terms of this Project Agreement, require a response or action, if the County does not find a request, report or submittal acceptable, it shall provide written response to the Developer describing its objections and the reasons therefor within 30 days of the County's receipt thereof. If no response is received, the request, report or submittal shall be deemed rejected unless the County's approval or consent may not be unreasonably delayed by the express terms hereof, and the Developer may resubmit the same,

with or without modification. Requests, reports and submittals that do not require a response or other action by the County pursuant to some specific term of this Project Agreement shall be deemed acceptable to the County if the County shall not have objected thereto within 30 days of the receipt thereof.

SECTION 25.10. DISCLOSED DATA.

It is the Developer's responsibility to have conducted its own analysis and review of the Project and, before the execution of this Project Agreement, to have taken all steps it considers necessary to satisfy itself as to the accuracy, completeness and applicability of any Disclosed Data upon which it places reliance and to assess all risks related to the Project. Without limiting the Developer's right to claim relief for Differing Site Conditions and Regulated Site Conditions pursuant to this Project Agreement, the Developer shall not be entitled to and will not make (and will ensure that no Project Contractor or Subcontractor makes) any claim against any County Indemnitee, whether in contract, tort or otherwise, including any claim in damages for extensions of time or for additional payments under this Project Agreement on the grounds:

(1) Of Any misunderstanding or misapprehension in respect of the Disclosed Data; or

(2) That incorrect or insufficient information relating to the Disclosed Data was given to it by any person other than the County, nor will the Developer be relieved from any obligation imposed on or undertaken by it under this Project Agreement on any such ground.

SECTION 25.11. ACTIONS OF THE COUNTY IN ITS GOVERNMENT CAPACITY

Nothing in this Project Agreement shall be interpreted as limiting the rights and obligations of the County (or any department or agency thereof) under Applicable Law in their governmental capacity (including police power actions to protect health, safety and welfare), or as limiting the right of the Developer to bring any action against the County (or any department or agency thereof), not based on this Project Agreement, arising out of any act or omission of the County (or any department or agency thereof) in their governmental capacity. The County retains all its sovereign prerogatives and rights as a county (the "**Sovereign**") under State and local law with respect to the planning, design, construction, development and operation of the Project. It is expressly understood that notwithstanding any provisions of this Project Agreement and the County's status thereunder:

(A) The County retains all of its sovereign prerogatives and rights and regulatory authority (quasi-judicial or otherwise) as a county under State and local law and shall in no way be estopped from withholding or refusing to issue any approvals or applications for building, zoning, planning or development under present or future laws and regulations whatever nature applicable to the planning, design, construction and development of the Project, or the operation thereof, or be liable for the same.

(B) The County shall not by virtue of this Project Agreement be obligated to grant the Developer any approvals of applications for building, zoning, planning, development or otherwise under present or future Applicable Laws of whatever nature applicable to the planning, design, construction, development and/or operation of the Project.

(C) Notwithstanding and prevailing over any contrary provision in this Project Agreement, any County covenant or obligation that may be contained in this Project Agreement shall not bind the Board, the Regulatory and Economic Resources Department and its Division of Environmental Resources Management, or any other County, city, federal or State department

or authority, committee or agency (i.e., any Governmental Body) to grant or leave in effect any zoning changes, variances, permits, waivers, contract amendments, or any other approvals that may be granted, withheld, or revoked in the discretion of the County or other applicable Governmental Body in the exercise of its/their police power(s).

SECTION 25.12. COUNTY FUNDING OBLIGATIONS.

(A) The County's obligations under this Project Agreement to make Service Fee payments and to make any other payments under this Project Agreement as they become due and owing are contractual commitments of the County and are special and limited obligations of the County, payable solely from Legally Available Non-Ad Valorem Revenues and other legally available revenues budgeted and appropriated and actually deposited into the accounts created pursuant to this Project Agreement, all as provided for herein. Nothing herein shall be deemed to create a pledge of or lien, legal or equitable, on the Legally Available Non-Ad Valorem Revenues, the ad valorem tax revenues, or any other revenues of the County, or to permit or constitute a mortgage or lien upon any assets owned by the County. None of the parties to this Project Agreement shall ever have the right to compel any exercise of the ad valorem taxing power of the County for any purpose, including, without limitation, to make any payment required under this Project Agreement or to maintain or continue any of the activities of the County which generate user service charges, regulatory fees or any other Legally Available Non-Ad Valorem Revenues.

(B) The County hereby covenants and agrees to:

(1) include in the County Mayor's proposed annual budget, which the County Mayor shall submit to the Board each calendar year during the Term on or before the date required by the Miami-Dade County Home Rule Amendment and Charter and State law, a request for appropriation of funds (including authorization for the County Mayor or Mayor's designee to administratively pay such funds as they come due under the Project Agreement) sufficient to pay the amounts due and owing or scheduled to become due and owing from the County to the Developer during the succeeding fiscal year;

(2) have the County Mayor present to the Board any necessary budget amendments or adjustments for any additional amounts that may become due and owing to the Developer from the County during any fiscal year and that were not contemplated at the time of the adoption of the ensuing fiscal year's budget; and

(3) create and establish an account in which Legally Available Non-Ad Valorem Revenues and other legally available revenues budgeted and appropriated for Service Fee payments and any other payment obligations under this Project Agreement will be deposited.

(C) The obligations of the County under this Project Agreement will survive any failure to appropriate sufficient amounts to pay the amounts due and owing or scheduled to become due and owing from the County to the Developer under this Project Agreement and any expiration or termination of this Project Agreement and such obligations shall not be impaired, reduced or otherwise affected by any such failure.

SECTION 25.13. CONFIDENTIALITY.

(A) Confidential Information. Subject to subsection (B) of this Section, each party will hold in confidence any Confidential Information received from the other party, except that this Section will not restrict either party from disclosing or granting access to such information to its professional advisers and consultants, to the extent necessary, to enable it to perform (or to cause to be performed) or to enforce its rights or obligations under this Project

Agreement, and provided further that the Developer may, subject to obtaining confidentiality restrictions similar to those set forth in this Project Agreement:

(1) Provide to the rating agency, Senior Lenders and other potential lenders, equity providers, underwriters, arrangers, investment dealers, insurers and their respective advisors such documents and other information as are reasonably required by them in connection with raising financing for the Project or complying with the terms of the Senior Financing Agreement or related agreements; and

(2) Provide to a Project Contractor and its advisors, or provide or cause to be provided to other third parties, Confidential Information which is necessary to enable the Developer to perform (or to cause to be performed) its obligations under this Project Agreement.

(B) Exceptions. Subject to any restrictions on the Confidential Information which are imposed by a third party that may own any Confidential Information, the obligation to maintain the confidentiality of the Confidential Information does not apply to Confidential Information:

(1) Which is or comes into the public domain otherwise than through any disclosure prohibited by this Project Agreement;

(2) To the extent any person is required to disclose such Confidential Information by Applicable Law or, in the case of the County, by generally applicable County information disclosure policies and Public Records Laws;

(3) To the extent consistent with County's policy concerning the County's Confidential Information, the details of which have been provided to the Developer in writing prior to the disclosure;

(4) Any Governmental Body which requires the information in relation to the Project; or

(5) That the County may be entitled to receive from the Developer pursuant to this Project Agreement for the operation, maintenance or improvement of the Project in the event of, or following, termination of this Project Agreement.

(C) Security Plan. If requested by the County, the Developer shall prepare a security plan to assure that Confidential Information obtained from the County or as a consequence of the performance of the Contract Services is not used for any unauthorized purpose or disclosed to unauthorized persons. The Developer shall advise the County of any request for disclosure of information or of any actual or potential disclosure of information.

(D) Public Communications of Confidential Information. Unless expressly provided in this Project Agreement or otherwise required by Applicable Law (but only to that extent), neither party will make or permit to be made any public announcement or disclosure whether for publication in the press, radio, television or any other medium of any Confidential Information, without the written consent of the other party (which will not be unreasonably withheld or delayed).

(E) Equitable Relief. Without prejudice to any other rights and remedies that the other party may have, each of the parties agrees that damages may not be an adequate remedy for a breach of subsection (A) of this Section, and that the other party will, in such case, be entitled to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of subsection (A) of this Section.

SECTION 25.14. PUBLIC RECORDS.

(A) The Developer shall comply, and shall require all of its Architect, Design-Builder, and all other Developer Persons to comply with Public Records Laws, specifically to:

(1) Keep and maintain all records required by the public agency to perform the service.

(2) Upon request from the County Representative, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in the Public Records Law or as otherwise provided by Applicable Law.

(3) Ensure that Public Records that are exempt or confidential and exempt from Public Records' disclosure requirements are not disclosed except as authorized by law for the Term, and following expiration of the Term or the earlier termination thereof, if the Developer does not transfer the records to the County.

(4) Upon expiration of the Term, or the earlier termination thereof, transfer, at no cost, to the County all Public Records in possession of the Developer or keep and maintain for inspection and copying all Public Records in its possession. If the Developer, upon expiration of the Term, or the earlier termination thereof: i.) transfers all Public Records to the County, the Developer shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements; and ii.) keeps and maintains Public Records, the Developer shall meet all Applicable Law and requirements for retaining Public Records. All records stored electronically must be provided to the County, upon request from the County's custodian of Public Records, in a format that is compatible with the information technology systems of the County.

(B) If the Developer fails to provide Public Records to the County within a reasonable amount of time, this may be subject to penalties under Florida Statutes Chapter 119 and shall be deemed an Event of Default under this Project Agreement.

IF THE DEVELOPER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE DEVELOPER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, THE DEVELOPER SHALL CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS AT (305) 375-5773, ISD-VSS@MIAMIDADE.GOV, 111 NW 1ST STREET, SUITE 1300, MIAMI, FLORIDA 33128

(C) The County shall notify the Developer if the County receives a request for disclosure of any information that the Developer has informed the County that it reasonably believes is Trade Secret Information (as Trade Secret Information is defined by Applicable Law) or is information protected from disclosure to the public by any other Applicable Law so that Developer may defend any claims or disputes arising from efforts by others to cause such Trade Secret Information or other legally protected information to be disclosed as a public record. The County shall have no liability, however, for any disclosure (x) which the County determines in good faith is required by Applicable Law, or (y) of information the County had not been advised was Trade Secret Information as provided above. Notwithstanding the foregoing: (a) the County will not have any further obligations of confidentiality or secrecy with respect to any of the Trade Secret Information or other legally protected information to the extent that such information becomes public knowledge or is published, disseminated or circulated in the public domain, unless such initial publication results from the breach of this Project Agreement by the County; and (b) nothing will prevent representatives of the County from testifying either in court or through depositions or other discovery proceedings in the context of litigation or administrative proceedings. Notwithstanding and prevailing over any other provision of this Project Agreement

to the contrary, a breach of this subsection shall not entitle the Developer to terminate this Project Agreement. Rather, their exclusive remedy for such breach will be entitlement to whatever actual damages are proven in a court of competent jurisdiction and/or injunctive relief ordered by a court of competent jurisdiction. Furthermore, no breach of this sub-section by the County shall excuse the Developer or any Project Contractor from providing such other information, records and reports as are required by this Project Agreement to the County.

SECTION 25.15. COMPLIANCE WITH MATERIAL AGREEMENTS.

The Developer shall comply with its obligations under agreements of the Developer which are material to the performance of its obligations under this Project Agreement. The County shall comply with its obligations under agreements of the County which are material to the performance of its obligations hereunder.

SECTION 25.16. BINDING EFFECT.

This Project Agreement shall inure to the benefit of and shall be binding upon the County and the Developer and any assignee acquiring an interest hereunder consistent with Article 23 (Assignment and Change in Control).

SECTION 25.17. CONSENTS.

Any consent required to be given under this Project Agreement shall be in writing.

SECTION 25.18. NOTICES.

(A) Procedure. All notices, consents, approvals or written communications given pursuant to the terms of this Project Agreement (other than Facility Management Notices as provided in subsection 25.7(B) (Facility Management Notices) will be in writing and will be considered to have been sufficiently given if delivered by hand or transmitted by electronic transmission to the address, or electronic mail address of each party set forth below in this Section, or to such other address, or electronic mail address as any party may, from time to time, designate in the manner set forth above. Any such notice or communication will be considered to have been received:

(1) if delivered by hand during business hours (and in any event, at or before 5:00 p.m. local time in the place of receipt) on a Business Day, upon receipt by a responsible representative of the receiver, and if not delivered during business hours, upon the commencement of business hours on the next Business Day;

(2) if delivered by electronic mail during business hours (and in any event, at or before 5:00 p.m. local time in the place of receipt) on a Business Day, upon receipt, and if not delivered during business hours, upon the commencement of business hours on the next Business Day.

(B) County Notice Address. Notices (other than Facility Management Notices) required to be given to the County shall be addressed as follows:

Miami-Dade County Internal Services Department
Attention: Dan Chatlos
111 NW 1st Street, Suite 2100
Miami, FL 33128
Telephone: 305-375-4812
Email: chatlos@miamidade.gov

with a copy to:

Miami-Dade County Attorney's Office
111 N.W. 1st Street, Suite 2810
Miami, FL 33128
Attention: Eduardo Gonzalez, Monica Rizo Perez and Oren Rosenthal
Telephone: 305-375-5151
Email: EduardoCAO.Gonzalez@miamidade.gov
Monica.Rizo@miamidade.gov
Oren.Rosenthal@miamidade.gov

(C) Developer Notice Address. Notices required to be given to the Developer shall be addressed as follows:

Plenary Justice Miami LLC
555 West 5th Street, Suite 3150
Los Angeles, CA 90013
Attention: Vice President
Telephone: 424-278-2173
Email: Notices@plenarygroup.com

with a copy to:

Plenary Group (Canada) Ltd.
400 Burrard Street, Suite 2000
Vancouver, BC V6C 3A6
Attention: Vice President

SECTION 25.19. NOTICE OF LITIGATION.

In the event the Developer or County receives notice of or undertakes the defense or the prosecution of any Legal Proceedings, claims, or investigations in connection with the Project, the party receiving such notice or undertaking such defense or prosecution shall give the other party timely notice of such proceedings and shall inform the other party, to the extent possible, in advance of all hearings regarding such proceedings. For purposes of this Section only, "timely notice" shall be deemed given if the receiving party has a reasonable opportunity to provide objections or comments or to proffer to assume the defense or prosecution of the matter in question, given the deadlines for response established by the relevant rules of procedure.

SECTION 25.20. FURTHER ASSURANCES.

The parties will do, execute and deliver, or will cause to be done, executed and delivered, all such further acts, documents (including certificates, declarations, affidavits, reports and opinions) and things as the other party may reasonably request for the purpose of giving effect to this Project Agreement or for the purpose of establishing compliance with the representations, warranties and obligations of this Project Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have caused this Project Agreement to be executed by their duly authorized representatives on the day and year first above written.

Notary Public

Notary Seal

Notary Public

Notary Seal

KATRINA MARIE BALENTYNE
MY COMMISSION # GG010216
EXPIRES July 10, 2020
FloridaNotaryService.com

PLENARY JUSTICE MIAMI LLC

By: _____

Name: Brian Budden

Title: President

Date: _____

By: _____

Name: Mike Schutt

Title: Vice President

Date: _____

ATTEST:

_____
Clerk of the Board

MIAMI-DADE COUNTY, FLORIDA

By: _____

Name: Carlos A. Gimenez

Title: Mayor

Date: _____

APPROVED FOR FORM AND LEGAL SUFFICIENCY
This ____ day of _____, 2019

_____
Assistant County Attorney

APPENDIX 1

PROJECT SITE INFORMATION

APPENDIX 1

PROJECT SITE INFORMATION

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The files in this Appendix are maintained by the County as public records. All requests for such records shall be made to the County's contact identified in Section 25.1(B) of the Project Agreement.

APPENDIX 2

COUNTY LEGAL REQUIREMENTS

APPENDIX 2

COUNTY LEGAL REQUIREMENTS

1. GENERAL

1.1 Purpose. The purpose of this Appendix is to set forth, in addition to all other requirements otherwise imposed on the Developer pursuant to Applicable Law and the Project Agreement (including all Appendices), the County Legal Requirements. All provisions of this Appendix 2 shall comprise the "County Legal Requirements." The Developer shall comply with the County Legal Requirements during the Design-Build Period and the Facility Management Period as set forth herein.

1.2 Definitions. In this Appendix, in addition to the definitions set out in Section 1.1 (Definitions) of the Project Agreement:

"Alternative Security" means alternate form of security in one of the alternate forms permitted by Section 255.05(7), Florida Statutes in an amount equal to $2,000,000.00.

"Employ Miami-Dade Program" means those requirements set forth in Implementing Order 3-63.

"First Source Hiring Referral Program" means those requirements set forth in Section 2-2113 of the Code of Miami-Dade County, Florida and Implementing Order 3-58.

"Living Wages Requirements" means those requirements set forth in Section 2-8.9 of the Code of Miami-Dade County, Florida and Implementing Order 3-30 pertaining to the wages to be paid to service contractors.

"Residents First Training and Employment Program" means those requirements set forth in Section 2-11.17 of the Code of Miami-Dade County, Florida and Implementing Order 3-61.

"Responsible Wages Requirements" means those requirements, as set forth in Section 2-11.16 of the Code of Miami-Dade County, Florida, and Implementing Order 3-24 pertaining to the wages and benefits to be paid and provided to all contractors and laborers on the Project.

"SBD" means the Small Business Development Division of the Internal Services Department of the County, or its successor department or division.

"Small Business Program" means those programs and requirements, as set forth in Sections 10-33.02, 2-10.4.01, 2-8.1.1.1.1, and 2-8.1.1.1.2 of the Code of Miami-Dade County, Florida, and related implementing orders, including Implementing Orders 3-22, 3-32, and 3-41, that set forth the standards and requirements for small business participation in the acquisition of design services, construction services, and goods.

All other capitalized terms used in this Appendix 2 are defined in the applicable section of the Code of Miami-Dade County, Florida.

2. DESIGN-BUILD PERIOD

2.1 Compliance. Developer shall comply, and shall cause the Architect, the Project Contractors, and all Subcontractors to comply with the Employ Miami-Dade Program, the First Source Hiring Referral Program, Living Wages Requirements, Residents First Training and

Employment Program, Responsible Wages Requirements, and Small Business Program during the Design-Build Period.

2.2 Small Business Program. Developer shall provide Community Business Enterprise ("CBE"), Community Small Business Enterprise ("CSBE"), and Small Business Enterprise ("SBE") firms, all as defined in the Small Business Program, as may be hereinafter amended, the opportunity to participate in Design-Build Work. Developer must submit design, construction and/or construction management packages to SBD to review for the application of the Small Business Program and the CBE, SBE, and CSBE measures and goals for the Design-Build Work. SBD, in consultation with the Developer, will recommend to the County Mayor the CSBE, CBE and SBE goal(s) and measures to be applied. The County Mayor or County Mayor's designee shall establish the applicable goals and measures. Developer shall include all measures and goals, as applicable, in the Design and Construction Contracts and in all Project Contracts for any Design-Build Work, and adhere to those measures and goals in all design and construction activities.

2.3 Prompt Payment. Developer shall comply and shall incorporate in the Design and Construction Contracts and in all Project Contracts for any Design-Build Work the prompt payment provisions contained in Section 2-8.1.4 of the Code of Miami-Dade County, Florida the County Code with respect to CBE, CSBE, and SBE firms. Developer shall not, and agrees to include in the Design and Construction Contracts and in all Project Contracts for any Design-Build Work a prohibition against imposing any requirements against CBE, CSBE, and SBE firms that are not customary, not otherwise required by Applicable Law, or which impose a financial burden that intentionally impact SBE, CBE, and CSBE firms.

2.4 [RESERVED. SECTION NOT USED].

2.5 Hiring Clearinghouse and Employ Miami-Dade Register. Developer shall, and shall require the Project Contractor and Subcontractors to, use SBD's hiring clearinghouse and Employ Miami-Dade Register in the Employ Miami-Dade Program to recruit workers to fill needed positions for skilled laborers on the Project. Developer shall include the requirements to use SBD's hiring clearinghouse and to comply with the Employ Miami-Dade Program in the Design-Build Contract and all Project Contracts for construction work.

2.6 Residents' First Training and Employment Program. The Developer shall require that all Project Contracts valued in excess of $1,000,000 include the requirements of the Miami-Dade County Residents First Training and Employment Program, which includes requirements that all persons employed by the Project Contractor or Subcontractor to perform construction shall have completed the OSHA 10 Hour safety training course established by the Occupational Safety & Health Administration of the United States Department of Labor, and that the Project Contractors and Subcontractors make their best reasonable efforts to promote employment opportunities for local residents and seek to achieve a project goal of having fifty-one percent (51%) of all Construction Labor hours performed by Miami-Dade County residents.

2.7 Responsible Wages and Living Wages. Developer shall comply, and shall require the Project Contractor and all Subcontractors to comply, with the requirements of the Responsible Wages Requirements and Living Wages Requirements. Developer shall include in the Design-Build Contract and all Project Contracts for construction work the Responsible Wages Requirements and the Living Wages Requirements.

3. FACILITY MANAGEMENT PERIOD

3.1 Capital Modifications. During the Facility Management Period, Developer shall comply with all provisions of Section 2 (Design-Build Period) in this Appendix 2 with respect to any Capital Modification.

3.2 Facility Management Services. During the Facility Management Period, Developer shall provide Small Business Enterprise ("SBE") firms, as defined in the Small Business Program, as may be hereinafter amended, the opportunity to participate in Facility Management Services. Developer must submit the scope of services to SBD to review for the application of the Small Business Program measures and goals. SBD, in consultation with the Developer, will recommend to the County Mayor the SBE goal(s) and measures to be applied. The County Mayor or County Mayor's designee shall establish the applicable goals and measures. Developer shall include all measures and goals, as applicable, in the Facility Management Services contracts and in all Project Contracts for any Facility Management Services, and adhere to those measures and goals in all facility management activities.

3.3 Wages and Benefits. Developer shall comply, and shall require the Project Contractor and all Subcontractors to comply with the requirements of the Living Wages Requirements. Developer shall include in the all Project Contracts for Facility Management Services the Living Wages Requirements, as applicable.

3.4. First Source Hiring Referral Program. Developer shall comply with, shall require all Project Contractors and Subcontractors to, and shall include in the Project Contracts for any Facility Management Services, as applicable, the following:

(a) Prior to hiring to fill each vacancy arising under a Project Contract, the Project Contractor shall first notify the Referral Agency of the vacancy and list the vacancy with the Referral Agency. The listing shall contain a detailed description of the job responsibilities and qualifications, and be posted during the Referral Period. The Referral Agency shall provide a list of qualified candidates, if such candidates are available, to the Project Contractor within twenty-four (24) hours of receiving notice of vacancy. Thereafter, the Project Contractor shall (a) review the resumes and qualifications of the candidates, and (b) make a good faith effort as determined by the County, to fill a minimum of fifty percent (50%) of its employment needs under the Project Contract from the First Source Register. Notwithstanding the foregoing, if after the Referral Period a suitable employee is not found from the Referral Agency, the Project Contractor is free to fill its vacancies from other sources.

(b) A good faith effort to employ candidates from the Referral Agency shall constitute, at a minimum, evaluating the qualification of such candidates, and conducting interviews with those candidates who satisfy the minimum competency requirements. The Project Contractor is not required to hire any individual candidate referred. However, Project Contractors shall not commit to fill vacancies in any other manner until after the end of the Referral Period, unless the Referral Agency notifies the Project Contractor in writing prior to the end of the Referral Period that qualified candidates are not available in sufficient numbers to fill the vacancies. Upon such notification, the Project Contractor may immediately fill vacancies using other sources.

(c) In determining whether a Project Contractor has made good faith efforts, the County may consider, among other criteria to be set forth in the applicable Implementing Order: (a) the number, skills and composition of the Project Contractor's labor force ultimately hired; (b) whether minimum requirements were established for available positions beyond reasonable requirements to complete the job; (c) the number of referred candidates interviewed for the position; and (d) the Project Contractor's use of the First Source Register to satisfy its labor needs in contracts other than Project Contracts. The County's

determination as to whether a Project Contractor has made such good faith efforts is final and binding.

4. MONITORING AND COMPLIANCE

4.1 County Monitoring. The County shall have access to the Project Site as reasonably necessary to monitor compliance with the provisions of this Appendix 2. The Developer shall provide the County, upon request, with copies of all Project Contracts, including with Subcontractors, and of any other agreements with contractors, architects, engineers, consultants, suppliers, and service providers for any of the Contract Services, and any other documentation requested to verify compliance with the requirements set forth in this Appendix 2 and with Applicable Laws.

4.2 Sanctions. If at any time the County has reason to believe that the Developer is in violation of its obligations set forth in this Appendix 2, the County may, in addition to pursuing any other available legal remedy under this Project Agreement, commence proceedings to impose sanctions as provided by the Code of Miami-Dade County, Florida. Such sanctions may include, but not be limited to, the denial to the Developer and any default Project Contractor or Subcontractor of the right to participate in any further contracts with the County for a period of no longer than three years, and a penalty in accordance with the Small Business Program, Responsible Wages Requirements, Living Wages Requirements, and Residents First Training and Employment Program and the provisions thereof.

5. PAYMENT AND PERFORMANCE BOND

5.1 Bond Requirements. The following are the requirements for the payment and performance bond required by Section 11.2 of the Project Agreement:

(a) Each payment and performance bond shall be in compliance with all Applicable Laws including the terms of Section 255.05, Florida Statutes, and in compliance with the requirements of Sections 255.05(1)(a) and (c), Section 255.05(3), and Section 255.05(6), and shall name the County and the Developer beneficiaries thereof, as joint obligees. Developer shall not allow any mechanics liens or materialman's liens, or liens, judgments or encumbrances of any kind to be placed on, or to cloud title of, the County's fee simple interest in the Project Site and shall promptly take all steps required to promptly remove or otherwise resolve all such encumbrances.

(b) All bonds shall be written through an eligible surety insurer that is:

(i) Licensed and authorized to do business in the State of Florida as a surety;
(ii) Listed on the U.S. Department of the Treasury's "List of Approved Sureties";
(iii) Rated A/A2 or higher by at least two nationally recognized rating agencies or rated at least A, Class VII or better according to A.M. Best's Financial Strength Rating and Financial Size; and
(iv) Listed in the latest Circular 570 of the U.S. Department of the Treasury entitled "Acceptable Sureties on Federal Bonds", published annually. Surety insurers must have been listed for at least three (3) consecutive years, or holding a valid Certificate of Authority of at least $1.5 million and on the Treasury List. The bond amount shall not exceed the underwriting limitations as shown in this circular.

(c) The attorney-in-fact or other officer who signs a payment and performance bond for a surety company must file a certified copy of a power of attorney authorizing

the officer to do so with the bond. The payment and performance bond must be counter signed by the surety's registered Florida agent.

5.2 Alternative Security. Alternatively to the Section 255.05 payment and performance bonds:

(a) Developer may provide the County with an Alternative Security that the County may deposit in a County-controlled bank account or hold as an irrevocable letter of credit in a form that is acceptable to the County, to remain in place until evidence reasonably satisfactory to the County is submitted to demonstrate all contractors performing improvements on the Project have been paid and Final Completion has been obtained for same, and such Alternative Security may only be accepted if Developer further meets the specifications set forth below.

(b) The Design-Builder shall provide a Payment and Performance Bond with a surety insurer authorized to do business in the State of Florida as a surety in an amount not less than 100% of its respective contract in a form acceptable to the County to insure that its construction work shall be completed and all subcontractors, suppliers, and laborers shall be paid, or, on its default, its surety and shall name the County as an additional obligee and shall meet the specifications set forth in Section 5.1 of this Appendix 2.

(c) Developer shall: (i) obtain a Conditional Release of Lien from the Design-Builder at the time each progress payment is made; and (ii) obtain an Unconditional Release of Lien from the Design-Builder within five (5) business days after payment is made.

(d) In the event the Design-Builder claims non-payment(s), and/or, fails to timely provide Unconditional Releases of Lien within the timeframe stipulated under these terms, the Developer shall request that the County: (a) reduce the amount(s) in question from the cash deposit(s) or security posted until the claim(s) is/are liquidated; or (b) appropriate funds for such payment(s) from any cash deposit(s) or security posted and make payment(s) directly to the claimant(s). In either case, the Developer shall, within ten (10) business days of the County's notification to deposit an amount equal to the reduced/disbursed amount in the County's escrow account or increase the irrevocable letter of credit so as to replenish the original amount of the cash deposit(s) or security posted.

6. LOCAL BUSINESS PARTICIPATION PLAN

The Developer shall comply with the local business participation plan submitted by the Developer and described herein as Attachment 2A. The Developer shall maintain written records evidencing the Developer's compliance with its local business participation obligations in the Project Agreement and shall make all such records available to the County for inspection upon reasonable notice. The Developer shall promptly provide any additional information and reports reasonably requested by the County for the purpose of evaluating the Developer's compliance with its local business participation plan and other County Legal Requirements.

ATTACHMENT 2A

LOCAL BUSINESS PARTICIPATION PLAN

1. GENERAL

1.1. Purpose. The purpose of this Attachment is to set forth, in addition to all other requirements otherwise imposed on the Developer pursuant to Applicable Law and the Project Agreement (including all Appendices), the commitments made in the Developer's Proposal regarding the Developer's local business participation plan. This Attachment contains the relevant extracts from the Developer's Proposal related to the Developer's local business participation obligations.

1.2 Intent. The intent of the Developer's local business participation plan is to maximize the use of local businesses in the Project. For the purposes of this Attachment, a local business under the local business development plan means a firm meeting the definition of local per Section 2-8.5 of the Miami-Dade County Code.

1.3. Benefits. The following are the major benefits of the Developer's local business participation plan:

(a) Community Focus - Developer will focus on ensuring the Miami-Dade communities benefit from this once-in-a-generation investment in the Courthouse.

(b) Local Procurement Opportunities - Developer will focus on identifying opportunities for local procurement where possible, including both large and small, helping support businesses in Miami-Dade County.

(c) Local Firm Targeted Advertising - Developer will target advertising to local firms which may have scopes related to the Project, at all tiers, and correspondingly make the market aware of Developer's intent to maximize the use of local firms.

(d) Local Labor Skill Development - Developer will use the Project to serve as a catalyst for further developing skilled capacity in the community.

2. LOCAL BUSINESS PLAN ELEMENTS

2.1. Local Procurement Policy. The Developer will implement a local procurement policy that will outline procedures to identify and take advantage of opportunities to procure supplies and materials used for this Project from small and diverse businesses within the Miami-Dade area where possible, rather than sourcing them from large and dispersed businesses. The Developer's policy will include assessments of local market opportunities for supplies and materials, with a committed focus on the local sourcing that can potentially have the largest impact, ensuring that orders that may be considered small and routine are steered to businesses in Miami-Dade. Examples of such small orders are printing, food supply, and other business support functions for orders or contracts of $10,000 or less.

2.2. Small Business Mentoring Program and Local Workforce. The Developer views the Miami area to represent an enormous potential for developing a skilled, educated, and sustainable workforce and network of businesses dedicated to the successful operations and maintenance of the Project. As such, the Developer will use its knowledge of the local market to strategically develop bid packages for small and diverse subcontractors. The following scope

areas are just some in which there is existing strength in the Miami-Dade market to engage small and diverse firms: quality assurance/quality control and testing laboratory; rebar supply and installation; management of traffic; utility relocation; architectural packages; and structural concrete.

The Developer's strategy is focused on competency building as well as capacity building. The following are highlights of the strategy.

(a) The main goal of the Developer's small business mentoring program will be to help transform small and diverse contractors into self-sustaining businesses.

(b) The Developer will meet with individuals and firms to help educate them on the core business skills necessary to be a successful contractor, equipping them with the skills to compete without assistance in the future, not only in public projects, but also in private construction.

(c) The Developer's goal of the small business mentoring program is not to "spike revenue," but to build truly sustainable subcontractors' capacity and capability.

2.3. Local Firm Outreach and Engagement. As part of the Developer's overall outreach and engagement plan for the Courthouse, a focus on local subcontracting and labor will be prioritized. Key elements of this focused, good faith effort will include:

(a) Targeted advertising to local firms which may have scopes related to the Project, and correspondingly making the market aware of the Developer's intent to maximize the use of local firms. This will apply not only to first tier subcontractors, but also to lower tier subcontractors (and communicated as part of first tier subcontracting efforts).

(b) Leveraging important local and industry media channels to advertise for local firms, such as: Miami-Dade County media, Miami-Dade County construction events and construction placement agencies, and construction industry bidding resources such as McGraw Hill and others.

(c) Conduct workshops, properly advertised, to encourage participation of local firms as part of the team.

(d) Verification of proposed firms' true locale, to ensure this effort actually provides the intended benefit to the Miami-Dade community.

(e) These efforts will similarly apply to services during the O&M phase of the project, such as custodial and food service.

2.4. Local Businesses in Developer's Proposal. The Developer has pre-identified the following local businesses that will be considered to perform various scopes of work for the Project.

Local Business	Address	Work
MCO Environmental, Inc.	7275 N.W. 64 Street Miami, FL	Environmental cleanup
G.P.E. Engineering	4730 N.W. 128 Street Miami, FL	Utilities and paving
Carlson Fence Co., Inc.	8491 NW 64 Street Miami, FL	Fencing and management of traffic

Local Business	Address	Work
Poole & Kent Company of Florida	1781 NW North River Drive Miami, FL	Chilled water lines relocation and connection
CCK Construction Services, Inc.	1125 N.E. 125 Street North Miami, FL	Structural concrete work
Titan Construction Group	1401 S.W. 1 Street Miami, FL	Miscellaneous concrete
Florida Lemark	9627 S. Dixie Highway Miami, FL	Waterproofing
Fisk Electric Co.	10125 N.W. 116 Way Miami, FL	Electrical, low voltage systems
H J Foundation, Inc.	8275 N.W. 80 Street Miami, FL	Foundation work
Solution Construction, Inc.	7955 N.W. 12 Street Doral, FL	Utilities and earthwork
WSP USA, Inc.	2121 Ponce de Leon Blvd. Coral Gables, FL	Mechanical and electrical design
DESIMONE Consulting Engineers	800 Brickell Avenue Miami, FL	Structural design
NV5	14486 Commerce Way Miami Lakes, FL	Geotechnical engineers
Manuel G. Vera and Associates Land Surveyors	13960 SW 47th Street Miami, FL	Surveying services
Kimley Horn & Associates	355 Alhambra Circle Coral Gables, FL	Site civil design

The Developer has engaged with many other firms during the RFP phase with a view to continuing the procurement and local outreach efforts during pre-construction and construction phases of the Project. As the Project progresses, more local firms will be identified and considered to perform various scopes of work per Section 2.3 (Local Outreach and Engagement) of this Attachment.

APPENDIX 3

FINANCIAL CLOSE PROCEDURES AND CONDITIONS

APPENDIX 3

FINANCIAL CLOSE PROCEDURES AND CONDITIONS

1. DEFINITIONS AND SECTION REFERENCES

1.1. Definitions. In this Appendix, in addition to the definitions set out in this Project Agreement, the following capitalized terms have the meanings set forth below:

"Construction Cost Index" means the Construction Cost Index for the 20-city average as published by Engineering News-Record, for which the base year is 1913 United States Department of Labor, Bureau of Labor Statistics, for which the base year is 1913 = 100.

"County Conditions Precedent" has the meaning set forth in Section 3.2 of this Appendix.

"Developer Conditions Precedent" has the meaning set forth in Section 3.1 of this Appendix.

"Escrow Agent" means U.S. Bank National Association.

"Financial Close Amendment" shall have the meaning set forth in Section 7.2 of this Appendix.

"Key Financial Event" means a fluctuation in the Benchmark Interest Rates during the Benchmark Interest Rate Protection Period that would result in an upward adjustment to the Capital Charge pursuant to Section 11 of more than 20%, or, in the reasonable opinion of the County, is likely to result in an upward adjustment to the Capital Charge of more than 20%.

"Market Disruption Event" means (i) a general banking moratorium has been declared by either federal or New York authorities having jurisdiction and is in force, (ii) the Benchmark Interest Rates are not available to the market, including for example the applicable Bloomberg screen page is not available or is not publishing such rates and no alternative commercially available source for obtaining such rates at such time has been generally recognized by the financial markets as an accurate and reliable source for the quotation of such rates; (iii) there shall have occurred any outbreak of hostilities or escalation of current hostilities, declaration by the United States of a national or international emergency or war or the occurrence of any other calamity or crisis, the effect of which, in each case, on financial markets of the United States is such that it would materially adversely affect the applicable debt market; (iv) there shall be in force a general suspension of trading on the New York Stock Exchange or any major United States securities exchange, or the establishment of minimum or maximum price or prices on any such major United States securities exchange for trading securities shall have been fixed and be in force; (v) the occurrence of a material disruption in commercial banking or securities settlement, payment or clearance services in the United States, the effect, directly or indirectly of which on the financial markets of the United States that materially adversely affect the market for the applicable debt instruments; and (vi) the market price of the applicable debt instruments, or the market price or sale thereof generally of obligations of the general character of the applicable debt instruments, would be adversely affected because (i) additional material restrictions not in force as of the Effective Date shall have been imposed upon trading in securities generally by any governmental authority or by any national securities exchange or (ii) the New York Stock Exchange or other national securities exchange, or any governmental authority, shall impose, as to the applicable debt instruments or similar obligations, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by, or the charge to the net capital requirements of, financial institutions.

"Proposal Validity Period End Date" means January 27, 2020.

1.2. Section References. All Section references in this Appendix are to Sections of this Appendix, except Section references explicitly made to Sections or Articles of this Project Agreement.

2. FINANCIAL CLOSE

2.1. Financial Close Conditions. Financial Close will occur upon:

(a) Satisfaction (or waiver by the County) of each of the Developer Conditions Precedent as identified below in Section 3.1 of this Appendix; and

(b) Satisfaction (or waiver by the Developer) of each of the County Conditions Precedent as identified in Section 3.2 of this Appendix.

2.2. Closing Checklist and Timeline. Without limiting or otherwise modifying either party's obligations under this Project Agreement in respect of Financial Close:

(a) No later than five Business Days following the Effective Date, the Developer shall submit to the County for its acceptance, acting reasonably, a closing checklist and timeline identifying all documents, submissions and other actions (including actions of the parties and any required action of a third party) then reasonably anticipated by the Developer to be necessary to achieve Financial Close by the Financial Close Deadline; and

(b) The parties shall use all reasonable efforts to deliver, respond to and comment on documents, including draft documents, necessary to satisfy the Financial Close Conditions in conformity with the closing checklist and timeline, as accepted by the County in accordance with Section 2.2.(a) above.

2.3. Certifications. Any matter that must be "certified" by a party under this Appendix must be certified in writing by an authorized representative of such party and any such written certification must be in form and substance reasonably acceptable to the party receiving such certification.

3. CONDITIONS PRECEDENT TO FINANCIAL CLOSE

3.1. Developer Conditions Precedent. The Developer shall satisfy the following conditions precedent to Financial Close (each a "**Developer Conditions Precedent**"):

(a) The Senior Financing Agreements, the equity contribution agreements, the Project Contracts and any amendments or supplements thereto, are in a form and substance reasonably acceptable to the County (the County may only withhold its approval if the relevant document fails to comply with the terms of this Project Agreement, or is otherwise inconsistent with the relevant term sheet provided in the Proposal, as modified on account of the occurrence of Key Financial Events); and the Developer has provided fully executed versions of each such document to the County that are certified by the Developer as being true, complete and accurate copies of the originals;

(b) The Developer has provided the County with a counterpart of the Lenders' Remedies Agreement and the Project Contractor Collateral Agreements, in each case, (1) executed by an authorized officer of each party thereto other than the County and (2) in the form set forth in the Transaction Form C;

(c) All conditions precedent to closing and funding the Senior Debt under the Senior Financing Agreements have been met (or otherwise waived) and the Developer has provided the County with a certificate evidencing the same;

(d) The Developer has delivered: (1) to the Escrow Agent not less than five Business Days prior to the anticipated Benchmark Interest Rate Adjustment Date, (i) an updated unrestricted electronic version of the Initial Base Case Financial Model, which version incorporates any amendments made between the Effective Date and such day, and (ii) the books and documents setting forth all assumptions, calculations and methodology used in the preparation of the financial model and any other documentation necessary or reasonably requested by the County to operate the financial model; and (2) to the County on or before the Financial Close Date, an update to the model audit report previously submitted by the Developer(dated July 30, 2019), which update shall be in compliance with Section 17.2 (Financial Model Updates) of this Project Agreement;

(e) All representations and warranties of the Developer under this Project Agreement are true and correct in all material respects when made and at the Financial Close Date, and the Developer has delivered to the County a certificate certifying the same;

(f) On the Financial Close Date, there is no Developer Event of Default (or event that, with the passage of time or the giving of any notice, would become a Developer Event of Default);

(g) The Developer has provided the County with an insurance binder or copies of certificates of insurance for all Required Insurance required to be in place on or before Financial Close and a certificate from the Developer certifying compliance with the Insurance Requirements as of Financial Close and that all Required Insurance has been obtained and are in full force and effect;

(h) The Developer has provided the County with such documents and certificates as the County may reasonably request evidencing the organization, existence and good standing of the Developer, the authorization of the entry by the Developer into this Project Agreement and the Project Contracts to which it is a party, all in form and substance reasonably satisfactory to the County;

(i) The Developer has provided the County with a legal opinion of the Developer's counsel in form and substance customary for project finance transactions; and

(j) The Developer has executed the escrow agreement in accordance with the requirements set out in Attachment 3A (Financial Model Escrow).

3.2. County Conditions Precedent. The County shall satisfy the following conditions precedent to Financial Close (each a "**County Conditions Precedent**"):

(a) All representations and warranties of the County under this Project Agreement are true and correct in all material respects when made and, at the Financial Close Date, the County has performed and complied with all applicable material covenants and obligations of the County under this Project Agreement to have been performed or complied with as of the Financial Close Date;

(b) Subject to Section 3.1(b), the County has executed and delivered to the Developer and each other party thereto the Lenders' Remedies Agreement and the Project Contractor Collateral Agreements;

(c) The County has cooperated with the Developer in attending meetings requiring the County's participation and providing disclosure information to the Developer about the County;

(d) The Miami-Dade Board of County Commissioners has adopted a resolution authorizing execution of the Project Agreement and the County has provided a copy of the resolution to the Developer;

(e) On the Financial Close Date, there is no County Event of Default (or event that, with the passage of time or the giving of any notice, would become a County Event of Default); and

(f) The County has executed the escrow agreement in accordance with the requirements set out in Attachment 3A (Financial Model Escrow).

4. KEY FINANCIAL EVENTS AND MARKET DISRUPTION EVENTS

4.1. County Rights with Respect to Key Financial Events. If a Key Financial Event occurs, then the County may, in its discretion, by written notice to the Developer:

(a) Terminate this Project Agreement pursuant to Section 5.1; or

(b) Take any action pursuant to Section 4.2.

4.2. Mitigation of Key Financial Events Prior to Financial Close. If a Key Financial Event has occurred and the County elects to take action to mitigate the impact of the Key Financial Event, the County may, in consultation with the Developer and upon approval by its Board of County Commissioners, attempt to mitigate the impact of the event by:

(a) Increasing the Capital Charge by an amount in excess of twenty percent (20%) of the amount of the Capital Charge on the Effective Date;

(b) Requiring the Developer to introduce alternative sources of debt or debt structures into its financial plan, in which case the County may require the Developer to use reasonable efforts to conduct a timely, transparent financing competition to identify and arrange for the lowest-priced debt financing commercially available on terms reasonably satisfactory to the Developer; provided, that the Developer shall be entitled to recoup from the County the reasonably incurred costs associated with such a funding competition; or

(c) Taking any other action mutually agreed upon by the County and the Developer, including those which may be proposed by the Developer to mitigate any material adverse change in the Developer's overall risk profile with respect to the Project.

4.3. Developer Rights with Respect to Market Disruption Events. If a Market Disruption Event occurs, then the Developer may, in its discretion, by written notice to the County:

(a) Terminate this Project Agreement pursuant to Section 5.2 or take any of the following actions:

(i) Incorporate alternative sources of debt or debt structures into its financial plan, in which case the County may require the Developer to use reasonable efforts to conduct a timely, transparent financing competition to identify and arrange for the lowest-priced debt financing commercially available on terms reasonably satisfactory to the Developer; provided, however, that the Developer shall be entitled to recoup from the County the reasonably incurred costs associated with such a funding competition; or

(ii) Take any other action mutually agreed by the County and the Developer, including those which may be proposed by the Developer to mitigate any material adverse change in the Developer's overall risk profile with respect to the Project.

5. TERMINATION PRIOR TO FINANCIAL CLOSE DEADLINE

5.1. County Termination Prior to Financial Close Deadline – Key Financial Events. To the extent that the County makes an election pursuant to Section 4.1(a), then this Project Agreement will terminate upon 15 days' written notice to the Developer and, in such event, the County shall have no right to draw on the Financial Close Security and shall promptly return the Financial Close Security; provided, that the County will suspend its notice of termination, if within 10 days after delivery such notice to the Developer, the Developer confirms to the County in writing that:

(a) The Developer shall limit the relevant increase in the Capital Charge to 20% or less, without any changes in the Term, or any other changes in the Capital Charge or other Proposal commitments or terms and conditions of this Project Agreement; and

(b) The Developer shall conduct, at its own cost and expense, a timely, transparent process to identify and arrange for the lowest-priced debt financing commercially available on terms reasonably satisfactory to the Developer;

and provided, further, that the County's notice of termination will remain suspended for a maximum period equal to the lesser of (1) the period during which the Developer diligently pursues such debt financing or (2) 90 days after the date on which the Developer has provided such written confirmation to the County. At the end of such suspension period the County is not entitled to draw on the Financial Close Security and shall promptly return the Financial Close Security to the Developer and the obligations of the parties will be the same as if the Developer's election pursuant to this Section 5.1 had not occurred. If the County terminates this Project Agreement pursuant to this Section 5.1 and the Developer has complied with all of its obligations under this Project Agreement at the time of termination, the County shall pay the Developer the Financial Close Termination Sum in accordance with and as determined pursuant to Appendix 13 (Compensation on Termination).

5.2. Developer Termination Prior to Financial Close Deadline. The Developer may terminate this Project Agreement without forfeiting its Financial Close Security if:

(a) a Key Financial Event occurs and one of the following occur:

(i) The County notifies the Developer that it will not take any action pursuant to Section 4.2;

(ii) The County takes action pursuant to Section 4.2 but, after taking into account the effect of such action, the Equity IRR would be less than the Equity IRR would have been had the Key Financial Event not occurred; or

(iii) The County does not, within 25 Business Days of receiving a written request from the Developer, notify the Developer of its intent to take any action pursuant to Section 4.2; provided, that the Developer shall not under such circumstances be required to consummate Financial Close until such period shall have lapsed; or

(b) the Developer exercises its termination right under Section 4.3.

Upon such termination, if the Developer has complied with all of its obligations under this Project Agreement, and so long as the County is not disputing in good faith pursuant to Article 18 (Dispute Resolution) whether the Developer has the right to terminate this Project Agreement, the County, within five Business Days after the County's receipt of notice of such termination, shall return to the Developer the Financial Close Security and shall pay the Developer the Financial Close Termination Sum in accordance with and as determined pursuant to Appendix 13 (Compensation on Termination).

6. IMPLEMENTATION OF COUNTY AND DEVELOPER ELECTIONS

To the extent that the County makes an election pursuant to Section 4.2 or the Developer issues a written notice pursuant to Section 5.1, then:

(a) If requested by the Developer, the County will extend the Financial Close Deadline by such time as is reasonable given the action that the County elected to take; provided that the Developer extends the expiration date of the Financial Close Security to no earlier than 10 Business Days following the extended Financial Close Deadline; and

(b) The Developer and the County will proceed in taking all actions required to achieve Financial Close in accordance with the requirements of this Project Agreement.

7. ACHIEVEMENT OF FINANCIAL CLOSE

7.1. Delivery of Base Case Financial Model. The Developer shall deliver to the Escrow Agent, on or before the Business Day following Financial Close, an electronic version of the Base Case Financial Model, which version incorporates any amendments agreed to by the County and the Developer between the Effective Date and the Financial Close Date (including any revision to the Capital Charge pursuant to Section 11), together with the books and documents setting forth all assumptions, calculations and methodology used in the preparation of the Base Case Financial Model and any other documentation necessary or reasonably requested by the County to operate the Base Case Financial Model. The Developer shall ensure that the Base Case Financial Model:

(a) Is prepared by or on behalf of the Developer in good faith and in accordance with generally accepted standards prevailing for the preparation of similar models in connection with the project financing of major public works projects of a similar value and nature;

(b) Is audited and verified by an independent recognized model auditor, with a copy of the audit opinion letter provided to the County;

(c) Is the financial model provided to the Senior Lenders for Financial Close purposes and used as the basis for the decision by the Senior Lenders to enter into the Senior Financing Agreements;

(d) Fairly discloses all material cost, revenue and other financial assumptions and projections used by the Developer in determining to enter into this Project Agreement; and

(e) Is treated as Confidential Information in accordance with Section 25.13 (Confidentiality) of this Project Agreement.

7.2. Delivery of Proposed Financial Close Amendment. The Developer shall deliver to the County, on or before the Business Day following Financial Close, proposed revisions to this Project Agreement to reflect any adjustments or amendments which have been accepted or

agreed, as applicable, by the County and the Developer in accordance with Section 11, including the replacement of the Initial Base Case Financial Model as presented in Appendix 17 (Financial Model) with the Base Case Financial Model delivered pursuant to Section 7.1 (upon agreement of the parties, acting reasonably, the "**Financial Close Amendment**").

7.3. Return of Financial Security and Execution of Financial Close Amendments. Upon the satisfaction of each of the Financial Close Conditions identified in Section 2.1, delivery of confirmation of the Required Insurance in accordance with Section 3.1(g) and agreement among the parties, acting reasonably, as to any Financial Close Amendment, (1) the County and the Developer shall execute a Contract Administration Memorandum specifying the Financial Close Date, which Financial Close Date shall take place on or before the Proposal Validity Period End Date or, if the Developer Conditions Precedent or the County Conditions Precedent have not been satisfied with sufficient time to schedule the Financial Close Date on or before the Proposal Validity Period, then the Financial Close Date shall take place on or after February 1, 2020, (2) the County shall return the Financial Close Security to the Developer within 5 Business Days of execution of the aforementioned Contract Administration Memorandum, and (3) the parties shall enter into the Financial Close Amendment.

8. FAILURE TO ACHIEVE FINANCIAL CLOSE BY FINANCIAL CLOSE DEADLINE

8.1. County Termination for Failure to Achieve Financial Close Deadline. The County may terminate this Project Agreement by written notice to the Developer with immediate effect if all of the following conditions have occurred: (1) no Key Financial Event or Market Disruption Event exists; (2) this Project Agreement has not been terminated pursuant to Section 5; (3) each County Conditions Precedent (other than the conditions specified in Section 3.2(c)) have been satisfied; and (4) any Developer Conditions Precedent is not satisfied or waived in writing by the County on or before the Financial Close Deadline, as such date may be extended under other sections of this Appendix. If the County terminates this Project Agreement under this Section 8.1, the County is entitled to draw and retain the full amount of the Financial Close Security as the sole remedy against the Developer hereunder.

8.2. Developer Termination for Failure to Achieve Financial Close Deadline. If each Developer Conditions Precedent (other than the conditions specified in Sections 3.1(c) and 3.1(e) (in the case of Section 3.1(e), to the extent such Section requires that representations and warranties be correct as at the Financial Close Date; provided that such representations and warranties are correct as at the date when the Developer exercises its rights under this Section 8.2) has been satisfied and any County Conditions Precedent is not satisfied (unless otherwise agreed by the parties) on or before the Financial Close Deadline, then the Developer may terminate this Project Agreement by written notice to the County with immediate effect and the County shall not be entitled to draw on the Financial Close Security. Within 10 days following receipt of termination, the County shall return the Financial Close Security to the Developer and shall pay the Developer the Financial Close Termination Sum in accordance with and as determined pursuant to Appendix 13 (Compensation on Termination).

9. COUNTY CONVENIENCE TERMINATION RIGHT PRIOR TO FINANCIAL CLOSE

The County may terminate this Project Agreement for convenience in accordance with Section 22.2(A) (County Termination Rights) of this Project Agreement at any time during the Financing Period. If the County exercises such right, the County shall return the Financial Close Security to the Developer and shall pay the Developer the Financial Close Termination Sum in accordance with and as determined pursuant to Appendix 13 (Compensation on Termination).

10. POST TERMINATION OBLIGATIONS

If this Project Agreement terminates pursuant to this Appendix, neither party will have any obligation or liability to the other party, except:

(a) Any County entitlement to draw on the Financial Close Security as and to the extent provided in this Appendix;

(b) Any obligation of the County to return the Financial Close Security and pay the Financial Close Termination Sum as and to the extent provided in this Appendix and Appendix 13 (Compensation on Termination);

(c) In respect of any antecedent breach of this Project Agreement (except for any breach contemplated in Section 8.1 or Section 8.2); and

(d) As provided in Section 3.2 (Survival) of this Project Agreement.

11. REVISION OF THE CAPITAL CHARGE TO REFLECT CHANGES IN BENCHMARK INTEREST RATE RISK

11.1. Changes in Financing Terms. If Developer makes changes to the Benchmark Interest Rate index used or changes in the debt structure (e.g., fixed or variable rate, bank financing or bond financing) prior to Financial Close that constitute a deviation from the assumptions in the Initial Base Case Financial Model, unless such deviation is approved by the County (in its discretion), the County shall provide Benchmark Interest Rate protection in accordance with Section 11.2, only on the basis of the Benchmark Interest Rates and debt structure included in the Initial Base Case Financial Model.

11.2. Benchmark Interest Rate Protection Changes. Benchmark Interest Rate protection changes in any Benchmark Interest Rate shall have the following effect:

(a) Subject to the County's rights to terminate under this Appendix for a Key Financial Event, the County will bear the risk and have the benefit of 100% of the impact (either positive or negative) on the Capital Charge of changes in any Benchmark Interest Rate included in the Instructions to Proposers, Attachment to Addendum No. 25 and the Benchmark Interest Rate(s) recorded on the Benchmark Interest Rate Adjustment Date which are used in the Base Case Financial Model update, pursuant to Section 11.3.

(b) The interest rate adjustment will be based on the movement, if any, in the applicable Benchmark Interest Rate.

(c) On the Financial Close Date, the Developer shall adjust the Initial Base Case Financial Model according to the terms of Section 11.3 (Capital Charge Update Protocol).

11.3. Capital Charge Update Protocol. The parties will use the Initial Base Case Financial Model to calculate the change under Section 11.2, positive or negative, in the Capital Charge. The parties shall make such calculation and produce the Base Case Financial Model in the following manner:

(a) As a means of mitigating against the negative impact of any changes in Benchmark Interest Rates for any Bonds or Senior Debt which is part of the Developer's financing, as applicable, on the minimum prevailing debt covenants established in the Initial Base Case Financial Model, the Developer shall optimize, to the extent possible, the maturities and make consequential agreed amendments to the Initial Base Case Financial Model.

(b) The Initial Base Case Financial Model as updated to incorporate any changes resulting from subsection (a), shall be run by the Developer to solve for the lowest possible "interim" Capital Charge, inputting only the changes, if any, in Benchmark Interest Rates as described in Section 11.2, and holding the Initial Base Case Equity IRR constant. As part of this process the Developer will ensure, to be confirmed by the County, that the minimum prevailing debt covenants in the Initial Base Case Financial Model are not breached by adjusting the capital structure.

(c) The Capital Charge shall be the "interim" Capital Charge resulting from the calculations in Section 11.3(b) above.

(d) The interim financial model resulting from the calculations in Section 11.3(b) above shall be adjusted to reflect (1) the Capital Charge determined under Section 11.3(c) above, and (2) all other changes in terms of financing between those assumed and indicated in the Initial Base Case Financial Model and those set out in the Senior Financing Agreements as obtained on the Financial Close Date. The resulting financial model shall be the Base Case Financial Model, and the resulting Equity IRR shall be the Base Case Equity IRR.

(e) Notwithstanding anything in this Appendix to the contrary and without limiting Section 11.1, the Developer shall bear the full risk of changes to any financing terms not explicitly identified within this Section 11.3.

12. REVISION OF THE CAPITAL CHARGE TO REFLECT CHANGES IN DESIGN-BUILD CONTRACT PRICE FOLLOWING THE PROPOSAL VALIDITY PERIOD END DATE

12.1. Financial Close Following the Proposal Validity Period End Date. If (a) Financial Close occurs after the Proposal Validity Period End Date, and (b) the Developer used reasonable commercial efforts to achieve the Developer Conditions Precedent, the Capital Charge shall be adjusted, as part of the Initial Base Case Financial Model update completed pursuant to Section 3.1(d), to reflect the adjustment to the Design-Build Contract Price calculated in accordance with Section 12.2 of this Appendix.

12.2. Calculation of Design-Build Price Adjustments. Subject to Section 12.1 and Section 12.2 of this Appendix, the Design-Build Contract Price will be adjusted to be an amount equal to:

(a) the Design-Build Contract Price,

multiplied by

(b) the percentage equal to:

(i) the Construction Cost Index published the month prior to the Financial Close Date

divided by

(ii) the Construction Cost Index published the month of the Proposal Validity Period End Date.

ATTACHMENT 3A

FINANCIAL MODEL ESCROW

1. ESCROW AGREEMENT FOLLOWING COMMERCIAL CLOSE

1.1. Escrow Agreement. Prior to or on the Financial Close Date, the County and the Developer shall jointly enter into an escrow agreement with the Escrow Agent with respect to the delivery and use of the Financial Model. The agreement shall be in place prior to or commencing on the Financial Close Date and expire upon the date of completion of the Project Agreement. Any and all replacements of the Escrow Agent shall be approved by the County. The escrow agreement shall be in place uninterruptedly throughout the Term of the Project Agreement.

1.2. Delivery of Copies. Developer shall deliver copies of the Financial Model and any books and documents setting forth all assumptions, calculations and methodology used in preparation of the Financial Model that Developer claims as a trade secret (1 printed copy and 2 electronic copies) to the Escrow Agent to be held in custody on terms to be agreed between Developer and the County.

1.3. Escrow Agent to Keep Copies. Developer and County shall instruct the Escrow Agent to keep a printed copy and an electronic copy of all versions of the Financial Model.

1.4. Delivery of County Approved Amendments. Following the approval by the County of any amendment to the Financial Model, Developer shall promptly deliver copies of the revised Financial Model, in the same form as the original Financial Model (or such other form as may be agreed between Developer and the County from time to time), to the Escrow Agent.

2. USE OF FINANCIAL MODEL

2.1. County License for Use of Financial Model. Developer hereby grants to the County an irrevocable, royalty free perpetual, non-exclusive and transferable license, including the right to grant sub-licenses, to use the Financial Model or any revised Financial Model for any purpose in connection with this Project Agreement, whether during or after the Term of the Project Agreement.

2.2. County Not Liable for Financial Model Errors. Developer acknowledges and agrees that the County shall not be liable to Developer for, and Developer shall not seek to recover from the County, or any County Indemnitee, any damages, losses, costs, liabilities or expenses which may arise (whether in contract, tort or otherwise) as a result of any errors in the Financial Model.

APPENDIX 4

DESIGN AND CONSTRUCTION STANDARDS

APPENDIX 4

DESIGN AND CONSTRUCTION STANDARDS

Chapter 119 of the Florida Statutes provides that certain information relating to the physical security of the Facility or revealing security systems be maintained confidential. See Chapter 119.071(3) of the Florida Statutes.

The files in this Appendix are maintained by the County as public records subject to applicable exemptions. All requests for release of such records shall be made to the County's contact identified in Section 25.1(B) of the Project Agreement.

APPENDIX 5

DESIGN AND CONSTRUCTION EXTRACTS

APPENDIX 5

DESIGN AND CONSTRUCTION EXTRACTS

1. CONTENTS

1.1. General. This Appendix represents the Proposal design and construction extracts and other relevant information submitted to the County as part of the Request for Proposals (RFP) process. Consistent with the RFP, Instructions to Proposers, Section 6.3.6, Updates to Proposal Plans, the information included in this Appendix reflects the comments and design input provided by Miami-Dade County, the Eleventh Judicial Circuit Court, and the Clerk of Courts at the time of finalizing the Project Agreement.

1.2. Scope. The scope of this Appendix includes the following incorporated herein by reference:

(a) Floor Plans, Architectural Renderings, and Site Plans dated October 8, 2019 which will be superseded by any conforming revisions mutually agreed by the parties; and

(b) Outline Specifications submitted with the Proposal.

2. DESIGN DEVELOPMENT

2.1. Incorporation. The Developer shall incorporate the designs, layouts, materials, and specifications contained in this Appendix as the basis for the design submittal required in Section 3.2 of Appendix 6 (Design-Build Work Review Procedures), subject to the County design review rights and obligations contained in Section 4 of Appendix 6.

3. SECURITY OF INFORMATION

3.1. Security Sensitive. Chapter 119 of the Florida Statutes provides that certain information relating to the physical security of the Facility or revealing security systems be maintained confidential. Chapter 119.071(3) of the Florida Statutes provides that building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of the Facility are exempt from disclosure under the public records law. Developer acknowledges that such materials described in this paragraph shall be Confidential Information as defined in the Project Agreement and pursuant to Section 25.13 (Confidentiality). The Developer shall use all commercially reasonable methods to ensure that such Confidential Information portions of this Appendix are held confidentially.

3.2. Location of Records. The files in this Appendix shall be maintained by the County as public records subject to applicable exemptions. All requests for release of such records shall be made to the County's contact identified in Section 25.18(B) of the Project Agreement.

APPENDIX 6

DESIGN-BUILD WORK REVIEW PROCEDURES

APPENDIX 6

DESIGN-BUILD WORK REVIEW PROCEDURES

1. GENERAL

1.1. Purpose. The purpose of this Appendix is to set forth the procedures for the County's review of each aspect of the Design-Build Work to verify that the Project has been designed and constructed in accordance with the Contract Standards.

1.2. Communication Between the Parties. The Developer shall submit five copies of a draft communication plan for review and comment by the County no later than 30 days after the Financial Close Date. The communication plan shall include both Developer and County phone numbers, e-mail addresses, and points of contact (the **"Communication Plan"**). The Communication Plan shall be organized as a directory available to Developer and County personnel and shall outline points of contact under various circumstances, including emergencies. The County shall review the draft Communication Plan and return comments within 30 days of the initial submittal. Thirty days following the return of comments on a draft communication plan, the Developer shall submit to the County five copies of a final version of the Communication Plan incorporating the County's requested changes. The Communication Plan shall be updated and resubmitted semi-annually as required to remain current during the Design-Build Period.

1.3. Meetings. The Developer shall hold meetings that are separate from and in addition to job progress meetings, and shall prepare correspondence, and make any other arrangements to coordinate the Design-Build Work. Such meetings may include review of the Project Schedule and installation procedures of other contractors to identify potential conflicts, allocation of space on the Project Site, drawing/design interchange among contractors, establishment and modification of schedules and sequences of construction operations, and planning of future meetings.

1.4. Definitions. Terms are defined throughout this Appendix and are to be used in addition to the definitions set out in Section 1.1 (Definitions) of this Project Agreement.

2. PROJECT SCHEDULE AND SCHEDULING

2.1. Initial Project Schedule. Attached as Attachment 6A to this Appendix is the initial project schedule (the "**Project Schedule**"), which the parties have relied upon in entering into this Project Agreement. Such initial Project Schedule shall include detailed design, permitting, procurement and Demolition Work schedules with summary construction, commissioning and closeout activities schedules. An updated Project Schedule with detailed construction, commissioning and closeout activities schedules shall be delivered to the County no later than 60 days prior to the start of construction.

2.2. Project Schedule Updates. The Developer shall, as required from time to time until the Occupancy Readiness Date, but no less than once per calendar month, in consultation with the County update the Project Schedule so that it is at all times an accurate, reasonable and realistic representation of the Developer's plans for the completion of the Design-Build Work in accordance with the requirements of this Project Agreement. The updates shall include:

(a) adjustments resulting from Supervening Events and Design and Construction Requirement Changes, if any, as permitted by this Project Agreement;

(b) as the design progresses, best estimates of:

(i) the start and completion dates for the design phases described in this Appendix: and

(ii) the commencement of construction;

(c) the planned start and completion dates of the major activities of construction; and

(d) the estimated date on which the Occupancy Readiness Date is expected to occur.

The Developer shall deliver an updated Project Schedule monthly to the County and, upon delivery, the updated Project Schedule (the "**Updated Project Schedule**") shall be the Project Schedule under this Project Agreement in substitution for the previously issued Project Schedule.

2.3. Compliance with Project Schedule. The Developer shall undertake the Design-Build Work of the Project in compliance with the Project Schedule as replaced by each Updated Project Schedule.

3. DEVELOPER DESIGN PROCESS

3.1. Phases Generally. The Developer shall cause the Design-Builder to undertake the design in phases progressively, with each phase capturing the information and detail provided in a previous phase.

3.2. Design Development Phase. This phase shall include drawings and other documents, including a site plan, elevations and sections, together with a written Project brief detailing area calculations, building systems and outline specifications, to fully describe the size and character of the entire Project including the architectural, structural, mechanical, and electrical systems, materials and other elements. At the end of the design development phase, a complete design development package when the design is approximately 35% complete shall be delivered to the County with sufficient time, as established and agreed upon within the Project Schedule, for the County to confirm the compliance and consistency of the design with the Design and Construction Requirements.

3.3. Construction Drawings Phase. This phase shall include construction documents consisting of drawings and specifications describing in detail the requirements for the construction of the Project delivered to the County when the design of the Project is:

(a) approximately 65% complete; and

(b) approximately 95% complete.

The design development package and construction documents required per Section 3.2 and Section 3.3 of this Appendix (the **"Design and Construction Submittals"**) shall be delivered to the County in a timely way in advance of construction with sufficient detail to permit the County to understand and assess the design of the Project. If the Developer intends to proceed with construction of one element of the Project in advance of the completion of the design of the entire Project, then the Developer shall deliver the 65% and 95% construction documents for that element with sufficient accompanying detail to permit the County to understand and assess the design of that element. The County Representative shall verify that the Design and Construction Submittals comply with the Design and Construction Requirements (as modified to reflect changes to the Design and Construction Requirements agreed upon by the parties pursuant to Article 7 (Design and Construction) of this Project Agreement as to certain deviations (the "**Agreed-Upon Deviations**")). Within thirty (30) days after delivery of each Design and Construction Submittal to the County Representative, the County Representative shall issue a report that sets forth the specific instances in which the Design and Construction Submittal do not comply with the Design and Construction Requirements (as modified by Agreed-Upon Deviations) ("**Noncompliance Items**") or certifying that the Design and Construction Submittal, as applicable, complies with the Design and Construction Requirements. The Developer shall then be responsible for revising the Design and Construction Submittal, as applicable, to

eliminate the Noncompliance Items, except to the extent the parties agree to one or more Agreed-Upon Deviations. For revisions made by the Developer in order to correct Noncompliance Items prior to the 95% submission, the revisions shall be verified by the County at the subsequent submission. For revisions made by the Developer in order to correct Noncompliance Items after the 95% submission, the revised set shall be submitted to the County Representative for confirmation that any required changes have been made. Once the County Representative confirms that any required changes have been made to the construction documents that are 95% complete, the resultant set of construction documents shall be deemed to be the "**Final Documents**." The County and the Developer acknowledge and agree that the Final Documents shall constitute the agreement of the parties as to specific changes to the Contract Standards as contemplated by subsection 7.1(B) (Developer Control of the Design-Build Work; No County Responsibility) of this Project Agreement so that the Final Documents satisfy all of the Contract Standards. The Developer shall be required to perform the construction in accordance with the Final Documents and the Project Agreement.

3.4. Documentation Generally. In each phase, the Developer shall provide to the County the level of detail and documentation that an owner would customarily receive for a facility similar to the Project in accordance with Good Design-Build Practice.

3.5. Conditions to Issuance of Construction Drawings. The Developer shall only issue drawings and specifications for construction purposes based on drawings and specifications that have been reviewed by the County Representative or with respect to drawings for which the County's right of review and comment has been deemed to have been waived under this Appendix or this Project Agreement.

3.6. Advisory Group Consultations. The design must be carried out with appropriate consultation with representatives of the County-designated project advisory group.

3.7. Document Control and Coordination. The Developer shall ensure that all documentation submitted to the County as part of the design process:

(a) indicates the design phase to which it relates;

(b) describes and explains changes from the Design and Construction Requirements; and

(c) is provided in a format and number of copies reasonably acceptable to the County.

3.8. Mock Ups. The Developer shall prepare "'mock ups" of the courtrooms and other elements of the Courthouse included in the Developer's design in accordance with the Design and Construction Requirements.

3.9. Document Submittal Protocol. No later than 30 days following the Financial Close Date, the Developer shall submit to the County a document submittal protocol ("**Document Submittal Protocol**"). The Document Submittal Protocol shall identify the key document submittal packages to be prepared by the Developer, the expected submittal dates to the County and the expected dates for County responses, which shall be based on and consistent with the Project Schedule. The Document Submittal Protocol shall require the Developer to submit an electronic file in agreed upon format and five paper versions and shall also require the Developer to distribute the document submittals as directed by the County. Additionally, at no cost to the County, the Developer will post the document submittals in a cloud based PDF markup and editing software such as Bluebeam Revu to facilitate County review and comment and Developer response, and to facilitate tracking the status of responses.

4. COUNTY DESIGN REVIEW

4.1. Integrated Design Review Procedures. In accordance with the terms and conditions of this Project Agreement, the County shall review the Developer's Design Documents for compliance and consistency with the Design and Construction Requirements. The County's input to the design process shall be solicited by the Developer periodically or as otherwise requested by the County. The County shall make reasonable efforts to bring staff or representatives with review and decision-making authority to the work sessions as requested and scheduled by the Developer. The Developer shall provide the County with advance notice of the work sessions and agenda topics to facilitate the County's scheduling of the appropriate participants for the work sessions.

4.2. Changes to Design and Construction Requirements. Any change to the Design and Construction Requirements (regardless of prior oral discussion) must be clearly identified by the Developer in its cover letter that transmits the submittal. Any such change shall comply with the requirements set forth in Article 7 (Design and Construction) of this Project Agreement, as applicable.

4.3. Time for County Review. The County shall complete its review of each submittal in a timely manner in accordance with the Document Submittal Protocol, or otherwise within the time periods set forth in Section 25.9 (County Approvals and Consents) of this Project Agreement. The Developer and the County shall periodically review the Document Submittal Protocol, which defines key submittals and the target submittal dates, and develop a submittal review schedule for each submittal based on the content and criticality of the submittal. If the County does not respond to a request for review or comment within the time periods specified in the Document Submittal Protocol (or if not specified in the Document Submittal Protocol then as specified in Section 25.9 (County Approvals and Consents) of this Project Agreement), the County's right of review or comment shall be deemed waived and the submittal shall be deemed to be approved in accordance with the provisions of the last two sentences of subsection 7.1(B) (Developer Control of the Design-Build Work: No County Responsibility) of this Project Agreement. Nothing in this Section shall prevent the County from conducting a subsequent review raising a question as to whether the submittal was in compliance with the Design and Construction Requirements. If the submittal is determined not to be consistent with the Design and Construction Requirements, the County shall have the right to require the Developer to make any necessary changes to the Design-Build Work as a County-Directed Design and Construction Requirement Change under Section 7.12 (Design and Construction Requirement Changes Made at County Direction) of this Project Agreement.

4.4. Time for Developer Response. For each submittal, the County shall provide written comments in a tabular summation as to any concerns, problems, or non-compliance of such submittal with the applicable Contract Standards, including Appendix 5 (Design and Construction Extracts). The tabular summation shall be on a form created mutually by the Developer and the County, with provisions on the form for the Developer's responses. The Developer shall provide a written response to the County's comments within the time periods set forth in the Document Submittal Protocol, or otherwise within 10 Business Days of receipt of the County's comments, primarily through use of the tabular summary form, including documentation of responses and agreed upon action items.

4.5. Design Progress Meetings. For the purpose of facilitating the design and design review process, the Developer shall schedule design progress meetings with the County on a routine basis and at least bi-weekly (every two weeks) throughout the design development

period. Any outstanding review comments not satisfactorily resolved shall be transferred to an issues tracking form by the Developer for subsequent follow-up. The primary purpose of these meetings shall be to discuss overall design progress, the conformance of the design to the Design and Construction Requirements, and to address outstanding issues arising from the review and response process. The status and issues of related permitting and early construction activities may also be included as agenda items for each design progress meeting. These meetings shall be held at a convenient site acceptable to the County. Developer representatives with responsibility for design shall participate in the meeting. Similarly, the County shall be appropriately represented by individuals with knowledge and authority for decision making at the meeting. Design progress meetings may coincide with construction progress meetings.

4.6. Design Submittals During Construction. It is anticipated that there could be some redesign or design clarifications needed during construction. This continuing design effort shall be subject to the County's review for compliance and consistency with the Design and Construction Requirements in the same manner as set forth in Section 3 of this Appendix. Material design changes to a particular Design Document performed following the issuance of the Design Document for construction shall be issued under a Design Change Notice **("DCN")** process that accurately tracks and documents changes to the design. No later than 30 days prior to initiation of construction, the Developer shall submit to the County additions to the Document Submittal Protocol to include the DCN process. The DCN process shall include provisions for the County to be provided with copies of all DCNs in a timely manner to allow review, comment, and, where appropriate, approval in the same manner as set forth in Section 3 of this Appendix. Design clarifications shall be issued in a timely manner using a similar procedure. If a DCN requires a material change from what was reflected in the applications for Governmental Approvals, the DCN must be approved by the appropriate Governmental Body if required by Applicable Law.

4.7. Design Change Authority. The Developer shall be responsible for providing design changes to the Design Documents to the extent necessary to complete the Project in accordance with this Project Agreement and the Design and Construction Requirements. All such material changes shall be implemented in accordance with the DCN process described above, in accordance with Section 3 of this Appendix, and in compliance with Article 7 (Design and Construction) of this Project Agreement. No DCN shall operate to change the Design and Construction Requirements unless approved by the County in writing. Any DCN which requests a change to the Design and Construction Requirements shall be subject to the County's rights under Article 7 (Design and Construction) of this Project Agreement.

4.8. Other Design Changes. The procedures to be followed for incorporating design changes made due to Compensation Events or design changes at County direction are specified in Sections 7.11 (Design and Construction Requirement Changes Made Due to Compensation Events) and 7.12 (Design and Construction Requirement Changes Made at County Direction), respectively, of this Project Agreement.

5. CONSTRUCTION MEETINGS AND REPORTS

5.1. Preconstruction Conference. The Developer, as part of its activities under the Design-Build Quality Management Plan required under Section 6 of this Appendix, shall hold a preconstruction conference prior to commencement of construction of every major component of the Project, and shall also hold pre-installation meetings as appropriate. The Developer shall prepare an agenda which shall be reviewed with the County, and shall preside at the conference, contribute appropriate items for discussion, provide any data requested, record minutes to summarize significant proceedings and decisions, and distribute the minutes to all

parties in attendance. The agenda shall include, but shall not necessarily be limited to, the status of the following items:

(a) Designation of responsible personnel during the Design-Build Period;

(b) Project Contractors and Subcontractors, and their roles on the Design-Build Work;

(c) Coordination with other contractors and projects;

(d) Project Schedule;

(e) Procedures for Developer submittals and County review;

(f) Schedule of Developer submittals;

(g) Processing of Requests for Information and Clarification;

(h) Required Design-Build Period Insurance;

(i) Developer's site-specific Health and Safety Plan;

(j) Security;

(k) Housekeeping;

(l) Field offices;

(m) Record drawings;

(n) Proposed construction start date;

(o) Governmental Approvals;

(p) Emergency telephone numbers;

(q) Temporary Utilities/Utilities Coordination; and

(r) Any other Design-Build Work-related items.

The preconstruction conference shall be scheduled by the Developer at a time reasonably acceptable to the County and shall be attended by all Key Individuals identified in Appendix 15 of this Project Agreement.

5.2. Construction Progress Meetings. The Developer shall schedule, hold, and facilitate regular biweekly (every other week) progress meetings from the time mobilization for construction commences through Final Completion and at other times if requested by the County or as the Developer deems necessary. The progress meetings shall be attended by the Developer's Project Manager, the Lead Contractor's Project Manager, and the Developer's principal Subcontractors and suppliers, as the Developer deems appropriate. Key Individuals identified in Appendix 15 of this Project Agreement shall attend construction progress meetings periodically and as requested by the County. Other attendees may include any other contractors whose work affects or is affected by construction of the Project, and others deemed appropriate by these parties. The County shall attend the biweekly progress meetings. Construction progress meetings shall be held at the Project Site or any mutual agreeable alternative location.

5.3. Progress Meeting Agendas. At such progress meetings, discussions shall be held concerning all aspects of the Design-Build Work including, but not limited to, schedule of work, coordination of work with others, permits, Design-Build Work submittals, and any test results. The Developer shall prepare an agenda, preside at meetings, record minutes to include significant proceedings and decisions, and distribute the minutes to all parties in attendance within five (5) Business Days of the meeting. The agenda shall include, but shall not necessarily be limited to, the status of the following matters:

(a) Transcript of previous meeting;

(b) Progress since last meeting (Developer and Subcontractors);

(c) Schedules, including planned progress for next six weeks, off-site fabrication and delivery schedules; corrective action measures, if required;

(d) Problems, conflicts and observations;

(e) Change Orders and Project Agreement Amendments;

(f) Status of submittals;

(g) Requests for Information;

(h) Quality standards and control;

(i) Quality assurance and quality control status and issues;

(j) Coordination between parties;

(k) Safety concerns, accidents, and injuries;

(l) Visits by regulatory agencies;

(m) Public affairs and concerns of nearby businesses;

(n) Tours;

(o) Environmental issues;

(p) Record drawings;

(q) Other business; and

(r) Next meeting date.

5.4. Monthly Progress Reports. Monthly progress reports required to be submitted by the Developer shall include:

(a) A summary of Design-Build Work activities during the reporting month;

(b) A schedule of upcoming Design-Build Work activities;

(c) A listing of submittals delivered during the reporting month and their status;

(d) A listing of submittals scheduled for delivery the following month;

(e) The Developer's verification that the record documents have been updated as appropriate;

(f) A summary of progress towards obtaining Governmental Approvals;

(g) A listing of any violations of Governmental Approvals or Applicable Law and actions taken or to be taken to eliminate any subsequent violations;

(h) A listing of issues needing resolution;

(i) A listing of all telephone calls received during the reporting month involving material inquiries or complaints related to the Project;

(j) Project Schedule updates; and

(k) The Developer's plan for accelerating the schedule to meet the Scheduled Occupancy Readiness Date should the Developer's progress-to-date indicate

that the Developer's Design-Build Work is behind schedule (as adjusted for extensions of time permitted under this Project Agreement).

The monthly progress report shall also provide a description of any concerns or issues raised regarding the Design-Build Work and the Developer's approach to promptly addressing the issue. The monthly progress report shall also include a section containing health and safety statistics. The format of the report shall be approved by the County.

5.5. Project Records. Notwithstanding any other provision of this Project Agreement:

(a) Record Drawings and Specifications: The Developer shall:

(i) Throughout construction, update the Design Documents (with respect to the drawings, such update shall be in hardcopy and "CAD" or other electronic format reasonably acceptable to the County's Representative), including approved shop drawings that are available from Project Contractors and Subcontractors in CAD format, so as to produce accurate and complete record documents for the Project;

(ii) Throughout construction, provide a web-based electronic document tracking system which tracks the Design Documents in real time (i.e., Procore, Prolog, Newforma or Expedition) and provide the County Representative and Independent Building Expert with access to view all Design Documents; and

(iii) Provide a hardcopy of the completed record drawings and specifications and final updated CAD drawings to the County's Representative as a condition to Final Completion.

(b) Maintenance Manuals: The Developer shall:

(i) As a condition to Final Completion, make available all maintenance manuals, specifications, warranties and related information, in either written or electronic form, for all the equipment and systems that have been included in the Design-Build Work of the Project for review by the County Representative; and

(ii) Organize and store such information in accordance with Appendix 14 (Reports and Records).

(c) Design Records: The Developer shall retain records of the design development.

(d) Minutes of Meetings: The Developer shall retain minutes of meetings between the County and the Developer relating to the Design-Build Work, and shall circulate such minutes to the County Representative for review and comment.

(e) Inspection Reports and Tests Results: The Developer shall retain official reports and certified test records of all inspections and tests which were undertaken as part of the construction.

(f) Utility Plans: The Developer shall retain Utility plans for the Project and the Project Site.

(g) Landscape and Irrigation Plans: The Developer shall retain landscape and irrigation plans for the Project and the Project Site.

(h) Copies of all Governmental Approvals: The Developer shall retain copies of all Governmental Approvals for the construction and occupation of the Project.

(i) Signed Design-Build Quality Management Plan: The Developer shall retain a signed copy of the Design-Build Quality Management Plan for the construction

and all records of the quality assurance program implemented as required by this Project Agreement.

6. QUALITY MANAGEMENT

6.1. Quality of the Design-Build Work. The Developer is solely responsible for the quality of the Design-Build Work and acknowledges that a comprehensive quality management system is critical for the proper and timely completion of the Design-Build Work.

6.2. The Developer's Quality Consultant. The Developer shall retain a qualified expert in quality management (or designate a Developer Person who is such an expert) ("Developer's Quality Consultant") to develop a Design-Build Quality Management Plan.

6.3. Design-Build Quality Management Plan. Within 15 Business Days of the Financial Close Date, the Developer shall deliver to the County a draft quality management plan (the "Design-Build Quality Management Plan") that describes the implementation of the quality control system. The County may, within 30 days of receipt of the Design-Build Quality Management Plan, provide comments on it to the Developer and the Developer shall, acting reasonably, take account of the comments in finalizing the Design-Build Quality Management Plan. The Developer shall promptly implement and strictly comply with the Design-Build Quality Management Plan as recommended by the Developer's Quality Consultant.

6.4. Reporting. The Developer shall deliver to the County a quarterly report of the Design-Build Quality Management Plan prepared by the Developer's Quality Consultant covering all aspects of the Design-Build Work completed in the reporting period that are relevant to the Design-Build Quality Management Plan. The Developer shall highlight any deficiencies identified and corrective actions taken to address such deficiencies during the period covered by such report.

6.5. Quality Review by the County. The County may, at its discretion, perform its own audits of the Design-Build Quality Management Plan and for that purpose the Developer shall make available for review by the County, upon request from the County, all records relating to the Design-Build Quality Management Plan.

7. ENVIRONMENTAL REVIEW AND PROTECTION

7.1. Company Construction Environmental Monitor. The Developer shall assign a Company Construction Environmental Monitor ("CCEM"), who may be a current qualified Project staff member, to ensure compliance with environmental laws and regulations governing construction, the management of Hazardous Substances and the disposal of Hazardous Substances. The CCEM shall be the single, identified entity or person responsible for, coordination with the County and Governmental Bodies, and compliance with environmental Governmental Approvals. All environmental monitoring duties conducted by the CCEM shall be recorded in the form of a standard report and photographic log (as required by Applicable Law). The photographic log shall be kept in both electronic and hardcopy form. All reports shall be submitted to the County in summary form on a monthly basis.

7.2. Hazardous Substances Management Program. The Developer shall develop and maintain a written Hazardous Substances Management Program that includes as a minimum, but is not limited to, the requirements specified in Section 7 (Environmental Review and Protection). A copy of the Hazardous Substances Management Program shall be submitted to the County as soon as practicable but in no event later than the earlier of: (1) 60 days prior any required submission to a regulatory agency pursuant to Applicable Law; and (2)

60 days prior to the commencement of construction of on the Project Site. The interests of the County are that accidental spill, site contamination, and injury of personnel on the site are avoided. The County shall notify the Developer of suspected violations. If in the opinion of the County, the Developer fails to address the suspected violations in a timely and appropriate manner, the County shall notify all appropriate Governmental Bodies, report the suspected violations to them, and request that they inspect the Developer's operations. Any fines that may be levied against the County for violations relating to Developer Hazardous Substances shall be reimbursed immediately by the Developer. All documents required by the Hazardous Substances Management Program shall be made available to the County immediately upon request.

7.3. Developer Hazardous Substances. Any Developer Hazardous Substances shall be the responsibility of the Developer. The Developer shall obtain an EPA identification number for all Developer Hazardous Substances, listing the Developer's name and construction site address as the generator of the Developer Hazardous Substance.

7.4. Emergency/Spill Response Plan. The Developer shall develop an Emergency/Spill Response Plan for each Hazardous Substance or class/group of Hazardous Substances either known to be on the Project Site or intended to be brought to the Project Site by the Developer. At a minimum, the Emergency/Spill Response Plan must contain the following:

(a) A description of the on-site equipment available to contain and respond to an emergency or spill of the Hazardous Substance;

(b) Notification procedures, including notification to potentially impact businesses adjacent to the Project;

(c) Response coordination procedures between the Developer and the County;

(d) A Hazardous Substances Site Plan showing the location of stored Hazardous Substances and location of spill containment and response equipment; and

(e) A detailed description of the Hazardous Substances handling and spill response training provided to the Developer's employees, Project Contractors and Subcontractors.

8. COUNTY CONSTRUCTION INSPECTION AND APPROVALS

8.1. Construction Review Intent. The County shall have the right, as provided in Article 7 (Design and Construction) of this Project Agreement, to periodically review and inspect construction activities and participate in construction progress meetings as needed to verify compliance with the Contract Standards. The County's review and involvement in construction activities is intended to be a part of the County's independent quality assurance process, and shall not be viewed as an additional layer or integral part of the Design-Build Quality Management Plan.

8.2. "Or Equals". Whenever an item of material or equipment is specified in Appendix 4 (Design and Construction Standards) by using the name of a proprietary item or the name of a particular supplier, and is followed by the words "or equal", material or equipment of other suppliers may be considered. The County shall determine, acting reasonably, the acceptability of proposed "or equal" items associated with the Project. The Developer shall allocate adequate time in the Document Submittal Protocol for the County to review and approve all "or equal" items for the Project. Any delays resulting from submittal of

"or equal" items later than as set forth in the Document Submittal Protocol shall be the responsibility of the Developer. The Developer's design personnel shall be permitted to review proposed "or equal" suppliers for the balance of the Project.

8.3. Named Suppliers. Whenever an item of material or equipment is specified in Appendix 4 (Design and Construction Standards) by using the name of a proprietary item or the name of a particular supplier, and is not followed by the words "or equal", the Developer shall provide the named material or equipment.

8.4. Functionally Equal. If, in the County's reasonable discretion, an item of material or equipment proposed by the Developer for the Project is functionally equal to that named, it may be considered by the County as an "or equal" item. A proposed item of material or equipment shall be considered functionally equal to an item so named if:

(a) the County determines that:

(i) it is at least equal in quality, durability, appearance, strength, and design characteristics; and

(ii) it shall reliably perform at least equally well the function imposed by the design concept of the completed Project as a functioning whole; and

(b) the Developer certifies that it shall conform substantially, even with deviations, to the detailed requirements of the item named in this Project Agreement.

8.5. Government Approvals. The following are significant Governmental Approvals that shall be obtained as described in the table below:

Governmental Approvals					
Name of Governmental Approval	**Issuing Entity**	**Permittee/ Approval Holder**	**Application Manager**	**Information Supply Responsibility**	**Fee Payment Responsibility (to the extent not waived by the applicable County department)**
Final Site Development Plan/Administrative Site Plan Review	Miami-Dade County Department of Regulatory and Environmental Resources, Miami-Dade County Water & Sewer Department, Miami-Dade County Transportation and Public Works Department, Florida Department of Transportation, South Florida Water Management, Florida Department of Health, Department of Environment and Resource Management	Developer	Developer	Developer	Developer
Demolition Permit	Miami-Dade County Department of Regulatory and Environmental Resources	Developer	Developer	Developer	Developer
Building Permit	Miami-Dade County Department of Regulatory and Environmental Resources	Developer	Developer	Developer	Developer

ATTACHMENT 6A

PROJECT SCHEDULE

The files in this Appendix are maintained by the County as public records subject to applicable exemptions. All requests for release of such records shall be made to the County's contact identified in Section 25.1(B) of the Project Agreement.

APPENDIX 7

COMMISSIONING

APPENDIX 7

COMMISSIONING

1. PURPOSE

1.1. Purpose. The purpose of Commissioning is to provide a systematic process of assuring by verification and documentation, from the design phase and throughout the Term, that all Project systems perform interactively in accordance with the Contract Standards. The parties acknowledge that because all Project systems are integrated, a deficiency in one or more components can result in sub-optimal operation and performance among other components. Remedying these deficiencies can result in a variety of benefits including: (i) improved productivity of Facility Users; (ii) lower utility bills through energy savings; (iii) increased satisfaction of Facility Users; (iv) enhanced environmental conditions, health conditions and comfort of Facility Users; (v) improved Project system and Project Equipment function; (vi) improved Project operation and maintenance; (vii) increased safety for Facility Users; (viii) better Project documentation; (ix) shortened occupancy transition period; and (x) significant extension of Project Equipment and Project systems life cycles.

1.2. Minimum Requirements. This Appendix sets forth the minimum Commissioning requirements to be incorporated into the Commissioning Plan with which the Developer is required to comply with respect to testing equipment and sub-systems as well as conducting Project operations.

2. DEFINITIONS

2.1. Definitions. In this Appendix, in addition to the definitions set forth in this Project Agreement:

"**Commissioning Agent**" means the firm selected by the Developer which meets the requirements set out in this Appendix 7 or any assignee or replacement permitted in Section 4.1 of this Appendix.

"**Commissioning Tests**" means the quality assurance process implemented by the Developer to achieve, verify and document that the planning, design, construction and operational processes and all components of the Project (including Project Equipment) are functional and in compliance with the Contract Standards.

"**Fine Tuning Reports**" means the written reports prepared bi-annually by the Developer which set forth and detail the Fine Tuning conducted by the Developer at the end of each six-month period during the Commissioning Fine Tuning Period up until the end of the Commissioning Fine Tuning Period and includes, a final Fine Tuning Report delivered at the end of the Commissioning Fine Tuning Period which sets forth the performance during the entire Commissioning Fine Tuning Period.

"**LEED Specialist**" means the individual with Leadership in Energy and Environmental Design (LEED) accredited professional status named by the Developer and approved by the County, in its reasonable discretion.

"**Re-Commissioning Plan**" has the meaning set forth in Section 12.2 of this Appendix.

All other capitalized terms used in this Appendix and not otherwise defined shall have the meanings given to them in Section 1.1 (Definitions) of this Project Agreement.

3. COMMISSIONING PLAN OBJECTIVES

3.1. Commissioning Plan. Pursuant to Section 7.19 (Commissioning) of this Project Agreement, the Developer shall prepare and submit to the County for its approval a detailed Commissioning Plan for the conduct of Commissioning Tests that will ensure:

(a) the planning, design, construction and operational processes have achieved their intended outcome;
(b) the continued efficient operation of the Project during the Facility Management Period through implementation of Re-Commissioning Plans;
(c) all participants follow an approved plan to ensure the completed Project will realize its intended level of comfort for Facility Users and operational efficiency by the Occupancy Readiness Date and throughout the Facility Management Period;
(d) all stakeholders in the Project understand their responsibilities for Commissioning Tests prior to the Occupancy Readiness Date and during the Commissioning Fine Tuning Period;
(e) all Facility Users will be fully familiar with the Project and will understand their continuous role in its efficient operation;
(f) the completed Project allows the Facility Users to carry out court activities, Clerk of Court activities, and other intended uses of the Project, in a secure and efficient manner and achieves a balance between the circulation, proximity , appropriate room adjacencies and the security requirements of a court building in accordance with the Contract Standards; and
(g) the intended LEED Silver Certification for the Project can be achieved and can also be maintained through the Facility Management Period.

4. COMMISSIONING AGENT

4.1. Commissioning Agent Background. The Developer will engage the services of the independent third-party Commissioning Agent. Prior to engagement of the Commissioning Agent, the Developer shall provide the qualifications of the proposed Commissioning Agent to the County in order for the County to confirm that the Commissioning Agent meets that requirements of this Appendix. The Developer shall use all reasonable efforts to deploy the Commissioning Agent to perform the duties for the Contract Services described in the Project Agreement, including this Appendix, pertaining to the Commissioning Agent. If for any reason the Commissioning Agent resigns, retires, dies, becomes disabled, or is terminated for cause, then the Developer shall retain a replacement Commissioning Agent with equivalent expertise and experience to the unavailable Commissioning Agent satisfactory to the County acting reasonably, and having technical background and in-depth expertise with the Commissioning process including verification techniques, functional performance testing, system equipment and operation and maintenance knowledge. The replacement Commissioning Agent shall be acceptable to the County and have specialized experience in commissioning recently constructed buildings of similar complexity, size and type to the Project. The replacement Commissioning Agent must be a person that specializes in building commissioning and shall be commercially independent of any person already engaged by the Developer for provision of the Contract Services. In the event that the Developer proposes a replacement Commissioning Agent that the County reasonably believes cannot meet the requirements stated in this Appendix, the Developer shall propose an alternative replacement Commissioning Agent that is acceptable to the County.

If the parties are unable to agree with the replacement Commissioning Agent, the Commissioning Agent shall be selected in accordance with the Dispute Resolution Procedures set forth in Article 18 of this Project Agreement.

4.2. Commissioning Agent Knowledge. The Commissioning Agent and any replacement thereof shall bring a total building commissioning perspective to the Project and be knowledgeable in (and where applicable, federal, State and local):

(a) building fire codes;
(b) water-based extinguishing systems;
(c) detection systems;
(d) LEED;
(e) energy efficiency imperatives; and
(f) other building requirements.

4.3. Commissioning Agent Roles. The Commissioning Agent will take the lead role in coordinating the entire Commissioning process on behalf of the Developer, from preparation of the Commissioning Plan through to the completion of the Commissioning Fine Tuning Period. The Commissioning Agent shall also be responsible for all items identified in Section 6 of this Appendix relating to the Project being capable of achieving LEED Silver Certification. The Commissioning Agent shall be the Developer's only representative with respect to the Commissioning process, and shall be the only point of contact in respect of Commissioning matters for the County and the Design Criteria Professional throughout the Commissioning process.

4.4. Commissioning Agent Restriction. The Commissioning Agent shall not be the same person as the LEED Specialist.

5. COMMISSIONING PLAN REQUIREMENTS AND FORMAT

5.1. Purpose. The object of conducting Commissioning Tests is to provide documented confirmation that the Project fulfills the functional and performance requirements set forth in this Project Agreement. To attain this goal, it is necessary to address all County requirements and criteria relating to system function, performance and maintainability as set forth in the Contract Standards.

5.2. Commissioning Plan Preparation. The preparation of the Commissioning Plan shall begin as early as practicable in the design process and shall be submitted to the County in accordance with Section 7.19 (Commissioning) of this Project Agreement and this Appendix as soon as practicable but no later than 60 days prior to commencing Commissioning. The Commissioning Plan shall include HVAC, security system (including Security Systems Equipment), audio/visual system, IT systems, lighting control, emergency generator, plumbing systems, mechanical systems, electrical systems, fire alarm systems, fire protection systems, and other building systems. Table 7-1 below provides a minimum framework for the types of requirements that shall be considered by the Commissioning Agent and the Developer when preparing the Commissioning Plan.

Table 7-1
Minimum Commissioning Plan Requirements

Category	Requirement
Acoustics	Control of internal and external noise and intelligibility of sound
Comfort	Identify and document those comfort problems that have caused complaints in the past and which will be avoided in the Project (i.e., glare, uneven air distribution, etc.)
Communications	Capacity to provide inter-telecommunications and intra-telecommunications throughout the Project, including audio/visual courtroom systems, courtroom recording and docket system
Constructability	Constructability of commissioned systems
Durability	Retention of performance over required service life
Energy	Goals for energy efficiency
Flexibility	For future Project changes and expansions
Green Building Concepts	Sustainability concepts, including LEED certification requirements
Health and Hygiene	Protection from contamination from wastewater, garbage and other wastes, emissions and toxic materials
Indoor Environment	Including hydrothermal, air temperature, humidity, condensation, indoor air quality and weather resistance
Maintenance Requirements	Varied level of knowledge of maintenance staff and the expected complexity of the proposed systems
Security	Protection against intrusion (physical, thermal, sound, etc.) and vandalism and chemical/biological/radiological threats
Standards Integration	Integration of approved federal, State, local and County standards requirements
Structural Safety	Resistance to static and dynamic forces, impact and progressive collapse

5.3. Additions to Commissioning Plan. The Commissioning Plan shall also provide for Commissioning Tests to be conducted with respect to major equipment and building systems, relating to the following:

(a) installation verification and quality checks (pre-functional checklists);
(b) start-up;
(c) functional testing;
(d) representative sampling, where appropriate;
(e) acceptance reports;
(f) deficiency documentation and correction process;
(g) user instruction, where appropriate;
(h) orientation, classroom and field training to be provided by the Developer for Facility Users prior to the Occupancy Readiness Date, such training to be acceptable to the County, in its reasonable discretion. Such training and orientation shall include, among other things: security systems, audio-visual systems, communications systems, Security Systems Equipment, Moveable

Furniture, Fixtures and Equipment, and all other Project Equipment installed by the Developer. Additional orientation, classroom and field training on other specific requirements regarding building orientation and security and communications systems for the Miami-Dade County Police Department's personnel shall also be provided by the Developer, as requested by the County in its reasonable discretion;

(i) recorded media for demonstration and training for the County and Facility Users, where appropriate;

(j) recorded media for demonstration and training in a form acceptable to the County (and based upon requirements of the County), where appropriate; and

(k) preparation of operating and maintenance manuals for each component of the Project and Project Equipment and each complete system to be tested in the Project.

5.4. Commissioning Standards. The Developer shall prepare the Commissioning Plan by taking into account the Contract Standards, including the items in Table 7-1, and the Commissioning Plan shall set forth how Commissioning Tests will be handled and managed for the Project. In general, the Commissioning Plan shall include a discussion of the Commissioning process, schedule, team and team member responsibilities, communication structures and a general description of the systems to be tested.

5.5. Commissioning Agent Duties. The Commissioning Agent shall be engaged sufficiently early in the design process to ensure that the Developer is eligible for all LEED credits associated with the Commissioning Tests of the Project, including enhanced Commissioning of the mechanical systems as specified by LEED requirements. The Commissioning Agent shall work closely with the LEED Specialist to inform the design process, ensure Commissioning Tests requirements are considered in design selections and appropriate Commissioning Tests instructions are included in the construction specifications for each aspect of the Design-Build Work. The Commissioning Agent shall work with the Developer for the inclusion of Commissioning activities in the Project Schedule.

5.6. Monthly Reports. Prior to the commencement of the Commissioning Tests, the Commissioning Agent shall prepare monthly reports to record the progress made on Commissioning decisions and procedures. The Developer shall provide the County with at least 30 days' prior written notice of the expected initiation of the Commissioning Tests.

5.7. Commissioning Plan. The Commissioning Plan shall:

(a) identify the names, roles, and where appropriate, the qualifications of all persons proposed to perform a role in the Commissioning process;

(b) contain provisions which ensure successful completion of all Commissioning Tests and all other Commissioning activities required for the proper Commissioning of the Project and all Project Equipment (both prior to the Occupancy Readiness Date and during the Commissioning Fine Tuning Period), to the satisfaction of the County and the Design Criteria Professional, in their reasonable discretion;

(c) contain provisions which will ensure successful completion of all Commissioning Tests and other Commissioning activities required prior to the Occupancy Readiness Date, to the satisfaction of the County and the Design Criteria Professional, in their reasonable discretion;

(d) contain provisions which will ensure successful completion of all Commissioning Tests and other Commissioning activities during the Commissioning Fine Tuning Period, to the satisfaction of the County and the Design Criteria Professional, in their reasonable discretion;

(e) contain provisions which will ensure employment by Developer of commissioning procedures that are prescribed by Applicable Law using methodologies so prescribed and methodologies prescribed in the Contract Standards;

(f) contain provisions which will ensure that standards or results to be achieved in each test, for such tests to be successful, shall satisfy all standards or results applicable to such Commissioning Tests as contained in the Contract Standards and those recommended by the manufacturer of that part of the Project or the Project Equipment with respect to which the Commissioning Tests is to be performed;

(g) contain provisions which ensure that the Commissioning Plan shall not propose a test or procedure that deviates from any procedure, standard, or specification intended by the Contract Standards unless specifically approved in writing by the County and the Design Criteria Professional;

(h) contain provisions which require that all Commissioning Tests results and copies of all certificates and Governmental Approvals received by the Developer in connection with any Commissioning Tests shall be provided to the County and the Design Criteria Professional;

(i) ensure that there are no provisions which create greater burdens to be imposed on the Design Criteria Professional, the County, the County Representative or any other advisor to the County that is contemplated in this Project Agreement;

(j) contain an achievable schedule for the Commissioning Tests which shows the name, timing and dependencies of each step in: (i) the critical path schedule to achieve Occupancy Readiness; and (ii) the schedule to complete Fine Tuning during the Commissioning Fine Tuning Period;

(k) ensure that the prescribed prerequisites and credits necessary for the intended LEED Silver Certification can be achieved and can also be maintained through the Facility Management Period; and

(l) contain provisions providing that where Commissioning Tests have been successfully completed as required by the approved Commissioning Plan and where such Commissioning Tests are identical to Commissioning Tests that are required to satisfy any subsequent approved Commissioning Plan requirement and such test would be redundant, the Commissioning Tests do not need to be repeated unless specifically required by a Governmental Body or Applicable Law.

5.8. Plan Structure. The suggested structure of the Commissioning Plan is set forth in Table 7-2. The Developer may prepare a Commissioning Plan that deviates from this suggested structure. Any Commissioning Plan shall, however, be approved by the County, acting reasonably.

Table 7-2
Suggested Commissioning Plan Structure

Section	Description
Introduction	Purpose and general summary of the Commissioning Plan
General Project Information	Overview of the Project, emphasizing key Project information and delivery method characteristics
Commissioning Scope	Commissioning scope including which Project assemblies, systems, subsystems and equipment will be tested
Team Contacts	Commissioning Agent's contact information as well as any other relevant Commissioning team member's contact information
Communication Plan and Protocols	Documentation of the communication channels to be used throughout the Project with respect to Commissioning Tests
Commissioning Process	Detailed description of the specific tasks to be accomplished during the Design-Build Period and the Facility Management Period
Commissioning Documentation	List of Commissioning Test documents required to identify expectations, track conditions and decisions and validate/certify performance
Commissioning Schedule	Specific sequences of events and relative timeframes, dates and durations

6. COMMISSIONING FOR LEED CERTIFICATION

6.1. LEED Requirements Preparation. Pursuant to this Project Agreement and as set forth in Appendix 4 (Design and Construction Standards), the Project shall achieve a LEED Silver Certification. The Developer shall ensure that the Commissioning process activities comply with the prerequisite criteria for fundamental building Commissioning to achieve LEED Silver Certification.

6.2. LEED Requirements and the Commissioning Plan. In accordance with all applicable LEED Commissioning Tests requirements, the following items shall be addressed in the Commissioning Plan: (i) independent review of schematic design documents; (ii) independent review of construction documents; (iii) focused review of contractor submittals to verify compliance with requirements; (iv) an indexed systems manual; and (v) post-Occupancy Readiness Date review of the Project and Fine Tuning Report.

7. EXCLUSIONS FROM THE COMMISSIONING PLAN

7.1. Exclusions from Commissioning Plan. The following items shall not be included in the Commissioning Plan:

(a) County and other Facility Users telephone equipment that is not installed by the Developer;

(b) County and other Facility Users active electronic information technology equipment that is not installed by the Developer;
(c) Any other County or other Facility User provided equipment without the Developer's contractual involvement;
(d) County or other Facility User leased equipment such as copiers, fax machines, printers provided without the Developer's involvement; and
(e) County Furnished Equipment.

8. COMMISSIONING ACTIVITIES DURING DESIGN

8.1. Design Responsibilities. The Commissioning Agent shall be familiar with all Contract Standards and shall review the Developer's proposed design as it is developed to assure such design complies with the Contract Standards. The Commissioning Agent may recommend changes to ensure compliance with the Contract Standards or to improve energy efficiency, operation and maintenance and equipment reliability to the Developer so that any necessary changes may be made by the Developer prior to, rather than after, installation. Notwithstanding the foregoing, the Commissioning Agent is responsible for reviewing the design from a Commissioning perspective and shall not be responsible for design concepts and criteria that do not comply with the Contract Standards as such are the responsibility of the Developer pursuant to this Project Agreement.

8.2. Scope of Review. The general scope of the Commissioning Agent's review during the design phase shall be as set forth in Table 7-3. The design review scope set forth in Table 7-3 shall demonstrate the minimum scope to be set forth in the Commissioning Plan and shall not preclude additional review responsibilities of the Commissioning Agent agreed upon by the parties in the approved Commissioning Plan.

Table 7-3
Commissioning Agent Design Review Scope

Design Aspect	**Review Scope**
Certification Facilitation	Review Design Documents to facilitate project certification goals (i.e., does design meet LEED criteria)
Commissioning Facilitation	Review Design Documents to facilitate effective Commissioning Tests
Commissioning Specifications	Verify that Design Documents adequately specify Commissioning, including testing requirements by equipment type
Constructability	Review Design Documents for constructability of all building systems
County Design Guidelines and Standards	Verify that the Design Documents comply with the Contract Standards
County 's Project Requirements	Verify that the Design Documents and the facility management protocol comply with the County's Project requirements set forth in this Project Agreement
Electrical	Review the electrical concepts and systems for possible enhancements

Design Aspect	Review Scope
Energy Efficiency	Review of adequacy of the effectiveness of building layout and efficiency of system types and components for building shell, plumbing systems, HVAC systems and lighting systems
Envelope	Review envelope design and assemblies for thermal and water integrity , moisture vapor control and assembly life, including impacts of interior surface finishes and impacts and interaction with HVAC systems
Indoor Environmental Quality	Review to ensure that system relating to thermal, visual, acoustical, air quality, comfort, and air distribution maximize comfort and are in compliance with the Contract Standards
Life Cycle Costs	Review a life cycle assessment of the primary competing mechanical systems relative to energy efficiency, operation and maintenance, indoor environmental quality, functionality, and sustainability
Mechanical	Review Design Documents to ensure flexible and efficient operation as required by the Contract Standards, including off-peak heating/cooling, air handling unit operations, size and zoning of air handling units, and thermostated areas
Operations and Maintenance	Review for effects of specified systems and layout toward facilitating operations and maintenance (equipment accessibility, system control, etc.)
Operations and Maintenance Documentation	Verify adequate Project operations and maintenance documentation requirements, including review of operating and maintenance manuals for each component of the Project and Project Equipment and each complete system to be tested in the Project
Sustainability	Review to ensure that the building materials, landscaping, water and waste management create less of an impact on the environment, contribute to creating a healthful and productive workspace, and are in compliance with this Project Agreement
Training	Verify adequate operator training requirements

9. COMMISSIONING ACTIVITIES DURING CONSTRUCTION

9.1. Construction Responsibilities. During the course of construction activities throughout the Design-Build Period, the Commissioning goal shall be to assure the levels of quality required by the Contract Standards are satisfied. The Commissioning activities during construction shall be a well-orchestrated quality assurance process and shall be set forth in the Commissioning Plan, and shall include:

(a) installation and submittal review (pre-functional checklists);

(b) start-up;
(c) functional performance testing; and
(d) training.

9.2. Construction Compliance with Contract Standards. The Commissioning Agent shall review those items that are critical to the focus of the Commissioning process. This review shall allow the Commissioning Agent to review the construction process for compliance with the Contract Standards. The Commissioning Agent shall only comment to the extent that there is a perceived deviation from the Contract Standards, and all such comments shall be reviewed by the Developer, the County, and the Design Criteria Professional who shall all cooperate with each other and the Commissioning Agent to ensure compliance with the Contract Standards.

9.3. Functional Performance Tests. Functional performance testing occurs after the components have been installed and the construction checklists have been completed. Functionally testing the systems of the Project as a whole evaluates the ability of the components in a system to work together to achieve compliance with the Contract Standards. The functional performance tests are the most important aspect of the Commissioning process and system troubleshooting based upon such tests shall be a critical function of the Commissioning Agent. If the Commissioning Agent discovers equipment or systems that are not performing in accordance with the Contract Standards prior to Occupancy Readiness, the Developer shall correct and re-test such equipment or systems.

9.4. County Operation of Security Systems. The parties acknowledge and agree as to the importance to the County of assuring the operability and functionality of the security systems installed in the Courthouse. Accordingly, the Developer shall notify the County in writing, when the commissioning of security systems relating to courthouse security (including the Security Systems Equipment) and holding cell functionality is complete and the systems are fully functional. Following such notice, the Developer shall provide County staff a minimum of two weeks to become familiar with and to operate the security systems prior to the Occupancy Readiness Date. The Developer shall cooperate with County in training and scheduling for such two week period.

10. PERFORMANCE OF COMMISSIONING TESTS

10.1. Notice and Execution of Tests. Under the direction of the Commissioning Agent, appropriately qualified personnel of the Developer shall implement all Commissioning Tests as set forth in the Commissioning Plan. The Developer shall give a minimum of 30 days' notice to, and shall invite the County and the Design Criteria Professional to witness and to comment on each aspect of the Commissioning Tests up until all Commissioning Tests are fully complete (which includes all Commissioning Tests up until the end of the Commissioning Fine Tuning Period). The Developer shall, together with such notice to the County and the Design Criteria Professional, provide them with all information they may reasonably require in relation thereto, including, without limitation: (i) tests proposed; (ii) test methodology; and (iii) expected test results. In addition, the County and the Design Criteria Professional shall be provided with full and reasonable access to all Commissioning activities to ensure they remain fully informed of the process.

10.2. Test Results. Within 15 Business Days following the last day of the Commissioning Tests performed pursuant to this Section, the Developer shall provide the County and the Design Criteria Professional with ten copies of a written Commissioning Test report setting forth the results of such Commissioning Tests, certified as true, complete and correct by the Developer and the Developer's lead engineer.

10.3. Commissioning Agent Not to Perform Tests. The Commissioning Agent shall not perform any of the Commissioning Tests and the Commissioning Agent's actions shall not absolve the Developer from any of the Developer's obligations under this Project Agreement.

11. COMMISSIONING TESTS DURING COMMISSIONING FINE TUNING PERIOD

11.1. Fine Tuning Period Part of Commissioning Plan. The Commissioning Plan shall also provide for Commissioning Tests to demonstrate, bi-annually, in the two (2) years following the Occupancy Readiness Date: (i) full integration and automated control of all Project systems through the Project automation system, under a full range of Project population and seasonal loadings, including emergency conditions; and (ii) that Fine Tuning will be carried out during the Commissioning Fine Tuning Period. At the end of each of the four, six-month periods after Final Completion, the Developer shall prepare a Fine Tuning Report for review and acceptance by the County. The Developer shall engage in Commissioning Tests during the Commissioning Fine Tuning Period and resubmit Fine Tuning Reports if any Fine Tuning Report does not demonstrate, to the satisfaction of the Design Criteria Professional, that the Project and any of its systems meet the Contract Standards. Such Commissioning Tests and reports shall be repeated and re-submitted, respectively, until the County confirms that the Project and its systems meet the Contract Standards applicable for such season, and in respect of the final Fine Tuning Report, for all seasons during the Commissioning Fine Tuning Period.

11.2. Fine Tuning Report. The final Fine Tuning Report shall be certified as true, complete and codirect by the Developer and the Developer's lead engineer and include at a minimum:

(a) a statement that all systems have been completed and are performing in accordance with the Contract Standards;
(b) a description of components and systems that exceed the Contract Standards;
(c) a description of any components and systems that do not meet the Contract Standards and an explanation of why they do not;
(d) a summary of all issues that have been resolved and that are unresolved and any recommendations for resolution;
(e) post-Occupancy Readiness Date activities and results including all deferred and seasonal testing results, test data reports and additional training documentation; and
(f) lessons learned for future Project re-Commissioning efforts.

12. RE-COMMISSIONING REQUIREMENTS

12.1. Re-Commissioning. The parties acknowledge that building systems tend to shift from their as-installed conditions over time due to nominal wear and Capital Modifications. Accordingly, the Developer shall conduct Project re-Commissioning throughout the Term to assure operation efficiency and continued compliance with the Contract Standards. Such re-Commissioning shall generally include, but not be limited to:

(a) establishing that the original design and operation is still appropriate for use and modification of the operations as appropriate to achieve optimum operations;
(b) reviewing and benchmarking key systems operations and performance against operations and performance on the Occupancy Readiness Date;
(c) evaluating envelope tightness and pressurization by infrared or other methods;

(d) performing energy analysis; and
(e) recommendation and performance of repairs and modifications to optimize Project performance to comply with the Contract Standards.

12.2. Re-Commissioning Plan. The Developer shall provide a Re-Commissioning plan to the County no later than five years after the Occupancy Readiness Date and on each of the eleventh, seventeenth, twenty-third, and twenty-ninth year after the Occupancy Readiness Date for approval by the County (the "Re-Commissioning Plan"). Each Re-Commissioning Plan shall describe how the Developer will ensure continuous high performance and how the Project will continue to meet the requirements of LEED NC Silver Certification throughout the Term, including a schedule outlining cyclical systems audits, re-Commissioning, post-Occupancy Readiness Date performance review and third-party reviews.

12.3. Additions to the Re-Commissioning Plan in accordance with LEED-EB. In accordance with the procedural requirements set forth in the LEED for Existing Buildings; Operations & Maintenance Green Building Rating System published by the U.S. Green Building Council (LEED-EB) certification credit requirement for existing building commissioning and in effect as of the Technical Proposal Due Date, the following items shall also be addressed in each Re-Commissioning Plan:

(a) The Developer shall verify and demonstrate how Developer will ensure that fundamental Project elements and systems are installed, calibrated and operating as intended so they can deliver functional and efficient performance.
(b) The Developer shall demonstrate how Developer proposes to carry out comprehensive existing building Commissioning for the Project including, but not limited to, the following:

(i) details of a comprehensive Project operation plan that meets the requirements of current Project usage, and addresses the heating system, cooling system, humidity control system, lighting system, safety systems and the Project automation controls;
(ii) details of a Commissioning Plan for carrying out the testing of all Project systems to verify that they are working according to the specifications of the Project operation plan referenced above;
(iii) details of how the Developer proposes to implement the Commissioning Plan and the procedure for documenting all of the results;
(iv) details of the steps the Developer will take to repair and/or upgrade all systems and components that are found to be not working according to the specifications of the Project operation plan referenced above; and
(v) details of how the Developer will proceed with the re-testing of Project components that require repair and/or upgrade to verify that they are working according to the specifications of the Commissioning Plan; provided, however, that the Developer shall not be required to obtain actual LEED-EB certification for the Courthouse.

12.4. Developer Performance. The Developer shall comply with and perform all procedures and steps described in each Re-Commissioning Plan that has been approved by the County. Each Re-Commissioning Plan shall be reviewed and approved by the County, acting reasonably.

12.5. Notice of Tests. The Developer shall comply with Section 10 of this Appendix with respect to notice of the performance of any Commissioning Tests to the County pursuant to a Re-Commissioning Plan. Within 15 Business Days following the last day of the Commissioning Tests performed pursuant to a Re-Commissioning Plan, the Developer shall provide the County ten copies of a written Commissioning Test reports setting forth the results of such Commissioning Tests, certified as true, complete and correct by the Developer and the Developer's lead engineer.

13. OTHER COMMISSIONING ACTIVITIES

13.1. Other Activities. Other Commissioning activities to be performed by the Developer shall include but not be limited to:

(a) the implementation of building orientation and information sessions for Facility Users after the Occupancy Readiness Date;

(b) the initiation of the facility management help desk operation and orientation of Facility Users, as described in Appendix 8 (Facility Management Requirements) of this Project Agreement, after the Occupancy Readiness Date;

(c) the review of the Developer's emergency procedure and Health and Safety Plan prior to the Occupancy Readiness Date;

(d) prior to the Occupancy Readiness Date, submit to the County and Design Criteria Professional for review relevant Project records including, but not limited to:

(i) copies of all Governmental Approvals prior to the Occupancy Readiness Date;

(ii) a certified schedule of final Project areas calculated in accordance with the Contract Standards;

(iii) final Commissioning Test acceptance reports relating to Commissioning Tests conducted prior to the Occupancy Readiness Date; and

(iv) record drawings relating to security systems and Security Systems Equipment at the Project (including, without limitation, perimeter security, locking systems, camera and television security systems and related security systems); and

(e) as soon as practicable after the completion of the Commissioning Fine Tuning Period, but no later than 100 days after the Commissioning Fine Tuning Period, the Developer shall submit to the County and the Design Criteria Professional for review relevant Project records including, but not limited to:

(i) acoustical performance test reports with nominal occupant loads and Project system operation, including emergency generator under load;

(ii) vibration test reports and air balancing reports for the operating Project;

(iii) final Commissioning acceptance reports relating to the Commissioning Tests conducted during the Commissioning Fine Tuning Period; and

(iv) all record drawings relating to the Project.

APPENDIX 8

FACILITY MANAGEMENT REQUIREMENTS

APPENDIX 8

FACILITY MANAGEMENT REQUIREMENTS

Chapter 119 of the Florida Statutes provides that certain information relating to the physical security of the Facility or revealing security systems be maintained confidential. See Chapter 119.071(3) of the Florida Statutes.

The files in this Appendix are maintained by the County as public records subject to applicable exemptions. All requests for release of such records shall be made to the County's contact identified in Section 25.1(B) of the Project Agreement.

APPENDIX 9

FACILITY MANAGEMENT EXTRACTS

APPENDIX 9

FACILITY MANAGEMENT EXTRACTS

This Appendix contains extracts from the Developer's Proposal related to the Developer's facility management obligations. The extracts convey the Developer's intended approach and philosophy to performing certain areas of the Facility Management Requirements, and are supplementary to the requirements of the Project Agreement and the County-provided Appendices. This is a Developer-provided Appendix pursuant to Section 1.2(Y) of the Project Agreement.

1. FACILITY OPERATIONS APPROACH

1.1. Key Details. The key details of the Developer's operating approach are:

- Service courtrooms and operational systems from the mezzanine with zero disruption to normal Courtroom operations and without being seen on the court floors.
- Establishment of Demand Requisition response procedures which focus on quick resolution without disruption to Courthouse operations.
- Comprehensive procedures in place for emergency/crisis management combined with ongoing personnel training plans to ensure preparedness.
- Policies and procedures to address Courthouse emergencies and system failures that still keep a portion of the Courthouse services operational.
- Systems and services will be in place to track all energy consumption and assess it against goals set out internally and by the County. Integrated strategic energy and utility systems will be in place that will have a direct positive impact on overall energy consumption and provide the necessary data to strategically plan where additional savings can be captured.
- Baseline goal to operate the building with zero safety incidents.
- Policies and procedures that deal with failure management will be part of the Master Operations Plan associated with Demand Requisition.
- Through active management, utilization of intelligent software, and open communication, Developer and Facility Manager will ensure that the performance requirements of the Facility will be met at all times.

1.2. Operating Approach. Developer and Facility Manager will have an operating approach based on fast response and rectification of incidences, through ongoing Preventative Maintenance to maintain asset values and minimize downtime through proactive attention to these assets. Developer shall incorporate a continuous quality improvement model into the services provided to rectify issues immediately while determining and addressing root causes to prevent repeat issues.

The overarching maintenance approach will be to develop a proactive and sustainable management program that extends asset life and helps to prevent issues that could disrupt the operation of the Courthouse. The overall approach to maintenance for the Courthouse is intended to minimize building related emergencies and system failures.

Through the Preventative Maintenance programs, Developer will reduce Demand Requisition calls related to maintenance; this will be done through early identification of potential problems via inspections during Preventative Maintenance and through diagnostic tools, such as vibration analysis for rotating equipment. The performance-based service approach that Developer will employ incorporates maintenance strategies that predict or prevent equipment failure. Predictive maintenance strategies, such as vibration analysis, spectro-chemical oil analysis, flue gas analysis, ultrasonic leak testing, and operating deflection shape

analysis will be utilized on critical equipment, whereby failure could result in wide spread system outages and potential Unavailability Events. Facility Manager will exercise extreme due diligence and employ an effective Preventative Maintenance approach to predict possible failures at all times.

2. STAFFING APPROACH

2.1. Key Details. The key details of the Developer's staffing approach are:

- On-site staff will be performing all Scheduled Maintenance and Demand Requisition services, providing on-site leadership, Help Desk Services, development of operations plans and performance reporting.
- Facility Manager truck based services from the local branches (for Building Automation, chillers, HVAC, and life safety systems will provide the services beyond the capabilities of the on-site staff).
- Qualified Subcontractors will be engaged for specialty scopes such as elevators, janitorial, and high/medium voltage electrical work.
- Facility Manager will retain high quality talent. Facility Manager will undertake a rigorous recruitment process to find the right employees for the Courthouse in terms of skill set and temperament.
- Cleaning staff will be on-site as day porters and toward the end of the day and into the evening, they shall shift into building cleaning functions.
- Personnel may work different shifts to allow for coverage during Operating Hours; the intent would still be to have continuous coverage during the Business Day.
- The Day Porter position will be staffed by more than one individual as it is a required 12-hour daily shift.

2.2. On-Site Leadership and Staff. Facility Manager will have on-site leadership and administration, including Help Desk resources to provide the ongoing management of the Courthouse. During Operating Hours, Facility Manager staff will be on site to respond to service requests. The vast majority of issues that flow through the Demand Requisition process will be able to be rectified by the on-site maintenance staff. Delivery of on-site services will primarily be provided through Facility Manager's full time on-site staff or truck-based services and other vendor support (e.g., elevators).

For maintenance and repairs that require a higher skill level than the technical capability of the on-site staff, the Facility Manager branch service (truck-based services) will assist the on-site staff with these tasks. These are factory trained service personnel that provide service throughout South Florida. Facility Manager P3 projects receive priority response from the Facility Manager branch service organization for support services, which will help achieve faster rectification of issues as they arise and they are outside of the capabilities of the on-site staff.

2.3. Staff Tools and On-site Materials. Each on-site employee will have the tools to perform maintenance tasks expected of them. Maintenance materials and other tools will be on-site, stored in maintenance tool cribs and storage areas. The material inventory will include critical spare parts stored on-site to quickly rectify any service issues that could disrupt Courthouse operations. The Facility Manager will determine what material to store on-site. Material will be stored in secure areas and inventoried.

2.4. Facility Management Subcontractors and Material Vendors. Facility Manager staff will be supported by Subcontractors for specialty work. Subcontractors will be used for tasks that are beyond the technical ability of the on-site staff and specialty work. Facility Manager will have pre-arranged contracts with Subcontractors to ensure quick response for Demand Requisition calls. Facility Manager will maintain a

network of maintenance material vendors to minimize any delay in receiving necessary maintenance parts. The Computerized Maintenance Management System will track when material is used so that replacements can be ordered.

2.5. Safety. Developer will provide a safe environment for employees and all the occupants of the building. The Developer's goal is to have zero incidents. Facility Manager employees will be authorized to 'Stop Work' if the situation warrants further review with their manager and corporate safety staff.

3. INCREMENTAL COURTROOM EXPANSION APPROACH

3.1. Key Details. The key details of the Developer's incremental courtroom expansion approach are:

- Developer will work with the County to implement numerous plans and procedures with a focus on mitigating interference to normal Courthouse operations as the primary goal.
- All disruptive work will be performed outside of Operating Hours during weekdays and additional work will be done on weekends on an as-need basis.
- Materials will be brought in prior to work beginning in order to maximize the allocated time and to ensure a timely delivery of the space.
- There will be an allocation of 1-2 service elevators for construction staff and materials.
- All construction workers will be required to pass through the security checkpoint in place on the lobby level and have all tools and other materials checked by Courthouse Security. Additionally, an off-duty officer will be hired and assigned to the crew to make sure that the Courthouse security remains intact.
- Safety protocols will be in place to prevent access of construction team to all other floors outside of the construction and the Lobby.
- Lockers will be placed on the floor during construction to store all tools and other high value materials.
- The Facility Manager staff will be present during critical events of the construction work including after Operating Hours as required.
- The construction area will be cleaned after 2:00 a.m. once work has finished for that specific shift in order to leave enough time to fully clean the area before Operating Hours begin that day.

4. FACILITY MANAGEMENT HELP DESK AND CUSTOMER SERVICE APPROACH

4.1. Key Details. The key details of the Developer's Help Desk customer service and system approach are:

- The Help Desk will be the command center for building operations at the Courthouse.
- On-site Help Desk staffed during Courthouse Operating Hours, supported by a best-in-class, experienced off-site Help Desk that will be available 24/7/365.
- The Remote Operations Center will monitor the site critical functions on a 24/7/365 basis as well and take calls after Operating Hours.
- Calls for service will be handled with speed, efficiency, and the Facility Users' experience in mind.
- After Operating Hours requests can be handled by the centralized off-site Help Desk Services, with Emergency requests routed to local staff for immediate response 24/7/365.
- Procedures will be in place to ensure a seamless interface when the remote Help Desk

does have to pick up requests, especially for Emergency and Critical calls.

- Developer will work closely with the County during the Design-Build Period to establish the Help Desk protocol and overall maintenance strategy, and this approach will be continually refined through the Facility Management Period, including where to redirect calls for work that are not within the Developer's scope.
- Comprehensive computerized Help Desk software will be used that allows for manual entry of demand requests by Help Desk staff, electronic submissions by facility users, and also automatically receives and enters alerts from the building management system accessible through a computer or smartphone.
- Regular training will be provided to users to ensure they are aware of how they can contact the Help Desk and enter service requests.
- In the event of an emergency, the Help Desk staff will be at the County's disposal and will be trained to assist in an emergency response on a 24/7/365 basis.

4.2. Overall Customer Service Philosophy. Developer and Facility Manager consider the Help Desk as the center of all activities for tracking and coordination of facilities management services at the Courthouse. Customer service to the County will be a key priority for all Facility Manager staff members; since the Help Desk is usually the key contact point throughout the process of requesting service. The Help Desk staff will understand their importance as it relates to being the first contact with the person requesting service and will work to ensure a positive experience. With the focus on first impressions, the Help Desk will be the hub for the Courthouse Facility Management Services.

The Help Desk staff will be trained to respond and act with emphasis on friendly interaction while having the field staff complete work promptly and efficiently. Training for staff will occur during the transition phase and will be part of the Start-up Plan. Individuals at the Help Desk will be trained to be courteous and efficient when dealing with customers. A positive customer service attitude and technical ability to operate the Computerized Maintenance Management System will be expectations of Help Desk personnel.

Customer service will be paramount to all interactions with the County and the Facility Users. With the Help Desk typically being the first interface, the Help Desk staff will be trained in the 'hard skills' of gathering information, dispatching field teams and effectively using the Computerized Maintenance Management System as well as the 'soft skills' of interfacing positively with callers, instilling confidence that Facility Manager will take care of issues and follow up aspects of service operations. Ultimately, the objective of the Help Desk is to respond and then rectify the service request in an expedient and thorough manner.

4.3. Help Desk Services On-Site and Remote Operations Center. The on-site Help Desk Services will be in the Courthouse with the Remote Operations Center at a Facility Manager office serving as a backup center. The Remote Operations Center will also handle after Operating Hours work requests. All persons responsible for responding to Help Desk calls - both on-site and remote – shall have the proper understanding of key issues and responsibilities associated with Help Desk activities including the Courthouse operations and Facility Management Requirements of the Project Agreement, all Courthouse operations, and familiarity with departments and individuals.

5. FACILITY MANAGEMENT PERFORMANCE MONITORING AND REPORTING APPROACH

5.1. Key Details. The key details of the Developer's performance monitoring and reporting approach are:

- Proven monitoring systems will be implemented to track open requests, rectification

periods, and performance failures and system will update users with progress on resolution and notification when the service request is completed.

- Developer will work with the County Representative to review all aspects of the Courthouse operations including upcoming planned maintenance work, Demand Requisition requests with special focus on Emergency and Critical service requests, and planning for life cycle work to ensure no disruption to court activities.
- All monthly reports will be coordinated with the County and an open, on-going dialogue will be in place to celebrate successes and to document and create plans for correcting substandard service.
- Operational review metrics will be cataloged and provided to the County on a regular basis to help measure Developer's overall performance during operations.
- The County will have full access to the entire Computerized Maintenance Management System at all times. The County will have their own passwords and will be able to run reports as well as access any data in the system including specific events, summary data and deductions reports.

5.2. Internal Audits. Developer will conduct internal audits in accordance with an annual schedule and the operational procedures established to verify that documented processes exist, are being followed and measured, and to identify areas requiring improvement. The types of audits that will be performed are listed below:

- Quality Management System: This audit is process- and performance-based and adheres to the team's quality assurance program.
- Environmental Management System: Facility Manager will audit the Environmental Management System to ensure the plan is being followed. The audit also covers such areas as emergency response, environmental aspects, legislation and regulations and operational controls of environmental issues.
- Environmental Compliance: Confirms that the site being audited is in compliance with the appropriate federal, state and the County regulations and legislation.
- Health and Safety Compliance: This audit confirms compliance to the appropriate federal, state and the County's regulations and legislation for health and safety.
- Cleaning Services: Audits are conducted through Facility Manager's P3 "Peer Audit" program where directors or Subject Matter Experts will come to each site that Facility Manager's cleaning teams provide services at and evaluate the cleanliness of the Facility from a customer point of view. Improvements in processes and performance levels are suggested and discussed with the General Manager.
- Lifecycle Audits: Audits are also conducted through Facility Manager's P3 "Peer Audit" program where directors or Subject Matter Experts will come to each site and perform program and risk assessment. Improvements in processes and performance levels are suggested and discussed with the General Manager.

5.3. Operational Reviews. Operational review metrics will be used to support the County's ability to measure Developer's performance. Operational review metrics are also gathered to self-measure performance. Developer will be proactive with comprehensive self-performance measurements to build trust and instill confidence with the County, with the ultimate intent of reducing the amount of resources and time the County has to dedicate to this effort.

5.4. Performance Indicators. Developer will establish key performance indicators ("KPIs") which will underpin the Annual Services Plan. These will include KPIs for the work undertaken by Facility Manager and by Subcontractors under management. Developer will establish a baseline and goal for each KPI and

then track progress toward those goals. These KPIs will demonstrate that the County's goals are met for the Courthouse and will help identify opportunities for productivity improvement. Generally, Developer measures an activity, such as the number of occurrences of a particular task, or productivity, the number of units of a task completed in a specified period of time. Developer also measures subjective elements, such as customer satisfaction, using measurement schemes developed for the Courthouse.

Such measures are useful only when compared against an established baseline and measured over time. This will be done in a performance measurement system. Developer will have a statistical basis for evaluating the quality and the efficiency of service delivery.

5.5. Approach to Track and Monitor Maintenance Work. The overall approach to maintenance for the Courthouse will be a combination of on-site Preventative Maintenance (Scheduled Maintenance) and Demand Requisition, facilitating efficient and continual operations. Through the Preventative Maintenance programs, Developer will reduce Demand Requisition calls related to maintenance. This will be accomplished through early identification of potential problems via inspections during Preventative Maintenance and through diagnostic tools, such as vibration analysis for rotating equipment. The approach also includes using specialty Subcontractors for certain activities to supplement the on-site staff (such as generator maintenance) or for specialty scopes (such as elevators). Facility Manager will also have pre-arranged contracts with Subcontractors to ensure quick responses to Demand Requisition calls.

6. MAINTENANCE APPROACH

6.1. Key Details. The key details of the Developer's maintenance approach are:

- Utilization of real-time facility and systems information to identify Preventative Maintenance activities that result in prolonged life and higher performance, minimizing potential downtime or impacts to Facility Users.
- Proactive planning and scheduling of maintenance activities to implement strategies to avoid impacts to Courthouse operations.
- Continuous improvement systems in-place to receive active and real-time feedback from facility users to refine maintenance plans.
- Developer will utilize and maintain the Facility Condition Index ("FCI") to benchmark each aspect of the Courthouse to determine the level of deterioration and use the information for strategic planning throughout the entire Term. The FCI represents the amount of deferred maintenance in the Courthouse.
- Developer will perform necessary and consistent maintenance coupled with ongoing capital updates through life cycle work in order to maintain a high functioning Courthouse in accordance with the required FCI.
- Developer will establish a robust Preventative Maintenance regime based off of original equipment manufacturer recommendations, experience, regular inspections and system performance, and Facility User experience and feedback.
- When addressing a problem Developer will not only solve the issue in a timely manner but run a root cause analysis to find the underlying issue and help prevent future repair needs or disturbance to Courthouse operations.

6.2. Maintenance Philosophy. The over-arching maintenance approach will be to develop a proactive and sustainable management program that extends asset life and helps to prevent issues that could disrupt the operational efficiency of the Courthouse. Developer's overall service philosophy emphasizes: consistency in preventive maintenance, fast resolution and corrective action on service issues (Demand Requisition), strong communication, and detailed maintenance plans. This philosophy will be instrumental in making sure the Courthouse is operating at peak performance, with minimal downtime and will provide the highest level of customer satisfaction.

For the building occupants, Developer's maintenance philosophy is to take a proactive approach in all maintenance issues and receive continuous feedback from Facility Users through Customer Documentation Reports. After any issue is submitted and addressed, the requester is immediately sent a simple survey on the overall performance and response with the intent to receive feedback form the most amount of people possible.

The performance-based service approach that Facility Manager employs includes the incorporation of maintenance strategies that predict or prevent equipment failure. Facility Manager will exercise extreme due diligence and employ an effective Preventative Maintenance approach to predict possible failures at all times.

6.3. Maintaining Accurate As-Built Records, and Capital Modifications. The detailed building drawings will be provided (both hardcopy form and electronically) to the Developer by the Design-Builder and their Subcontractors and stored in Developer's offices. Developer will be responsible for maintaining and updating drawings. This will include when any Capital Modifications are undertaken. Developer will be responsible for documenting these Capital Modifications so the drawings always accurately reflect the current state of the Courthouse.

6.4. Mitigating Impact on Service Reliability. Developer recognizes that maintaining the operation of the building is critical and minimizing disruptions will be essential. Developer will focus on the following items to mitigate negative impacts:

(A) Communications: Communicate with the building occupants and guests will be important to both scheduling and completing the work. This is typically accomplished through written communications via email and posting of signs well in advance of any work (even if it occurs after Operating Hours since the County employees could still be in the building).

(B) Scheduling Work: Developer will schedule work to ensure it occurs at times that minimize disruptions. The County will always participate in the planning of scheduling work that could possibly interfere any building operations. Facility Manager will review the building activities and court dockets when scheduling work and will schedule work after Operating Hours as required.

(C) Scheduling Utility Shutdowns: Ensuring that any utility disruptions (such as electrical or water shutoffs) are planned with the County, communicated well in advance, and planned to minimize impacts. For utility shutdowns by local utilities, Developer will communicate the schedule to building occupants and will work to mitigate, as much as possible, any disruption.

(D) Site Security: Ensuring that areas where work is being performed is both secure and safe. The work areas will be isolated via isolating the area by locking access to them or installing barriers; the workforce in these areas will ensure that no one enters who are not authorized to be there. The areas will be secured at the end of the work period as well.

APPENDIX 10

INSURANCE REQUIREMENTS

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1. INSURANCE DURING THE DESIGN-BUILD PERIOD

The following policies of insurance shall be obtained and kept in force during the Design-Build Period in accordance with the terms of this Appendix 10. At the Developer's option, the Developer may provide any or all of the following insurance policies by means of a Contractor Controlled Insurance Program (CCIP), provided all terms, conditions, and requirements of this Appendix 10 are met.

1.1. Builder's Risk. The County shall obtain and keep in force builder's risk course of construction insurance policy covering all insurable Design-Build Work at the Project Site (including Cultural Center Plaza Service Road relocation); materials, supplies, machinery, fixtures and equipment intended to become a permanent part of the Project or for permanent use in the Project or incidental to the construction; all temporary structures at the Project Site that are to be used in or incidental to the fabrication, erection, testing, or completion of the Project to the extent the cost thereof is included in the Design-Build Work while on or about the Project Site awaiting or during construction but not to include contractor's equipment. Such builder's risk policy:

(a) shall be maintained until the Occupancy Readiness Date;

(b) shall be in an amount not less than the completed value of the Project;

(c) shall be written on an all risk basis, including coverage for the perils of equipment breakdown, flood (including the overflow of inland or tidal waters, the unusual accumulation or runoff of surface waters, mudslides or mudflows caused by flooding), water damage, earth movement including earthquake, collapse, machinery breakdown, testing and commissioning of equipment, wind and hail including named windstorm, and terrorism, and subject to aggregate sublimits of not less than $50,000,000 for flood, $50,000,000 for named windstorm, and $100,000,000 for earth movement coverages;

(d) shall include LEG3 coverage with respect to faulty workmanship, design, or materials;

(e) shall include coverage for demolition and debris removal, ordinance and law, crane re-erection, and extra expense with sublimits typically maintained on a construction project of similar size and scope within the Miami-Dade County area;

(f) shall include coverage for delay in completion covering the Developer's soft costs and other indirect construction costs necessarily incurred due to the delay in completion. The limit will reflect 100% of recurring soft costs with an indemnity period of at least 24 months[1];

(g) shall include coverage for delay in completion covering the Developer's loss of revenue with a limit not less than an amount representing the Developer's Service Fee for the first two-years (24 months) post-Scheduled Occupancy Readiness Date;

[1] The soft costs limit will be based on the Developer's construction budget and discussed with the Preferred Proposer post-award.

(h) shall include coverage for property while in inland transit and temporarily off-site in an amount of $5,000,000 and does not include property while at suppliers' or manufacturers' sites;

(i) shall include as named insureds the County, Design-Builder, all Subcontractors, the Developer, and the Senior Lenders; and

(j) shall name the trustee of the Insurance Trust Account as loss payee and require all loss proceeds to be payable in accordance with the Insurance Trust Agreement and the Developer shall be a loss payee with respect to the delay in completion coverage contemplated in 1.1(f) and (g).

1.2. Professional Liability Insurance. The Developer shall obtain and keep in force, or cause to be obtained and kept in force, professional liability errors and omissions insurance policy on a claims-made basis, which shall:

(a) be project-specific in an amount not less than $10,000,000 per claim and in the aggregate with respect to the policy(ies) covering the lead architect/engineer and the Design-Builder[2]. Such policy(ies) shall include the County, any Government Entity, and any Government Person as indemnified parties;

(b) be in an amount not less than $1,000,000 per claim and $2,000,000 in the aggregate for all other design professionals engaged in the Design-Build Work. Such policy(ies) may be provided under so-called "practice" or annual policies, and need not be project-specific or provide dedicated limits;

(c) have an extended reporting or discovery "tail" period, or be renewed for a period, of not less than ten years after the Occupancy Readiness Date; and

(d) such policy shall have a retroactive date to the date of first design.

1.3. Commercial General Liability. The Developer shall obtain and keep in force, or cause to be obtained and kept in force, a project specific commercial general liability insurance policy, written on an ISO CG 00 01 occurrence basis (or equivalent form reasonably acceptable to the County at its discretion) and covering liabilities arising out of the construction of the Project, including independent contractors, products and completed operations, personal and advertising liability, and liability assumed under an insured contract provided in connection with the construction of the Project. The products and completed operations liability coverage shall be maintained for a period of not less than 10 years following the Occupancy Readiness Date or the Termination Date, whichever occurs later. The insurance shall apply separately for each insured against whom a claim is made or a lawsuit is brought, subject only to the insurance policy limits of liability. A joint defense and separation of insureds clause under a wrap-up, or owner or contractor controlled insurance program is permitted however a cross liability exclusion or insured versus insured exclusion is not permitted. This insurance policy shall:

(a) have minimum limits of $1,000,000 each occurrence, $1,000,000 aggregate for products/completed operations and $2,000,000 aggregate for other than products/completed operations;

[2] The County will consider an approach utilizing a project-specific owner-protective professional indemnity (OPPI) policy or contractor-protective professional indemnity (CPPI) instead of project-specific E&O policy provided the underlying policy covering the lead designer / Design-Builder has a minimum $10 million per claim limit and the Developer is a named insured under the OPPI/CPPI.

(b) be maintained from Financial Close until the Occupancy Readiness Date;

(c) not contain exclusions for property damage from explosion, collapse or underground hazards;

(d) include a separation of insureds clause and not contain any cross liability nor insured versus insured exclusion;

(e) contain no exclusion for professional liability except the latest ISO CG 22 79 or CG 22 80 or both;

(f) contain an endorsement for limited coverage for designated unmanned aircraft (CG 24 50). If applicable, coverage may be obtained on a stand-alone basis;

(g) include the Developer and Design-Builder as named insureds;

(h) include the Senior Lenders as additional insureds; and

(i) include the County, any Government Entity, and any Government Person, as additional insureds during both ongoing and completed operations using ISO forms CG 20 10 (10 01) and CG 20 37 (10 01), or, in the County's sole discretion, forms providing the same scope of coverage. The Developer shall require Project Contractors and Subcontractors during the Design-Build period to have these additional insureds included as insureds in the same manner as specified for the Developer in this Section 1.3, and shall prohibit the use of any endorsements or forms that require, to the effect of additional insured status, the execution or existence of any contract directly between such contractors and any of the additional insureds. The Developer shall monitor certificates of insurance, insurance policies and endorsements and/or documentation to assure compliance with insurance requirements of Project Contractors and Subcontractors.

1.4. Commercial Auto Liability. The Developer shall obtain and keep in force, or cause to be obtained and kept in force, commercial automobile liability insurance policy with limits of liability of not less than $1,000,000 combined single limit per accident on a "Symbol 1 – Any Auto" basis. The insurance must cover liability arising from the ownership, maintenance or use of any auto, including owned, hired or non-owned autos, assigned to or used in connection with the construction of the Project. Each policy shall:

(a) if the Developer or any Project Contractor's activities involve transportation of hazardous materials that require endorsement MCS-90 (Motor Carrier Act Endorsement – Hazardous Materials Clean up), such automobile policy shall be endorsed to do so and endorsed to include CA 99 48 (Pollution Liability – Broadened Coverage for Covered Autos – Business Auto, Motor Carrier and Truckers Coverage Form).

1.5. Workers' Compensation and Employers' Liability. The Developer shall obtain and keep in force, or cause to be obtained and kept in force, workers' compensation and employers' liability insurance having coverage limits of $1,000,000 for each accident, $1,000,000 for disease (each employee), and $1,000,000 for disease (policy limit).

1.6. Umbrella Excess Liability. The Developer shall obtain and keep in force, or cause to be obtained and kept in force, umbrella and/or excess liability insurance policy(ies) with minimum limits of $100,000,000 each occurrence for general liability, limits of $15,000,000 for

employer's liability, and limits of $25,000,000 for commercial auto liability This insurance shall include the Developer and the Design-Builder as named insureds, and shall include the commercial general liability, commercial automobile liability and employers' liability coverages as required above on the applicable schedule of underlying insurance. This insurance shall afford insured status to all individuals and entities required to be insureds on underlying insurance, to the same extent as the underlying insurance, and shall "follow-form" to the underlying insurance on all other respects.

1.7. Contractor Pollution Liability. The Developer shall obtain and keep in force, or cause to be obtained and kept in force, a project specific contractor's pollution liability insurance policy written on an occurrence form with limits of not less than $10,000,000 and a $10,000,000 project aggregate limit, covering sums the insured becomes legally obligated to pay to a third party or for the investigation, removal, remediation (including associated monitoring) or disposal of soil, surface water, groundwater or other contamination to the extent required by Applicable Laws caused by pollution conditions caused by the performance of the Design-Build Work. If the policy is provided on a "claims made" form, the Developer shall cause the Design-Builder to continue such coverage, either through policy renewals or purchase of an extended discovery period, if such coverage is available, for not less than three years following the Occupancy Readiness Date. Such policy shall:

(a) include bodily injury, property damage (including natural resource damage), clean-up costs, legal defense costs, transportation including loading and unloading;

(b) apply to sudden and non-sudden pollution conditions;

(c) contain a severability or separation of insureds provision;

(d) include the Developer, the Design-Builder, and Subcontractors as named insureds; and

(e) include the County, any Government Entity, any Government Person, and the Senior Lenders as additional insureds.

1.8. Pollution Legal Liability. The Developer shall obtain and keep in force, or cause to be obtained and kept in force, Pollution Legal Liability provided on a "claims made" form with limits of not less than $10,000,000 and a $10,000,000 project aggregate limit, covering third-party bodily injury and property damage, first party remediation or clean-up costs and the associated monitoring for newly discovered pollution conditions on the Project Site. The contractor's pollution liability and pollution legal liability may be combined and insured under the same policy during the Design-Build Period provided the aggregate limit on such combined policy is not less than $20,000,000. The Developer shall continue such coverage, either through policy renewals or purchase of an extended discovery period, if such coverage is available, for not less than three years following the Occupancy Readiness Date. Such policy shall:

(a) Include the Developer, the Design-Builder and Subcontractors as named insureds; and

(b) Include the County, any Government Entity, any Government Person, and the Senior Lenders as additional insureds.

1.9. Railroad Protective Liability. The Developer shall obtain and keep in force, or cause to be obtained and kept in force, a policy providing railroad protective liability as required by any railroad as a condition of entry or encroachment near the railroad right-of-way.

2. INSURANCE DURING THE FACILITY MANAGEMENT PERIOD

The following policies of insurance shall be obtained and kept in force throughout the Facility Management Period, in accordance with the terms of this Appendix 10.

2.1. Property. The County shall obtain and keep in force an "all risk" / special form property insurance for the Full Insurable Value insuring all buildings, improvements (other than tenants' improvements in the Project), fixtures, and equipment (other than tenants' equipment) that are built or placed on the Project Site, and such policy shall:

(a) include coverage for theft, vandalism, collapse, wind and hail including named windstorm, and terrorism;

(b) include equipment breakdown coverage for all electrical and mechanical equipment in use or connected to the Project Site. The policy, if separate, shall include a joint loss clause;

(c) include foundations, including pilings, but excluding normal settling, shrinkage, or expansion;

(d) include coverage for business income to the extent required under Section 2.2 below;

(e) include coverage for the perils of flood (including the overflow of inland or tidal waters, the unusual accumulation or runoff of surface waters, mudslides or mudflows caused by flooding), water damage and earth movement including earthquake, with each occurrence and aggregate sublimits of not less than $50,000,000 for flood, $50,000,000 for named windstorm, and $100,000,000 for earth movement;

(f) include ordinance or law coverage with no sublimit for the undamaged portion of the building and not less than $25,000,000 for demolition and increased cost to repair or replacement;

(g) be excess of any funds in the Vandalism Reserve Account with respect to loss or damage caused by Vandalism;

(h) include the Developer, Facility Manager, County, and Senior Lenders as named insureds; and

(i) name the [Account Trustee] as loss payee and require all loss proceeds to be payable in accordance with the Insurance Trust Agreement and the Developer shall be included as a loss payee with respect to business income coverage contemplated under Section 2.2 of this Appendix below.

2.2. Business Income. The business income required by Section 2.1 above shall be provided with limits of liability not less than two times the Developer's annual Service Fee relative to the policy period. Coverage shall include:

(a) interruption by civil or military authority for not less than 30 days;

(b) ingress and egress coverage for not less than 30 days;

(c) an extended period of indemnity (EPI) not less than three hundred and sixty-five (365) days;

(d) ordinance or law increased period of indemnity;

(e) Extra expense with a sublimit of not less than $5,000,000;

(f) utility service interruption with a sublimit of not less than $5,000,000; and

(g) the Developer, Facility Manager, Senior Lenders, and the County as named insureds.

2.3. Commercial General Liability. The Developer shall obtain and keep in force, or cause to be obtained and kept in force, commercial general liability insurance insuring against liability of the Developer and the Facility Manager with respect to the Project or arising out of the Facility Management Services, written on an occurrence basis ISO CG 00 01 and covering liabilities arising out of premises, operations, independent contractors, products and completed operations, personal and advertising liability, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). This insurance shall have minimum limits of $1,000,000 combined single limit each occurrence, $1,000,000 combined single limit aggregate for products/completed operations and $2,000,000 combined single limit per location aggregate for other than products/completed operations. Such policy shall:

(a) include a separation of insureds clause and not contain any cross liability nor insured versus insured exclusion;

(b) include the Developer and Facility Manager as named insureds;

(c) include the Senior Lenders as additional insureds; and

(d) include the County, any Government Entity, and any Government Person as additional insureds during both ongoing and completed operations using ISO forms CG 20 10 (10 01) or, in the County's sole discretion, forms providing the same scope of coverage. The Developer shall require the Project Contractors and Subcontractors during the Facility Management Period to have these additional insureds included as insureds in the same manner as specified for the Developer in this Section 2.3, and shall prohibit the use of any endorsements or forms that require, to the effect of additional insured status, the execution or existence of any contract directly between such contractors and any of the additional insureds.

2.4. Business Auto Liability. The Developer shall obtain and keep in force, or cause to be obtained and kept in force, business auto liability insurance with limits of liability of not less than $1,000,000 per accident on a "Symbol 1 – Any Auto" basis. The insurance must cover liability arising from the ownership, maintenance or use of any auto, including owned, hired or non-owned autos, assigned to or used in connection with the operation and maintenance of the Project.

2.5. Workers' Compensation and Employers' Liability. The Developer shall obtain and keep in force, or cause to be obtained and kept in force, workers' compensation with statutory benefits as required under Applicable Law, and employers' liability insurance having coverage limits of $1,000,000 for each accident, $1,000,000 for disease (each employee), and $1,000,000 for disease (policy limit).

2.6. Umbrella Excess Liability. The Developer shall obtain and keep in force, or cause to be obtained and kept in force, umbrella excess liability or excess liability insurance with minimum limits of $50,000,000 each occurrence, $50,000,000 aggregate for products/completed operations and $50,000,000 aggregate for other than products/completed operations. This insurance shall include commercial general liability, commercial automobile liability and employers' liability coverages on the applicable schedule of underlying insurance with respect to the Developer and the Facility Manager. This insurance shall afford insured status to all individuals and entities required to be insureds on underlying insurance, to the same extent as the underlying insurance.

2.7. Pollution Legal Liability. The Developer shall obtain and keep in force, or cause to be obtained and kept in force, pollution legal liability provided on a "claims made" form with limits of not less than $10,000,000 and a $10,000,000 project aggregate limit, covering third-party bodily injury and property damage, first party remediation or clean-up costs and the associated monitoring for newly discovered pollution conditions on the Project Site. The Developer shall continue such coverage, either through policy renewals or purchase of an extended discovery period, if such coverage is available, for not less than three years following the Termination Date. Such policy shall:

(a) Include the Developer and Facility Manager as named insureds; and

(b) Include the County, County, any Government Entity, any Government Person, and the Senior Lenders as additional insureds.

2.8. Employee Dishonesty. The Developer shall obtain and keep in force, or cause to be obtained and kept in force, employee theft (crime) insurance against the fraudulent/dishonest acts of employees of the Developer and the Facility Manager, including additional coverage for inside the premises – theft of money and securities and outside the premises, money orders and counterfeit paper currency, forgery or alteration, computer fraud and funds transfer fraud, expenses incurred to establish amount of covered loss, and credit, debit or charge card forgery with coverage for any one occurrence or claim of not less than $1,000,000. This coverage shall include clients/custodial coverage and loss resulting from impersonation fraud (social engineering).

2.9. Cyber Liability. The Developer shall obtain and keep in force, or cause to be obtained and kept in force, network interruption, data loss, and cyber liability insurance with a limit of not less than $2,000,000 per claim. Coverage shall include invasion of privacy violations, information theft, damage or destruction of electronic information, release of private information, extortion, network security, breach response costs, credit monitoring, and regulatory fines and penalties. The policy shall include the County, any Government Entity, and any Government Person as additional insureds with respect to third-party coverage.

2.10. Other. The Developer shall obtain and keep in force, or cause to be obtained and kept in force, any other form of insurance and with such limits, in such form, in amounts and for risks as the County, acting reasonably, may require from time to time. The Service Fee shall be adjusted to reflect the premium cost of any such additionally required insurance.

3. FULL INSURABLE VALUE

3.1. Full Insurable Value Defined. For the purposes of this Appendix, "Full Insurable Value" of any building, improvement, equipment or other property shall be determined on a replacement cost valuation by the Developer, acting reasonably, at the time the insurance is initially taken out and thereafter at least once every 12 months, and the Developer shall promptly notify the County in writing of each such determination, provided that the County may at any

time (but not more frequently than once in any 12 month period), by written notice to the Developer, require the Full Insurable Value of any building, improvement, equipment or other property to be redetermined on a replacement cost basis by an independent qualified appraiser designated by the Developer's insurance agent/broker and approved by the County and the property insurance company. The Developer shall cause such redetermination to be made promptly and the results of such redetermination communicated in writing to the Developer and the County.

3.2. Adequacy of Contemplated Insurance. In addition to the determination of "Full Insurable Value," as part of the periodic review contemplated in the preceding paragraph of this Section, the Developer shall determine whether the policies set out in Section 2 and the limits of such policies are adequate for the Project, and the Developer shall promptly notify the County in writing of each such determination, provided that the County may at any time (but not more frequently than once in any 12 month period), by written notice to the Developer, require the policies or the limits of such policies be redetermined, in the manner described in the preceding paragraph. The Developer shall cause such redetermination to be made promptly at the Developer's cost and the results of such redetermination communicated in writing to the Developer and to the County. The Service Fee shall be adjusted to reflect the reduced or increased premium cost of any County-directed insurance changes due to the redetermination. By requiring the insurance and insurance limits herein, the County does not represent that coverage and limits will necessarily be adequate to protect the Developer, Design-Builder, Facility Manager or any Subcontractor.

4. OTHER POLICY REQUIREMENTS

4.1. Waiver of Subrogation. A waiver of subrogation shall be provided in favor of the County and the County Indemnitees with respect to each policy of insurance required to be maintained under this Appendix 10, with the exception of any professional liability insurance policy.

4.2. Dedicated Insurance. All insurance coverage required to be provided by the Developer under this Appendix 10 shall apply specifically and exclusively to the Project with coverage limits devoted solely to the Contract Services and the Project Site, except as otherwise noted in this Appendix 10, and except with respect to any policy of automobile insurance, workers' compensation and employer's liability insurance, employee dishonesty, and cyber liability insurance.

4.3. Qualified Insurer. All insurance shall be issued by a Qualified Insurer and shall be in a form approved by the County. Such approval shall not be unreasonably withheld.

4.4. Non-contributing. All insurance shall be non-contributing and shall apply only as primary and not excess to any other insurance, self-insurance, or other risk financing program available to the County.

4.5. No Prejudice to County. The Developer shall use reasonable efforts to ensure that the insurance it procures and maintains under this Agreement shall provide that the interest of the County, any Government Entity, and any Government Persons, will not be prejudiced by the Developer error, omission or mis-description of the risk insured under the policies, incorrect declaration of values, failure to advise insurers of any change of risk interest or property insured or failure to comply with a statutory requirement, nor by any other misrepresentation, act or omission by the Developer that would otherwise result in forfeiture or reduction of coverage. The Developer shall indemnify, hold harmless and make whole the County for any forfeiture of insurance coverage resulting from such error, omission, mis-description, incorrect declaration,

failure to advise, misrepresentation, act or omission, and for any expense the County incurs as a result thereof (except arising from the gross negligence or willful misconduct of the County).

4.6. Cancellation. All policies required under this Appendix 10 shall include an endorsement providing that the policy(ies) shall not be cancelled, terminated, or adversely reduced except upon sixty (60) days' prior written notice to the County and the Senior Lenders, except with respect to cancellation for non-payment of premium where ten (10) days' prior written notice shall apply.

4.7. Waiver of Insurance Requirements. If the Developer, Design-Builder, Facility Manager or any Subcontractor cannot fulfill all requirements of Required Insurance in this Project Agreement, Developer shall forward a written request to the County for the County's approval in writing of alternate insurance coverage or self-insurance arrangements. The County may also, in its sole discretion, waive in writing any insurance requirement that cannot be met if the County determines such waiver to be in its best interest. If the County denies the request, the Developer, Design-Builder, Facility Manager and any Subcontractor must comply with the requirements as specified in this Project Agreement. Failure of the County to obtain copies of the policies or other evidence of full compliance with the insurance requirements or failure of the County to identify a deficiency in the policies or evidence provided shall not be construed as a waiver of any obligation to maintain the Required Insurance.

4.8. County Acceptance of Insurance. No acceptance or approval of any insurance by the County shall be construed as relieving or excusing any other party, or their surety, or its bonds, from any liability or obligation imposed upon any of them by the provisions of this Project Agreement. Nothing herein shall be construed as permitting the Developer, Design-Builder, Facility Manager or any Subcontractor to allow the insurance coverage required by this Project Agreement to lapse.

4.9. Subcontractors. The Developer shall require all Subcontractors to maintain during the term of this Project Agreement appropriate types and levels of insurance coverage. Subcontractors' certificates of insurance shall be provided by the Developer to the County immediately upon request.

4.10. Deductibles and Self-Insured Retentions. Any deductible or retention amounts elected by Developer, Design-Builder and Facility Manager or any Subcontractors or imposed by Developer's, Design-Builder's and Facility Manager's or any Subcontractor's insurers shall be the sole responsibility of the party with the deductible or retention and are not chargeable as expenses. Deductibles or retentions of $250,000 (index linked) or greater shall not be permitted except with the County's written approval, and in the case of project-specific professional liability coverage contemplated in Section 1.2 where a retention of $1,000,000 or greater shall be not be permitted except with the County's written approval. Notwithstanding the above, such maximum deductible restriction will not apply to any policy of automobile liability, workers' compensation and employer's liability. In the event that any required insurance coverage contains a self-insured retention, the Developer agrees to treat all losses within the self-insured retention as though commercial insurance is in place, with all rights and protection that would be provided by traditional insurance, including, but not limited to, the defense obligations that insurers are required to undertake in liability policies. The Developer shall, at its sole expense, pay for all claims, defenses, any claims related costs and damages without any contribution from the County, any Government Entity, or any Government Person. With respect to policies of builder's risk required under Section 1.1 of Appendix 10 and property insurance required under Section 2.1 of Appendix 10, the County shall bear the deductible for flood and named windstorm (and, for greater certainty, not any other form of water damage), and the Developer shall bear the deductible for all other losses. With respect to the builder's risk, property, and business income insurance policies required under Sections 1.1, 2.1, and 2.2 of this Appendix, the maximum deductibles under the insurance policies shall be $250,000 except $500,000 for water damage

and a 30-day waiting period for time-element coverage. The maximum deductibles or retentions in respect to the insurances to be procured pursuant to this Appendix shall be index linked in accordance with the Inflation Index.

Notwithstanding the foregoing, in respect of the business income insurance policy referenced in Section 2.2, the Developer may, at its option and at any time during the Term, request that the County use commercially reasonable efforts to obtain from its broker(s) at least one quote for the cost of buying down the waiting period under the policy from 30 days to 7 days. The County shall provide the price quote(s) for the cost of buying down the waiting period under the business income insurance policy from 30 days to 7 days to the Developer in writing along with any other costs to the County associated with selecting a quote with a buy-down versus another less expensive quote without a buy-down (**"Buy-Down Insurance Cost"**). Once the Buy-Down Insurance Cost is provided to the Developer, the Developer will have 5 Business Days to notify the County in writing whether it elects to proceed with the Buy-Down Insurance Cost, which election shall be at the Developer's sole cost and responsibility for the total amount of the Buy-Down Insurance Cost. The Buy-Down Insurance Cost will be reflected as a deduction from the monthly Service Fee as an Extraordinary Item pursuant to the Project Agreement, Section 16.6(A)(13).

4.11. Required Insurance Issued on a "Claims Made" Basis. If any Required Insurance purchased by the Developer, Design-Builder, Facility Manager or any Subcontractor has been issued on a "claims made" basis, the purchaser of such claims made coverage must comply with the following additional conditions. The limits of liability and the extensions to be included remain the same. The Developer, Design-Builder, Facility Manager and any Subcontractor must either:

(a) Agree to provide certificates of insurance to the County evidencing the above coverages for a minimum period of three years after termination, unless a longer period is specified above. Such certificates shall evidence a retroactive date no later than the beginning of work or services under Project Agreement; or

(b) Purchase an extended (minimum three years) reporting period endorsement (unless a longer period is specified above) for each such "claims made" policy in force as of the date of termination and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance and a copy of the endorsement itself. Such certificates and copy of the endorsement shall evidence a retroactive date no later than the beginning of work or services under this Project Agreement.

4.12. Notification of Claims. The Developer shall notify the County as soon as reasonably practicable of any incident(s) that could give rise to a claim against the County; provided, however, that this obligation shall be deemed to have been breached in any circumstance where the Developer notifies the relevant insurer on a date which the insurer alleges, or has the right to allege, constitute untimely notice as to entitle the insurer to deny coverage for the claim.

5. EVIDENCE OF INSURANCE

5.1. Design-Build Period. As to the insurance required by the provisions of the Project Agreement during the Design-Build Period, a certified copy of each of the policies, or binders, shall be delivered to the County at least fifteen (15) days prior to the use of any portion of the Project Site by the Developer. In the event any binder is delivered, it shall be replaced within sixty (60) days by a certified copy of the policy. Thereafter, the Developer shall deliver copies within fifteen (15) days upon the County's request. In addition, the Developer shall deliver valid

certificates of insurance to the County at least fifteen (15) days prior to the renewal date of such policies. Each such policy, copy, binder or certificate delivered shall contain terms and conditions consistent with the requirements of this Appendix 10, a valid provision or endorsement that the policy may not be cancelled, terminated, or adversely reduced without prior written notice to the County as required under Section 4.6 of this Appendix 10, and in all respects in a manner reasonably acceptable to the County. Notwithstanding the above, the County may accept a detailed certificates of insurance in lieu of insurance policies with respect to corporate policies of insurance for workers' compensation and employer's liability, automobile liability, crime insurance, and cyber liability provided such certificates contemplate the insurance requirements of this Appendix 10, policy endorsements with respect to additional insured, waiver of subrogation, and notice of cancellation in favor of the County are attached to the certificate, and otherwise are acceptable to the County in all respects. Upon request by the County, the Developer shall deliver proof of payment of premiums for insurance required to be effected pursuant to this Appendix 10. No review or approval of any insurance certificate or insurance policy by the County shall derogate from or diminish the County's rights under the Project Agreement.

5.2. Facility Management Period. As to the insurance required by the provisions of the Project Agreement during the Facility Management Period, a certified copy of each of the policies, or binders, shall be delivered to the County at least fifteen (15) days prior to the Occupancy Readiness Date. In the event any binder is delivered, it shall be replaced within sixty (60) days by a certified copy of the policy. Thereafter, the Developer shall deliver copies within fifteen (15) days upon the County's request and upon any policy renewal with a new insurance carrier or insurance broker. In addition, the Developer shall deliver valid certificates of insurance to the County at least fifteen (15) days prior to the renewal date of such policies. Each such policy, copy, binder or certificate delivered shall contain terms and conditions consistent with the requirements of this Appendix 10, a valid provision or endorsement that the policy may not be cancelled, terminated, or adversely reduced without prior written notice to the County as required under Section 4.6 of this Appendix 10, and in all respects in a manner reasonably acceptable to the County. Notwithstanding the above, the County may accept a detailed certificates of insurance in lieu of insurance policies with respect to corporate policies of insurance for workers' compensation and employer's liability, automobile liability, crime insurance, and cyber liability provided such certificates contemplate the insurance requirements of this Appendix 10, policy endorsements with respect to additional insured, waiver of subrogation, and notice of cancellation in favor of the County are attached to the certificate, and otherwise are acceptable to the County in all respects. Upon request by the County, the Developer shall deliver proof of payment of premiums for insurance required to be effected pursuant to this Appendix 10. No review or approval of any insurance certificate or insurance policy by the County shall derogate from or diminish the County's rights under the Project Agreement.

5.3. County Procured Insurance.

(a) As to the builder's risk insurance under Section 1.1 of this Appendix 10, the County shall deliver a copy of the policy or binder to the Developer at least fifteen (15) days prior to Financial Close. In the event any binder is delivered, it shall be replaced within ninety (90) days by a copy of the policy. Thereafter, the County shall endeavor to provide a certificate of insurance to the Developer within fifteen (15) upon request for any reasonable purpose; and

(b) As to the property and business income insurance under Section 2.1 and Section 2.2 of this Appendix 10, and subject to the Developer complying with Section 8.3(A) of the Project Agreement, the County shall deliver a copy of the policy or binder to the Developer at least fifteen (15) days prior to Occupancy Readiness Date. In the event any binder is delivered, it shall be replaced within ninety (90) days by a copy of the policy. Thereafter, the County shall provide a certificate of insurance to the Developer at least fifteen (15) days prior to each renewal date.

APPENDIX 11

DEDUCTIONS

APPENDIX 11

DEDUCTIONS

1. DEFINITIONS AND SECTION REFERENCES

1.1. Definitions. In this Appendix, in addition to the definitions set out in this Project Agreement:

"Accessibility Condition" means a state or condition of the relevant Functional Unit or the means of access to it which allows all persons who are entitled to enter, occupy or use the relevant Functional Unit to enter and leave the Functional Unit safely and conveniently and using any of the normal access routes, as further described in Section 3.11 (Accessibility), 3.14 (Building Circulation Systems), 3.15 (Stair System Requirements), 3.16 (Elevator and Escalators System Requirements), and 3.24 (Courtroom Accessibility) of the Performance Specifications.

"Actual Response Time" means the shorter of (1) the Observed Response Time or (2) the Required Response Time allowed for such Event.

"**Availability Condition**" means (1) an Accessibility Condition, (2) a Safety Condition, (3) a Use Condition, or (4) an Operational Condition.

"Critical Event" means an Event which (1) is a Judicial Impediment; (2) results in a material breach of binding regulatory requirements or Applicable Law; and (3) results in noncompliance with an Availability Condition for Functional Units 2.01, 2.04-05, 2.07, 2.11, 2.14-15, 2.17, 2.20, 2.23-24, 2.26, 3.01, 3.05-06, 3.08, 4.01, 4.04-07, 26.06, 29.57-61 (unless such Event is an Emergency Event).

"Emergency Event" means an Event which (1) presents a clear and present threat to human life, safety or security (including, but not limited to, any failure of any fire or security alarm system); (2) creates concerns regarding the integrity of evidence to be used in a court proceeding; or (3) materially impedes access to justice.

"Event" means an incident or state of affairs leading to a Performance Failure or Unavailability Event.

"Facility Management Representative" means an appropriately trained and skilled field maintenance person available for performing the Facility Management Services.

"Functional Unit" means a room or space which is specified as such in Attachment 11A to this Appendix.

"Judicial Impediment" means any incident or state of affairs that (1) restricts or impedes the ability of the Administrative Office of the Courts or the Clerk of Courts to conduct court proceedings or other critical court functions; (2) restricts or impedes the ability of jurors to gather and deliberate in a typical and ordinary manner; or (3) otherwise directly impedes the resolution of pending cases.

"Non-Operating Hours" means the times of 6:00 p.m. to 7:00 a.m. on Business Days and any time on days that are not Business Days.

"Observed Response Time" means the observed time that elapses from the Reported Event Time to the time at which (x) the Developer's Facility Management Representative acknowledges to the Help Desk an Event has occurred and (y) the appropriate County's Facility

Management Representative is informed by the Developer that a Developer's Facility Management Representative is responding to the Event.

"Operating Hours" means the times of 7:00 a.m. to 6:00 p.m. on Business Days.

"Operational Condition" means a state or condition of the relevant Functional Unit which is complete, operational, functional and fit for its intended use or purpose, as further described in Section 2.7 (Summary Components and Space) of the Facility Program Statement and in Section 3 of Appendix 4 of this Project Agreement (Design and Construction Standards).

"Performance Failure" means any failure by the Developer, as set forth in Table 1 of Attachment 11B.

"Performance Failure Deduction" means a Deduction which may be made in respect of a Performance Failure that is not Rectified prior to the expiration of the applicable Required Rectification Period, if any. "Performance Failure Deductions" are set forth in Table 1, Table 2, Table 3, Table 4 and Table 5 of Attachment 11B.

"Performance Specifications" refers to the set of technical documents that are appended to the Project Agreement that pertain to design, construction, and performance standards requirements for the Facility.

"Permanent Repair" means Rectification following a Temporary Repair which has been permitted and carried out pursuant to Section 8 of this Appendix.

"Permanent Repair Deadline" has the meaning set out in Section 8(a)(iv) of this Appendix.

"Recording Frequency" means the frequency with which a Performance Failure is evaluated, as set out in Table 1 of Attachment 11B.

"Rectification" means making good, permanently, an Event so that the subject matter of such Event complies with the levels of service and performance of the Facility Management Services required pursuant to this Project Agreement. "Rectification" shall, without prejudice to the generality of the foregoing, include:

(1) restoring all functional capability affected by the Event; and

(2) ensuring that any affected Functional Unit is returned to the Availability Conditions existing immediately prior to the occurrence of the Event.

"Reported Event Time" means the time at which an event is reported to the Help Desk by either the Developer or the County.

"Required Rectification Period" means the period of time, if any, within which Rectification of the relevant Unavailability Event or Performance Failure must be completed, as specified in Attachment 11A or Attachment 11B of this Appendix. The "Required Rectification Period" begins from the end of the Actual Response Time.

"Required Response Time" means the times set forth in Section 6.3 and Section 6.4 of this Appendix.

"Routine Event" means an Event which is not an Emergency Event or a Critical Event.

"Safety Condition" means a state or condition of the relevant Functional Unit which allows individuals to safely enter, leave, occupy and use such Functional Unit.

"Subsequent Rectification Period" means any period of time following the expiration of the Required Rectification Period at the beginning of which an Unavailability Event or Performance Failure continues. Subsequent Rectification Periods shall have the same duration as the Required Rectification Period for the relevant Unavailability Event or Performance Failure, as specified in Attachment 11A or Attachment 11B of this Appendix.

"Temporary Availability Condition" has the meaning set out in Section 8(a)(ii) of this Appendix.

"Temporary Repair" means, in respect of the occurrence of an Unavailability Event, works of a temporary nature that do not constitute Rectification.

"Temporary Repair Proposal" has the meaning set out in Section 8(a) of this Appendix.

"Total Courthouse Unavailability" occurs when:

(a) any of the following Functional Units are Unavailable and the Required Rectification Period has expired with respect to each Event that caused such Unavailability:

(i) 50% of public passenger elevators (Functional Units TS-3.14);

(ii) the server room (Functional Unit 29.61);

(iii) the public lobby (Functional Unit 1.12);

(iv) the Central Control Room (Functional Unit 1.16); or

(v) 75% of public restroom facilities (Functional Unit 29.64);

(b) any of the following Functional Units are Unavailable, causing a Judicial Impediment and the Required Rectification Period has expired with respect to the Event that caused such Unavailability:

(i) the Juror Assembly / Waiting / Voir Dire – General Seating (Functional Unit 24.15);

(ii) the Juror Assembly / Waiting / Voir Dire – Quiet Room (Functional Unit 24.16); or

(v) the Juror Assembly / Waiting / Voir Dire – Selection Room (Functional Unit 24.19);

(c) any of the following experiences a material failure or material issue lasting more than two consecutive hours after being reported to the Help Desk by either the Developer or the County:

(i) the fire alarm system;

(ii) the sprinkler system;

(iii) failure of the backbone infrastructure and/or wiring that causes the failure of 50% or more of the security cameras;

(iv) the failure of backup power during a power outage; or

(v) total failure of the Facility's water supply systems; or

(d) multiple Unavailability Events are occurring concurrently and resulting in an aggregate Deduction exceeding $6,000 (Index-Linked) per every two hour period during Operating Hours; and the County has not approved any mitigation plan put forward by the Developer.

"Unavailable" or **"Unavailability"** means, with respect to a Functional Unit, that such Functional Unit is in a state or condition that does not comply with the Availability Conditions.

"Unavailability Deduction" means a Deduction which shall be made in respect of an Unavailability Event that is not Rectified prior to the expiration of the applicable Required Rectification Period and any Subsequent Rectification Periods. "Unavailability Deductions" are set forth in Attachment 11A to this Appendix.

"Unavailability Event" means an incident or state of affairs which causes one or more Functional Units to be Unavailable.

"Use Condition" means a state or condition of the relevant Functional Unit which satisfies the functional requirements for the proper use and enjoyment of a Functional Unit for its particular purpose relating to (1) temperature; (2) humidity; (3) air-quality; (4) lighting; (5) power; and (6) safe water (relating to availability, temperature, quality and safe sewerage system), as the same are further described in Appendix 20 as it pertains to Section 3.28 (Mechanical Systems Criteria), 3.29 (Electrical Systems Criteria) 3.30 (Plumbing Systems Criteria), 3.31 (Fire Protection Systems Criteria), 3.32 (General Facility Systems Requirements), 3.33 (Communication Infrastructure Criteria), 3.34 (Telecommunication Systems Criteria), 3.35 (Public Address and Mass Notification System Criteria), 3.36 (Audio Visual Systems Criteria), and 3.37 (Security Systems General Criteria) of the Performance Specifications. Additional use requirements for the Functional Units are also provided in Section 2.9 (Room Data Sheets) of the Facility Program Statement.

1.2. Section References in this Appendix. All Section references in this Appendix are to Sections of this Appendix, except Section references explicitly made to Sections, Articles, or Appendices of this Project Agreement.

2. DEDUCTIONS GENERALLY

2.1. General Entitlement to Make Deductions. If at any time after the Occupancy Readiness Date an Unavailability Event or a Performance Failure occurs, the County shall be entitled to make Deductions in accordance with this Appendix in respect of that Unavailability Event or Performance Failure (and, for greater certainty, in respect of all other Unavailability Events and Performance Failures) from the Service Fee for the relevant Billing Period. The Deductions Credit to be applied to the Service Fee in any Billing Period shall be the total amount of Deductions accrued in such Billing Period determined in accordance with this Appendix.

2.2. Maximum Deduction Amount in Any Billing Period. The maximum Deduction Credit with respect to any Billing Period shall not exceed such Billing Period's Facility Management Charge. Any Deductions in excess of a Billing Period's Facility Management Charge shall be carried over and applied to the next Billing Period.

2.3. Deductions Multiplier for Persistent Underperformance. Subject to Section 2.2 of this Appendix:

(a) If, during the three immediately preceding Billing Periods, the Developer has incurred Deductions in excess of $40,000 (Index-Linked) in the aggregate, but equal to or less than $80,000 (Index-Linked), the Deductions Credit incurred in a Billing Period shall be multiplied by two immediately prior to being applied to the Service Fee.

(b) If, during the three immediately preceding Billing Periods, the Developer has incurred Deductions in excess of $80,000 (Index-Linked) in the aggregate, the Deductions Credit incurred in a Billing Period shall be multiplied by four prior to being applied to the Service Fee.

(c) For the purposes of this Section, when calculating the amount of Deductions incurred in preceding Billing Periods, any multiplier previously applied pursuant to this Section shall not be included in such calculations.

2.4. Classification of Event. The initial classification of an Event as a particular Unavailability Event or a particular Performance Failure shall be made by the Developer at the time at which the occurrence of the Event is reported to the Help Desk or otherwise reported to the Developer. If an Event can properly be classified as both an Unavailability Event and a Performance Failure at the time it is reported, it shall be classified as the Event that has the highest potential initial Deduction applicable to it. An Event which is incorrectly classified may be reclassified, after such Event is reported in a Performance Monitoring Report, only with the approval of the County, acting reasonably. For clarity, an Event which has been incorrectly classified can be re-classified without the approval of the County prior to such Event being reported in a Performance Monitoring Report. If such an Event is re-classified, the appropriate Deduction (if applicable) shall be made and any Deduction incorrectly applied shall be withdrawn.

2.5. Performance Failure Becoming Unavailability Event. A Performance Failure may become or lead to an Unavailability Event if circumstances change or the Performance Failure continues. In such a circumstance, when the Functional Unit becomes Unavailable, the Performance Failure shall have ended (without prejudice to the Performance Failure Deductions that have accrued to that point) and an Unavailability Event shall commence. The Response Time for such Unavailability Event, as described in the preceding sentence, shall be zero minutes. The Subsequent Rectification Period for such Unavailability Event shall be deemed to have begun with the completed Required Rectification Period or last completed Subsequent Rectification Period of the related Performance Failure, or if there is no completed Required Rectification Period, the first Required Rectification Period of such Unavailability Event shall be deemed to be the lesser of the length of the balance of the uncompleted Required Rectification Period of the related Performance Failure or the Required Rectification Period of the Unavailability Event.

2.6. Other Remedies of the County. The right of the County to impose Deductions is without prejudice to the other County remedies, as provided in subsection 9.7(B) (Additional Developer Obligations) and Section 19.2 (County Liquidated Damage Rights) of this Project Agreement.

2.7. No Double Deductions for Unavailability Events or Performance Failures in a Functional Unit. To the extent that multiple Deductions for Unavailability Events and Performance Failures apply to a Functional Unit, Deductions shall only accrue in respect of the Unavailability Event or Performance Failures that accrues the highest Deductions amount, and any other Deductions for Unavailability Events and Performance Failures shall be deemed not to have accrued.

2.8. Scheduled Maintenance. Except as otherwise provided in Sections 6.2 and 7.2 of this Appendix, all Unavailability Event or Performance Failure Deductions shall apply for Scheduled Maintenance. However, the County may accept a Developer request that Scheduled Maintenance be exempt from Unavailability Event or Performance Failure Deductions. In reviewing the request, the County will consider: 1) the feasibility of performing the Scheduled Maintenance without materially impacting Contract Services and 2) whether the time requested to perform the Scheduled Maintenance is reasonably expeditious. The right to approve any such request would be in the County's sole discretion and on a case by case basis. For clarity, any Unavailability Event or Performance Failure Deduction that would have otherwise accrued, shall not apply to Scheduled Maintenance performed during Non-Operating Hours provided that such Unavailability Event or Performance Failure is the sole basis for the Deduction.

2.9. Deduction Relief. To the extent that an Unavailability Event or a Performance Failure is caused by a Force Majeure Event or Compensation Event, the County shall not be entitled to make a Deduction for that Unavailability Event or Performance Failure.

2.10. Compliance with Covenance of Non-Interference. To the extent that an Unavailability Event or a Performance Failure is caused by or continues due to the Developer's compliance with Section 9.9 (Covenenant of Non-Interference) of the Project Agreement, the County shall not be entitled to make a Deduction for that time period of the Unavailability Event or Performance Failure attributed to the time that was required in order to comply with Section 9.9 of the Project Agreement.

3. UNAVAILABILITY DEDUCTIONS

3.1. Deductions for Unavailability Events. In respect of an Unavailability Event there shall be one Deduction per Functional Unit that is Unavailable beyond the Required Rectification Period and one Deduction for each completed Subsequent Rectification Period that the Functional Unit continues to be Unavailable, in accordance with Attachment 11A.

3.2. Functional Units Unavailable But Nonetheless Used. If a Functional Unit is Unavailable but the County, at its discretion, continues to use such Functional Unit for its intended use or purpose, the Deduction that would otherwise be applied shall be multiplied by 50%.

4. SPECIAL DEDUCTIONS FOR MAJOR OR PROLONGED UNAVAILABILITY EVENTS

4.1. Total Courthouse Unavailability. Notwithstanding any other provision of this Appendix (including Section 3.2 of this Appendix), if Total Courthouse Unavailability occurs, the only Unavailability Deduction that shall apply is a Deduction of $6,000 (Index-Linked), to be applied (1) upon the commencement of Total Courthouse Unavailability and (2) at the expiration of each subsequent two hour interval that Total Courthouse Unavailability persists during Operating Hours.

4.2. Deductions for Ongoing Unavailability Events. Where the Unavailability Event continues beyond the Required Rectification Period and two consecutive Subsequent Rectification Periods and the Developer has failed to Rectify that Unavailability Event, the Unavailability Deduction for the completion of the third and each additional Subsequent Rectification Period, calculated in accordance with Attachment 11A of this Appendix, shall be multiplied by two.

4.3. Multiple Unavailability Events With the Same Root Cause. If the root cause of a series of Unavailability Events is substantially the same, whether or not the Developer Rectifies any or all of the Events within the applicable Required Rectification Period, a Deduction of $500

(Index-Linked) in addition to any other Unavailability Deduction imposed under this Appendix, shall apply per Event on the occurrence of either of the following:

(a) the third such Event in a single day and on the occurrence of each subsequent such Event following the third such Event on the same day; and

(b) the fourth such Event in a rolling consecutive seven-day period and on the occurrence of each subsequent such Event in that seven-day period.

5. PERFORMANCE FAILURE DEDUCTIONS

5.1. Deductions for Performance Failure Events. The amount of the total Deductions, for any Billing Period, in respect of a Performance Failure shall be as follows:

(a) where a Performance Failure has a Required Rectification Period, one Deduction per failure that persists beyond the Required Rectification Period and one Deduction for each completed Subsequent Rectification Period that the Performance Failure persists, in accordance with Table 2 of Attachment 11B, and/or

(b) where a Performance Failure has no Required Rectification Period, one Deduction per Recording Frequency, in accordance with Table 3, Table 4 and Table 5 of Attachment 11B, as applicable.

5.2. Unavailability as Sole Cause of Performance Failure Deductions. No Performance Failure Deduction shall be made if the Performance Failure to which it relates arises solely as a result of the Unavailability of the Functional Unit in which the Facility Management Service was to be provided.

6. RESPONSE TIMES

6.1. Help Desk and Maintenance Personnel Responses to an Event. The parties acknowledge that the Help Desk may be automated or may be staffed by administrative staff not charged with the responsibility for Rectifying reported Events and the responsibility for Rectification shall rest with the Developer's appropriately trained and skilled field maintenance personnel. The Help Desk shall promptly inform the Developer's Facility Management Representative, on duty at the time the Event is reported to the Help Desk, that an Event has been reported. The Developer's Facility Management Representative shall promptly respond to the Help Desk acknowledging that he or she has received the report and is aware of the Event. The Developer shall also promptly inform the appropriate County's Facility Management Representative, by any means that is deemed acceptable by the County, including verbal, written or electronic communication, that the Developer's Facility Management Representative has received the report and is aware of the Event.

6.2. Calculation of Required Response Times. The Required Response Time for the Developer's Facility Management Representative or Developer Person to respond to the Help Desk and for the Developer to inform the appropriate County's Facility Management Representative that a Developer's Facility Management Representative or a Developer Person has responded to the Help Desk, shall be measured from the Reported Event Time. Required Response Times shall apply on a 24 hour basis for any Performance Failure that has a "High" priority classification and for any Emergency Event. Required Response Times shall apply only during Operating Hours for any Performance Failure that does not have a "High" priority classification, any Critical Event or any Routine Event.

6.3. Required Response Times for Unavailability Events. The Required Response Time for Unavailability Events shall be as follows:

Unavailability Event Classification	Required Response Time (Minutes)
Emergency Event	15
Critical Event	30
Routine Event	120

Failure of the Developer's Observed Response Time for an Unavailability Event to be equal to or less than the applicable Required Response Time provided in this Section shall result in a Deduction of $550, as specified in Attachment 11B, Table 1, item 6.

6.4. Required Response Times for Performance Failures. The Required Response Time for Performance Failures shall be as follows:

Performance Failure Priority Classification	Required Response Time (Minutes)
High	15
Medium	45
Low	120

Failure of the Developer's Observed Response Time for a Performance Failure to be equal to or less than the applicable Required Response Time provided in this Section shall result in a Deduction of $550, as specified in Attachment 11B, Table 1, item 6.

7. REQUIRED and SUBSEQUENT RECTIFICATION PERIODS

7.1. No Required Rectification Period. If a Performance Failure for which there is no Required Rectification Period (as indicated in Table 1 of Attachment 11B) occurs, the applicable Performance Failure Deduction shall apply, in accordance with Section 5.1(b) of this Appendix, immediately upon occurrence of the Performance Failure.

7.2. Calculation of Required and Subsequent Rectification Periods.

(a) Required and Subsequent Rectification Periods for all Critical Events, all Routine Events, and Performance Failures that do not have a "High" priority classification, as set forth in Table 1 of Attachment 11B, shall begin at the conclusion of the Actual Response Time and accumulate only during Operating Hours.

(b) Required and Subsequent Rectification Periods for Emergency Events and Performance Failures that have a "High" priority classification, as set forth in Table 1 of Attachment 11B, shall begin at the conclusion of the Actual Response Time and accumulate on a 24 hour basis.

7.3. Required Rectification Period. If (a) a Performance Failure or an Unavailability Event occurs, for which there is a Required Rectification Period, and (b) the Developer Rectifies the Performance Failure or Unavailability Event within the Required Rectification Period, no Deduction shall be made for such Performance Failure or Unavailability Event.

7.4. Subsequent Rectification Periods. For any Performance Failure or Unavailability Event described in Section 7.3 of this Appendix that persists beyond the Required Rectification

Period, a Deduction shall be applied, and an additional Deduction shall be applied for each completed Subsequent Rectification Period until the Performance Failure or Unavailability Event is Rectified.

8. TEMPORARY REPAIRS TO ADDRESS CERTAIN UNAVAILABILITY EVENTS

If the Developer is unable to Rectify an Unavailability Event within the applicable Required or Subsequent Rectification Period due to the need for specialized materials or personnel that are not required by this Project Agreement to be immediately available at the Facility and are not, and cannot reasonably be expected to be, available at the Facility, then:

(a) The Developer may provide the County with a proposal (the "**Temporary Repair Proposal**") for:

(i) a Temporary Repair;

(ii) a temporary modification to the Availability Condition for the relevant Functional Unit until the Permanent Repair is completed (the "**Temporary Availability Condition**");

(iii) the Permanent Repair; and

(iv) the period within which to complete the Permanent Repair (the "**Permanent Repair Deadline**");

(b) the County may in its discretion consider the Temporary Repair Proposal, and the Developer shall not carry out the Temporary Repair until the Temporary Repair Proposal is accepted by the County. The County shall have 2 days from the date of receipt of the Temporary Repair Proposal to notify the Developer of its acceptance or rejection of the Temporary Repair Proposal. If the Developer does not receive a response from the County within such timeframe, the County will be deemed to have rejected the Temporary Repair Proposal. If the County does not accept the proposal, then the Deductions will occur as otherwise calculated, pursuant to this Appendix 11;

(c) if the County accepts the Temporary Repair Proposal, the Developer shall carry out the Temporary Repair in accordance with the Temporary Repair Proposal;

(d) if the Temporary Repair is completed in accordance with the Temporary Repair Proposal, the Availability Condition for the relevant Functional Unit shall be modified to be the Temporary Availability Condition until the Permanent Repair Deadline;

(e) if the Permanent Repair is not completed by the Permanent Repair Deadline, the Temporary Availability Condition shall cease to be the Availability Condition and the County may make all applicable Unavailability Deductions with effect from the Permanent Repair Deadline; and

(f) except with respect to the applicable modification of the Availability Condition, nothing in this Section 8 shall limit the County's entitlement to Deductions within the applicable Required and Subsequent Rectification Periods.

9. PHASE-IN OF DEDUCTIONS

9.1. In General. During the first Billing Period, in which the Occupancy Readiness Date falls, and the second Billing Period, the amount of any Deduction shall be reduced by 75%. During the third Billing Period, the amount of any Deduction shall be reduced by 50%. During the fourth Billing Period the amount of any Deduction shall be reduced by 25%. After the fourth Billing Period and every billing period thereafter, the full Deduction amounts shall apply.

9.2. Punch List Items Excepted. No Deductions shall be imposed for Unavailability Events or Performance Failures to the extent caused by work performed by the Developer in accordance with the Contract Standards to address Punch List Items.

10. FAILURE TO MONITOR OR REPORT OR MISCONDUCT BY THE DEVELOPER

10.1. Performance Monitoring Report. The Performance Monitoring Report produced by the Developer for any Billing Period shall be the initial source of the information regarding the performance of the Facility Management Services for the relevant Billing Period for the purposes of calculating the relevant Deductions.

10.2. Failure to Monitor or Report. If the Developer fails to monitor or timely and accurately report an Event:

(a) A Deduction, determined in accordance with item 33 of Table 1 of Attachment 11B, shall apply for each Event that has been misreported. The relevant Deduction for the misreporting shall be made in addition to the Deductions that would have been made had there been no failure to monitor or report;

(b) The County shall be entitled to make Deductions in respect of any Performance Failures or Unavailability Events in the manner described in this Appendix, and the Performance Monitoring Reports and invoices with respect to all Billing Periods affected by such failure shall be restated to include any such Deductions; and

(c) The Developer shall forthwith pay to the County the amount, if any, by which the amount paid to it for the affected Billing Periods exceeds the amount in the restated invoices for such Billing Periods.

10.3. Misconduct. If the County's inspection or investigation of records reveals, on the part of the Developer or a Developer Person:

(a) fraudulent action or inaction;

(b) deliberate misrepresentation; or

(c) gross misconduct or gross incompetence;

then a Performance Failure Deduction, determined in accordance with item 38 of Table 1 of Attachment 11B, shall apply for each Event that has been misreported. The relevant Deduction for the misconduct shall be made in addition to the Deductions that would have been made had there been no misreporting or misconduct.

ATTACHMENT 11A

UNAVAILABILITY DEDUCTIONS

Unavailability Deductions shall be determined in accordance with this Attachment 11A and may be imposed by the County in accordance with this Appendix 11.

Table 1 lists and defines the Functional Units which may become Unavailable. Each Functional Unit is identified in Table 1. Table 1 also indicates the priority classification of each Functional Unit (Low, Medium, or High). The priority classification of each Functional Unit reflects the degree to which each Functional Unit is central to the primary mission and purpose of the Facility (to advance the resolution of pending cases) and thus results in more severe deductions for higher priority Functional Units. Table 2, when read with Table 1, establishes the appropriate Deduction for each Unavailability Event. Table 3 provides a summary of other factors that may affect an Unavailability Event's Deduction amount.

Table 1 – Functional Unit Priority Classification

Func. Unit No.	Sub-Category	Room Name	Qty.	Priority
Section 1 - Entry Lobby				
1.01	Not Used	Not Used	N/A	N/A
1.02	Public Area	Security Screening Queuing	1	High
1.03	Public Area	Weapons Screening Stations	4	High
1.12	Public Area	Secure Public Lobby	1	High
1.15	Public Area	Security Staff Room/Storage	1	Low
1.16	Restricted Area	Central Control Room	1	High
1.17	Restricted Area	Central Control Room Toilet	1	High
TS - 3.14	Public Area	Public Elevators	10	High
TS – 3.14	Public	ADA Wheelchair Lifts	2	High
TS - 3.14	Restricted Area	Service Elevators	2	Medium
TS - 3.14	Restricted Area	Judges & Staff Elevators	2	High
Section 2 - Circuit Civil Courtroom Sets				
2.01	Special Proceedings	Special Proceedings Courtroom	1	High
2.02	Special Proceedings	Courtroom Waiting	1	Medium
2.03	Special Proceedings	Attorney/Client/Witness Rm	2	Medium
2.04	Special Proceedings	Entry Vestibule	1	High
2.05	Special Proceedings	Courtroom Technology / Equipment Room	1	High
2.06	Special Proceedings	Exhibit Storage Closet	1	Low
2.07	Special Proceedings	Jury Deliberation Set	1	High
2.10	Special Proceedings	AV control Room	1	Medium
2.11	Standard Jury	Standard Courtroom	23	High

Func. Unit No.	Sub-Category	Room Name	Qty.	Priority
2.12	Standard Jury	Courtroom Waiting	23	Medium
2.13	Standard Jury	Attorney/Client/Witness Rm	46	Medium
2.14	Standard Jury	Entry Vestibule	23	High
2.15	Standard Jury	Courtroom Technology / Equipment Room	23	High
2.16	Standard Jury	Exhibit Storage Closet	23	Low
2.17	Standard Jury	Jury Deliberation Set	12	High
2.20	Large Jury	Large Courtroom	8	High
2.21	Large Jury	Courtroom Waiting	8	Medium
2.22	Large Jury	Attorney/Client/Witness Rm	16	Medium
2.23	Large Jury	Entry Vestibule	8	High
2.24	Large Jury	Courtroom Technology / Equipment Room	8	High
2.25	Large Jury	Exhibit Storage Closet	8	Low
2.26	Large Jury	Jury Deliberation Set	4	High
Section 3 - Circuit Probate Courtroom Sets				
3.01	Standard Jury	Standard Courtroom	8	High
3.02	Standard Jury	Courtroom Waiting	8	Medium
3.03	Standard Jury	Supplemental Waiting	8	Low
3.04	Standard Jury	Attorney/Client/Witness Rm	16	Medium
3.05	Standard Jury	Entry Vestibule	8	High
3.06	Standard Jury	Courtroom Technology / Equipment Room	8	High
3.07	Standard Jury	Exhibit Storage Closet	4	Low
3.08	Standard Jury	Jury Deliberation Set	2	High
Section 4 - County Civil Courtroom Sets				
4.01	Standard Jury	Standard Courtroom	10	High
4.02	Standard Jury	Courtroom Waiting	10	Medium
4.03	Standard Jury	Attorney/Client/Witness Room	20	Medium
4.04	Standard Jury	Entry Vestibule	10	High
4.05	Standard Jury	Courtroom Technology / Equipment Room	10	High
4.06	Standard Jury	Exhibit Storage Closet	10	Low
4.07	Standard Jury	Jury Deliberation Set	5	High
Section 5 - Circuit Civil Judicial Office Sets				
5.01	Judicial Office Set	Judge's Office	31	High
5.02	Judicial Office Set	Judicial Restroom	31	Medium

Func. Unit No.	Sub-Category	Room Name	Qty.	Priority
5.03	Judicial Office Set	Reception/Waiting	8	Medium
5.04	Judicial Office Set	Bailiff Workstation	31	Medium
5.05	Judicial Office Set	Judicial Assistant Workstation	31	High
5.06	Judicial Office Set	Intern Work Area	31	Medium
5.07	Judicial Office Set	Copy/File Room, Coffee Service, Storage Closet	31	Low
Section 6 - Circuit Probate Judicial Office Sets				
6.01	Judicial Office Set	Judge's Office	8	High
6.02	Judicial Office Set	Judicial Restroom	8	Medium
6.03	Judicial Office Set	Reception/Waiting	2	Medium
6.04	Judicial Office Set	Bailiff Workstation	8	Medium
6.05	Judicial Office Set	Judicial Assistant Workstation	8	High
6.06	Judicial Office Set	Copy/File Room	8	Low
6.07	Judicial Office Set	Coffee Service	8	Low
6.08	Case Management	Director's Office	1	Medium
6.09	Case Management	Operations Director	1	Medium
6.10	Case Management	Case Managers	1	Medium
6.11	Case Management	Volunteer Case Managers	1	Medium
6.12	Case Management	Intern Work Area	1	Medium
6.13	Case Management	Copy/Supply Room	1	Low
6.14	Case Management	Coffee Service	1	low
6.15	Case Management	Secure Storage File Room	1	High
6.16	Case Management	Conference Room	1	Medium
6.17	Case Management	Break Room	1	Low
Section 7 - County Civil Judicial Office Sets				
7.01	Judicial Office Set	Judge's Office	8	High
7.02	Judicial Office Set	Judicial Restroom	8	Medium
7.03	Judicial Office Set	Reception/Waiting	2	Medium
7.04	Judicial Office Set	Bailiff Workstation	1	Medium
7.05	Judicial Office Set	Judicial Assistant Workstation	1	High
7.06	Judicial Office Set	Intern Work Area	1	Medium
7.07	Judicial Office Set	Copy/File Room, Coffee Service, Storage Closet	8	Low
Section 8 - Other Judicial Support				
8.01	County Court	Mediation Rooms	12	Medium

Func. Unit No.	Sub-Category	Room Name	Qty.	Priority
8.02	Judicial/AOC Conference	Judicial Meeting Room	1	Medium
8.03	Judicial/AOC Conference	Table storage for Mtg Room	1	Low
8.04	Judicial/AOC Conference	Small Conference Rooms	3	Medium
8.05	Judicial Floor Break Areas	Shared Judicial staff Breakrooms	13	Low
8.06	Visiting and Senior Judge Accom.	Visiting & Sr Judge Hoteling Offices	6	High
8.07	Visiting and Senior Judge Accom.	Visiting & Sr Judge shared support	4	High
8.08	Visiting and Senior Judge Accom.	Shared Copy/Workroom	1	Low
8.09	Visiting and Senior Judge Accom.	Shared Coffee Service	1	Low
8.10	Visiting and Senior Judge Accom.	Shared restrooms	2	Low
8.11	Standard Jury	Digital Court Reporting Room	1	High
Section 9 - AOC Circuit Civil Operations				
9.01	Access - Public	Reception Waiting	1	High
9.02	Access - Public	Interview Room	2	High
9.03	Open Office Area	Reception Counter Workstations	1	High
9.04	Open Office Area	Support Staff Workstations	1	Medium
9.05	Open Office Area	Office Equipment Area	1	Low
9.06	Case Managers/Special Projects Area	Program Coordinator	1	Medium
9.07	Case Managers/Special Projects Area	Sr. Court Specialist	1	Medium
9.08	Case Managers/Special Projects Area	Court Specialist Workstations	1	Medium
9.09	Case Managers/Special Projects Area	Small Conference Room	1	Low
9.10	Case Managers/Special Projects Area	Copier Area with Sorting Table	1	Low
9.11	Case Managers/Special Projects Area	File Storage	4	Low
9.12	Case Managers/Special Projects Area	Coffee Service	1	Low
9.13	Interpreters Area	Supervisor Office (AA II)	1	Medium
9.14	Interpreters Area	Lounge Area	1	Low
9.15	Interpreters Area	Workstation/Remote Translation Booth	1	High
9.16	Interpreters Area	Quiet Room - Translation	1	High

Func. Unit No.	Sub-Category	Room Name	Qty.	Priority
9.17	Interpreters Area	Coffee Counter	1	Low
9.18	Process Server Area	Process Server Coordinator Office	1	Medium
9.19	Process Server Area	Assistant Process Server	2	Medium
9.20	Process Server Area	ID Photo Booth	1	Medium
9.21	Process Server Area	Supply Storage	1	Low
9.22	Executive Management Area	Operations Director	1	Medium
9.23	Executive Management Area	Administrative Conference Room	1	Medium
9.24	Executive Management Area	Administrative Assistant I	2	Medium
9.25	Executive Management Area	Civil Operations Administrative Asst	1	Medium
9.26	Executive Management Area	Intern and Special Projects Carrels	1	Low
9.27	Shared Support Spaces	Copy Center	1	Medium
9.28	Shared Support Spaces	Training/Conference Room	1	Medium
9.29	Shared Support Spaces	Small Stores Storage	1	Low
9.3	Shared Support Spaces	AV/IT Storage	1	Low
9.32	Shared Support Spaces	Breakroom	1	Low
Section 10 - AOC County Civil Operations				
10.01	Access - Public	Reception/Waiting	1	High
10.02	Access - Public	Interview Room	1	High
10.03	Secure Staff Offices and Workstations	Reception Workstation	1	High
10.04	Secure Staff Offices and Workstations	Case Manager Workstations	1	Medium
10.05	Secure Staff Offices and Workstations	Copy Area	1	Low
10.06	Secure Staff Offices and Workstations	Open File Area	1	Low
10.07	Secure Staff Offices and Workstations	Mail Sorting Area	1	Low
10.08	Secure Staff Offices and Workstations	Judicial Support Administrator III	1	Medium
10.09	Secure Staff Offices and Workstations	Operations Director	1	Medium
10.10	Staff Support	Storage Closet	1	Low
10.11	Staff Support	Small Conference Room	1	Low
10.12	Staff Support	Coffee Service	1	Low
10.13	Staff Support	Breakroom	1	Low

Func. Unit No.	Sub-Category	Room Name	Qty.	Priority
Section 11 - AOC Mediation / Arbitration				
11.01	Access - Public	Waiting Room	1	High
11.02	Access - Public	Check-in Counter Queuing	2	High
11.04	Secure Access - Staff Side	Program Asst Workstation	1	Medium
11.05	Secure Access - Staff Side	Court Security monitor workstation	1	High
11.06	Secure Access - Staff Side	Cashier Counter/window	1	High
11.07	Secure Access - Staff Side	Secure Waiting Room	2	High
11.08	Staff Offices & Workstations	Mediator Offices	17	Medium
11.09	Staff Offices & Workstations	Caucus Rooms	9	Medium
11.11	Staff Offices & Workstations	Workstations	2	Medium
11.12	Staff Offices & Workstations	Copy Area	2	Low
11.13	Staff Offices & Workstations	File Storage	2	Low
11.14	Staff Offices & Workstations	AOC Contracted Mediator workroom	1	Medium
11.16	Staff Offices & Workstations	Lg. mediation rooms	2	High
11.17	Staff Offices & Workstations	Caucus Rooms	2	Medium
11.18	Staff Offices & Workstations	Director Office	1	Medium
11.19	Staff Support	File Storage	6	Low
11.20	Staff Support	Break room	1	Low
11.21	Staff Support	Staff Conference Room	1	Low
Section 12 - Facilities Management (AOC)				
12.01	Access - Public	Reception Area/Waiting	1	Medium
12.02	Access - Public	Small Conference Room	1	Medium
12.03	Access - Staff Side	Secretary Workstation	1	Medium
12.04	Access - Staff Side	File Area	8	Low
12.05	Staff Offices & Workstations	Security Manager Office	1	High
12.06	Staff Offices & Workstations	Procurement Specialist	1	Medium
12.07	Staff Offices & Workstations	Sample storage and display room	1	Low
12.08	Staff Offices & Workstations	Court Services Manager Office	1	Medium

Func. Unit No.	Sub-Category	Room Name	Qty.	Priority
12.10	Staff Offices & Workstations	Director Office	1	Medium
12.11	Staff Offices & Workstations	Adm. Conference room	1	Low
12.12	Staff Offices & Workstations	Branch Court Coordinator	1	Medium
12.13	Shared Staff Support	Large Conference Room	1	Medium
12.14	Shared Staff Support	Copy/Workroom (Production Area)	1	Medium
12.15	Shared Staff Support	Breakroom	1	Low
12.16	Service Desk	Customer Support Specialist (Hoteling)	1	Medium
12.17	Service Desk	Storage & Staging	1	Medium
12.18	Service Desk	Disposal Storage	1	Low
12.19	Audio-Video Services	Audio-Video Technicians	1	High
12.20	Audio-Video Services	Testing/Repair Area	1	Medium
12.21	Audio-Video Services	Equipment/Supply Storage	1	Low
Section 13 - Office of Government Liaisons & Public Relations				
13.01	Access - Public	Reception/Waiting	1	Medium
13.02	Access - Public	Small Interview Room	1	Medium
13.03	Secure Staff Offices & Workstations	Assistant to the Director Office	1	Medium
13.04	Secure Staff Offices & Workstations	Intern Work Area	1	Low
13.05	Secure Staff Offices & Workstations	Director Office	1	Medium
13.06	Staff Support (internal)	File Area	1	Low
13.07	Staff Support (internal)	Storage Area	1	Low
13.08	Staff Support (internal)	Office Equipment	1	Low
Section 14 - General Counsel				
14.01	Secure Access - Staff Side	Reception Waiting	1	Medium
14.02	Secure Access - Staff Side	Reception Workstation	1	Medium
14.03	Staff Offices & Workstations	Deputy General Counsel	1	Medium
14.04	Staff Offices & Workstations	Legal Secretary Workstation	1	Medium
14.05	Staff Offices & Workstations	Files	4	Low
14.06	Staff Offices & Workstations	Office equipment	1	Low
14.07	Staff Offices & Workstations	AGC Staff Attorney Supervisors	7	Medium

Func. Unit No.	Sub-Category	Room Name	Qty.	Priority
14.08	Staff Offices & Workstations	AGC Staff Attorney Offices	20	Medium
14.09	Staff Offices & Workstations	Work team areas	3	Medium
14.10	Staff Offices & Workstations	Hoteling Office for General Counsel	1	Medium
14.11	Staff Offices & Workstations	Exec Conference Room	1	Low
14.13	Staff Support	Copy Center	1	Low
14.14	Staff Support	Supply Storage Room	1	Low
14.15	Staff Support	Bookshelves	1	Low
14.16	Staff Support	Intern Work Area	1	Low
14.17	Staff Support	Scanning Station	1	Low
14.18	Staff Support	Break Room	1	Low
Section 15 - Clerk of Court - Administration - Executive Office				
15.01	Access - Public	Reception Waiting	1	High
15.02	Access - Public	Reception Counter Workstation	2	High
15.03	Staff Offices/ Workstations & Support - Executive	Clerk of the Courts	1	High
15.04	Staff Offices/ Workstations & Support - Executive	Restroom	1	Low
15.05	Staff Offices/ Workstations & Support - Executive	Chief Deputy Clerk	1	High
15.06	Staff Offices/Workstations & Support - Executive	Chief of Staff	1	High
15.07	Staff Offices/ Workstations & Support - Executive	Senior Executive Secretary	1	Medium
15.08	Staff Offices/ Workstations & Support - Executive	Executive Secretary	1	Medium
15.09	Staff Offices/ Workstations & Support - Executive	Clerical Assistant	1	Medium
15.10	Strategic Management & Budget	Director Clerk's Strategic Management & Budget	1	High
15.11	Strategic Management & Budget	Executive Secretary to the Clerk	1	Medium
15.12	Strategic Management & Budget	Analyst Office	1	Medium
15.13	Budget/Analysis/ Reporting	Court Financial Officer	1	Medium

Func. Unit No.	Sub-Category	Room Name	Qty.	Priority
15.14	Budget/Analysis/ Reporting	Financial Analyst	2	Medium
15.15	Budget/Analysis/ Reporting	conference room	1	Low
15.16	Grant/ Financial Analysis	Court Financial Officer	1	Medium
15.17	Grant/ Financial Analysis	Financial Analyst	1	Medium
15.18	Grant/ Financial Analysis	Accountant II	1	Medium
15.19	Grant/ Financial Analysis	Hoteling Office	1	Low
15.20	Grant/ Financial Analysis	Conference Room – Finance/Legal	1	Low
15.21	General Counsel	General Counsel	1	High
15.22	General Counsel	Manager	1	High
15.23	General Counsel	Attorney	3	Medium
15.24	General Counsel	Analyst	1	Medium
15.25	General Counsel	Paralegal	3	Medium
15.26	General Counsel	Legal Administrative Asst.	1	Medium
15.27	General Counsel	Legal Secretary	1	Medium
15.28	General Counsel	Small Conference Room	2	Low
15.29	Shared Support	Administrative Conference Room	1	Medium
15.30	Shared Support	Main Central Departmental Conference Room	1	Medium
15.31	Shared Support	Copy/Workroom	1	Low
15.32	Shared Support	Storage - COC	1	Low
15.33	Shared Support	Storage - Finance	1	Low
15.34	Shared Support	Storage - General Counsel	1	Low
15.35	Shared Support	Breakroom	1	Low
Section 16 - Clerk of Court - Human Resources				
		All spaces deleted in reorganization		
Section 17 - Clerk of Court - Purchasing - Procurement Management				
17.01	Procurement – Executive	Procurement Manager	1	Medium
17.02	Procurement – Executive	Clerk 4	1	Medium
17.03	Contract Administration & Procurement Operations	Courts Contracts & Procurement Officer	1	Medium

Func. Unit No.	Sub-Category	Room Name	Qty.	Priority
17.04	Contract Administration & Procurement Operations	Senior Procurement Officer	1	Medium
17.05	Contract Administration & Procurement Operations	Courts Procurement Officer lw	1	Medium
17.06	Contract Administration & Procurement Operations	Courts Procurement Officer	2	Medium
17.07	Contract Administration & Procurement Operations	Account Clerk	1	Medium
17.08	Shared Support	Copy/Workroom	1	Low
17.09	Shared Support	Coffee Service	1	Low
17.10	Shared Support	Storage	1	Low
17.11	Shared Support	Conference Room	1	Medium
Section 18 - Clerk of Court Finance - Accounting, Internal Audit & Accounts				
18.01	Access - Public	Reception Waiting	1	High
18.02	Access - Public	Reception Counter Workstation	1	High
18.03	Finance - Executive	Clerk's Finance Director	1	High
18.04	Finance - Executive	Clerk's Assistant Finance Director	2	Medium
18.05	Finance - Executive	Courts Comptroller Admin Aide	1	Medium
18.06	Analytical Accounting	Accountant 4	1	Medium
18.07	Analytical Accounting	Courts Analytical Financial Operations Officer	1	Medium
18.08	Analytical Accounting	Accountant 1	1	Medium
18.09	Analytical Accounting	Accountant 2	4	Medium
18.10	Managerial Accounting	Accountant 4	1	Medium
18.11	Managerial Accounting	Courts Managerial Financial Operations Officer	1	Medium
18.12	Managerial Accounting	Accountant 2	3	Medium
18.13	Managerial Accounting	Accountant 1	2	Medium
18.14	Managerial Accounting	Managerial Accountant Clerk	3	Medium
18.15	Financial Accounting	Accountant 4	1	Medium
18.16	Financial Accounting	Courts Financial Operations Officer	1	Medium
18.17	Financial Accounting	Accountant 2	2	Medium
18.18	Financial Accounting	Accountant 1	1	Medium
18.19	Financial Accounting	Financial Accountant Clerk	1	Medium

Func. Unit No.	Sub-Category	Room Name	Qty.	Priority
18.20	Reporting/Banking	Accountant 4	1	Medium
18.21	Reporting/Banking	Courts Financial Operations Officer	1	Medium
18.22	Reporting/Banking	Accountant 2	2	Medium
18.23	Reporting/Banking	Accounting Clerk	2	Medium
18.24	Internal Audit	Courts Audit Mgr	3	Medium
18.25	Internal Audit	Courts Sr Auditor	2	Medium
18.26	Internal Audit	Auditor	1	Medium
18.27	Accounts Payable	Accountant 2	2	Medium
18.28	Accounts Payable	Accountant 1	2	Medium
18.29	Accounts Payable	Accountant 4	1	Medium
18.30	Accounts Payable	Courts Financial Operations Officer	1	Medium
18.31	Accounts Payable	Account Clerk	1	Medium
18.32	Accounts Payable	Supply/Forms/ Storage Room	2	Low
18.33	Shared Support - All Units	Conference Room - Large	1	Medium
18.34	Shared Support - All Units	Conference Room - Small	1	Low
18.35	Shared Support - All Units	Office (Hoteling)	3	Medium
18.36	Shared Support - All Units	Check Writing Room	1	Medium
18.37	Shared Support - All Units	Secure Records Room	1	Low
18.38	Shared Support - All Units	Copy Alcove	3	Low
18.39	Shared Support - All Units	Coffee Service	2	Low
18.40	Shared Support - All Units	Break Room	1	Low
Section 19 - Clerk of Court - Civil Administration - Civil Land & Sales				
19.01	Access - Public	Reception Waiting	1	High
19.02	Access - Public	Reception Counter Workstation	1	High
19.03	Staff Office & Workstations	Senior Deputy Clerk	1	High
19.04	Staff Office & Workstations	Director of Civil Division	1	High
19.05	Staff Office & Workstations	Asst. Director of Civil Division	2	Medium
19.06	Staff Office & Workstations	Admin Svcs Officer 2	1	Medium

Func. Unit No.	Sub-Category	Room Name	Qty.	Priority
19.07	Staff Office & Workstations	Administrative Secretary	1	Medium
19.08	Shared Support	Shared Office for Offsite Managers / Directors	1	Medium
19.09	Shared Support	Conference Room	1	Medium
19.10	Shared Support	Coffee Bar	1	Low
19.11	Shared Support	Copy / Workroom	1	Medium
19.12	Shared Support	Supply and Records Storage	1	Low
Section 20 - Clerk of Courts Civil Public Counter and File Initiation/Management				
20.01	Counter & Counter Support- Public	Public Queuing Area	1	High
20.02	Counter & Counter Support- Public	Attorney/Public Service Room	1	High
20.03	Counter & Counter Support- Public	Public Records Viewing Area	1	High
20.04	Counter Workstations (By Unit)	New Suits (Assigned)	2	High
20.05	Counter Workstations (By Unit)	Motion Calendar (Assigned)	1	High
20.06	Counter Workstations (By Unit)	Court Registry (Assigned)	2	High
20.07	Counter Workstations (By Unit)	File Information (Assigned)	2	High
20.08	Counter Workstations (By Unit)	Unassigned	7	High
20.09	Counter Workstations (By Unit)	Work Counter & Forms Storage	1	Low
20.10	Counter Workstations (By Unit)	Copier/ Fax Machine/ Supplies	2	Low
20.11	New Suits	Supervisor 1	1	Medium
20.12	New Suits	Court Records Specialist LW	2	Medium
20.13	New Suits	Court Records Specialist 1 (1 space w/14 Workstations)	1	Medium
20.14	New Suits	Court Records Specialist 1 - Growth (I space w/3 wkst)	1	Medium
20.15	New Suits	OSS 2	1	Medium
20.16	New Suits	Clerk 2	1	Medium
20.17	New Suits	Document Area: Staging, Scanning	1	Medium
20.21	New Suits	Coffee Service	1	Low
20.22	New Suits	Copy / Workroom	1	Medium
20.23	New Suits	Secure Closet	1	Low
20.24	New Suits	Supply and Records Storage	1	Low
20.25	Motion Calendar	Supervisor 1	1	Medium

Func. Unit No.	Sub-Category	Room Name	Qty.	Priority
20.26	Motion Calendar	Court Records Specialist LW	1	Medium
20.27	Motion Calendar	Court Records Specialist 1 (Mail)	1	Medium
20.28	Motion Calendar	Court Records Specialist 1 (1 area w/5 Workstations)	1	Medium
20.29	Motion Calendar	Court Records Specialist 1	1	Medium
20.30	Motion Calendar	Notes & Mortgage Storage	2	Low
20.31	Motion Calendar	Coffee Service	1	Low
20.33	Motion Calendar	Secure Notes & Mortgage Storage	1	Low
20.34	Motion Calendar	Supply Storage	1	Low
20.35	Court Registry	Supervisor 3	1	Medium
20.36	Court Registry	Court Records Specialist LW	1	Medium
20.37	Court Registry	Court Records Specialist 2 (1 space w/6 Workstations)	1	Medium
20.38	Court Registry	Court Records Specialist 1	1	Medium
20.39	Court Registry	Court Records Specialist 1	1	Medium
20.40	Court Registry	Document Area: Staging, Scanning	1	Medium
20.44	Court Registry	Cash Count Room	1	High
20.45	Court Registry	Coffee Service	1	Low
20.47	Court Registry	Supply and Records Storage	1	Low
20.48	Information & File Control	Court Operations Officer	1	Medium
20.49	Information & File Control	Supervisor 1	1	Medium
20.50	Information & File Control	Court Records Specialist LW	1	Medium
20.51	Information & File Control	Court Records Specialist 2 (1 area w/17 Workstations)	1	Medium
20.52	Information & File Control	Court Records Specialist 1 (1 area with 4 Workstations)	1	Medium
20.53	Information & File Control	Court Records Specialist 1 (1 area with 4 Workstations)	1	Medium
20.54	Information & File Control	Document Area: Staging, Scanning	1	Medium
20.58	Information & File Control	File Carts	1	Low
20.59	Information & File Control	Rack Storage	1	Low
20.60	Information & File Control	File Room	1	Low
20.61	Information & File Control	Coffee Service	1	Low

Func. Unit No.	Sub-Category	Room Name	Qty.	Priority
20.62	Information & File Control	Copy / Workroom	1	Medium
20.64	Docketing	Supervisor 2	1	Medium
20.65	Docketing	Court Records Specialist LW	2	Medium
20.66	Docketing	Court Records Specialist 1	1	Medium
20.67	Docketing	Court Records Specialist 1	1	Medium
20.68	Docketing	Court Records Specialist 1 (Temporary)	1	Medium
20.69	Docketing	Document Area: Staging, Scanning	1	Medium
20.73	Docketing	Rack Storage	1	Low
20.74	Docketing	Coffee Service	1	Low
20.75	Docketing	Copy / Workroom	1	Medium
20.76	Docketing	Supply and Records Storage	1	Low
20.77	New Civil Courthouse	Supervisor 2	1	Medium
20.78	New Civil Courthouse	Court Records Specialist LW	1	Medium
20.79	New Civil Courthouse	Court Records Specialist 1	1	Medium
20.80	New Civil Courthouse	Court Records Specialist 1 (Temporary)	1	Medium
20.81	New Civil Courthouse	File Carts	8	Low
20.82	New Civil Courthouse	Secure File Storage	1	Low
20.83	New Civil Courthouse	Exhibit Storage	1	Low
20.84	New Civil Courthouse	Coffee Service	1	Low
20.85	New Civil Courthouse	Copy / Workroom	1	Medium
20.86	New Civil Courthouse	Main file room	1	Medium
20.87	Appeals: Staff Offices, Workstations & Support Areas	Court Operations Officer	1	Medium
20.88	Appeals: Staff Offices, Workstations & Support Areas	Supervisor 1	1	Medium
20.89	Appeals: Staff Offices, Workstations & Support Areas	Court Records Specialist LW	1	Medium
20.90	Appeals: Staff Offices, Workstations & Support Areas	Court Records Specialist 2 (1 area w/2 workstations)	1	Medium
20.91	Appeals: Staff Offices, Workstations & Support Areas	Court Records Specialist 1 (1 area with 9 workstations)	1	Medium
20.92	Appeals: Staff Offices, Workstations & Support Areas	Court Records Specialist 1	1	Medium

Func. Unit No.	Sub-Category	Room Name	Qty.	Priority
20.93	Appeals: Staff Offices, Workstations & Support Areas	Document Area: Staging, Scanning	1	Medium
20.97	Appeals: Staff Offices, Workstations & Support Areas	Rack Storage	2	Medium
20.98	Appeals: Staff Offices, Workstations & Support Areas	File Room	1	Medium
20.99	Appeals: Staff Offices, Workstations & Support Areas	File Carts	1	Low
21.100	Appeals: Staff Offices, Workstations & Support Areas	Coffee Service	1	Low
20.101	Appeals: Staff Offices, Workstations & Support Areas	Copy / Workroom	1	Medium
20.102	Appeals: Staff Offices, Workstations & Support Areas	Supply and Records Storage	1	Low
20.103	Shared Support - All Civil Public Counter and File Management Divisions	Conference Room	1	Medium
20.104	Shared Support - All Civil Public Counter and File Management Divisions	Break Room	1	Low
Section 21 - Clerk of Court - Civil Courtroom Clerks				
21.01	Staff Office, Workstations & Shared Support	Court Operations Officer 1	1	Medium
21.02	Clerks - Team A	Supervisor 2	1	Medium
21.03	Clerks - Team A	Courtroom Clerk 1/LW	1	Medium
21.04	Clerks - Team A	Courtroom Clerk 1/OW	2	Medium
21.05	Clerks - Team A	Courtroom Clerk 1 (1 area with 18 workstations)	1	Medium
21.06	Clerks - Team B	Supervisor 2	1	Medium
21.07	Clerks - Team B	Courtroom Clerk 1/LW	1	Medium
21.08	Clerks - Team B	Courtroom Clerk 1/OW	1	Medium
21.09	Clerks - Team B	Courtroom Clerk 1 (1 area w/21 wkst)	1	Medium
21.10	Clerks - Team B	Courtroom Clerk 1	3	Medium
21.11	Support Spaces	Document Area: Staging, Scanning	1	Medium
21.15	Support Spaces	File Carts	1	Low

Func. Unit No.	Sub-Category	Room Name	Qty.	Priority
21.16	Support Spaces	Coffee Service	2	Low
21.17	Support Spaces	Copy / Workroom	2	Medium
21.18	Support Spaces	Supply and Records Storage	2	Low
Section 22 - Civil Foreclosure & Tax Deed				
22.01	Counters and Counter Support - Public Access	Public Queuing Area	1	High
22.02	Counters and Counter Support - Public Access	Public Kiosk / Copier/Drop Box & Forms Counter	1	High
22.03	Counters and Counter Support - Public Access	Public Records Viewing Area	1	High
22.04	Counters and Counter Support - Public Access	Counter Workstation – Unassigned	2	Medium
22.05	Counters and Counter Support - Public Access	Counter Workstation – Unassigned	3	Medium
22.06	Counters and Counter Support - Public Access	Work Counter & Forms Storage	1	Low
22.07	Counters and Counter Support - Public Access	Copier/ Fax Machine / Copier/Supplies	1	Low
22.08	Foreclosure/Tax Deed Operations - Adm.	Manager of Foreclosure & Tax Deeds	1	Medium
22.09	Foreclosure/Tax Deed Operations - Adm.	Court Operations Officer 1	1	Medium
22.10	Foreclosure/Tax Deed Operations - Adm.	Foreclosure & Tax Deeds Operational Asst.	1	Medium
22.11	Foreclosure/Tax Deed Operations - Adm.	Court Operations Officer 1	1	Medium
22.14	Shared Support	Shared Office for Offsite Managers	1	Low
22.15	Shared Support	Conference Room	1	Medium
22.16	Shared Support	Coffee Service	1	Low
22.17	Shared Support	Copy / Workroom	1	Medium
22.18	Shared Support	Supply and Records Storage	1	Low
22.19	Foreclosures	Officer in Charge	1	Medium
22.20	Foreclosures	Supervisor 2	1	Medium
22.21	Foreclosures	Court Records Specialist 2 (1 are w/10 Workstations)	1	Medium
22.22	Foreclosures	Accountant 1	1	Medium
22.23	Foreclosures	Court Records Specialist 1 (1 area w/4 Workstations)	1	Medium
22.24	Tax Deeds	Supervisor 2	1	Medium
22.26	Tax Deeds	Commission Clerk	1	Medium
23.26	Tax Deeds	Court Records Specialist 2	1	Medium
22.27	Tax Deeds	Accountant Clerk	1	Medium

Func. Unit No.	Sub-Category	Room Name	Qty.	Priority
22.28	Foreclosures/Post Judgments	Supervisor 1	1	Medium
22.29	Foreclosures/Post Judgments	Court Records Specialist LW	1	Medium
22.30	Foreclosures/Post Judgments	Court Records Specialist 2	1	Medium
22.31	Foreclosures/Post Judgments	Court Records Specialist 1 (1 area w/6 Workstations)	1	Medium
22.32	Shared Support	Active Files (Tax Deed)	1	Medium
22.33	Shared Support	Mail Center	1	Medium
22.34	Shared Support	Cash Count Room	1	High
22.35	Shared Support	Safe - Secure Closet	1	Low
22.36	Shared Support	Conference Room	1	Medium
22.37	Shared Support	Coffee Service	2	Low
22.38	Shared Support	Copy / Workroom	1	Medium
22.39	Shared Support	Supply and Records Storage	1	Low
Section 23 - Clerk of Courts Civil Probate & Mental Health				
23.01	Counters and Counter Support - Public Access	Public Queuing Area	1	High
23.02	Counters and Counter Support - Public Access	Public Kiosk / Copier/Drop Box & Forms Counter	1	High
23.03	Counters and Counter Support - Public Access	Public Records Viewing Area	1	High
23.04	Service Counter Area - Staff - Probate	Cashier	1	High
23.05	Service Counter Area - Staff - Probate	Counter Workstation – Assigned	3	High
23.06	Service Counter Area - Staff - Probate	Counter Workstation – Unassigned	4	Low
23.07	Service Counter Area - Staff - Mental Health	Counter Workstation – Unassigned	2	Low
23.08	Service Counter Area - Staff - Mental Health	Work Counter & Forms Storage	1	Low
23.09	Service Counter Area - Staff - Mental Health	Copier Printer / Fax Machine / Copier/Supplies	1	Low
23.10	Probate	Officer in Charge	1	Medium
23.11	Probate	Supervisor 2	1	Medium
23.12	Probate	Court Records Specialist 2-L/W	1	Medium
23.13	Probate	Court Records Specialist 2	1	Medium
23.15	Probate	Court Records Specialist 1	1	Medium
23.16	Probate	Office Support Specialist 2	1	Medium
23.17	Probate	Office Support Specialist 1 (Mail)	4	Medium

Func. Unit No.	Sub-Category	Room Name	Qty.	Priority
23.18	Probate	Courtroom Clerk 1 OW	1	Medium
23.19	Probate	Courtroom Clerk 1 (1 area w/6 Workstations)	1	Medium
23.20	Probate	File Storage for Calendar Prep	1	Low
23.21	Probate	Copy / Workroom	1	Medium
23.22	Probate	Active Files	1	Medium
23.23	Probate	Cash Count Room	1	High
23.24	Probate	Safe - Secure Closet	1	Medium
23.25	Mental Health	Supervisor 2	1	Medium
23.26	Mental Health	Court Records Specialist 2-L/W	1	Medium
23.27	Mental Health	Court Records Specialist 2 (1 area w/11 Workstations)	1	Medium
23.28	Mental Health	File Storage for Calendar Prep	1	Low
23.29	Mental Health	Copy / Workroom	1	Medium
23.30	Mental Health	Active Files	1	Medium
23.31	Probate - Audit	Supervisory Auditor	1	Medium
23.32	Probate - Audit	Ex-Parte Clerk L/W	1	Medium
23.33	Probate - Audit	Ex-Parte Clerk (1 area w/8 Workstations)	1	Medium
23.34	Probate - Audit	Ex-Parte Clerk (Temporary)	3	Medium
23.35	Probate - Audit	Supply / Forms / Storage Room	1	Low
23.36	Probate - Audit	Copy / Workroom	1	Medium
23.37	Probate - Audit	Coffee Service	1	Low
23.38	Probate & Mental Health	File Carts	1	Low
23.39	Probate & Mental Health	Document Area: Staging, Scanning	1	Medium
23.43	Probate & Mental Health	Records Staging	1	Low
23.44	Probate & Mental Health	Copier/ Fax Machine	2	Medium
23.45	Shared Support - All Three Units	Conference Room	1	Medium
23.46	Shared Support - All Three Units	Break Room	1	Low
23.47	Shared Support - All Three Units	Coffee Service	2	Low
Section 24 - Clerk of Courts - Jury Services - Jury Operations & Assembly				
24.00	Adm. Offices, Workstations & Shared Support	Jury Manager	1	Medium

Func. Unit No.	Sub-Category	Room Name	Qty.	Priority
24.01	Adm. Offices, Workstations & Shared Support	Jury Officer in Charge	1	Medium
24.02	Adm. Offices, Workstations & Shared Support	Courts Records Supervisor	1	Medium
24.03	Adm. Offices, Workstations & Shared Support	Courts Records Specialist 2 L/W	1	Medium
24.04	Adm. Offices, Workstations & Shared Support	Courts Records Specialist 2 (1 area w/4 Workstations)	1	Medium
24.06	Shared Support	Storage/Supply Room	1	Low
24.07	Shared Support	Copier/Fax/Shredder	1	Low
24.08	Shared Support	Coffee Service	1	Low
24.10	Juror Processing	Check-In Counter Station	4	High
24.11	Juror Processing	Forms Counter	1	High
24.12	Juror Processing	Counter Queuing	1	High
24.14	Juror Processing	Hardship Counter	1	High
24.15	Juror Assembly/ Waiting/ Voir Dire	General Seating	1	High
24.16	Juror Assembly/ Waiting/ Voir Dire	Quiet Room	1	High
24.19	Juror Assembly/ Waiting/ Voir Dire	Selection Room	1	High
24.210	Juror Support	Vending Room with Coffee Nook	1	Medium
24.21	Juror Support	Secure Vending Storage Room	1	Low
24.22	Juror Support	Equipment Storage Room	1	Low
24.23	Juror Support	Women's Restrooms	1	High
24.24	Juror Support	Men's Restrooms	1	High
Section 25 - Law Library Legal Research and Self Help				
25.01	Access - Public	Public Lobby	1	Medium
25.02	Access - Public	Reference Desk	1	Medium
25.03	Access - Public	Public Research Table	1	Medium
25.04	Access - Public	Public Reference Research Carrel	1	Medium
25.05	Access - Public	Public Computer Room	1	Medium
25.06	Access - Public	Reference Printer / Scanner Station	1	Medium

Func. Unit No.	Sub-Category	Room Name	Qty.	Priority
25.07	Access - Public	Membership Lounge	1	Low
25.08	Access - Public	Computer Research Area - Members Lounge	1	Low
25.09	Access - Public	Conference Rooms	3	Low
25.10	Access - Public	Coffee Service	1	Low
25.11	Staff Offices & Workstations	Law Library Director	1	High
25.12	Staff Offices & Workstations	Law Library IT Manager	1	Medium
25.16	Staff Support	Pro Bono Attorney and/or Legal Navigators	1	Medium
25.17	Staff Support	Library Stacks - Half Height Shelving Units	1	Low
25.18	Staff Support	Library Stacks - Full Height Shelving Units	1	Low
25.19	Staff Support	Mail Sorting Workroom	1	Low
25.20	Staff Support	IT - Telecom Room	1	Medium
25.21	Self Help - Public	Self-Help Reception - Public Counter	1	Medium
25.22	Self Help - Public	Self-Help Reception Counter Queuing	1	Medium
25.23	Self Help - Public	Self-Help Public Waiting	6	Medium
25.24	Self Help - Public	Self-Help Book Shelving Unit	5	Medium
25.25	Self Help - Public	Public/Attorney Computer Terminal	1	Medium
25.26	Self Help - Public	Self-Help Public Printer / Scanner Station	3	Medium
25.27	Self Help - Public	Public Copier	2	Medium
25.28	Self Help Support	Clinic Area	1	Low
Section 26 - Miami - Dade Police Department - Court Services Division				
26.01	Access - Public	Lobby Observation Post	1	High
26.02	Access - Public	Weapons Check locker space	1	High
26.03	Staff Offices & Workstations	Sergeant	1	Medium
26.04	Staff Offices & Workstations	Office	1	Medium
26.05	Staff Offices & Workstations	Open workstation	1	Medium
26.06	Shared Support	Staff Workroom (duress alarm monitoring)	1	High
26.11	Shared Support	Computer Network Closet	1	High
26.14	Shared Support	Weapons Storage	1	Low
26.15	Shared Support	Men's Locker / Shower / Toilet Room	1	Low

Func. Unit No.	Sub-Category	Room Name	Qty.	Priority
26.16	Shared Support	Women's Locker / Shower / Toilet Room	1	Low
26.17	Shared Support	Temporary holding room	1	High
Section 27 - Grand Jury (SAO)				
27.01	Access - Public	Arrival/Check-in Vestibule	1	Medium
27.02	Staff Offices and Workstations	Attorney Office	1	Medium
27.03	Staff Offices and Workstations	Conference Room	1	Low
27.04	Staff Offices and Workstations	Clerical Office	1	Medium
27.05	Staff Offices and Workstations	Records Storage Vault	1	Low
27.06	Staff Offices and Workstations	Bailiff Workstation	1	Medium
27.07	Grand Jury Spaces	Police Witness Waiting	1	Medium
27.08	Grand Jury Spaces	Other Witness Waiting	1	Medium
27.09	Grand Jury Spaces	Shared Toilets	2	Medium
27.10	Grand Jury Spaces	Grand Jury Room	1	High
27.11	Grand Jury Spaces	Grand Juror Retiring Room	1	Medium
27.12	Grand Jury Spaces	Grand Juror Toilets	2	Medium
Section 28 - County - Information Technology				
28.01	Staff Workstations & Shared Support	Technical Staff	1	Medium
28.02	Staff Workstations & Shared Support	Supply & Staging	1	Low
28.04	Staff Workstations & Shared Support	Testing Lab	1	Medium
Section 29 - Building Support				
29.01	Not Used	Not Used	N/A	N/A
29.02	Courthouse Staff Support Functions	Staff Lactation Room	1	Low
29.03	Courthouse Staff Support Functions	Staff Shower / Restroom	2	Low
29.06	Public Vending Food Service Facility	Vending area	1	Medium
29.07	Public Vending Food Service Facility	Food Service Facility	1	Medium
29.09	Ancillary Agency Support Spaces	Media Room	2	Low
29.10	Ancillary Agency Support Spaces	Media Center	3	Low
29.11	Clerk Mail & Courier Area - Purchasing Staff	Mail Operations Officer	1	Medium

Func. Unit No.	Sub-Category	Room Name	Qty.	Priority
29.12	Clerk Mail & Courier Area - Purchasing Staff	Mail Operations Asst.	1	Medium
29.13	Clerk Mail & Courier Area - Purchasing Staff	Sr. Procurement Officer	1	Medium
29.14	Clerk Mail & Courier Area - Purchasing Staff	Account Clerk	1	Medium
29.15	Civil/Land Sales Staff	Mail Room Supervisor	1	Medium
29.16	Civil/Land Sales Staff	Mail Center Clerk / LW	1	Medium
29.17	Civil/Land Sales Staff	Mail Center Clerk	3	Medium
29.18	Civil/Land Sales Staff	Courier Workstations	2	Medium
29.19	Support Spaces	Mail Sorting Workroom (and mail drop-off)	1	High
29.20	Support Spaces	Copy Area	1	Low
29.21	Support Spaces	Bulk Supply Storage	1	Low
29.22	Support Spaces	Coffee Service	1	Low
29.23	Clerk IT support	Technical staff (1 area with 4 Workstations)	1	Medium
29.24	Clerk IT support	Supply & Staging	1	Low
29.25	Clerk IT support	Testing Lab	1	Medium
29.26	AOC Mail & Courier Area	Supervisor Hoteling Office	1	Medium
29.27	AOC Mail & Courier Area	Courier Workstations	1	Low
29.28	AOC Mail & Courier Area	Mail Sorting Workroom (and mail drop-off)	1	High
29.29	AOC Mail & Courier Area	Copy Area	1	Low
29.30	AOC Mail & Courier Area	Bulk Supply Storage	1	Low
29.31	AOC Mail & Courier Area	Coffee Service	1	Low
29.32	Building Manager offices	Building Manger Office	1	Medium
29.33	Building Manager offices	Maintenance Supervisor Office	1	Medium
29.34	Building Manager offices	Waiting	1	Low
29.35	Building Manager offices	Reception/Clerical Workstation	1	Medium
29.36	Building Manager offices	copy file room	1	Low
29.37	Building Manager offices	Plans room	1	Low
29.38	Building Manager offices	Bldg Mgr storage	1	Low

Func. Unit No.	Sub-Category	Room Name	Qty.	Priority
29.39	Building Manager offices	Files	4	Low
29.40	Building Manager offices	Meeting Room	1	Low
29.41	Building Manager offices	Coffee Service	1	Low
29.42	Maintenance / Engineering	Mechanics Work Shop	1	Medium
29.43	Maintenance / Engineering	Attic Stock Storage	1	Low
29.44	Maintenance / Engineering	Staff Locker	1	Low
29.45	Maintenance / Engineering	Break Room	1	Low
29.46	Maintenance / Engineering	Staff Restrooms	2	Low
29.47	Custodial	Custodial Office	1	Medium
29.48	Custodial	Custodial Bulk Storage	1	Low
29.49	Custodial	Lg. Cleaning Equip Storage	1	Low
29.50	Custodial	Janitor Closet	26	Low
29.51	Custodial	Break Room	1	Low
29.52	Other Building Support	Loading Dock	1	Medium
29.53	Other Building Support	Package Screening at Loading Dock	1	High
29.54	Other Building Support	Trash Compactor/Recycling	1	Low
29.55	Other Building Support	Recycling Collection Point/Floor	26	Low
29.56	Other Building Support	General Building Storage	1	Low
29.57	Not Used	Not Used	-	-
29.58	Other Building Support	Fire Control Room	1	High
29.59	Other Building Support	MDF Room	1	High
29.60	Other Building Support	Demarc Rooms (service demarcation)	2	High
29.61	Other Building Support	Server Room	1	High
29.62	Other Building Support	Telecom/Low Voltage Room	25	High
29.63	Other Building Support	Public Lactation Room	1	Low
29.64	Other Building Support	Public Restrooms	All	High
29.65	Other Building Support	Staff Restrooms	All	Medium
29.66	Other Building Support	Mechanical / Electrical Rooms	All	Medium
Section 30 - Secure Parking				
30.01	Parking Space	Secure Parking Space	59	Medium

Table 2 – Deductions for Unavailability Events

Unavailability Event Classification	Functional Unit Priority Classification	Required Response Time (Minutes)	Required Rectification Period (Hours)	Deduction Per Completed Required or Subsequent Rectification Period
Emergency	High	15	2	$1,500
	Medium	15	3	$1,100
	Low	15	3	$700
Critical	High	30	2	$1,500
	Medium	30	3	$1,100
	Low	30	3	$700
Routine	High	120	24	$500
	Medium	120	48	$300
	Low	120	60	$100

Table 3 – Summary of Deductions for Major or Prolonged Unavailability Events

Major or Prolonged Unavailability Event Summary	Section of Appendix 11 Specifying Special Deduction Amount
Total Courthouse Unavailability occurs.	Section 4.1
Unavailability of any Functional Unit lasts beyond the Required Rectification Period and two consecutive Subsequent Rectification Periods.	Section 4.2
Three or more Unavailability Events occurring on the same day have the same root cause, or four or more Unavailability Events occurring in a rolling consecutive seven day period have the same root cause.	Section 4.3

ATTACHMENT 11B

PERFORMANCE FAILURE DEDUCTIONS

Performance Failure Deductions shall be determined in accordance with this Attachment 11B and may be imposed by the County in accordance with this Appendix 11. All section references in this Attachment shall refer to the corresponding section of the Facility Management Requirements.

Table 1 defines the Performance Failures. Each Performance Failure is summarized in the Table. Table 1 also indicates (1) the priority classification of each Performance Failure (Low, Medium, or High), (2) whether or not Rectification of the Performance Failure is allowable before the County may impose a Performance Failure Deduction, (3) the second table to reference in Attachment 11B for calculating Deductions (Tables 2, 3, 4, and 5), and (4) establishes the point at which a Performance Failure is determined (the Recording Frequency): annually (A), semi-annually (S), quarterly (Q), monthly (M), or per occurrence (PO).

Table 1 – Performance Failures

ID	Performance Failure	FM Requirements (Appendix 8) Reference	Performance Failure Classification Priority	Is Rectification Allowed?	Table for Calculating Deduction Amount	Recording Frequency
1	Failure to perform the Facility Management Services in accordance with the Project Agreement, Applicable Law, the Facility Management Proposal Extracts, Contract Standards and Good Facility Management Services, including any ancillary services as discussed in Section 1.8 of Appendix 8, from the Occupancy Readiness Date to the Termination Date, 24 hours per day, 365 (366) days, that are not described elsewhere in this Attachment.	ALL	LOW	YES	Table 2	PO
2	Failure to comply with the access protocols when performing Facility Management Services within the Secure Areas.	1.7	MEDIUM	NO	Table 3	PO

ID	Performance Failure	FM Requirements (Appendix 8) Reference	Performance Failure Classification Priority	Is Rectification Allowed?	Table for Calculating Deduction Amount	Recording Frequency
3	A failure from the Developer to comply with religious observances, mourning the death of prominent individuals and other special cultural occasions including a failure to lower and raise the flags in accordance with the County and the U.S. Government Protocols.	2.2	LOW	NO	Table 3	PO
4	Failure to have in place all required insurance coverage and administer all insurance claims in connection with the provision of the Facility Management Services.	2.2 and Appendix 10	HIGH	NO	Table 2	PO
5	Failure to administer all warranty claims in connection with the provision of the Facility Management Services.	2.2	HIGH	NO	Table 2	PO
6	Failure by the Developer to respond to any Unavailability Event or Performance Failure within the times specified in Section 6 (Response Times) of Appendix 11 of the Project Agreement.	2.2	MEDIUM	NO	Table 2	PO
7	Failure to provide contingency response during an Emergency, including integration with County's Comprehensive Emergency Management Plan (CEMP) per Section 2.4 of Appendix 8.	2.4, 4.10	HIGH	NO	Table 2	PO

ID	Performance Failure	FM Requirements (Appendix 8) Reference	Performance Failure Classification Priority	Is Rectification Allowed?	Table for Calculating Deduction Amount	Recording Frequency
8	Failure to ensure that each Developer Person has all authorizations, AOC's background clearances, qualifications, licenses, training, experience, skills, expertise, trade certifications, registrations, pledge of confidentiality and professional designations required to perform all Facility Management Services to which they are assigned.	2.6	HIGH	YES	Table 2	PO
9	Failure to maintain a Facility Condition Index no worse than 0.10 at any point through the Term of the Facility Management Services.	3.3	HIGH	YES	Table 4	PO
10	Failure to prepare, within 30 days after receipt of the Facility Condition Reports, a Remediation Plan outlining Developer's approach and proposed schedule for rectification of any identified deficiencies. Also considered as a failure to not comply with the rectifications in the proposed timeframe established in the Remediation Plan.	3.4	HIGH	NO	Table 2	PO
11	Failure to develop, submit, implement and update throughout the Term all Facility Management Plans as per Section 4.4, including Start-up Plans, Annual Service Plans, Life Cycle Schedule and Plan, Environmental Management Plan, Energy Management Plan, Contingency and Crisis Management Plan.	4.0	HIGH	YES	Table 2	PO

ID	Performance Failure	FM Requirements (Appendix 8) Reference	Performance Failure Classification Priority	Is Rectification Allowed?	Table for Calculating Deduction Amount	Recording Frequency
12	Failure to comply with the reporting requirements and/or failure to execute the remedial work due to vandalism.	5.3	MEDIUM	YES	Table 2	PO
13	Failure to have in place a Performance Monitoring Program that shall include the monitoring of all information made in respects to the Facility Management Services and all other Developer self-monitoring and reporting requirements.	6.1	MEDIUM	NO	Table 2	PO
14	Failure to permit the County to access all performance monitoring systems in real time and/or to access, audit and inspect the Facility and the Developer's records of delivery of the Facility Management Services.	6.4	HIGH	NO	Table 2	PO
15	Failure to issue the Performance Monitoring Report at the end of each monthly billing period and/or to provide any additional reports reasonably requested by the County within 5 Business Days from the date of receipt of request.	6.2	HIGH	YES	Table 2	Monthly
16	Failure to ensure that systems and controls as required by the Project Agreement and related appendices are in place to safeguard property, Confidential Information, confidentiality, cash and commodities, and that appropriate records of such systems and controls are kept and available for inspection by the County.	6.4	HIGH	NO	Table 2	PO

ID	Performance Failure	FM Requirements (Appendix 8) Reference	Performance Failure Classification Priority	Is Rectification Allowed?	Table for Calculating Deduction Amount	Recording Frequency
17	Failure to comply with the short and annual surveys requirements of the County Satisfaction System as depicted in Section 6.7 of Appendix 8.	6.7	Not Applicable (See Table 5)	NO	Table 5	PO
18	Failure to achieve an average satisfaction rating of 3.0 or greater in the annual County Satisfaction Report described in Section 6.7 of Appendix 8.	6.7	Not Applicable (See Table 5)	NO	Table 5	Annually
19	Failure to supply, install and comply with the functionality requirements of a Computerized Maintenance Management System ("CMMS") in accordance with Section 7 of Appendix 8.	7.0	HIGH	NO	Table 2	PO
20	Failure to provide access control systems, authorized accessibility, adequate operation, maintenance activities and life-cycle investment of the on-site parking spaces.	9.0	MEDIUM	YES	Table 2	PO
21	Failure to provide maintenance and life-cycle investments to the Access Roads, Grounds and Landscape Maintained Elements in accordance with the applicable service standards established in Section 17.1 of Appendix 8.	10.1, 17.1	MEDIUM	YES	Table 2	PO
22	Failure to provide proper maintenance and upkeep of any Miami-Dade County and/or Developer commissioned artistic structures, statues or public art on the Project Site.	10.1	LOW	YES	Table 2	PO

ID	Performance Failure	FM Requirements (Appendix 8) Reference	Performance Failure Classification Priority	Is Rectification Allowed?	Table for Calculating Deduction Amount	Recording Frequency
23	Failure to provide required statutory and regulatory testings in accordance with Project Agreement and Applicable Law.	12.2	MEDIUM	YES	Table 2	PO
24	Failure to complete 100% of Scheduled Maintenance for fire and life safety systems and a minimum of 85% of the total value of Scheduled Maintenance for all other systems within the planned month and provide associated CMMS records to the County.	12.3	Not Applicable (See Table 4)	NO	Table 4	Monthly
25	Failure to complete 100% of deferred Scheduled Maintenance within the month, or any subsequent month, following the originally planned month and provide associated CMMS records to the County.	12.3	Not Applicable (See Table 4)	NO	Table 4	Monthly
26	Failure of any alarm relating to the server rooms, including but not limited to any temperature and moisture alarms.	12.0	HIGH	YES	Table 2	PO
27	Failure to have the public passenger elevators or escalators be available, in aggregate, during 95% of the Operating Hours. For example, if there are ten elevators operating eleven hours during Operating Hours for a total of 110 hours, then the aggregate number of hours that elevators need to be in operation would be 104.5 hours.	13.1	Not Applicable (See Table 4)	NO	Table 4	Monthly

ID	Performance Failure	FM Requirements (Appendix 8) Reference	Performance Failure Classification Priority	Is Rectification Allowed?	Table for Calculating Deduction Amount	Recording Frequency
28	Failure to have the judges' and staff elevators or escalators be available, in aggregate, during 95% of the Operating Hours.	13.1	Not Applicable (See Table 4)	NO	Table 4	Monthly
29	Failure to have the service elevators or escalators be available, in aggregate, during 90%[2] of the Operating Hours.	13.1	Not Applicable (See Table 4)	NO	Table 4	Monthly
30	Failure to maintain Appearance Level 1 – High Profile Areas, in all courtrooms, jury deliberation areas, hearing rooms, settlement conference rooms, jury assembly areas, judges' chambers (including administrative assistants' spaces), the Law Library, the Clerk of the Circuit Court's personal office, and the Grand Jury Room.	12.8	HIGH	YES	Table 2	PO
31	Failure to maintain Appearance Level 2 – General Areas, in all areas of the Facility and Facility Site that are not classified as High Profile Areas.	12.8	MEDIUM	YES	Table 2	PO
32	Failure to release trapped elevator occupants from the elevator within 30 minutes of calling for assistance.	13.1	HIGH	NO	Table 2	PO
33	Failure by the Developer to monitor or timely and accurately report an Event that may lead to a Performance Failure or Unavailability Event.	6.0	HIGH	NO	Table 3	PO

ID	Performance Failure	FM Requirements (Appendix 8) Reference	Performance Failure Classification Priority	Is Rectification Allowed?	Table for Calculating Deduction Amount	Recording Frequency
34	Failure of the Help Desk Services to answer 100% of the Emergency calls and emails within five (5) minutes and all other emails within fifteen (15) minutes.	13.1	MEDIUM	YES	Table 4	PO
35	Failure by Developer to notify to the County's Facility Management Representative of any scheduled utility interruptions within 30 minutes of becoming aware or receiving notice.	14.1	MEDIUM	NO	Table 2	PO
36	Failure of Developer to address incidents, malfunctionings and/or operational issues related to utility services.	14.1	MEDIUM	YES	Table 2	PO
37	Failure to comply with the Developer's responsibility set forth in the Facility Management Review Procedures for the proper evaluation by the County of the Facility Management Submittals.	16.0	LOW	YES	Table 2	PO
38	Failure by the Developer to monitor or timely and accurately report an Event due to fraudulent action or inaction; deliberate misrepresentation; or gross misconduct or gross incompetence by the Developer or a Developer Person, as further described in Section 10.3 (Misconduct) of Appendix 11).	6.0	HIGH	NO	Table 3	PO

ID	Performance Failure	FM Requirements (Appendix 8) Reference	Performance Failure Classification Priority	Is Rectification Allowed?	Table for Calculating Deduction Amount	Recording Frequency
39	Failure to achieve an average satisfaction rating of 3.0 or greater in the Surveyed Element: Food Service included as part of the annual County Satisfaction Report described in Section 6.7 of Appendix 8.	6.0	Not Applicable (See Table 5)	NO	Table 5	Annually
40	Failure to maintain Appearance Level 3 – Shelled Areas, in all areas of the Facility and Facility Site.	12.8	LOW	YES	Table 2	PO

Table 2 – Performance Failures for which Rectification is Allowed

Performance Failure Priority Classification	Required Response Time (Minutes)	Required Rectification Period (Hours)	Deduction Per Completed Required or Subsequent Rectification Period
High	15	2	$1,250
Medium	45	36	$550
Low	120	60	$250

Table 3 – Performance Failures, with a Priority Classification, for which Rectification is not Allowed

Performance Failure Priority Classification	Deductions
High	$1,250
Medium	$550
Low	$250

Table 4 – Performance Failures Measured with a Percentage Performance Metric

Performance Failure Recording Frequency	Deduction (Index-Linked)
Monthly (Items 24, 25, 27, 28, 29, 34 of Table 1 of Attachment 11B)	$ 1,000 per percentage point below the Performance Specifications
Monthly (Item 9 of Table 1 of Attachment 11B)	$ 1,000 per 0.01 higher than 0.10.

Table 5 – Performance Failures Measured by a Questionnaire

Survey Type	Deduction (Index-Linked)
Annual Survey (Item 18 of Table 1 of Attachment 11B)	$1,600 per tenth of a point below 3.0, to be deducted annually

APPENDIX 12

EXAMPLE CALCULATIONS OF DEDUCTIONS FROM SERVICE FEE

APPENDIX 12

EXAMPLE CALCULATIONS OF DEDUCTIONS FROM SERVICE FEE

1. BACKGROUND

1.1. Deductions from Service Fee. The Deduction Credit component of the Service Fee shall be applied to the calculation of the periodic installment of the Service Fee as applicable depending on the particular Billing Period and shall be comprised of Deductions for Unavailability Events and Performance Failures.

1.2. Unavailability Events. Attachment 11A to Appendix 11 (Deductions) provides a schedule of Rectification Periods, Response Times and Deduction amounts for Unavailability Events.

1.3. Performance Failures. Attachment 11B to Appendix 11 (Deductions) defines the Performance Failures that will lead to Deductions and provides a schedule of Rectification Periods (where applicable), Response Times (where applicable) and Deduction amounts for Performance Failures.

1.4. Indexation and Transition Periods Ignored. For the purposes of the examples that follow, the effect of indexation and transition periods have been ignored.

1.5. Unavailable but Used Ignored. For the purposes of the examples that follow, the effect of any Functional Unit being Unavailable but used has been ignored.

2. UNAVAILABILITY DEDUCTIONS

The following table provides 11 examples of Unavailability Deductions.

	Scenario Overview	Type of Event	Functional Unit Priority	Required Response Time (HH:MM)	Observed Response Time (HH:MM)	Actual Response Time (HH:MM)	Required Rectification Period (HH:MM)	Total Time to Resolve Event (HH:MM)	Observed Required and Subsequent Rectification Period (HH:MM)[1]	Total Number of Required and Subsequent Rectification	Number of Subsequent Rectification	Deduction per Subsequent Rectification Period	Total Deduction for Event
1	A door is reported broken in the Secure Storage File Room (6.15) in the Circuit Probate Judicial Office Sets at 8:00 a.m. and room is therefore unable to lock. As a result, evidence is not completely secure. The door is repaired at 1:31 p.m. on the same day.	Unavailability Emergency	High	0:15	0:15	0:15	2:00	5:31	5:16	3	2	$1,500	$3,000
2	Two-thirds of public passenger elevators are unavailable at 10:00 a.m. Elevators are repaired and made available at 3:00 p.m. on the same day.	Total Courthouse Unavailability Critical[2]	High	0:30	0:15	0:15	2:00	5:00	4:45	3	2	$6,000	$12,000
3	A fault in the power backbone that causes the failure of 65% of the security cameras at 7:00 a.m. that are repaired at 9:45 a.m. the same day.	Total Courthouse Unavailability Critical[2]	High	0:30	0:15	0:15	2:00	2:45	2:30	2	1	$6,000	$6,000

	Scenario Overview	Type of Event	Functional Unit Priority	Required Response Time (HH:MM)	Observed Response Time (HH:MM)	Actual Response Time (HH:MM)	Required Rectification Period (HH:MM)	Total Time to Resolve Event (HH:MM)	Observed Required and Subsequent Rectification Period (HH:MM)[1]	Total Number of Required and Subsequent Rectification	Number of Subsequent Rectification	Deduction per Subsequent Rectification Period	Total Deduction for Event
4	Courtroom Audiovisual equipment is reported broken at 11:00 p.m. Equipment is repaired at 1:45 a.m. the following day.	Unavailability Critical	High	0:30	0:15	0:15	2:00	2:45	2:30	2	1	$1,500	$1,500
5	A door to one of the Standard Courtrooms (Functional Unit 3.01) is broken and cannot be closed causing the delay of a trial from 12:00 p.m. to 6:00 p.m. on the same day.	Unavailability Critical	High	0:30	0:10	0:10	2:00	6:00	5:50	3	2	$1,500	$3,000
6	There is a Critical Unavailability Event in 15 Medium priority Functional Units at 11:00 p.m. The Critical Unavailability Event is over by 7:00 a.m. the following day.	Total Courthouse Unavailability Critical[2]	Medium	0:30	0:15	0:15	2:00[3]	8:00	0:00	0	0	$6,000	$0

	Scenario Overview	Type of Event	Functional Unit Priority	Required Response Time (HH:MM)	Observed Response Time (HH:MM)	Actual Response Time (HH:MM)	Required Rectification Period (HH:MM)	Total Time to Resolve Event (HH:MM)	Observed Required and Subsequent Rectification Period (HH:MM)[1]	Total Number of Required and Subsequent Rectification	Number of Subsequent Rectification	Deduction per Subsequent Rectification Period	Total Deduction for Event
7	A power outage occurs and the backup generator fails at 12:00 a.m. Power is on again at 6:00 a.m. on the same day.	Total Courthouse Unavailability Emergency[2]	High	0:15	0:15	0:15	2:00	6:00	5:45	3	2	$6,000	$12,000
8	Light bulb goes out in the Office of the Clerk of the Circuit Court (Functional Unit 15.03), as a result lighting level falls below standard required in the Design and Construction Standards. The Event persists for 150 hours (during Operating Hours).	Unavailability Routine	High	2:00	2:00	2:00	24:00	150:00	148:00	7	6	See Footnote 4	$5,000
9	A Routine Unavailability Event occurs with the service elevator. The Developer exceeds the two hour Required Response Time and the Event persists for 192 hours.	Unavailability Routine	Medium	2:00	3:00	2:00	48:00	192:00	190:00	4	3	$300	$1,200 + $550 = $1,750 [4,5]

	Scenario Overview	Type of Event	Functional Unit Priority	Required Response Time (HH:MM)	Observed Response Time (HH:MM)	Actual Response Time (HH:MM)	Required Rectification Period (HH:MM)	Total Time to Resolve Event (HH:MM)	Observed Required and Subsequent Rectification Period (HH:MM)[1]	Total Number of Required and Subsequent Rectification	Number of Subsequent Rectification	Deduction per Subsequent Rectification Period	Total Deduction for Event
10	Temperature in the Senior Deputy Clerk's office is reported as 2 degrees above contract standard. The Event is resolved 18 Operating Hours later.	Unavailability Routine	High	2:00	2:00	2:00	24:00	18:00	16:00	1	0	$500	$0
11	Due to water plumbing issues, in the last three months, six Total Unavailability Events were experienced lasting each four hours every two weeks. Furthermore, the Total Condition Index was 0.02 higher in each of the three months. In the subsequent fourth month there is another Total Unavailability Event.	Total Courthouse Unavailability Critical[2]	High	0:30	0:15	0:15	2:00	4:15	4:00	2	1	$12,000	$12,000 + $36,000 + $6,000 = $54,000[6]

[1]Hours accrue for Critical Events and Routine Events only during Operating Hours on Business Days but hours accrue for Emergency Events on a 24/7 basis; as further described in Section 6.2 of Appendix 11 (Deductions).

[2]These are first Critical or Emergency Events. When Developer fails to rectify in the Required Rectification Period, this Unavailability Event becomes a Total Courthouse Unavailability. See Total Courthouse Unavailability definition and Section 4.1. in Appendix 11 (Deductions).

[3]For Total Courthouse Unavailability (see Section 4.1).

[4]Penalty doubles if an Unavailability Event persists for more than one Required Rectification Period and two Subsequent Rectification Periods. See Section 4.2 of Appendix 11. This is calculated as $500 for first and second Subsequent Rectification period and $1,000 for each Subsequent Rectification Period thereafter.

[5]There is an additional $550 Performance Failure Deduction for an Observed Response Time that exceeds the Required Response Time, so that the sum of the Unavailability Deduction and the Performance Failure Deduction for this Event is $1,750.

[6]If, during the three immediately preceding Billing Periods, the Developer has incurred Deductions in excess of $40,000 (Index-Linked) in the aggregate, the Deductions Credit incurred in a Billing Period shall be multiplied by two immediately prior to being applied to the Service Fee. See Section 2.3 of Appendix 11. Six Total Courthouse Unavailability Events over a three-month period equals $36,000 plus $2,000 per month for exceeding the Total Condition Index by 0.02 (see Table 4 of Appendix 11B), a total of $42,000. In the next three-month period all deductions are doubled, so that the next Total Courthouse Unavailability Event becomes a $12,000 Deduction, for a total set of Deductions of $54,000.

3. PERFORMANCE FAILURE DEDUCTIONS

The following table provides ten examples of Performance Failure Deductions.

	Scenario Overview	Event priority (High, Medium, Low)	Required Response Time (HH:MM)	Observed Response Time (HH:MM)	Actual Response Time (HH:MM)	Required Rectification Period (HH:MM)	Total Time to Resolve Event (HH:MM)	Observed Required Rectification Period and Subsequent Rectification Periods (HH:MM)[1]	Total Performance Failure Multiplier[2]	Number of Performance Failure Multipliers Subject to Deduction	Deduction per Applicable Multiplier	Total Deduction for Event
1	A Developer Person who joined the courthouse project six months ago is discovered to not have received requisite training. Developer agrees to remedy with an approved action plan within six hours of this discovery. Employee completes training two weeks later.	High	0:15	0:15	0:15	2:00	6:00	5:45	3	2	$1,250	$2,500
2	Failure by the Developer to monitor or timely and accurately report an Event that may lead to a Performance Failure or Unavailability Event.	High	None Allowed	N/A	N/A	None Allowed	N/A	None Allowed	1	1	$1,250	$1,250

	Scenario Overview	Event priority (High, Medium, Low)	Required Response Time (HH:MM)	Observed Response Time (HH:MM)	Actual Response Time (HH:MM)	Required Rectification Period (HH:MM)	Total Time to Resolve Event (HH:MM)	Observed Required Rectification Period and Subsequent Rectification Periods (HH:MM)[1]	Total Performance Failure Multiplier[2]	Number of Performance Failure Multipliers Subject to Deduction	Deduction per Applicable Multiplier	Total Deduction for Event
3	Failure to ensure that each Developer Person has all necessary licenses to perform all Facility Management Services to which they are assigned. This is remedied in 8 hours.	High	0:15	0:15	0:15	2:00	8:00	7:45	4	3	$1,250	$3,750
4	Developer receives an average score of 3.1 in the annual County Satisfaction Report (performance target is 3.0).	N/A (Survey-based)	N/A	N/A	N/A	N/A	N/A	N/A	0	0	$1,600	$0
5	Developer receives an average score of 2.2 in the annual County Satisfaction Report (performance target is 3.0).	N/A (Survey-based)	N/A	N/A	N/A	N/A	N/A	N/A	8	8	$1,600	$12,800
6	Public passenger elevators are available for 94% of Operating Hours for the month of September (performance target is 95%). Elevators are available at or above the performance target during the two other months in the quarter.	N/A (Percent age-based)	N/A	N/A	N/A	N/A	N/A	N/A	1	1	$1,000	$1,000

	Scenario Overview	Event priority (High, Medium, Low)	Required Response Time (HH:MM)	Observed Response Time (HH:MM)	Actual Response Time (HH:MM)	Required Rectification Period (HH:MM)	Total Time to Resolve Event (HH:MM)	Observed Required Rectification Period and Subsequent Rectification Periods (HH:MM)[1]	Total Performance Failure Multiplier[2]	Number of Performance Failure Multipliers Subject to Deduction	Deduction per Applicable Multiplier	Total Deduction for Event
7	Complete only 95% of Scheduled Maintenance of fire and life safety systems within the planned month and provide associated CMMS records to the County (performance target is 100%). Scheduled Maintenance was completed at the performance target during the two other months in the quarter.	N/A	N/A	N/A	N/A	N/A	N/A	N / A	5	5	$1,000	$5,000
8	Help Desk responds to 90% of Emergency calls within 5 minutes for the month of September (performance target is 100%). Help Desk response was at or above the performance target during the two other months in the quarter.	N/A (Percent age-based)	N/A	N/A	N/A	N/A	N/A	N / A	10	10	$1,000	$10,000
9	Server Room humidity alarm fails at 1:00 a.m. Alarm is fixed at 6:00 a.m.	High	0:15	0:15	0:15	2:00	5:00	4:45	3	2	$1,250	$2,500

	Scenario Overview	Event priority (High, Medium, Low)	Required Response Time (HH:MM)	Observed Response Time (HH:MM)	Actual Response Time (HH:MM)	Required Rectification Period (HH:MM)	Total Time to Resolve Event (HH:MM)	Observed Required Rectification Period and Subsequent Rectification Periods (HH:MM)[1]	Total Performance Failure Multiplier[2]	Number of Performance Failure Multipliers Subject to Deduction	Deduction per Applicable Multiplier	Total Deduction for Event
10	At 10 a.m., Developer is told that the Public Reference Research Carrel (25.04) has been vandalized (Table 1, 11B, ID 12). Developer's Facility Management Representative acknowledges to the Help Desk an Event has occurred at 11 a.m. and fixes carrel at 1 p.m.	Medium	0:45	1:00	0:45	36:00	3:00	2:15	1	0	$550	$500[3]

[1]Hours accrue for "low" and "medium" priority Performance Failures only during Operating Hours on Business Days but hours accrue for "high" priority Performance Failures on a 24/7 basis; as further described in Section 6.2 of Appendix 11 (Deductions).

[2]Performance Failure Multiplier varies by type of Performance Failure. It can either refer to Number of Rectification Periods Subject to Deduction, percentage point, or every tenth of a survey point below 3.0.

[3]There is a $500 Performance Failure Deduction for an Actual Response Time that exceeds the Required Response Time.

APPENDIX 13

COMPENSATION ON TERMINATION

APPENDIX 13

COMPENSATION ON TERMINATION

The compensation payable by the County to the Developer upon Termination of this Project Agreement following the Financial Close Date and prior to the Expiration Date is set forth in this Appendix. Prior to the Financial Close Date, the Developer shall be entitled to compensation upon the Termination of this Project Agreement only to the extent provided in Appendix 3 (Financial Close Procedures and Conditions).

1. DEFINITIONS AND SECTION REFERENCES

1.1. Definitions. In this Appendix, in addition to the definitions set out in this Project Agreement, the following capitalized terms have the meanings set forth below:

"Contingent Funding Liabilities" means direct or indirect liabilities or contingent liabilities, if any, of the Unit Holders in respect of financial obligations owed to the Developer, to the general partner of the Developer, to any party under the Junior Debt or the Senior Lenders under the Senior Financing Agreements, such as, for example, the amount a Unit Holder has agreed to contribute to the Developer, promissory notes, obligations to fund reserve accounts, guarantees, letters of credit in respect of deferred equity, subordinated debt or equity bridge loans.

"Cost to Complete" means in respect of any termination of this Project Agreement that occurs on or prior to the Scheduled Occupancy Readiness Date, all losses that the County determines it is reasonably likely to incur as a direct result of the termination of this Project Agreement in connection with achieving the Scheduled Occupancy Readiness Date, including (without double-counting):

(1) Those external, out-of-pocket costs that the County reasonably and properly projects that it will incur in carrying out any process to request tenders from any parties interested in entering into a contract with the County to achieve the Occupancy Readiness Conditions, including all costs related to the preparation of tender documentation, evaluation of tenders and negotiation and execution of relevant contracts; plus

(2) Those costs (internal and external) reasonably projected to be incurred by the County in relation to:

(a) Remediation of any defective Design-Build Work; and

(b) Rectification or cure of any breach of this Project Agreement by the Developer; plus

(3) Costs that the County reasonably and properly projects that it will incur in achieving the Occupancy Readiness Conditions; plus

(4) Any other losses that the County would, but for the termination of this Project Agreement, not have incurred prior to the achievement of the Occupancy Readiness Conditions, which may include costs associated with the termination, and changes in the scope of the Design-Build Work that are approved or have been authorized to proceed in accordance with this Project Agreement prior to the Termination Date; minus

(5) Any Insurance Proceeds available to the County for the purposes of achieving the Occupancy Readiness Date.

"Design-Build Work Value" means an amount equal to the Design-Build Contract Price minus the Cost to Complete.

"Employee Information" means written details related to employees employed by the Developer or any of the Project Contractors or Subcontractors whose work (or any part of it) is work undertaken for the purposes of the Project, including:

(1) the staffing plan and total number of such employees;

(2) the employment costs for such employees;

(3) the amount or severance payable to such employees used in the calculation of any Employee Payment and all relevant information used in determining such amounts; and

(4) any other information that the County may reasonably require in relation to the calculation of Employee Payments.

"Project Contractor Breakage Costs" means the amount payable by the Developer to a Project Contractor under the terms of a Project Contract as a direct result of the termination of this Project Agreement, but reduced (without duplication) to the extent that:

(1) The Developer, a Project Contractor or any Subcontractor fails to take all reasonable steps to mitigate such amount;

(2) Such amount relates to any agreements or arrangements entered into by the Developer, a Project Contractor or a Subcontractor other than in the ordinary course of business and on commercial arm's length terms;

(3) Such amount is a Distribution; and

(4) Such amount includes any loss of overhead or profit of the Facility Manager or its Subcontractors relating to any period or costs after the Termination Date (except to the extent they are properly included in any reasonable commercial breakage fee set forth in the applicable Project Contract or Subcontract).

"Termination Deductions Amount" means any accrued monthly Deductions that, as of the Termination Date, have not been taken into account in the calculation of any payment actually made to the Developer by the County prior to the Termination Date.

1.2. Section References in this Appendix. All Section references in this Appendix are to Sections of this Appendix, except Section references explicitly made to Sections, Articles, or Appendices of this Project Agreement.

2. TERMINATION FOR COUNTY EVENT OF DEFAULT OR UPON TERMINATION FOR CONVENIENCE

2.1. Calculation. If either the County or the Developer terminates this Project Agreement pursuant to a Termination for Convenience pursuant to subsection 22.2(A)(1) of this Project Agreement whereby the County has a right to terminate; a termination for County Event of Default pursuant to Section 21.2 of this Project Agreement whereby the Developer has a right to terminate; or a Termination by Court Ruling pursuant to subsections 22.2(A)(5) or 22.2(B)(3) of this Project Agreement whereby either party shall have a right to terminate, the County will pay to the Developer on the Termination Amount Due Date a Termination Amount equal to the aggregate, without duplication, of:

(a) the Senior Debt as at the Termination Date with per diem interest on amounts falling within paragraph (1) of the definition of Senior Debt calculated at the non-default interest rate provided for such amounts in the Senior Financing Agreements for the period from (but excluding) the Termination Date until (and including) the Termination Amount Due Date;

(b) Employee Payments and Project Contractor Breakage Costs;

(c) any accrued but unpaid amounts owing and payable by the County to the Developer under this Project Agreement including amounts due and payable by the County for the Developer's performance under subsections 22.3(A)(3) and 22.4(A)(4), and 22.4(A)(5) of this Project Agreement;

(d) any Insurance Receivables, if and to the extent the Developer has assigned them to the County; and

(e) an amount calculated as the net present value of the anticipated future Distributions paid on or in respect of Units and fees, principal, interest and breakage costs paid or repaid on Junior Debt as of the Early Termination Date based on an appraisal by an independent third party expert appraiser that is nationally recognized for the conduct of valuation exercises. The appraisal shall be provided within 90 days of the appointment by both the County and the Developer of such independent appraiser (provided that if the parties fail to agree on the identity of such independent appraiser and fail to complete such appointment by the 15th Business Day following the Termination Date, either Party may request through the Dispute Resolution Procedure under Article 18 of the Project Agreement the selection and appointment of such independent appraiser within 15 Business Days of such request). For purposes of the calculation of such net present value, the Parties shall instruct the independent appraiser to:

(i) utilize a discount rate no less than the Initial Base Case Equity IRR minus four percent (4%);

(ii) estimate the anticipated future nominal Distributions based on the performance of the project up to the Termination Date employing an approach that considers the most recent Financial Model and making any adjustments for positive or negative operating performance that is not yet reflected in the Financial Model; and

(iii) assume that the Units are unimpeded and fully transferable, that the Project would remain a going concern if not for the termination, there is no adverse effect from a County Default and, if it has not occurred, then Occupancy Readiness would have occurred as scheduled;

The determination of the independent appraiser shall, except in the case of manifest error or fraud, be final unless either party challenges such determination within 30 days of the date of the determination by submission to the Dispute Resolution Procedure.

Less, to the extent it is a positive amount, the aggregate amount without double counting of the following:

(f) the aggregate of all credit balances on any bank accounts held by or on behalf of the Developer on the Termination Date that are secured in favor of the Senior Lenders;

(g) the value of any amounts due and payable from third parties (but only when received from third parties) but excluding any claims under a Project Contract or claims against other third parties which have not been determined or have been determined but not yet paid, provided that in such case the Developer will assign any such rights and claims under the Project Contracts or claims against other third parties to the County and give the County reasonable assistance in prosecuting such claims;

(h) to the extent not taken into account in calculating the amount under (b) above, the amount of any Contingent Funding Liabilities that are triggered as a result of or in relation to a termination of this Project Agreement;

(i) the market value of any other assets and rights of the Developer (other than those transferred to the County pursuant to this Project Agreement) less liabilities of the Developer properly incurred in carrying out its obligations under this Project Agreement at the Termination Amount Due Date to the extent realized before the Termination Amount Due Date, provided that no account will be taken of any liabilities and obligations of the Developer arising out of:

(1) agreements or arrangements entered into by the Developer to the extent that such agreements or arrangements were not entered into in connection with the Developer's obligations in relation to the Project; or

(2) agreements or arrangements entered into by the Developer to the extent that such agreements or arrangements were not entered into in the ordinary course of business and on commercial arm's length terms;

(j) any amounts, including hedging termination amounts and other breakage costs, payable by the Senior Lenders to the Developer as a result of a prepayment under the Senior Financing Agreements;

(k) any amounts received by the Senior Lenders (or on their behalf) on or after the Termination Date and before the Termination Amount Due Date as a result of enforcing any other rights or security the Senior Lenders may have under the Senior Financing Agreements in respect of Senior Debt (net of the reasonable and proper costs incurred in such enforcement); and

(l) any other amounts that the County is entitled to set-off or deduct under this Project Agreement.

To the extent that the assets and rights referred to in item (i) of this Section are not realized and applied pursuant to that Section, the Developer will on payment of the amount due under item (i) assign such assets and rights to the County.

2.2. Notice to the County. As soon as practicable after termination of this Project Agreement pursuant to a Termination for Convenience pursuant to subsection 22.2(A)(1), a termination for County Event of Default pursuant to Section 21.2, or a Termination by Court Ruling pursuant to subsection 22.2(A)(5) or subsection 22.2(B)(3) of this Project Agreement, the Developer will, acting reasonably, notify the County of the Termination Amount as of an estimated Termination Amount Due Date and include in such notice the details and calculations of each component thereof, including a revised and up to date financial model and certificates from the Senior Lenders as to the amounts owed to them. With the notification of the Termination Amount, the Developer shall also provide to the County all such documents and information as may be reasonably required by the County to confirm the amount of the Termination Amount including Employee Information.

3. NO-FAULT TERMINATION

3.1. Calculation. If the Developer or the County terminates this Project Agreement pursuant to a Force Majeure Termination Notice pursuant to subsection 14.2(E) (Failure to Agree; Right to Terminate) or a termination for an Insurance Unavailability Event pursuant to subsection 14.5(B) (Termination by County) the County will pay to the Developer on the Termination Amount Due Date a Termination Amount equal to the aggregate of:

(a) the Senior Debt as at the Termination Amount Due Date with per diem interest on amounts falling within paragraph (1) of the definition of Senior Debt calculated at the non-default interest rate provided for such amounts in the Senior Financing Agreements for the period from (but excluding) the Termination Amount Due Date until (and including) the Termination Amount Due Date;

(b) any accrued but unpaid amounts owing and payable by the County to the Developer under this Project Agreement;

(c) the amount, if any, by which the Junior Debt exceeds the amount of all Distributions made in respect of Junior Debt;

(d) the amount, if any, by which the amount of capital contributed to the Developer by the Unit Holders exceeds the amount of Distributions made by the Developer to its Unit Holders;

(e) Employee Payments and Project Contractor Breakage Costs; and

(f) the greater of: (i) $0; or (ii) the Handback Retainage Account balance minus an amount equal to the cost of the remaining Handback Work; and

Less:

(g) Insurance Receivables payable to the Developer on or after the Termination Date;

(h) the aggregate of all credit balances on any bank accounts held by or on behalf of the Developer on the Termination Date that are secured in favor of the Senior Lenders;

(i) the amount of any Distributions made other than those referred to in items (c) and (d) of this Section;

(j) the greater of: (i) $0; or (ii) an amount equal to the cost of the remaining Handback Work minus the Handback Retainage Account balance; and

(k) any other amounts that the County is entitled to set-off or deduct under this Project Agreement.

3.2. Notice to the County. As soon as practicable after termination of this Project Agreement as contemplated by this Section 3, the Developer shall, acting reasonably, notify the County of the Termination Amount as of an estimated Termination Amount Due Date and include in such notice the details and calculations of each component thereof, including a revised and up to date financial model and certificates from the Senior Lenders as to the amounts owed to them and shall also provide to the County all such documents and information reasonably required by the County to confirm the amount of the Termination Amount including Employee Information.

4. DEVELOPER EVENT OF DEFAULT – PRIOR TO THE OCCUPANCY READINESS DATE

4.1. Calculation. If the County terminates this Project Agreement pursuant to Article 20 (Developer Events of Default) of this Project Agreement prior to the Occupancy Readiness Date, the County will pay to the Developer on the Termination Amount Due Date an amount equal to:

(a) The lower of

(1) The Design-Build Work Value; or

(2) 80% of the Senior Debt

Less:

(b) Insurance Receivables payable to the Developer on or after the Termination Date;

(c) the aggregate of all credit balances on any bank accounts held by or on behalf of the Developer on the Termination Date that are secured in favor of the Senior Lenders;

(d) 80% of the Senior Debt Breakage Amounts payable or credited to the Developer that arise as a result of the early termination of this Project Agreement on the Termination Date; and

(e) any other amounts due and owing to the County pursuant to this Project Agreement.

5. TERMINATION FOR DEVELOPER EVENT OF DEFAULT – AFTER OCCUPANCY READINESS DATE

5.1. Termination Amount. If the County terminates this Project Agreement pursuant to Article 20 (Developer Events of Default) of this Project Agreement after the Occupancy Readiness Date, the County will pay to the Developer on the Termination Amount Due Date a Termination Amount equal to:

(1) 80% of the Senior Debt, less

(2) any Termination Deductions Amount and any other amounts due and owing to the County pursuant to this Project Agreement.

6. ADJUSTMENTS AND DISPUTES

6.1. Time Related Adjustments. It is understood that the calculations of the Termination Amount pursuant to Sections 2 (Termination for County Event of Default or Upon Termination for Convenience) and Section 3 (No-Fault Termination) of this Appendix are as of an estimated Termination Amount Due Date, and that such estimated date may not be the actual Termination Amount Due Date for reasons including the existence of a Dispute. The parties shall act reasonably in adjusting the amount of each such Termination Amount to reflect the actual Termination Amount Due Date.

6.2. Finality. If the County issues notice of termination of this Project Agreement due to a Developer Event of Default, termination shall be effective and final regardless of whether the County is correct in determining that it has the right to terminate for Developer Event of Default. If it is determined that the County lacked such right, then such termination shall be treated as a Termination for Convenience as provided in this Appendix 13, Section 2 for the purpose of determining the Termination Amount.

6.3. Certification of Senior Debt. The County will be entitled to rely on one or more certificates of officers of the Senior Lenders or their agent as conclusive evidence of the amount of the Senior Debt. The receipt of this amount by the Developer, the Senior Lenders or their agent will discharge the County's obligation to pay any portion of compensation due to the Developer that is attributable to the Senior Debt.

6.4. Full Settlement. Any and all amounts paid by the County to the Developer or the Developer to the County under this Appendix or any agreement or determination that the County has no obligations to make any payment to the Developer under this Appendix will be in full and final settlement of each party's rights and claims against each other for termination of this Project Agreement and any Project Contract, whether under contract, tort, restitution or otherwise, but without prejudice to:

(a) any antecedent liability of either party to the other that arose prior to the date of termination of this Project Agreement (but not from the termination itself) to the extent such liability has not already been taken into account in determining the Termination Amount; and

(b) any liability of either party to the other that may arise after the date of termination of this Project Agreement (but not from the termination itself), including, liabilities arising under the provisions of this Project Agreement which are intended by Section 3.2 (Survival) of this Project Agreement to survive termination, to the

extent any such liability has not already been taken into account in determining the Termination Amount.

The Developer agrees that the applicable Termination Amount provided for in this Appendix shall fully and adequately compensate the Developer for all costs, foregone potential profits and any charges of any kind whatsoever (whether foreseen or unforeseen), including initial transition and mobilization costs and demobilization, employee transition and other similar wind-down costs, attributable to the termination of the Developer's right to perform this Project Agreement and the Developer shall not be entitled to recover any other damages as a result of the termination of this Project Agreement.

6.5. Disputes.

If the County does not agree with the Developer's determination of the Termination Amount under Section 2 (Termination for County Event of Default or Upon Termination for Convenience) or Section 3 (No-Fault Termination) of this Appendix, the County may, within 20 Business Days of the notice referred to in Section 2.2 (Notice to County) or Section 3.2 (Notice to County) of this Appendix as the case may be, refer the matter to the Dispute Resolution Procedure. If either party does not refer the matter to the Dispute Resolution Procedure within the periods provided for in this Section, such party will be deemed to have agreed to the amount of the applicable determination of the Termination Amount as of the estimated Termination Amount Due Date.

6.6. Limitation on Set Off.

Except in connection with a termination of this Project Agreement pursuant to Article 20 (Developer Events of Default), the County is not entitled to set off any amount against any Termination Amount if the effect of exercising such right of set off would be to reduce the amount payable to the Developer to less than an amount equal to the Senior Debt net of Senior Debt Breakage Amounts payable or credited to the Developer.

7. TERMINATION PAYMENT DATE

7.1. Termination Amount Due Date. The Termination Amount Due Date will be the date that is 60 days after the Developer's satisfaction of its obligations under Section 22.3 (Transfer to the County of Assets, Contracts and Documents) and Section 22.4 (Transitional Arrangements) of this Project Agreement, except as delayed by the Dispute Resolution Procedure under Section 6.5 (Disputes).

APPENDIX 14

REPORTS AND RECORDS

APPENDIX 14

REPORTS AND RECORDS

1. GENERAL REQUIREMENTS

1.1 Duty to Maintain Records. The Developer shall keep and maintain all records as required per Section 25.14, Public Records of this Project Agreement and other applicable sections of the Project Agreement, including the records referred to in Section 2 of this Appendix. The Developer shall make such records (other than books of account) available to the County for inspection during normal business hours upon reasonable notice.

1.2 Maintenance of Records. Wherever practical and unless otherwise agreed in a writing executed by both the Developer and the County in an amendment to this Appendix 14, the Developer shall maintain records in original, hardcopy form and in chronological order. Records shall be maintained in a form that allows for an audit. True copies of the original records may be kept by the Developer if it is not practicable to retain original records.

(a) The Developer shall keep and maintain all records referred to in Section 2 of this Appendix for the duration of this Project Agreement and for a period of at least six years following the Termination Date, all in sufficient detail, in appropriate categories and generally in such a manner to enable each party to comply with its obligations and exercise its rights under this Project Agreement.

(b) On the expiration of five years following the Termination Date, or at the earlier request of the County, the Developer shall deliver all those records (or, if those records are required by statute to remain with the Developer, Project Contractor or a Subcontractor, then copies thereof) to the County in the manner and at the location as the County specifies, acting reasonably. The County shall make available to the Developer for inspection during normal business hours all records the Developer delivered pursuant to this Section upon reasonable notice.

1.3. Drawing Requirements. Any drawings required to be made or supplied pursuant to this Project Agreement shall be of a size appropriate to show the detail to be depicted clearly without magnifying aids. Where by prior agreement with the Developer the County has agreed to accept microfilm or other storage media (which must include secure backup copies), the Developer shall make or supply, or have made or supplied, drawings and other documents in such agreed upon form.

2. RECORDS TO BE KEPT

2.1 Retention. The Developer shall retain the following in accordance with this Appendix:

(a) this Project Agreement, the documents referred to in the Transaction Forms and Reference Documents, including all amendments thereto;

(b) the Project records described in Appendix 4 (Design and Construction Standards) and Appendix 8 (Facility Management Requirements);

(c) records relating to the appointment of the County Representative, and the appointment and supervision of the Developer Representative and Independent Building Expert;

(d) documents relating to Governmental Approvals, including applications, approvals, refusals and appeals;

(e) notices, reports, results and certificates relating to completion of the Design-Build Work, Design and Construction Requirement Changes, Commissioning and Capital Modifications;

(f) all operation, maintenance and training manuals for the Project;

(g) documents relating to Relief Events and Compensation Events;

(h) all notices made to or received from the County Representative;

(i) documents relating to a request for the consent of the County to any Change in Control by the Developer;

(j) documents relating to a Refinancing (other than an Exempt Refinancing);

(k) tax invoices and records applicable to the Project (other than any income tax records for the Developer or records pertaining to other taxes personal to the Developer);

(l) records required by Applicable Law (including in relation to health and safety matters) to be maintained by the Developer with respect to the Design-Build Work and Facility Management Services;

(m) documents relating to the Required Insurance;

(n) documents referred to in Appendix 11 (Deductions); and

(o) all other records, notices or certificates required to be produced or maintained by the Developer pursuant to the express terms of this Project Agreement.

APPENDIX 15

DEVELOPER AND PROJECT CONTRACTORS INFORMATION

APPENDIX 15

DEVELOPER AND PROJECT CONTRACTORS INFORMATION

1. PURPOSE

1.1. Purpose. The purpose of this Appendix is to identify: (1) the Developer's formation and other relevant entity-related information; (2) those Project Contractors that the County has approved for use by the Developer in performing the Contract Services; and (3) the key management and supervisory personnel proposed to be used by the Developer in performing the Contract Services.

2. PROJECT COMPANY INFORMATION

2.1. Developer Information. Developer represents and warrants that the following information regarding the Developer is true and complete as of the Effective Date:

Developer Name	Plenary Justice Miami LLC
Date of Formation	June 17, 2019
State of Formation	Delaware
Registration Number	84-2162811
Directors: Name, Address	Brian Budden 333 Bay St, Suite 4920 Toronto, ON M5H 2R2 Canada
	Stuart Marks 555 W. 5th St, Suite 3150 Los Angeles, CA 90013 USA
Officers: Name, Address	Brian Budden – President 333 Bay St, Suite 4920 Toronto, ON M5H 2R2 Canada
	Mike Schutt – Vice President 100 N. Tampa St, Suite 2480 Tampa, FL 33602 USA
	Nigel Kirkwood – Vice President 400 Burrard St, Suite 2000 Vancouver, BC V6C 3AC Canada
	Tina Chen – Secretary & Treasurer 400 Burrard St, Suite 2000 Vancouver, BC V6C 3AC Canada
Subsidiaries at the Effective Date	N/A

Authorized and issued share capital at the Effective Date: 1) Name of Registered Holder 2) Number and class held 3) Amount paid up	 Plenary Justice Miami Holdco Ltd. 100 units $100
Loans at the Effective Date issued as follows: 1) Name and address of holder 2) Nominal value of loans	 N/A N/A
Other outstanding securities (including description of type of securities, name and address of holder, amount):	N/A
Summary of any organizational, contractual or other special voting rights, restrictions on powers of directors or similar matters relevant to the control of Developer:	N/A

3. PROJECT CONTRACTORS

3.1. Project Contractors Generally. As provided in Article 11 of this Project Agreement, the Project Contractors have been proposed and shall be used by the Developer in connection with the performance of the Contract Services. At any time during the Design-Build Period or the Facility Management Period, as applicable, the Developer may request the County to update the list of approved Project Contractors. The County will review any suggested changes to such list in accordance with the provisions of Article 11 (Contracting and Labor Practices) of this Project Agreement. The County shall have the right at any time to review and revise the then-current list of approved Project Contractors consistent with Article 11 (Contracting and Labor Practices) of this Project Agreement.

3.2. Approved Project Contractors. The Project Contractors that the County has approved as of the Effective Date, and that the Developer is permitted to engage for the Contract Services, are the following:

Role	Name
Lead Contractor	Tutor Perini Corp.
Lead Operations and Maintenance Firm	Johnson Controls, Inc.
Lead Architectural/Engineering Firm	Hellmuth, Obata & Kassabaum, Inc.

4. KEY PERSONNEL

4.1. Key Personnel Generally. As referenced in Section 4.4 (Key Personnel) of this Project Agreement, certain key management and supervisory personnel, with duties described below pursuant to RFP-00953, were proposed and shall be used by the Developer in connection with the performance of the Contract Services. Any change in the Key Personnel shall be subject to review and approval of the County in accordance with Section 4.4 (Key Personnel) of this Project Agreement. Resumes for the Key Personnel are included in Attachment 15A (Key Personnel Resumes) and establish the general level of qualifications for the role identified.

4.2. Key Personnel. The Key Personnel are the following:

Key Personnel	Firm	Position	Duties
Hafeez Habib	Plenary Group (Canada)	Developer's Project Manager	Responsible for the Developer's performance in the execution of the Project Agreement. Responsible for performance and resourcing for overall design, construction, operations, maintenance and contract administration on behalf of the Developer including safety and environmental compliance for the Project, assigned to the Project full time.
Raymond Polidoro	Tutor Perini Corp.	Lead Contractor's Project Manager (Design Phase)	Reporting to the Developer's Project Manager. Responsible for the Contractor's performance in the execution of the Project Agreement. Responsible for performance and resourcing for overall design, construction and contract administration on behalf of the Contractor including safety and environmental compliance for the Project, assigned to the Project full time until substantial completion.
Howard Mills	Tutor Perini Corp.	Lead Contractor's Project Manager (Construction Phase)	
Jason Wandersee	Hellmuth, Obata & Kassabaum, Inc.	Lead Architectural/ Engineering Firm's Design Manager	A Professional Architect/Engineer reporting to the Lead Contractor's Project Manager responsible for ensuring that the overall Project design is completed and design criteria requirements are met. Responsible for managing the Lead Architectural/Engineering Firm's design professionals and administering all design requirements of the Project Agreement. Assigned to the project full time during the design phase and co-located whenever design activities are being performed, including design activities related to field design changes.

Key Personnel	Firm	Position	Duties
Tim Friedlander	Tutor Perini Corp.	Lead Contractor's Construction Manager	Reporting to the Lead Contractor's Project Manager, responsible for ensuring that the Project is constructed in accordance with the Project requirements. Responsible for managing the Lead Contractor's personnel, scheduling of the construction quality assurance personnel, and administering all construction requirements of the Project Agreement. Assigned to the Project full time during the construction phase until substantial completion and co-located whenever construction activities are being performed.
Earl Randell, Jr.	Tutor Perini Corp.	Lead Quality Manager (Design and Construction)	Responsible for overall management and contract compliance, reporting to Developer's Project Manager, and bears no direct immediate profit and loss responsibility for the Project. Responsible for the overall design, construction and lifecycle quality during the construction phase of the Project, implementing quality planning and training, and managing the team's quality management processes. Independent of Developer's production team and has the authority to stop work. Shall be co-located and on-site until Final Completion. Role on the Project continues throughout the duration of the Project Agreement.
Neil McCrank	Plenary Group (Canada)	Lead Quality Manager (Operations)	
Jeff Goodale	Hellmuth, Obata & Kassabaum, Inc.	Lead Design Quality Manager	Reporting to the Lead Quality Manager, responsible for overall management and contract compliance of all aspects of design quality and for implementation of procedures to ensure all design products are accurate and checked before release with authority to stop work.
Barry Gleason	Tutor Perini Corp.	Lead Construction Quality Manager	Reporting to the Lead Quality Manager, responsible for overall management and contract compliance of all construction quality elements (e.g., construction inspection and testing) of the Project with authority to stop work.

Key Personnel	Firm	Position	Duties
Mike Davis	Johnson Controls, Inc.	Lead Operations and Maintenance Manager	Responsible for overall operations, maintenance and contract administration matters on behalf of the Developer, including safety and environmental compliance during the Facility Management Period and interfacing with the County in compliance with the operations and maintenance requirements of the Project Agreement.

ATTACHMENT I5A

KEY PERSONNEL RESUMES

B-7 Resumes

HAFEEZ HABIB

Developer's Project Manager

Plenary



Education & Training

- Bachelor's degree, Mechanical Engineering, Waterloo University, 2002
- Master's degree, Engineering Physics, McMaster University, 2003

Biography

Hafeez provides leadership in design, construction, asset management, energy efficiency and commercial management on Plenary Group's projects, both during project pursuit and into the delivery phases.

Hafeez's direct experience on Plenary's projects includes leading and delivering the design and construction of the now-operational NHS Health Care Complex, Humber River Hospital and Thunder Bay Consolidated Courthouse, as well as the Milton District Hospital currently under design and construction. Hafeez has also contributed to the successful pursuits of the Humber River Hospital and Milton District Hospital, together representing a total asset value of approximately $3.2 billion.

Prior to joining Plenary, Hafeez worked in the Ontario energy sector in various disciplines including engineering design and analysis, risk management, commercial services, business development, and project management and contracts management. Hafeez holds a Bachelor's degree in Mechanical Engineering and a Master's degree in Engineering Physics.

Reference Projects

Thunder Bay Consolidated Courthouse • Thunder Bay, Ontario, Canada • Role: Project Co Representative • Percent of Time Allocated to Role: 50% • April 2013 - February 2015

Hafeez assumed the role of Project Co Representative midway through this $265 million DBFM project, at a time when building construction was at its peak, and the project closeout phase was ramping up. Hafeez was responsible for complete management of the project, with emphasis on closeout activities related to design compliance, construction, commissioning, operational readiness and managing all other requirements to achieve Substantial Completion. This included hands on management of both the Construction Contractor and the Service Provider, along with the various client stakeholder groups, as well as coordinating with the various lenders, lenders' agents, design build independent certifier and project agreement independent certifier.

During his time on the project, Hafeez successfully navigated the team through three worker strikes during construction. Not only was the delay mitigated to the client's satisfaction but all project stakeholders, including various lenders and lender' agents, were fully satisfied by the level of engagement and communication surrounding this infrequent contractual scenario. Hafeez's involvement continued beyond Substantial Completion in Feb 2014, as he continued to be involved in construction related activities until Final Completion in Feb 2015.

The Thunder Bay Courthouse ("TBCC") consolidated two existing courthouses – the Superior Court of Justice and the Ontario Court of Justice – into one state of the art 200,000 SF building in downtown Thunder Bay.

The facility included space for a number of services, including the Victim/Witness Assistance Program and Legal Aid Ontario. The facility's was also sensitive to the cultural aspects of the region and houses the Province's first Aboriginal Settlement Conference Suite, specifically designed to respond to the needs of the region's Aboriginal population.

The TBCC serves the entire region, including many northern communities. Bringing justice services together under one roof, in a modern accessible facility reduced delays in the court system and increased access to justice.

Humber River Hopsital • Toronto, Ontario, Canada • Role: Project Co Representative • Percent of Time Allocated to Role: 50 % • September 2011 - May 2016

As Project Co Representative for this $1.75 billion DBFM project, Hafeez was responsible for leading the Plenary team in the management of contracts with the client, construction partner and operations partner. Project responsibilties included client and partner contract management, internal and external stakeholder reporting, and overall project delivery responsibility of the Works. The project achieved Substantial Completion in May 2015, on schedule. Hafeez continued to remain involved during this first year of the Service Phase, providing management and relationship continuity until Final Completion.

Humber River Hospital ("HRH") was the first fully ICAT digital hospital in North America. It is one of Ontario's largest regional acute care hospitals, serving more than 850,000 residents in the northwest Greater Toronto Area. HRH, affiliated with the University of Toronto, operates on three sites (Church Street, Finch Avenue and Keele Street) with a total of 549 beds, 3,000 staff, and approximately 600 physicians. Its Emergency Program sees approximately 95,000 patients on an annual basis and the maternal newborn program delivers approximately 4,600 babies each year.

NHS Health Care Complex & Walker Family Cancer Center • St. Catharines, Ontario, Canada • Role: Delivery Lead • Percent of Time Allocated to Role: 50% • 2009-2013

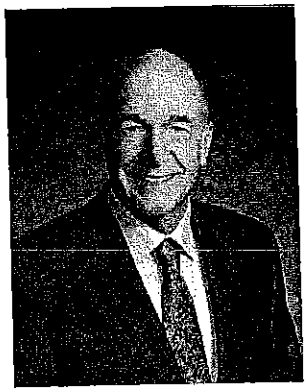
As Project Co Representative, Hafeez was responsible for project management of all deliverables, milestones and risks during the construction phase of the project, including the closeout process to achieve Substantial Completion in November 2012 on schedule and Final Completion in March 2013. He actively managed senior client, supplier and partner representatives through the design, construction and operational handover phases.

This 970,000 SF, 5-story acute care community hospital replaced two aging facilities in the Niagara region and accommodates 374 acute care beds, and associated outpatient and support services. It provides a comprehensive range of clinical services. This project received the Canadian Council for Public-Private Partnerships' Award of Merit for Project Financing.

RAYMOND POLIDORO

Tutor Perini

Lead Contractor's Project Manager (Design Phase)



Education & Training

- Bachelor of Science, Architecture, University of California

Licensing & Certifications

- Licensed Architect, State of California, License No. C10657
- American Institute of Architects ("AIA")
- US Green Building Council ("USGBC")
- LEED AP

Biography

With over 30 years of experience, Raymond has been involved in all aspects of design and construction providing corporate leadership, development, oversight, fiscal accountability and organizational strategic planning. He has been involved in numerous mega program and project management CIP's in the public sector. Prior to joining Rudolph and Sletten, (a business unit of Tutor Perini Corporation) Raymond worked for the Judicial Council of California in the Design and Construction Department of the Capital Program. He oversaw the $1.7 billion courthouse construction program for the Southern California Region working with architects, end users and stakeholders, while supervising in-house project management staff to ensure delivery of projects within established budgets and schedules with minimal disruption to court operations and working collaboratively with state offices of planning, budget, real estate, security, legal, contracts and facilities maintenance. Raymond oversaw the development and implementation of programs, policies and procedures in support of the goals, vision and strategic plan of the Capital Program to ensure access to justice. Previously, he held a position as Sr. Vice President for Swinerton Management & Consulting, a wholly owned subsidiary of Swinerton Inc., providing CM services. Responsibilities included company-wide management, operations and strategic planning. A graduate of USC School of Architecture, Mr. Polidoro is a LEED ® certified and licensed architect in the State of California.

Reference Projects

San Diego Central Courthouse • San Diego, California • Role: Project Executive • Percent of Time Allocated to Role: 20% • 2012-2017

Raymond participated with SOM Architects in the value engineering leading to $70 million of cost savings (during pre-construction) to the project as a result of the state's budgetary constraints. This was done without sacrificing durability, quality, functionality or safety. Raymond initiated partnering sessions throughout construction bringing project team members, end users and stakeholders together to solve complex construction issues. Raymond worked with Howard Mills on the San Diego Courthouse project in a collaborative partnership which resulted in a successful completion of the project. Howard's role on the Miami Dade Courthouse is Lead Contractor's Project Manager during the construction phase.

The 25-story building, the largest new courthouse in the state's court construction program, provides the central court district with a full-service, consolidated facility for criminal, civil, probate, family court, and small claims services, with adequate space for court services, administration, security operations, and holding areas, with a secure vehicle sallyport for the transportation of in-custody detainees, with its 71 courtrooms, related superior court office and public service spaces.

Santa Barbara Criminal Courthouse • Santa Barbara, CA • Role: Project Executive • Percent of Time Allocated to Role: 20% • 2012-2017

Raymond was actively involved in negotiating property acquisitions from neighboring property owners, one of which was the County of Santa Barbara, working closely with the architects Moore Ruble Yudell. The project was approved by the Historical Landmark Commission in Santa Barbara. Innovations brought to the project included passive elements within the building to offset traditional mechanical systems.

The New Santa Barbara Criminal Courthouse will include eight courtrooms in approximately 92,000 square feet. The new courthouse will increase efficiency and security by consolidating all criminal and traffic court operations into one modern, secure building for residents. The project will also include appropriately sized courtrooms, jury deliberation rooms, self-help center, children's waiting room, attorney/client conference rooms, and accessibility for people with disabilities. Enhanced security features will include entrance screening of all court users, a secure sally port, in-custody holding and improved life safety.

Banning Justice Center • Banning, CA • Role: Project Executive • Percent of Time Allocated to Role: 20% • 2012-2017

Raymond took an active role in the mitigation delay claims caused by the general contractor and negotiated a settlement agreement favorable to the State of California to avoid litigation. Creative solutions were addressed for the I-III occupancy in the holding area at the basement level for a passive smoke evaluation system approved by the State Fire Marshall.

The new Banning Justice Center replaced the undersized Banning Courthouse, alleviating the shortage of space available to the superior court. The building includes six courtrooms, space for court administration, a court clerk, court security operations, a central holding area in the basement, and facility support.

New Hollywood Courthouse • Hollywood, CA • Role: Project Executive • Percent of Time Allocated to Role: 20% • 2012-2017

Raymond led the feasibility effort and discovered that the existing building was on an active fault, having performed geological investigations. However, the site in front of the existing building was clean and therefore the decision was made to preserve the $30 million site acquisition cost by choosing a design-build delivery method and creating design criteria under a stipulated sum to deliver the project early. Mr. Polidoro coordinated between the State (Owner), California Geological Survey office, end users (Court), and project team members to arrive at an acceptable solution.

The new courthouse will replace the existing facility with a modern, secure courthouse designed specifically for mental health court proceedings. It will enable the court to improve security and provide basic services currently not possible because of space restrictions, including a jury assembly room; waiting areas, and jury deliberation rooms; security screening and public counter queuing; in-custody holding facilities; attorney interview/witness waiting rooms; physician/patient conference rooms; and a children's waiting room.

Indio Juvenile & Family Courthouse • Riverside County, CA • Role: Project Executive • Percent of Time Allocated to Role: 20% • 2012-2017

This project was mandated as a demonstration project to determine the lowest cost possible for a Juvenile Courthouse. As a result, the architects were directed by Mr. Polidoro to provide a tilt-up construction solution. Mr. Polidoro brokered this design concept with the end users to a successful end with a very simplistic yet sophisticated design representing the integrity and gravitas befitting a state courthouse.

HOWARD MILLS

Tutor Perini

Lead Contractor's Project Manager (Construction Phase)



Education & Training

- Bachelor of Science, Construction Management, California Polytechnic State University
- Associate of Arts, Design & Architecture, West Los Angeles College

Licensing & Certifications

- HVAC Design Certificate, Long Beach State University
- Lean Enterprise Six Sigma Certification, San Diego State University
- DBIA Professional
- LEED AP BD+C

Biography

With over 23 years in the construction industry, Howard Mills has managed projects ranging from retail, hospitality, bio-tech, pharmaceutical, entertainment and most recently the $470 million San Diego Central Courthouse. Howard has served with Tutor Perini's subsidiary, Rudolph and Sletten, for over 18 years managing over $1.6 billion worth of contracts, working with clients in all stages of design and construction phases. Howard is directly responsible for negotiating and administering contracts, supervising project managers, superintendents and engineers, monitoring job costs and schedules, and working closely with the architect and owner to ensure the project is completed on time and within budget. During preconstruction of the Project, Howard will leverage his prior experience working with Raymond Polidoro on the San Diego Courthouse, to ensure the transition from design to construction is smooth. Mr. Mills' interests involve contributing to his local community by serving on the board of directors for the Downtown San Diego Partnership as well as being on the Board of Directors for the Construction Advisory Council at San Luis Obispo University. He is a DBIA-certified Design-Build Professional and a USGBC-certified LEED Accredited Professional, and he has completed the Lean Enterprise Six Sigma certification program from SDSU.

Reference Projects

San Diego Central Courthouse • San Diego, CA • Role: Project Executive • Percent of Time Allocated to Role: 100% • 2014-2017

This 25-story, 71 courtroom, 704,000-square-foot building replaced the old downtown County Courthouse and is the largest new courthouse in California's court construction. During the course of the project Howard reported onsite, oversaw the project team, and established the logistics for the project management facilities for project staff, the Owner and key subcontractors.

He had direct responsibility with subcontract development, execution, and buyout. In addition, he supervised the fiscal condition of the project, identified and hired key personnel, conducted weekly OAC meetings, and negotiated mutually beneficial solutions on complicated issues with subcontractors, the City, and Utility providers as needed.

Howard worked closely with Ray Polidoro in developing processes, working through issues and motivating key project stakeholders to meet high performance results. They worked as a team over the course of the San Diego courthouse project for approximately 3 years. The knowledge and relationship that Howard and Ray experienced in this iconic award winning facility brings tremendous relevant value to the Miami-Dade County Courthouse.

San Diego Court Facility Projects • San Diego, CA • Role: Project Executive • Percent of Time Allocated to Role: As Needed • 2009-2013

Howard worked with the Judicial Council of California in a design-build capacity providing services to the local county courthouses for remodel and improvement projects. He was responsible for assembling teams to assist the Courts with updating and configuring spaces to meet current code requirements. Projects were conducted in operating facilities, and completed within budget and on schedule. Some of the individual facilities included:

- The San Diego Courthouse Site Improvements consisted of the replacement and reconfiguration of the 150,000-square-foot courthouse parking, isolating secure designated parking for judges and court personnel. This included gate operators, loop detectors, surveillance and card access points. Project staff worked with court operations and the City to modify street entrance approaches and ADA compliant walk ways. The project work was performed while maintaining employee and public access to building.
- The South County Regional Center Remodel included the 1,800-square-foot conversion of existing conference and storage spaces in an operating facility into a full functioning trial courtroom.
- The Kearny Mesa Walk-Up Windows project was 400 square feet of additional space for security walk-up transaction windows with modification to the Court's front entrance.

Red Hawk Casino • Placerville, CA • Role: Senior Project Manager • Percent of Time Allocated to Role: 100% • 2007-2009

Howard was the onsite Senior Project Manager of the 280,000-square-foot greenfield Native American gaming facility. He worked closely with the developer, design team and tribal committee to ensure that this expedited project was executed within the proposed original schedule despite significant revisions and modifications requested by the Owner and their client. Howard was instrumental in facilitating global floor changes and coordinating with the design team and key subcontractors, vendors and suppliers.

The facility has five full-service restaurants, five gaming floor bars, an adolescent center with interactive games, basketball court, arcade, child care facility, and a 1.3 million-square-foot, eight-level parking structure and a waste water treatment facility. The project was completed before the targeted 18-month schedule and $750,000 in savings was returned to the Owner. The project was managed at a pace where over $1,000,000 of work was being installed per day with a work force of over 700 men and women onsite.

Pechanga Resort & Casino Projects • Temecula, CA • Role: Senior Project Manager • Percent of Time Allocated to Role: 100% • 2005-2007

Howard oversaw multiple projects for the tribe and was responsible for managing teams throughout the duration of the work. He worked closely with the Owner and Architect in fulfilling the expectations set out in their vision. Howard managed his construction team of Project Managers, Project Engineers, Superintendents and administrative personnel in performing financial, scheduling, inspections and contract execution. He was intricately involved with the pricing, negotiations and buyout of the phased delivery of the projects on the campus.

This project included multiple upgrades at the resort, including the 15,000-square-foot remodel of an existing space into the High Limit Gaming area with high-end finishes, 12 tables and 235 slot and video poker machines; 150,000 square feet of site infrastructure to the North Road; a 11,470-square-foot Cultural Resource Center consisting of three separate one-story wood-frame buildings for cultural curators and investigators associated with the tribe; upgrades to the back-of-house area of the theater; upgrades to the VIP host area; and rework of the emergency air distribution for the computer room.

JASON WANDERSEE

Lead Architectural/ Engineering Firm's Design Manager



Education & Training

- Bachelor of Architecture, University of Kansas School of Architecture and Urban Design, 1995
- KC Center for Design Education and Research, 1994

Licensing & Certifications

- National Council of Architectural Registration Boards; Michigan; Tennessee; Oregon; Missouri; Florida
- LEED Green Associate
- DBIA Certified

Biography

Jason is a Practice Principal and has over 22 years of Justice programming, planning and design experience. He has been a Principal-in-Charge and Project Manager for some of HOK's largest Justice projects. His responsibilities include overall project leadership, client coordination, establishment of architectural concepts, budget and schedule accountability, sustainability integration, review of all design development/construction document submittals and active participation in the construction administration phase. Jason has experience for various delivery methods, including P3, Design-Build, and Construction Manager at Risk.

Reference Projects

Marion County Community Justice Complex • Indianapolis, IN • Role: Project Manager • Percent of Time Allocated to Role: 50% • 2017-Present

Jason is currently serving as Project Manager for this multiple facility, 1,300,000 SF, $571 million multiple facility justice complex including a new Assessment and Intervention Center, 2,700 bed detention facility, 300 bed Acute Health Care units, 72-88 adjudication/courtroom spaces, and facility space for up to 93 judicial officers. HOK is the owner's technical advisor providing Programming, Planning, Master Planning, Site Enabling, Design Criteria Documentation, Bid Analysis, Electronic Security, and Sustainability. Jason works with Jeff Goodale, PJM's Lead Design Quality Manager, on this project. HOK's scope of services will be complete in late 2018, lining up perfectly for Jason to transition his full focus to the Miami-Dade Courthouse during RFP Phase-2.

Union County Courthouse • Jonesboro, IL • Role: Project Manager • Percent of Time Allocated to Role: 25% • 2010-2013

As Project Manager, Jason was responsible for the development of the overall concept and function layout of this 52,000 SF, $12 million consolidated justice facility that includes 3-courtrooms, County Administration offices, Sheriff's office, dispatch, and holding rooms. Jason worked with Jeff Goodale, PJM's Lead Design Quality Manager, on this project.

Washtenaw County Justice Complex • Ann Arbor, MI • Role: Principal-in-Charge • Percent of Time Allocated to Role: 15% • 2010-2012

Jason served as Principal-in-Charge for this 185,000 SF, $29 million expansion to an existing justice center. The project scope included a new district courthouse, 112-bed jail, intake/transfer/release center, updated and enlarged medical and support facilities, and new mechanical systems.

Thurston County Courthouse Feasibility Study • Olympia, WA • Role: Planner/Programmer • Percent of Time Allocated to Role: 10% • 2015
Jason served as Planner/Programmer for this judicial complex that included an 18 courtroom, 160,000 SF County Courthouse and a 164,000 SF facility for administrative offices and parking. His responsibilities included a developing a needs assessment, space program, and concept alternatives for the new courthouse and administrative offices. His study compared renovation/ expansion to new construction on multiple sites plus project delivery alternatives.

Douglas County Adult Detention and Law Enforcement Center • Douglasville, GA • Role: Principal-in-Charge • Percent of Time Allocated to Role: 10% • 2011 - 2013
Jason served as Principal-in-Charge, for this new 1,448-bed county detention center and law enforcement facility on a 36-acre site that was master planned for 600,000 SF of future County office space. The project also included an associated parking structure, housing 2,400 cars.

Kent County Correctional Replacement • Grand Rapids, MI • Role: Principal-in-Charge • Percent of Time Allocated to Role: 10% • 2009-2011

Jason served as Principal-in-Charge for this new 20 courtroom, 340,000 SF courthouse, which includes seven hearing rooms, as well as administrative, clerk, probation, and attorney offices. Shell space was provided for future courts and offices. The building was divided into two towers to diminish its visual mass.

Texas Facilities Commission, GJ Sutton State Office Building Facility Delivery Method Analysis • San Antonio, TX • Role: Lead Planner • Percent of Time Allocated to Role: 25% • 2016-2017
As Lead Planner, Jason assisted in evaluating the overall cost, site selection, and feasibility for the replacement of the GJ Sutton Office in San Antonio, Texas, resulting in a $140 million construction project. Jason assisted the Owner select between the existing building's site and multiple alternative sites, and also assessed 5 different project delivery methods for the owner – Design-Bid-Build ("DBB"), Design-Build ("DB"), Design-Build-Finance-Operate-Maintain ("DBFOM"), ground lease, or traditional lease back. The study determined up front capital and soft costs for the project in addition to long term facility management and life cycle costs and compared the different models for the State to determine the best delivery method. Jason worked with Jeff Goodale, PJM's Lead Design Quality Manager, on this project.

Iowa State Penitentiary • Fort Madison, IA • Role: Principal-in-Charge/ Planner • Percent of Time Allocated to Role: 65% • 2009 - 2013
Jason served as Principal-in-Charge/Planner for this 800 bed, maximum security facility that replaced an 1839 penitentiary. The complex also includes extensive medical/mental health treatment facilities, geothermal energy, and achieved LEED ® Gold Certification.

Wayne L. Morse US Federal Courthouse • Eugene, OR • Role: Senior Project Manager • Percent of Time Allocated to Role: 80% • 1999-2006
Jason Wandersee served as the Senior Project Manager from initial concept design through occupancy completion for this 266,742 SF, $79 million, five story courthouse. The completed design was developed under the GSA's Design Excellence program. The bottom two floors are covered in glass and house offices, while the top three floors are covered in ribbons of steel and primarily house six courtrooms; two for the judges of federal district court, two for magistrate judges of the court, and two for the bankruptcy court. Seven judges' chambers and two law libraries are above the courtrooms. Located on the second floor is the jury assembly room, which doubles is used as exhibit and meeting space after hours. The building has won several design awards and earned Leadership in Energy and Environmental Design (LEED) Gold certification for energy efficiency, the first new federal courthouse to achieve this distinction.

TIM FRIEDLANDER

Tutor Perini

Lead Contractor's Construction Manager



Education & Training

- Electrical Apprenticeship Program, Gateway Community College

Licensing & Certifications

- OSHA Outreach Trainer 500, 501;
- OSHA 309A;
- NTT Fiber Optics and Installation;
- SRP Grounding & Bonding for Safety & Performance;
- IMSA Roadway Lighting Specialist;
- IMSA Work Zone Safety Specialist;
- IMSA Traffic Signal Inspector;
- IMSA Traffic Signal Tech; ADOT Earthworks Series

Biography

Tim Friedlander has over 36 years of commercial and governmental construction experience, most of it in a project supervision and management capacity. Since 2014 he has managed projects for Tutor Perini in the South Florida region. Tim has experience on both sides of the table, having worked his way up from an Electrician to a Project Manager for the Arizona Department of Transportation early in his career. In addition, Tim worked as an Owner's Representative in Texas on multiple projects. Tim has developed superb organizational and management skills, and a keen ability to coordinate subcontractors and suppliers on complex, multi-faceted projects. To complement these management skills, Tim has extensive knowledge of electrical codes, OSHA guidelines and plant procedures. Tim's typical responsibilities as Senior Project include negotiation, material buyout, subcontracts, change orders and maintaining budgets and schedules.

Reference Projects

Versailles • Miami Beach, FL • Role: Project Manager • Percent of Time Allocated to Role: 100% • October 2015-November 2016
Reporting directly to the Project Executive, Tim supervised construction activities for two Faena Versailles residential towers in Miami Beach on approximately 1.69 acres. The project included the redevelopment of an existing 16-story historic tower into a 22-unit luxury condominium tower, equipped with public and back-of-house areas, a spa & fitness center, retail, and landscaping. The second tower was newly constructed to include 41 luxury residential units, with similar amenities and a shared underground parking valet area for approximately 180 cars. On the project, Tim was responsible for execution of subcontract agreements, procurement, contract documentation, project staffing and supervision, EEO/safety programs, schedule and cost controls.

City Center • Las Vegas, NV • Role: Senior Project Manager • Percent of Time Allocated to Role: 100% • May 2008 - February 2012
The City Center project included the construction of a mixed-use development including a 61-story, 4,004-room gaming resort, luxury non-gaming hotels, a residential building, retail, and entertainment space. Tim was responsible for the management and administration of a portion of the project including, but not limited to, execution of subcontract agreements, procurement, contract documentation, project staffing and supervision, EEO/safety programs, schedule and cost controls.

Metropica • Sunrise, FL • Role: Senior Project Manager • Percent of Time Allocated to Role: 100% • 2017-Current
Tim is currently supervising the construction of this 28-story, 697,947 SF residential tower that will feature 263 units, ten penthouses, a resort-style pool, an indoor game room, a 24-hour state-of-the-art fitness center, massage therapy rooms, tennis courts, a movie theater and a parking garage. Tim is responsible for the overall management and administration of the project including, but not limited to, execution of subcontract agreements, procurement, contract documentation, project staffing and supervision, EEO/safety programs, schedule and cost controls. The project is scheduled to be complete in mid-2018 so Tim will be able to dedicate his full attention to the Miami-Dade Civil and Probate Courthouse.

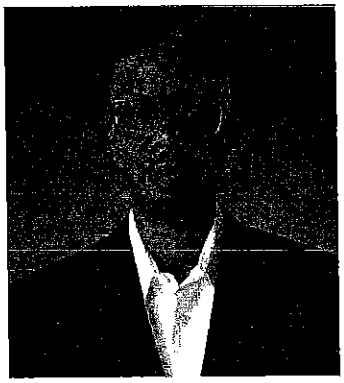
Arizona Department of Transportation Interstate 10 Widening Project • Phoenix, AZ• Role: Electrical Project Manager • Percent of Time Allocated to Role: 30% • October 2000-June 2006
As Electrical Project Manager, Tim was responsible for solving all electrical issues including bridge work, storm pumps, and lighting for this $250 million project, which consisted of the widening of Interstate 10 for the Arizona Department of Transportation.

Arizona Department of Transportation Loop 202 Widening Project • Phoenix, AZ • Role: Electrical Project Manager • Percent of Time Allocated to Role: 30% • October 2000-June 2006
As Electrical Project Manager, Tim was responsible for solving all electrical issues including bridge work, storm pumps, and lighting for this $400 million project, which consisted of the widening of Loop 202 for the Arizona Department of Transportation. Loop 202 allows you to connect to two major interstates (I-10 and I-17).

EARL RANDELL JR.

LEAD QUALITY MANAGER

Tutor Perini



EDUCATION & TRAINING

- Bachelor of Architecture, University of Detroit Mercy

LICENSES AND CERTIFICATIONS

- Registered Architect, State of Florida, Michigan & Georgia
- Member of National Council of Architectural Registration Boards
- CQM-C Certified
- OSHA-30 Hour Certified
- Stormwater Management Inspector, State of Florida
- Certified in CPR, AED, and Basic First Aid

BIOGRAPHY

Earl Randell Jr. is a certified construction quality manger with 34 years of institutional, commercial, and governmental construction and architectural experience. His experience transcends all project phases including the review of design documents for coordination and constructability; integration of the QA/QC plan in contractor bid documents; construction phase inspections, benchmarks and quality plan enforcement; and commissioning and building turnover facilitation. In addition to ensuring high levels of design and construction quality, Earl has a strong background in the development of project systems and controls (submittals, pre-installation checklist, and first in-place work approvals) that contribute to the delivery of a high-quality building project. Prior to his quality manager role, Earl was a Project Manager for multiple Design-Build contracts, granting him experience and knowledge of the full picture of these complex projects.

In his role as Quality Control Manager for Tutor Perini on past projects, Earl is responsible for developing procedures and implementing controls necessary to assure optimum quality throughout the Project. Earl was responsible for developing, implementing and monitoring the project's quality assurance plan and supervised daily inspections for contract compliance; maintained project documentation and reports; developed project mock ups and benchmark standards; and ensured final punch list and close out activities of the contractor were complete.

REFERENCE PROJECTS

Versailles - Miami Beach, FL | Quality Control Manager | % of Time Allocated to Role: 100% | October 2015-November 2016
As Quality Control Manager, Earl reported directly to Tim Friedlander, PJM's Lead Contractor's Construction Manager. The two developed a strong working relationship, which will carry over to the Miami-Dade Civil Courthouse project. The Versailles project included the redevelopment of an existing 16-story historic tower into a 22-unit luxury condominium, as well as the construction of a second tower including 41 luxury residential units and a shared underground parking valet area for approximately 180 cars.

Metropica Tower One - Sunrise, FL | Quality Control Manager | % of Time Allocated to Role: 30% | March 2017-Present
As Quality Control Manager, Earl reports directly to the Project Manager, Tim Friedlander, for this 28-story, 697,947 sf residential tower that will feature 263 units, ten penthouses, a resort-style pool, an indoor game room, a 24-hour state-of-the-art fitness center, massage therapy rooms, tennis courts, a movie theater and a parking garage.

Dalmar/Element Hotel - Ft. Lauderdale, FL | Quality Control Manager | % of Time Allocated to Role: 30% | November 2016-Present
Earl serves as the Quality Control Manager for this 11-story, 181,946 sf, multiple hotel development. The project also includes development and site improvements on an approximate 6.32 acre site with on grade parking for approximately 237 cars.

Ft. Lauderdale - Hollywood International Airport Terminal 4 Gate Replacement - Ft. Lauderdale, FL | Quality Control Manager | % of Time Allocated to Role: 30% | August 2017-Present
Earl Served as Quality Control Manager for this 228,062 sf, 6-gate concourse expansion project at Ft. Lauderdale – Hollywood International Airport. The team expanded and relocated 2 concourses and provided a new secure connector bridge, security checkpoint, sterile corridor, office space for the BCAD, and terminal upgrades. Earl was responsible for developing procedures and implementing controls necessary to assure optimum quality throughout the Project. The owner was so pleased with the quality of work completed by the team that Tutor Perini was awarded the Federal Inspection Services project at FLL as a change order.

Detroit Dept. of Transportation (New Addition to Bus Terminal) - Detroit, MI | Project Superintendent | % of Time Allocated to Role: 100% | April 2011-November 2012

Prior to his time with Tutor Perini, Earl served as Project Superintendent for this project, which consisted of a new four bay bus wash station building, two-story administrative/employee locker room/showers/restrooms and recreation facility, as well as the renovation of the bus mechanics repair facility. As Superintendent, Earl was responsible for the on-site coordination and supervision of the contractors on the project, enforcement of site safety, and assuring adherence to the quality standards established for the project. In the performance of these duties, he assisted the Project Manager with site mobilization, coordinates and supervises the work of the subcontractors, craft labor, material supplies and trade contractors, conducts contractor coordination meetings, and interfaces with the Owner's and Architect's field representatives. Earl's experience managing an entire project as a superintendent strengthens his ability to proactively manage the quality control process and identify potential issues before they occur.

NEIL MCCRANK

Lead Quality Manager (Operations)



Education & Training

- CFM Professional Designation from IFMA, 2012
- 4 Courses toward Real Property Administrator designation

Licensing & Certifications

- Steamfitters Ticket, CF8220, 1984
- Gasfitter Ticket, CF7321, 1979
- Plumbing Ticket, CA979, 1979

Biography

As Senior Vice President of Operations and Asset Management, Neil oversees facility management team members to ensure the appropriate integration and "whole-of-life" approach is built into all of Plenary Group's projects. Neil applies life cycle models and benchmarking principles to ensure projects are tracking with plan. Neil has over 30 years of experience in building maintenance and facilities management and has been directly involved in the development of operations plans for over 5 million SF of facilities including courthouses, correctional centers, healthcare facilities, schools and many other facilities. Neil has been working on Public-Private Partnership ("P3") pursuits and projects since 2003, and has been involved in over 40 P3 projects.

Prior to joining Plenary Group, Neil oversaw facilities management and operations contracts in Western Canada and throughout the US Pacific Northwest at Johnson Controls. Neil was responsible for seven facilities project managers and approximately 80 staff. He was also responsible for financial planning, performance of all contracts, and liaising with facility owners. Neil was an integral part of the P3 team in delivering a responsive FM solution within the alternative financing and procurement structure and remained involved in the project until successful transition to an operating facility.

Reference Projects

Thunder Bay Consolidated Courthouse • Thunder Bay, Ontario, Canada • Role: Operations & Maintenance Manager • Percent of Time Allocated to Role:15% • 2013 - Current

Neil led the Plenary Justice operations team in the planning, development and implementation of operations and life cycling for this 200,000 SF, $196 million, LEED Silver Certified project that accommodates an estimated 250 personnel in 15 courtrooms and 4 conference/settlement room.

Winnipeg Southwest Rapid Transitway • Winnipeg, Manitoba, Canada • Role: Operations Manager • Percent of Time Allocated to Role:10% • 2017 - Current

Neil serves as the Plenary Roads Winnipeg operations manager for this $285 million, project that includes significant transportation infrastructure components in the southwest quadrant of Winnipeg. Neil was an integral member of the design team that delivered multiple cost saving measures to the client. He will continue to work with the O&M partner on this project through the end of construction, and will be fully responsible for O&M once construction is completed.

Interior Heart & Surgical Center • Kelowna, British Columbia, Canada • Role: Operations & Maintenance Manager • Percent of Time Allocated to Role:15% • 2013 - Current
As Project Co Representative for this $1.75 billion DBFM project, Neil led the Plenary operations and maintenance team through the transition planning of this 139,000 SF, LEED Gold Certified facility that is the newest addition to the Kelowna General Hospital campus in British Columbia. As the Plenary operations and maintenance manager for the project, Neil was tasked with integrating, coordinating, and demarcating IHSC's operations with existing buildings and other portions of the hospital and their respective O&M service providers, including a portion of the hospital that was delivered as a P3 by another firm within a building adjoining the IHSC.

US 36 Managed Lanes Project • Denver, CO • Role: Operations Lead • Percent of Time Allocated to Role: 10% • 2014 - Current

As Operations Lead for this $200 million DBFOM toll concession in Denver and Boulder, Colorado, Neil worked closely with the consortium to prepare an optimized approach to operations, maintenance and rehabilitation, providing additional value-for-money to the client. He oversaw the performance of the O&M subcontractor and ensured compliance with all performance requirements and made sure maintenance work was implemented in a manner consistent with the long term goals of the Project. The operating and maintenance contract is for 50 years following substantial completion of Phase 2 project construction, currently set for early 2016. The partnership between Plenary Group and CDOT successfully delivered an efficient, well-maintained multimodal transportation corridor 20 years sooner than originally planned. The project has earned Denver Regional Council of Governments - Metro Vision Award (2015) and American Road & Transportation Builders Association Project of the Year (2016).

Disraeli Freeway & Bridges • Winnipeg, Manitoba, Canada • Role: Operations Manager • Percent of Time Allocated to Role: 10 % • 2011 - Current

Neil led the Plenary Roads Plenary Roads Winnipeg operations team in the planning, development, and implementation of the operations and lifecycle for this $152 million, transportation infrastructure project. Neil worked closely with and advised the O&M provider on various cost, planning, and staffing aspects to ensure an efficient, "whole-of-life" solution was delivered to the client. This was the city of Winnipeg's first DBFM project, so Neil's on-going collaboration with the Client has been critical to the project's success.

NHS Health Care Complex & Walker Family Cancer Center • St. Catharines, Ontario, Canada • Role: Operations Lead (for JCI) • Percent of Time Allocated to Role: 15 % • 2008 - 2009

As Operations Lead, Neil was responsible for developing the operations strategy during the proposal phase including estimating portions of this $594 million, DBFM, P3 project for Johnson Controls. Neil was the FM representative in design meetings for this facility which is currently providing residents of the Niagara region with new programs and services. The project earned LEED Gold Certification, Canadian Council for Public-Private Partnerships' Award of Merit for Project Financing in (2009), and ReNew Canada Top 100 Projects (2011).

North Bay Regional Health Center • North Bay, Ontario, Canada • Role: Operations Lead (for JCI) • Percent of Time Allocated to Role: 15 % • 2009
Neil developed the facilities strategy and approach, including estimating the life cycle replacement costs for project for Johnson Controls. Neil was the FM representative in design meetings for this 724,665 SF; $438 million, LEED Certified, P3 project which brings the North Bay General Hospital and North East Mental Health Center onto a single site.

JEFFREY B. GOODALE

Lead Design Quality Manager



Education & Training

- Bachelor of Science, Architecture Studies, University of Illinois, 1986

Licensing & Certifications

- American Correctional Association
- Editorial Board, Correctional News
- Tyco/Simplex Grinnell Fire Protection Advisory Council (includes security electronics)

Biography

Jeff Goodale has more than 30 years of experience master planning, programming, and design for Justice projects. Jeff is recognized within the industry as a thought leader at the forefront of Justice rehabilitative design and innovation. His leadership and commitment to a team approach help drive consensus building and mutual responsibility. Jeff is known for finding unique solutions for clients and users and for providing optimal outcomes and efficiencies. His other responsibilities include overall project leadership, client contact, and establishment of architectural concepts, budget and schedule accountability, and review of construction documents. With previous experience as a Construction Manager, he offers a unique perspective on the role of the Architect for various delivery methods, including Design-Build.

Reference Projects

Wayne County Consolidated Justice Center • Detroit, MI • Role: Principal-in-Charge; Lead Programmer/Planner • Percent of Time Allocated to Role: 15% • 2017-Present

Jeff is serving as the Principal-in-Charge and lead programmer/planner for this new $500 million comprehensive justice center, replacing older facilities in downtown Detroit. The project includes all new 2,280 bed adult detention center, 160 bed juvenile detention center, 29 courtroom criminal courthouse, Prosecutor's office, sheriff's headquarters and 1,500 parking spaces. A unique feature of the project was the design of the central energy plant with county facility maintenance facilities co-located. The project site is master planned for future additional courthouses.

Marion County Community Justice Complex • Detroit, MI • Role: Principal-in-Charge; Lead Programmer/Planner • Percent of Time Allocated to Role: 10% • 2017-Present

Jeff serves Principal-in-Charge and Lead Programmer/Planner for this multiple facility, 1,300,000 SF, $571 million multiple facility justice complex including a new Assessment and Intervention Center, 2,700 bed detention facility, 300 bed Acute Health Care units, 72-88 adjudication/courtroom spaces, and facility space for up to 93 judicial officers. HOK is the owner's technical advisor providing Programming, Master Planning, Site Enabling, Design Criteria Documentation, Bid Analysis, Electronic Security, and Sustainability. Jeff works with Jason Wandersee, PJM's Lead Design Manager, on this project.

Will County Courthouse • Joliet, IL • Role: Principal-in-Charge; Lead Programmer/Planner • Percent of Time Allocated to Role: 5% • 2016-Present
As Principal-in-Charge and Lead Programmer/Planner, Jeff is responsible for concept development, planning, and interior layout for this new 42 courtrooms, 475,000 SF Courthouse in downtown Joliet. Designed as part of a new Judicial Complex, this facilities achieves excellence in contemporary courthouse planning concepts and modern standards of security and technology. Some of the key elements used involve zoning, sustainability, technology planning and expandability. By working together with key stakeholders from Will County, HOK designed the new courthouse to work efficiently with the County's court operations and will allow for future growth and flexibility.

Union County Courthouse • Jonesboro, IL • Role: Principal-in-Charge • Percent of Time Allocated to Role: 15% • 2012-2013
As Principal-in-Charge, Jason was responsible executive oversight of this 52,000 SF, $12 million consolidated justice facility that includes 3-courtrooms, County Administration offices, Sheriff's office, dispatch, and holding rooms. Jeff worked with Jason Wandersee, PJM's Lead Design Manager, on this project.

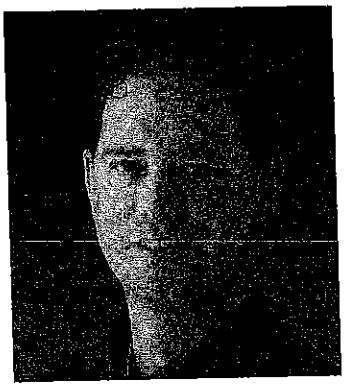
CDB In-Patient Treatment Center • Joliet, IL • Role: Principal-in-Charge; Lead Programmer/Planner • Percent of Time Allocated to Role: 5% • 2018-Present (Design Services Complete in 2018)
Jeff serves as the Principal-in-Charge, Lead Programmer/Planner for this new 200-bed in-patient mental health and medical acute care unit, located at the Joliet Treatment Center. The 185,000 SF project will provide over 150 mental health beds ranging from crisis to acute, 90 male and 60 female. The Design-Build project also includes a new clinic with 50 acute care medical beds, a new gatehouse, administration space, central utility plant and other overall site improvements. Jeff led the design team to a completed design in 2018 and is currently providing support to the Design-Build Contractor until the facility's scheduled opening date in 2021.

Texas Facilities Commission, GJ Sutton State Office Building Facility Delivery Method Analysis • San Antonio, TX • Role: Principal-in-Charge • Percent of Time Allocated to Role: 15% • 2016-2017
As Principal-in-Charge, Jeff was responsible for evaluating the overall cost, site selection, and feasibility for the replacement of the GJ Sutton Office in San Antonio, Texas, resulting in a $140 million construction project. Jason assisted the Owner select between the existing building's site and multiple alternative sites, and also assessed 5 different project delivery methods for the owner – Design-Bid-Build ("DBB"), Design-Build ("DB"), Design-Build-Finance-Operate-Maintain ("DBFOM"), ground lease, or traditional lease back. The study determined up front capital and soft costs for the project in addition to long term facility management and life cycle costs and compared the different models for the State to determine the best delivery method. Jeff worked with Jason Wandersee, PJM's Lead Design Manager, on this project.

BARRY GLEASON

CONSTRUCTION QUALITY MANAGER

Tutor Perini



EDUCATION & TRAINING

- Bachelor of Science in Criminal Justice, Temple University

LICENSES AND CERTIFICATIONS

- OSHA 30 Hour

BIOGRAPHY

Barry Gleason has 21 years of experience in the construction industry. His career began with a Quality Assurance/Quality Control ("QA/QC") focus as a Site Inspector and then Supervisor of Inspectors. In his 15 years with Tutor Perini he has worked up through the Quality Engineering ranks to his current position of Project Manager.

As Project Manager, Barry is responsible for the administration and coordination of job site construction activities and oversees the QA/QC process. He is the daily line of authority for all matters relating to the construction and QA/QC process, and establishes and enforces job site procedures. He provides daily direction to the field staff, administers cost control, scheduling, QA/QC, and subcontracts to completion. He is the daily point of contact for the owner, architect, consultants, contractors, and vendors on behalf of our organization throughout construction.

As the Construction Quality Manager, Barry will leverage his strong Quality and Project Management background to administer PJM's thorough Quality Management Plan. His full project perspective will be essential in disseminating a "Quality First" focus to all members of the Design-Build team.

REFERENCE PROJECTS

New Jersey State Police, Emergency Operations Center, Ewing, NJ | Project Engineer/Cost Management | % of Time Allocated to Role: 100% | September 2004-June 2006
New two-story, 54,000 sf facility for the State Police Emergency Management Section ("EMS") and Emergency Operations Center ("EOC"). The building will include an auditorium-style support room which will accommodate 150 people for activation and training, an executive room which will house 15-20 Governor's Office staff, a medical room, and space for FEMA, nuclear power, and public utility representatives for use during emergencies. As Project Engineer, Barry was responsible for QA/QC of all submittals of materials, drawings and mockups from submission through installation.

Pennsylvania Convention Center Expansion: Contract 2 - Philadelphia, PA | Assistant Project Manager | % of Time Allocated to Role: 100% | April 2008-February 2012
Contract 2 of the LEED® Gold expansion project consisted of exterior wall systems, structural curtain wall, roofing, vertical transportation systems, mechanical, electrical and fire protection systems, and interior finishes. The expansion of the existing Convention Center added nearly one million sf of new construction. The new 57,000 sf ballroom was the largest convention center ballroom on the East Coast, at the time of completion.

Also included in the project was 260,000 sf of new exhibition space and 63,000 sf of additional meeting space, which accommodates 6,000 people. As Assistant Project Manager, Barry was responsible for QA/QC of all submittals of materials, drawings and mockups from submission through installation.

SUNY Downstate Medical Center, New Academic Building - Brooklyn, NY | Project Manager | % of Time Allocated to Role: 100% | May 2016-February 2018
New $73 million, eight-story, 119,000 sf educational building, including 6,500 sf of renovation that includes classrooms, exam rooms, universal patient rooms, debriefing rooms, offices, and laboratories. As Project Manager, Barry was responsible for the entire project as the lead project manager.

The Ludlow East Market Redevelopment - Philadelphia, PA | Assistant Project Manager | % of Time Allocated to Role: 100% | December 2015-May 2016

18-story, 500,000 sf mixed-use complex that encompasses an entire city block and includes a 14-story, 322-unit apartment building and a two-story retail podium with below-grade parking. The apartment building features fitness center, yoga studio, resident lounge with large-screen TVs and gaming stations, and outdoor terrace with barbeque stations, fire pit, and lounge seating. As Assistant Project Manager, Barry was responsible for managing QA/QC of all project engineers and assistant project managers responsible for all submittals, drawings and mockups from submission through installation.

W/Element Hotel, Philadelphia, PA | Assistant Project Manager | % of Time Allocated to Role: 100% | May 2015-December 2015
51-story, 770,000 sf, 755-room dual-branded hotel complex on tight urban site. Delivered under GMP contract, Barry worked on and bought-out the design-assist package for the curtain wall. As Assistant Project Manager, Barry was responsible for managing the design and coordination of the exterior curtain wall and all exterior envelope trades during the design phase.

Philadelphia Family Court, Philadelphia, PA | Assistant Project Manager | % of Time Allocated to Role: 100% | February 2012-May 2014
New $83 million, 14-floors above grade courthouse with a structural steel frame and unitized curtain wall system. There will also be three subterranean parking levels of cast in place concrete, and one partial mechanical penthouse level. The total above grade area of the facility is approximately 509,000 gsf. As Assistant Project Manager, Barry was responsible for managing QA/QC of all project engineers and assistant project managers responsible for all submittals, drawings and mockups from submission through installation.

Octavius V. Catto Community School and Boys and Girls Club, Camden, NJ | Project Engineer | % of Time Allocated to Role: 100% | September 2006-December 2007

New 97,936 sf elementary school with an attached 24,283 sf Boys and Girls Club on an 8.5-acre park. In addition, the project includes seven related subprojects: decontamination and demolition of all structures in Block 1119 of Dudley Grange Park; decontamination and demolition of the Pleasant Gardens Apartments; construction of a new Greenway at Dudley Grange Park; construction of a new Greenway at Stockton Station Park; provision of all furniture, fixtures, and equipment for the project; provision of all information technology systems for the project; and construction of all traffic signalization and crosswalk improvements in the project area. As Project Engineer, Barry was responsible for managing QA/QC of all project engineers and assistant project managers responsible for all submittals, drawings and mockups from submission through installation.

MIKE DAVIS

Lead Operations and Maintenance Manager



Education & Training

- Parkland College, Champaign, Illinois
- Associate in Applied Science, Manufacturing Technology

Licensing & Certifications

- LEED ® Green Associate Certification
- U.S. Green Building Council Member

Biography

As an O&M Service Provider, Mike Davis has become the most experienced in preparing and transitioning P3 projects in the US. He led the Johnson Controls O&M team through the design, construction and transition into Operations of the Long Beach Courthouse, the first social infrastructure project in the US. This trail blazing experience has paved the way for other Johnson Controls P3 projects in the US to follow, such as Long Beach Civic Center and UC Merced 2020 project both of which Mike provides regional management oversight. Due to the high risk nature of P3 projects, Mike will initiate future projects through RFP, design, and construction in the US and have transition leadership position and ultimate management responsibility moving forward.

Reference Projects

Long Beach Courthouse • Long Beach, CA • Role: Regional O&M Manager • Percent of Time Allocated to Role: 20% • 2010-Present
Mike is responsible to Project Co for all Johnson Controls services to the project including fixed cost pricing, performance and energy guarantees as Regional Manager for the facility. Johnson Controls is the Facility Management service provider that was part of a team that delivered the project. JCI participated in the design and construction phase to advantage the long term cost of the project. The 545,000 SF building houses 31 court rooms, as well as courts administration and County lease space. This is the first social infrastructure P3 project in the U.S. based on international principles of Performance-Based Infrastructure.

Long Beach Civic Center • Long Beach, CA • Role: Regional O&M Manager • Percent of Time Allocated to Role: 30% • 2017-Present
Mike is providing regional management for the project's transition phase activities. He is responsible to Project Co for all Johnson Controls services to the project including fixed cost pricing, performance and energy guarantees as Regional Manager for the facility. Johnson Controls is the Facility Management service provider of the project that consists of a new civic center, a new City Hall, Main Library, revitalized Lincoln Park, and a new headquarters for the Port Authority, as well as a vibrant commercial mixed-use development. In total, there are six new buildings, three new parking garages, and related infrastructure and landscaping. This project is currently in the Construction Phase.

University of California, Merced 2020 Project • Merced, CA • Role: Regional O&M Manager • Percent of Time Allocated to Role: 30% • 2016-Present
Mike is providing regional management for the project's transition phase activities. He is responsible to Project Co for all Johnson Controls services to the project including fixed cost pricing, performance and energy guarantees as Regional Manager for the facility. The UC Merced 2020 Project is a 1.2 million gross-square-foot campus expansion and redevelopment project on the UC Merced campus in Merced, California that will nearly double the campus' physical capacity by 2020. The project will be the first in the UC system to use a single private development team for a multi-year, multi-building project of this scope. Plenary Properties Merced ("PPM") will not only design and build all of the new facilities as a single, fast-track project, but will also ensure major building systems operate effectively over the 39-year term of the contract. The project capital value is $1.35 billion.

University of Kansas, Central District Development • Lawrence, KS • Role: Regional O&M Manager • Percent of Time Allocated to Role: 20% • 2016-Present
Mike is providing regional management for the project's transition phase activities. He is responsible to Project Co for all Johnson Controls services to the project including fixed cost pricing, performance and energy guarantees as Regional Manager for the facility. The University of Kansas Central District Development is a 365,000 SF, $350 million P3 project that will give new purpose to underutilized grounds below Daisy Hill, extending the pedestrian campus experience to the West Campus and positively remaking the corner at 19th and Iowa into a major gateway for the campus. The project includes 260,000 SF. of academic science facilities (called "Integrated Science Buildings"), 105,000 SF of student union space, and two housing facilities with a total of 1,200 student beds, a power plant as well as additional parking and infrastructure to support the new facilities. Output from the power plant will support the Integrated Science Buildings, but is expected to support additional academic, engineering and integrated science facilities to be built at a later date.

APPENDIX 16

PUBLIC COMMUNICATIONS

APPENDIX 16

PUBLIC COMMUNICATIONS

1. COUNTY RESPONSIBILITIES

1.1 Primary Communications Role. The County shall be responsible for providing information related to the Project to the public and shall have the right to review and approve all public communications related to the Project.

1.2 County's Public Information Officer. The County shall appoint a Public Information Officer for the Project, who shall be authorized to:

(a) Respond to media inquiries;
(b) Receive and fulfill public records requests related to the Project;
(c) Review and approve all press releases, promotional material, and brochures related to the Project;
(d) Approve the use of the County logo and seal in relation to the Project; and
(e) Establish, implement, and enforce a protocol for communications in the event of an emergency situation.

1.3. County Representative. The County shall designate a County Representative for the purposes of certain public communications who shall be authorized to:

(a) Provide information, including updates regarding the project schedule, to key stakeholders for the Project, including both internal and external stakeholders.
(b) Provide Project information to Governmental Bodies, community groups, adjacent businesses, and other interested parties in coordination with the County's Public Information Officer.

2. DEVELOPER'S RESPONSIBILITIES

2.1. Communications Support. The Developer shall provide public communications support services to assist the County in providing Project information to the public. The Developer shall be responsible for performing the following functions:

(a) Designate communications person(s) with applicable communications skills and knowledge of the Project;
(b) Respond to the County regarding communications issues in accordance with agreed timeframes;
(c) Provide information, reports, and other materials as requested by the County within a reasonable timeframe;
(d) Direct all media inquiries and interview requests to the County's Public Information Officer;
(e) Maintain a written record of all Project related public inquiries, complaints and communications and provide copies to the County's Public Information Officer on a weekly basis (or immediately if urgent); and
(f) During an emergency event, heightened communications efforts shall be required by both parties. The Developer shall ensure and make available sufficient resources to effectively and proactively manage and perform its communications responsibilities during a crisis or emergency event.

2.2. Design-Build Period Responsibilities. In the period up to the Occupancy Readiness Date, the Developer shall perform the following:

(a) Develop a communications plan in collaboration with the County's Public Information Officer and County Representative. The plan shall be updated annually, and reviewed and approved by the County. The plan will provide:
  (i) A description of the Developer's approach to all communications aspects of the Project;
  (ii) A description of the Developer's communications team, including the roles and responsibilities for each team member and any subcontractors who shall support the County in providing public information regarding the Project; and
  (iii) Identification of proposed communication tools (e.g., types of information materials, web site, audio-visual, presentations, events) to be used to keep the County informed, and a schedule for implementation of the plan as the Project progresses;

(b) Coordinate with the County in the implementation of the communications plan. This shall include regular meetings with the County to discuss communication issues and developments, and periodic progress reports, which shall include information on activities, public and media inquiries, any emerging issues, and actions taken in response to issues;

(c) Provide information to the County regarding Project-related impacts to traffic near the Project Site during construction; and

(d) Establish and maintain a construction project information line, with voicemail capability.

APPENDIX 17

FINANCIAL MODEL

APPENDIX 17

FINANCIAL MODEL

The Financial Model contains information that the Developer has claimed to be a trade secret pursuant to Section 815.045 of the Florida Statutes. The Financial Model is being held in the custody of the Escrow Agent.

APPENDIX 18

CALCULATION AND PAYMENT OF REFINANCING GAINS

APPENDIX 18

CALCULATION AND PAYMENT OF REFINANCING GAINS

The portion of any gains payable by the Developer to the County upon a Refinancing following the Financial Close Date and prior to the Expiration Date is set forth in this Appendix.

1. DEFINITIONS AND SECTION REFERENCES

1.1. Definitions. In this Appendix, in addition to the definitions set out in this Project Agreement:

"Net Present Value" means the aggregate of the discounted values, calculated as of the estimated date of the Refinancing, of each of the relevant projected Distributions, in each case discounted using the Pre-Refinancing Equity IRR or the Post-Refinancing Equity IRR as applicable.

2. DATA AND PROJECTIONS REQUIRED FOR THE CALCULATION OF THE REFINANCING GAIN

2.1. Developer shall notify the County as soon as practicable of its interest in proceeding with a Refinancing and the proposed schedule for documenting and closing the proposed Refinancing other than an Exempt Refinancing.

2.2. Developer shall provide the following information at least 35 days in advance of the Scheduled Refinancing Date:

a) The Financial Model with the original projections duly adjusted for any changes in the Project structure (e.g., Capital Modifications);

b) Details of the actual timing and amounts of Unit Holder investment from the Financial Close Date to the Scheduled Refinancing Date;

c) Details of the actual timing and amounts of Distributions to Unit Holders or any of their Affiliates from the Effective Date to the Scheduled Refinancing Date;

d) Information on the actual cash flow of Developer from the Effective Date to the scheduled Refinancing date, set out under the same headings as the Financial Model;

e) Term sheet and other relevant information on the terms of the Refinancing;

f) A Pre-Refinancing Financial Model, which does not take into account the effects of the Refinancing on the Base Case Financial Model, as updated by Developer (i) for any changes in the Project and based on the actual performance of the Project to the date of calculation and other macroeconomic assumptions and (ii) with projections for the cash flow of the Developer from the estimated Refinancing date to the end of the Term, including projected Distributions **("Pre-Refinancing Financial Model")**;

g) A Post-Refinancing Financial Model which fully takes into account the effects of the Refinancing on the Base Case Financial Model as projected on the basis of the term sheet and new Senior Financing Agreements, as updated by Developer (i) for

any changes in the Project and based on the actual performance of the Project to the date of calculation and other macroeconomic assumptions and (ii) with projections for the cash flow of Developer from the Scheduled Refinancing Date to the end of the Term, including projected Distributions and all costs incurred in connection with the Refinancing **("Post-Refinancing Financial Model")**;

h) A calculation of the Refinancing Gain based on the above and the provisions described below; and

i) Information on the assumptions for the projections in the Pre-Refinancing Model and Post-Refinancing Financial Model.

2.3. For the purposes of this Appendix, **"Pre-Refinancing Equity IRR"** means the Equity IRR calculated in the Pre-Refinancing Financial Model and **"Post-Refinancing Equity IRR"** means the Equity IRR calculated in the Post-Refinancing Financial Model.

2.4. The Pre-Refinancing Equity IRR and Post-Refinancing Equity IRR shall be calculated for the entire Term taking into account:

a) Timing and amounts of the investment by Unit Holders;

b) Distributions received by Unit Holders up to the estimated Refinancing date; and

c) Projected Distributions as shown in the Financial Model immediately prior to the Refinancing or immediately after the Refinancing, as applicable.

3. CALCULATION OF THE REFINANCING GAIN

3.1. The **"Refinancing Gain"** for any Refinancing other than an Exempt Refinancing will be equal to the greater of zero and the difference between A and B where:

a) A = the Net Present Value of the Distributions to be made from the estimated Refinancing date to the end of the Term as projected in the Post-Refinancing Financial Model, discounted using the Pre-Refinancing Equity IRR; and

b) B = the Net Present Value of the Distributions to be made from the estimated Refinancing date to the end of the Term as projected in the Pre-Refinancing Financial Model, discounted using the Pre-Refinancing Equity IRR.

c) Refinancing Gain excludes gain from the first Refinancing that is anticipated by the Financial Model. However, any gain from the first Refinancing (calculated as provided above) that exceeds the amount of gain for the first Refinancing shown in the Financial Model shall constitute a Refinancing Gain.

4. PAYMENT OF THE COUNTY'S PORTION OF REFINANCING GAIN

4.1. The County will receive payment of its portion of the Refinancing Gain as a reduction in the Service Fee over all or a portion of the Term, subject to the following provisions:

a) The County will not receive its portion of the Refinancing Gain faster than the Unit Holders of Developer; and

b) If the Refinancing involves raising new debt or otherwise increasing the amount of outstanding Project Debt anticipated in any Contract Year of the Financial

Model, the County may elect to receive its portion as a lump sum payment concurrently with the close of the Refinancing.

5. PAYMENT OF THE COUNTY'S PORTION OF REFINANCING GAIN

5.1. Developer shall perform a final calculation of the Refinancing Gain and deliver the results to the County within 15 days after the close of the Refinancing.

APPENDIX 19

DTPW ADJACENT CONSTRUCTION MANUAL

DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS ADJACENT CONSTRUCTION MANUAL

July 2017

Published by the DTPW Office of Safety and Security

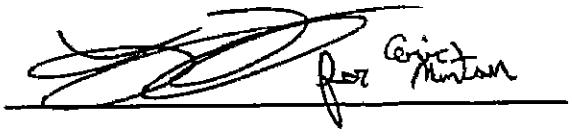
DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS
ADJACENT CONSTRUCTION MANUAL

DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS

OFFICE OF SAFETY AND SECURITY

MIAMI, FLORIDA

July 2017



8-4-17

Date

Approved By:
Eric Muntan
Chief, DTPW
Office of Safety and Security

DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS
ADJACENT CONSTRUCTION MANUAL

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DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS
ADJACENT CONSTRUCTION MANUAL

1.0 Introduction

This manual was prepared in the interest and for the guidance of those who may want to construct a non-Department of Transportation and Public Works (DTPW) physical structure (incl. any excavation, demolition or use of DTPW real property) on, adjacent to, or over, an existing DTPW facility and/or property. The purpose of this Manual is to provide uniform minimum standards and criteria for the construction, development and maintenance of all properties that have or may enter the **Safety Zone** (defined in Appendix A and C) that has been established for all DTPW property and extending on either side of the Metrorail and/or Metromover systems. This includes any equipment, regardless of distance from the guideway, which static or operational failure could directly or indirectly affect DTPW operations or structures.

These standards are intended to provide the basic guidance for the construction, development and maintenance of property adjacent to the operating guideway systems so as to:

1. Protect the safety of the general public and DTPW Employees.
2. Protect the guideway system and the DTPW property from physical damage.
3. Preserve the level of service and operational schedules so as to cause the least disruption for the ridership and use of the DTPW system.

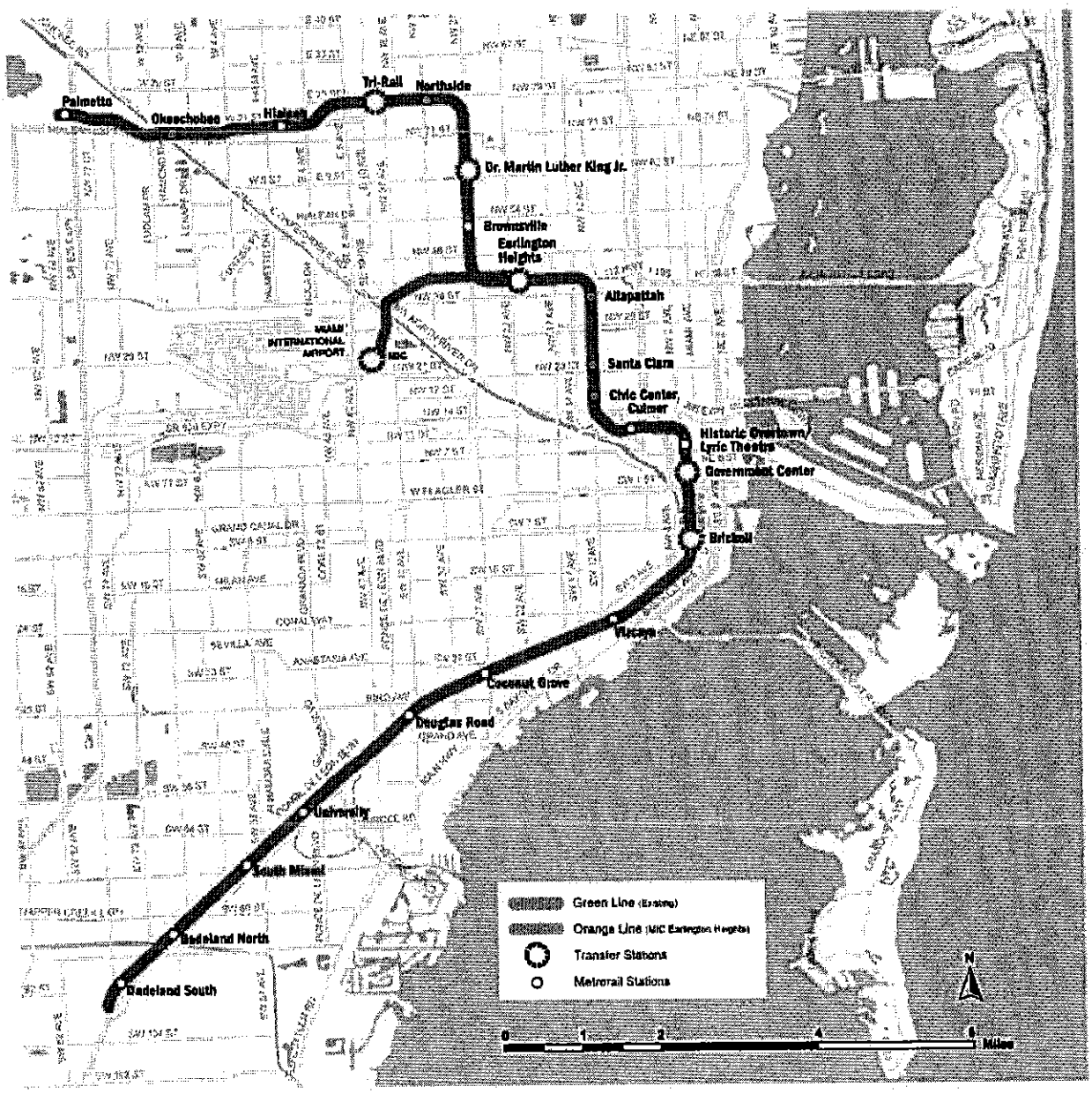
This manual outlines the design guidelines and criteria to follow for the design and submittal of construction plans and specifications to DTPW for review prior to construction of the project. It is the general policy of DTPW to review designs for construction projects adjacent to or on DTPW property on a case-by-case basis to ensure that DTPW facilities are not damaged by the proposed construction, and that DTPW operations are not impacted during or after the adjacent construction.

DTPW maintains half-size "as-built" drawings in its Engineering, Planning & Development (EP&D) Library. Half-size copies of any of the drawings on file are available at printing costs. The full-size drawings on file are available at printing costs. The full-size drawings are normally in archival storage. Full size drawings may be obtained by special request. The Manager, DTPW Document Control, may be contacted (telephone: (786) 469-5268) for an appointment to review the drawings and to order prepaid copies as required.

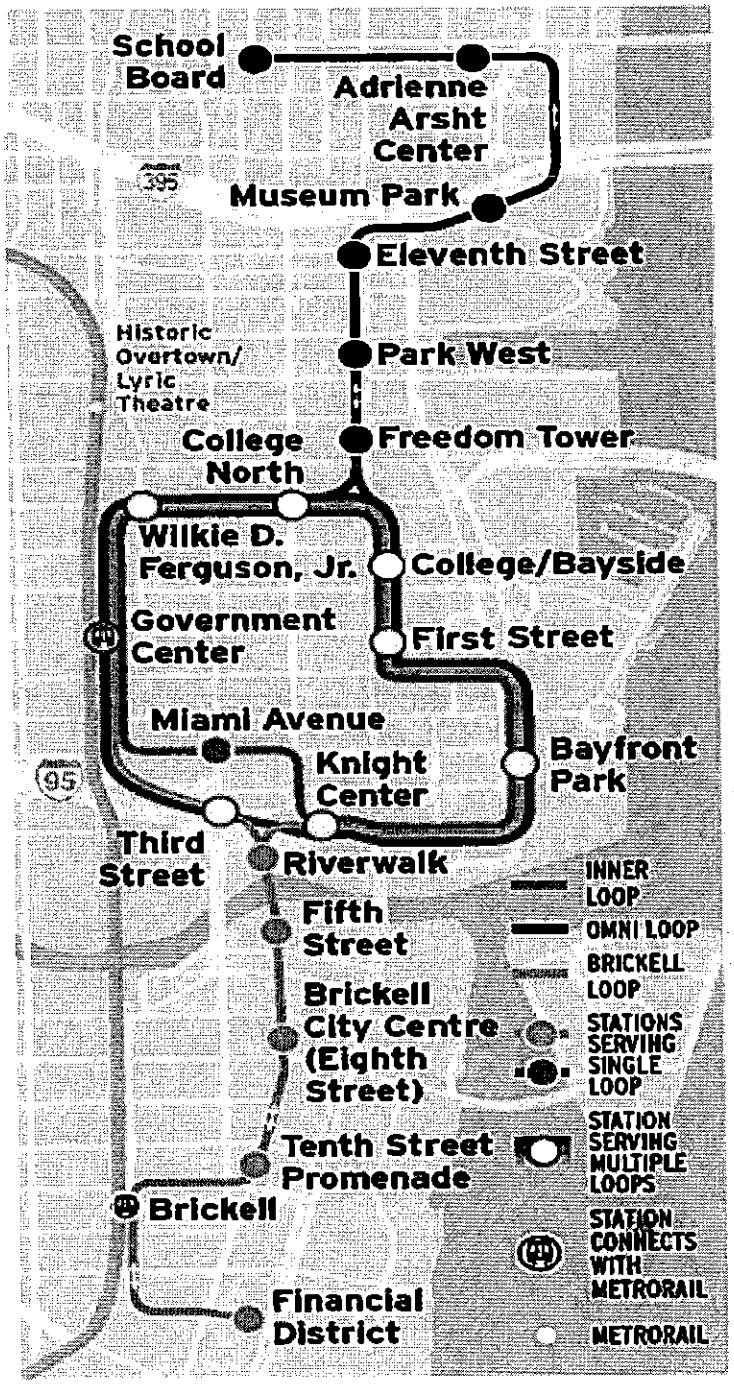
The criteria provided herein are general in nature and for the sole purpose of providing a selective overview of the design requirements. Specific designs performed in the past by DTPW's consultants may not necessarily be in total conformance with this manual. It is considered to be the Developer's responsibility to obtain the original design computations, where available, from DTPW to completely understand the original design intent in order to accurately assess the impact of their proposed construction on the DTPW structures and facilities. A map of the DTPW Metrorail and Metromover system is provided in Section 2.0 (below) for use in locating "as-built" drawings.

2.0 System Maps (Rail & Mover)

2.1 Metrorail System



2.2 Metromover System



DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS
ADJACENT CONSTRUCTION MANUAL

3.0 General Procedures for Adjacent and Transit Right-of-Way Construction Activity

Developers or agencies contemplating any construction activity adjacent to or on Department of Transportation and Public Works (DTPW) facility, structure or property, including any excavation, maintenance, restoration, demolition or use of DTPW real property, should provide, for review, three (3) copies of their drawings and three (3) copies of their calculations, showing the relationship between their project and the DTPW facilities.

Sufficient drawings and details should be submitted to facilitate DTPW's review of the effects that the proposed project may or may not have on the DTPW facilities. A DTPW review requires internal circulation of the construction drawings to concerned departments. Drawings normally required for review are:

- Site Plan
- Drainage Area Maps and Drainage Calculations
- Architectural drawings (basement plans through top floor)
- Sections showing foundations and DTPW Structures
- Structural drawings (provide relative sections showing DTPW)
- Column load tables
- Pertinent drawings detailing an impact on DTPW facilities
- A copy of the geotechnical report

If uncertainty exits on the possible impacts a project may have on the DTPW facilities, and before making a formal application for a review of a construction project adjacent to the DTPW System, the developer or his agent may contact the **Chief, Right-of-Way and Utilities Division should be contacted at (786) 469-5244.**

Sheeting and shoring drawings should be accompanied by calculations. The drawings and calculations should contain comments, details, notes, and instructions describing the proposed sequence of construction.

When the design of foundations and site work of the project has progressed to the point considered complete and ready for review, the drawings and calculations, as applicable, should be sent to:

Chief
Right-of-Way and Utilities
Department of Transportation and Public Works
701 N.W. 1st Court, Suite 1500
Miami, FL 33136

A period of 15 working days should be allowed for review of the drawings and calculations. Fifteen (15) days should be allowed for each successive review as required. Additional review time may be required for complex projects.

Reimbursement is required for the cost of providing support services for adjacent construction and joint development projects where access is required into the operating Metrorail/Metromover system, or the system is impacted. As part of the review procedure, and before any work may proceed, the developer will be required to sign a letter accepting this obligation.

The applicant must receive written approval for the design of a given project by the DTPW Chief, Right-of-Way & Utilities or DTPW Fire/Life Safety Technical Committee Chairperson (as applicable), prior to the start of construction.

Project Documents shall be reviewed and accepted by the appropriate DTPW Divisions for possible impact on DTPW facilities and operations, including all elements associated with the construction of the project and any temporary protection system needed to preserve the system safety.

Each "Part" of the project's design shall be reviewed and approved by the DTPW Design and Engineering Division (DED). A few of the more common "Parts" of a project are considered to be sheeting and shoring, overhead protection, dust protection, dewatering, temporary use of public space for construction activities.

The DTPW review process is outlined in Figure 1 below

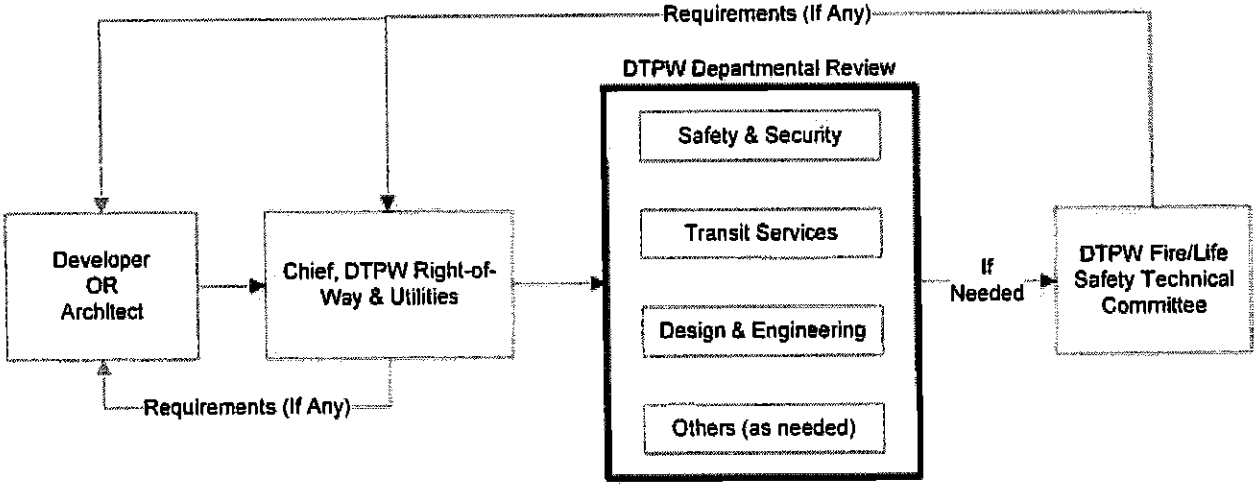


Figure 1

3.1 Fire/Life Safety

DTPW Office of Safety and Security is charged with the responsibility to chair the DTPW Fire/Life Safety Technical Committee which was formed in 1978 to guide Department of Transportation and Public Works (DTPW), rapid transit operations, in developing and following emergency procedures and operational procedures to ensure all fire/life safety related equipment is in proper order and all associated personnel are appropriately trained; to prescribe testing and inspection procedures for fire/life safety equipment in accordance with appropriate codes; to assist the DTPW in developing and implementing a comprehensive joint training program for fire/rescue personnel and DTPW employees; and, to interpret and apply fire/life safety codes, criteria and standards to the design of the fixed guideway systems.

The DTPW Fire/Life Safety Technical Committee acts on behalf of the DTPW Director in accordance with the above to interpret and apply fire/life-safety requirements incorporated in the Florida Building code; National Fire Protection Association Codes and Standards; State Statutes and Fire Marshal's Office; South Florida Fire Protection Code; DTPW Criteria and Standards; other applicable codes, standards and criteria; and, as required, to develop, and verify implementation of, design standards for the DTPW to protect life and property. The Committee works closely with Transit Engineering for design of fire/life safety features and test and maintenance of alarm systems. For test and maintenance of fire suppression systems, the Committee works with facilities maintenance organizations.

As required by the current System Safety Program Plan, the Fire/Life Safety Technical Committee addresses fire/life safety concerns, as described above, for all phases of DTPW Metrorail, Metromover, Metrobus and Special Transportation Services Operations. The Committee also serves as liaison with all Miami-Dade County jurisdictions for development and coordination of emergency response procedures and annual emergency response drills.

4.0 DTPW Review Policy

All design work will be reviewed based upon the assumption that the design will meet the applicable code adopted in the jurisdiction as well as the DTPW Design Criteria and DTPW Standard Specifications. The DTPW design concepts, as set forth herein, generally represent the design approach used by DTPW in the design of its facilities. The effect of adjacent construction upon DTPW structures should be examined based upon the same approach.

Permits, where required by the local jurisdiction, shall be the responsibility of the developer.

Monitoring of the temporary support of excavation structures for adjacent construction shall be required in all cases for excavations within the influence line of DTPW structures (Appendix B). The extent of the monitoring will vary from case to case. Structural design computations maybe required for the adjacent construction. When requested by DTPW, the calculations submitted for review shall include the following:

- A concise statement of the problem and the purpose of the calculation.
- Input data, applicable criteria, clearly stated assumptions and justifying rationale.
- References to articles, manuals and source material should be furnished with the calculations.
- References to pertinent codes and standards.
- Sufficient sketches or drawing references for the work to be easily understood by an independent reviewer. Diagrams indicating data (such as loads and dimensions) shall be included along with adequate sketches of all details not considered standard by DTPW.
- The source or derivation of all equations shall be shown where they are introduced into the calculations.
- Numerical calculations shall clearly show all English units.
- Identify results and conclusions.
- Calculations shall be neat, orderly, and legible.

Drawings should be drawn, to scale, showing the location and relationship of the proposed adjacent construction to existing DTPW structures at various stages of new construction along the entire adjacent alignment. The stresses and deflections induced in the existing DTPW structures should be provided.

The short-term and long-term effects of the new loading due to the adjacent construction on the DTPW structures should be provided. The soil parameters and other pertinent geo-technical criteria contained herein should be used to analyze the existing DTPW structures.

DTPW structures shall be analyzed for differential pressure loadings caused by dewatering the adjacent construction site.

A system of earth retaining structures is required for new excavations adjacent to DTPW structures. Design calculations and drawings stamped and prepared by a Registered Professional Engineer experienced in this type of work, and registered in the state where the work will be performed, are required.

All DTPW underground concrete structures are designed using the ACI Alternate Design Method (working stress design) to curtail excessive deflections and cracking. DTPW underground structures shall be fully reevaluated, for the effects caused by the adjacent construction, using working stress techniques.

4.1 REVIEW SUBMITTALS - DRAWING CRITERIA

General
All designs for the protection, support (sheeting and shoring) and underpinning of existing DTPW structures shall be reviewed by DTPW's Design and Engineering Division (DED). The investigation of the feasibility of various underpinning and dewatering schemes for structures constructed adjacent to DTPW facilities shall be investigated by the developer. The developer's engineer should make recommendations concerning the best underpinning design for a particular structure.

The developer's contract drawings and specifications shall require his construction contractor to maintain, protect and be responsible for the safety, stability and integrity of all adjacent DTPW structures which may be affected by his work.

Drawing Details
The following information shall be included in the drawings submitted for review of an adjacent construction project:

- Dimensioned clearances, both horizontal and vertical, between the adjacent developer's construction and DTPW structures, track, roadways, parking areas and utilities.
- Details of the proposed modifications to DTPW's roadways, parking areas, and busways. Include sections and details showing the relationship of existing facilities and proposed facilities.
- Cross sections with the existing and proposed contours and limits of grading work shown in relation to the property lines and the impact or lack thereof on DTPW facilities. Where grading changes are required in DTPW property, provide the dimensions and square footage of the area required for construction easements.
- Hydrologic and hydraulic calculations showing the impacts on the DTPW drainage system are required if storm drainage from the proposed development is to be discharged into the existing DTPW drainage system. Appropriate sedimentation

and erosion control measures should be included upstream of the discharge point onto DTPW property.

- Where modifications to DTPW utilities are required by adjacent construction, submit for review cross sections, plan and profiles, specifications and design calculations concerning the utility modifications. Details for maintaining electrical and water service to DTPW Stations should be shown when required.
- Where construction will impact a DTPW station entrance and the public, include in the submittal plans for temporary pedestrian and vehicular traffic circulation for the area around the station entrance. Where construction will be adjacent to or above a Metrorail/Metromover station entrance, protection will be required over the escalators in accordance with Section "Overhead Protection" of this Manual. Provide the construction plans, the shop drawings or the working drawings showing the phasing of adjacent construction as well as the construction details for overhead protection, pedestrian barricades, and sidewalk protection. Requests for relocation of bus stops and bus shelters shall be clearly shown on the plans. Barricades and signing necessary to direct the public through the construction zone will be required. Lighting will be required as part of all overhead protection structures.
- Provide construction protection details to preclude impacts on DTPW landscaping, street furniture, pylons, bus shelters and light fixtures.

5.0 DTPW Operational Requirements

DTPW shall have the right to stop any work or construction activities that effects the safety of the DTPW patrons and or facilities or normal DTPW operations. DTPW will exercise reasonable advance notice, except for any matters related to immediate system concerns which will require no advance notice.

Construction work which may have any impact on the Metrorail/Metromover Systems may be scheduled during the Non-Peak Operating Hours or Non-Passenger Hours. Non- Peak Operating Hours are defined as weekdays prior to 6:30 A.M. or after 7:00 P.M. and between 10 A.M. and 3 P.M.; and all day Saturday and Sunday. Non-Passenger hours are defined as Monday through Sunday 12:30 A.M. to 4:30 A.M. Passenger hours may change without notice.

Construction work that may impact weekend or special operational conditions will be limited. Schedule requirements will be addressed on a project by project basis where the individual scheduling need of the project can be evaluated with respect to the operations of the DTPW system.

5.1 General Conditions for Construction Adjacent to the Metrorail or Metromover Guideway/Facilities

A. Clear access is required on a 24 hour basis for ingress and egress for transit patrons, fire and rescue personnel, and maintenance personnel.

B. A contact person will be named by the Contractor to act as liaison with the DTPW Office of Safety and Security for all matters related to safety of the DTPW System. A contact person shall also be named (may be the same person) to act as liaison with the DTPW Metrorail/Metromover Operations Division for all matters related to operation of the Transit System.

C. DTPW shall have the right to review all plans and any construction with reasonable advance notice, except for any matters related to immediate system safety concerns which will require no advance notice.

D. No construction elevators or cranes will be erected on the Metrorail/Metromover guideway side of the building/structure being constructed or demolished.

E. The Metrorail/Metromover guideway shall not be used to support and/or brace construction scaffolding or equipment.

F. For any activity within the **Safety Zone**, the following requirements may apply pending DTPW review.

G. At least forty-eight hours notice describing the nature of the work shall be provided to the DTPW prior to commencement of work.

H. The contractor will provide special protection, such as netting, barricades, walks, screens, scaffolds, etc., acceptable to DTPW, to help ensure the safety

of DTPW property, patrons and employees. No work shall be permitted unless such protection is provided as determined necessary by DTPW.

I. Best efforts will be used to schedule all construction work which may have any impact on the Metrorail/Metromover System during the Non-Peak Operating Hours or Non-Passenger Hours. Non-Peak Operating Hours are defined as weekdays prior to 6:30 A.M.; after 7:00 P.M. and between 10 A.M. and 3 P.M.; and all Saturdays and Sundays. Non-Passenger Hours are defined as Monday through Sunday 12:30 A.M. to 5:00 A.M. or such other hours as may be designated by the County as Non-Passenger hours. Passenger hours will change as required by DTPW.

J. No crane lifts, other crane operations or any other operation shall be performed within the **Safety Zone** (Appendix A and C) without prior approval (in writing) from DTPW. This paragraph shall apply where any part of the load or crane (incl. counter weight), construction equipment or operation that is above the surface of the guideway running pad/rail.

K. For any construction activity within the **Safety Zone** (Appendix A and C) or that may encroach into the Safety Zone, DTPW may deem, as necessary, at the contractor's expense, a DTPW employee or DTPW authorized contractor or consultant (Monitor), to coordinate the contractor's activities with Central Control. This employee will be responsible for monitoring construction activities and communicating with DTPW Central Control. DTPW will determine, in the reasonable exercise of its discretion, the number of hours the above-mentioned employee is needed. The construction contractor will reimburse DTPW for costs arising from the provision of the above-mentioned employee which will be charged at the current rate.

L. DTPW may, at its discretion, modify any of the above conditions or impose additional conditions, to help ensure the safety of the public, and its patrons, employees or property.

5.2 DTPW Monitor and Contractor Coordination

A. Start-up

There will be continued meetings between representatives from DTPW, and Contractor/Developer's project manager, DTPW crane Monitors, the Contractor's crane operators and the form-work Contractor prior to the commencement of the phase work by the tower cranes and any other equipment or operation, adjacent to the DTPW Metromover/Metrorail Guideway System. In addition, DTPW Monitors and the contractor equipment/crane operators will continue to meet daily, at the beginning of the work day, of the project to establish a working relationship of the daily routines in and around the DTPW safety zone.

No construction work requiring a DTPW Monitor will commence until the Contractor provides the DTPW Monitor a functional Contractor radio, and sign off for same as per contractor procedures. Upon arrival at the project site, the DTPW Monitor will

immediately contact the DTPW Central Control Facility, to advise of his/her presence at the project site.

If, at any time during the construction project, a new crane operator is brought on-site to operate any crane, he/she must be apprised of all of the rules and regulations outlined in this Plan by the Contractor's/Developer's Project Manager.

B. Special Provisions – Pre-Task Plan

At the discretion of DTPW, based on construction project proximity to DTPW system and scope of work, DTPW may assign a DTPW manager to log in arrival of DTPW Monitor(s), at the construction site. The assigned DTPW manager will contact the Contractor Senior Superintendent to request and receive a Contractor radio and meet with the Contractor Senior Superintendent and Contractor trade partner /Superintendent or Foreman to go over planned work. The Contractor Senior Superintendent, Contractor Trade Superintendent/Foreman, the DTPW Monitor and the assigned DTPW manager will complete and sign the Contractor Pre-Task Plan (PTP) Form, as specified in the DTPW Adjacent Construction Manual. Until this revised PTP form is accurately and completely filled out, scheduled work warranting a DTPW Monitor shall not proceed. After the PTP form is completed, if PTP is deemed by DTPW, the assigned DTPW manager and the DTPW Monitor shall walk to the selected area to commence monitoring duties, performing a radio check with the operator or crew on the other end of the Contractor radio. If the radio check is successful, the DTPW Monitor will use the DTPW radio to communicate to the Rail Central Control Facility to advise that the Contractor will commence with construction work.

C. Commencement of Work

Once receiving authorization from the appropriate Rail Traffic Controller, the DTPW Monitor will use the Contractor radio to communicate to the work crew that it is now permissible to begin work. The Contractor representative and the DTPW Monitor will sign the provided Central Control log form (as specified in the DTPW Adjacent Construction Manual), with the corresponding approval code, to confirm hearing the verbal approval from the Rail Central Control Facility over the DTPW radio before commencing with work. This log records the code, date, time, location, equipment being used, person giving code and DTPW Monitor receiving code.

6.0 Construction Activity Considerations

The Contractor shall comply with the following requirements:

- The Contractor shall assume full responsibility for the compliance with all applicable Federal, State and local regulations and for complying with this Manual for construction adjacent to the right-of-way during the performance of all work.
- Provide an overall maintenance of traffic (MOT) control plan for pedestrians, vehicular traffic and construction operations. Establish a general visitor control program if required.
- Maintain responsibility for project safety on the work site for the company employees as well as its' subcontractor employees.
- Require each of the Contractor's personnel that may need access on the guideway, to attend the DTPW Orientation and Guideway Safety Class. The Contractor shall reimburse costs of these classes to the DTPW.

6.1 DTPW Personnel/Public/Property Safety & Security

6.1.1 Mechanical Criteria

Existing services to DTPW facilities, including chilled water and condenser water piping, potable and fire water, fire standpipes and storm and sanitary sewers, are not be interrupted nor disturbed without written approval of DTPW.

Clear access for the fire department to the DTPW fire standpipe system and guideways shall be maintained at all times. Construction signs shall be provided to identify the location of DTPW fire standpipes. Call **DTPW Office of Safety and Security (305-375-4240)** 48 hours in advance of any approved interruption to fire standpipe water service.

Modifications to existing DTPW mechanical systems and equipment, required by new connections into the DTPW System, will only be permitted with prior review and approval by DTPW.

The adjacent construction developer will be required to submit the design calculations, drawings, specifications, catalog cuts and any other information necessary to fully describe the proposed modification.

At the option of DTPW, the adjacent construction developer will be requested to perform the field tests necessary to verify the adequacy of the modified system and the equipment performance. Where a modification is approved, the developer shall be held responsible to maintain original operating capacity of the equipment and the system impacted by the modification.

6.1.2 Corrosion & Stray Current Protection

The developer should be aware that, since Metrorail/Metromover transit cars are powered by direct current (DC) electricity, direct current can enter the earth through

unintentional leakage from the DTPW negative ground return system. The leakage or stray current may flow to the discharge from underground metallic elements (i.e. steel reinforcing, pipelines, grounding systems, etc.) which are in contact with any electrolyte, including earth, in the vicinity of the DTPW System. Because stray current may be corrosive to metal at locations where it flows into an electrolyte, the developer is cautioned to investigate the site for stray current and to provide the means for stray current mitigation when warranted.

Further information concerning stray current mitigation can be obtained by contacting The National Association of Corrosion Engineers (NACE), P.O. BOX 218340, Houston, Texas 77812, telephone (713) 492-0535.

6.1.3 Electrical System Interference

No interference to existing DTPW duct banks for the following electrical services shall be allowed:

- 13.8 K.V. service from Florida Power & Light
- 480 V. Florida Power & Light or from DTPW substations
- 480 V service to lighting in Parking Lots, Kiss and Ride areas, and 120 V service to Bus Shelters.

If any of the listed duct banks are affected by the adjacent construction, all information shall be submitted to the DTPW and utility company for review and approval.

No interference to existing DTPW duct banks for the following services shall be allowed:

- Telephone cables from Bell South
- DTPW train control and communications cables

Redesign of Facilities

The design for relocation or modification to existing DTPW parking lots, or Kiss & Ride areas and bus shelters shall be done in accordance with DTPW Design Criteria, Directive Drawings and Standard Specifications. To minimize interruption of DTPW operations, a phasing plan shall be developed and submitted for approval.

Proposed relocation of light fixtures, if any, shall be submitted for DTPW approval.

Existing ground-grids and ground conductors from ground-grids to DTPW facilities shall not be disturbed. No digging or cutting into existing DTPW facilities (ductbanks, wall, floor or ceiling) shall be permitted.

Access to personnel and equipment hatches for underground facilities shall not be blocked. In case any structure is built over an equipment access hatch, adequate passageway for entry of a heavy truck and clearance for the use of a crane to lower equipment from the truck into the hatch shall be provided.

In case any structure is built adjacent to DTPW at-grade facilities (traction power substations, tiebreaker stations, train control or communications rooms), passageways for heavy trucks and adequate clearance for the use of cranes to move equipment from trucks into and out of the equipment hatches shall be provided.

Emergency access gates for at-grade or aerial sections of DTPW rail shall not be blocked. Adequate passage from the gates to public streets shall be provided.

6.1.4 Modifications/Direct Connections to a DTPW Station

Connections to Metrorail/Metromover Facilities shall be designed, built and paid for by the person requesting the connection in accordance with DTPW Design Criteria or through a Direct Connection Agreement. Below are the items that shall be considered in the design of the connections.

The connection shall have a bronze flexible gate installed between the two passageways. The gate or grate shall be keyed on both sides with separate locks. To open the gate both locks will have to be open. Where the connection has 24-hour manned security on the non-DTPW side of the connection, glass doors may be used in lieu of a gate. If doors are used, each door shall be locked from both sides.

When required, a Closed-Circuit Television (CCTV) will be installed at the developer's expense and connected to the DTPW Kiosk. Power for the cameras shall be run from the CCTV to the station power room. The existing conduit runs and spare breaker locations can be found in the DTPW "As Built" drawings. It is the developer's responsibility to have this research performed by a competent professional. Intrusion alarms shall be installed on the gate or door and control wires installed between the gate or door and the communications room by the developer's contractor. Final connection will be made by DTPW to the DTPW security system.

Finishes on the interior of the DTPW side of the connection shall be to DTPW standards and specifications.

Lights in the new passageway shall be run to the developer's power room and included in the development's emergency power panel.

In the event that a Direct Connection is to be maintained by DTPW then the design will be in accordance with DTPW Design Criteria and construction would be required to meet DTPW's standard construction specifications. Normally the Direct Connection passageway is designed to be compatible with the building of which they are constructed as a part.

Before removing the knock-out panel the contractor shall have an approved dust protection system in place and fully functional. Typically, a dust protection system shall consist of a stationary partition that isolates the knock-out panel from the station. The dust partition shall be constructed using only fire rated materials. All joints shall be sealed with tape. Construction of the partition shall be during non-passenger hours.

DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS
ADJACENT CONSTRUCTION MANUAL

Adjacent construction with a connecting passageway(s) to DTPW facilities will require special features to isolate one facility from the other for fire-safety, and may include automatic fire doors and dampers, sprinkler systems, smoke removal and ventilation systems and detection and alarm systems as required by the local fire code.

6.1.5 Signs, Signals, Barricades and Traffic Control General Requirements

1. All traffic signs or devices used for protection of construction workmen or the public shall conform to the State of Florida Manual on Traffic Control and Safe Practices on Street and Highway Construction.

2. Barricades, cones and/or similar protective devices shall be used whenever men or equipment are exposed to traffic or similar hazards.

3. When traffic lanes are closed due to work activity, advance warning signals and high level warning devices shall be used as described in the State of Florida Manual on Traffic Control and Safe Practices on Street and Highway Construction.

4. Flagmen and signalmen will be properly trained and use appropriate procedures, using the current FDOT manual.

5. All employees working adjacent to traffic shall be required to wear reflective vest, per FDOT manual.

6. Whenever and wherever possible and necessary, line voltage (12 volt) protected lights shall be used to mark fences and barricades and other such encroachments onto public streets or sidewalks.

7. Where covered sidewalks are required they shall be provided with permanent lights to provide sufficient illumination for safe use by the public day or night. All bulbs shall be cage-protected.

8. Public walkways shall be kept clean and free of hazards at all times.

9. Where the Contractors are required to provide public walkway, they shall have abrasive non-slip surface.

10. Where access to bus stop is disturbed or obstructed by the Contractors operations, safe access will be maintained or the bus stop relocated as directed by DTPW. Coordination for maintaining or relocating bus stops with the appropriate agencies is the sole responsibility of the Contractors.

11. When steel plates or similar covers are used on public ways to cover excavations they shall be substantially secured to prevent movement imposed by traffic. Covers shall have non-slip surface, conforming to OSHA Specifications.

12. When such covers are located where there is pedestrian exposure, they shall be tapered at all sides with cut back cold mix or similar material to eliminate tripping hazards. Covers shall have non-slip surface.

13. Free access shall be maintained to every fire extinguisher, fire hydrant, fire alarm box, fire escape and standpipe connection, street and traffic light control box. When required, hydrants shall be extended by suitable tube or piping to an accessible point as approved by DTPW. No obstructions shall be allowed at any time within 15 feet of a fire hydrant. Where materials are placed in the vicinity of a fire hydrant or a fire alarm box or fire extinguisher, and to such a height as to prevent the same from being readily seen, the position of such hydrant or fire alarm box or fire extinguisher shall be indicated by suitable signals, both day and night.

14. The Contractor shall erect and maintain fences and barricades to enclose the Contractor's work area, and provide watchmen where required to prevent unauthorized access.

6.1.6 Material Handling (Storage, Use and Disposal) General Requirements

1. All materials stored in tiers shall be secured to prevent sliding, falling or collapse.

2. Reinforcing steel shall not be used as a lifting ("Pick") point on any load or as a guy line anchor.

3. Hooks, except special sliding choker hooks shall be securely moused when in use, or shall be provided with a functioning safety latch.

4. Scrap material of any kind, type or nature shall be placed daily into appropriate containers specifically supplied for this purpose. Containers shall be removed from the work site when full.

5. Loose material on open decks or other exposed locations shall be removed or secured at the end of each day to eliminate dislodgment by wind or other causes.

6. Compatibility of stored materials and storage methods will comply with all applicable OSHA, Fire Department and environmental agency standards.

7. Employees required to handle, use or dispose of hazardous materials shall be instructed regarding the safe handling, proper procedures, potential hazards, personal hygiene, and personal protective equipment required.

8. No explosive or flammable materials shall be stored under the guideways.

9. Disposal of materials shall be in accordance with all applicable Federal, State and Local regulations. All applicable recordkeeping and reporting requirements shall be met by the Contractors.

6.1.7 Adverse Weather Conditions General Requirements

1. Disassemble all scaffolds, loose formwork, radio antennas and secure properly.
2. All items that cannot be secure shall be stored inside secured storage areas or buildings.
3. All crane booms shall be lowered to ground level and secured to prevent movement.
4. All office trailers shall be tied down in compliance with MDC Tie-Down Ordinance No. 77-1 upon original installation. All tie down straps, ground anchors, piers, etc., shall be checked for condition and operation.
5. All exposed glass on the Work Site shall be protected by a solid, rigid covering.
6. All free standing walls shall be stored from both sides.
7. Before employees are dismissed from the Work Site, the Contractors shall make a through inspection to verify all necessary precautions have been taken.
8. All precautions for construction sites during hurricane conditions, as required by the Florida Building Code shall be met.

6.1.8 Housekeeping General Requirements

1. All refuse piles shall be removed from the Work Site immediately.
2. Stored and stacked materials shall be kept orderly, properly stacked, choked, and secured.
3. Any protruding nails, etc., shall be bent, removed or clinched immediately.
4. Oil, grease, and water spills shall be cleaned up immediately.
5. Loose materials, tools, or equipment shall be kept off stairs, out of walkways, ramps, platforms at all times when not in use.
6. Depressions and pot-holes in vehicle or walkway surfaces on the Work Site shall be properly filled and graded immediately.
7. Walkways, vehicle travel ways, ramps, railings, and stairways, shall be kept free from debris, properly installed and maintained.
8. Smoking or the use of open flames within 25 feet of flammable storage areas or fueling areas shall not be permitted.

9. Flammable storage areas shall be properly posted **"NO SMOKING"**, provided with adequate fire extinguishers and free of combustible materials.

10. All sanitary facilities used on the Work Site shall be maintained on a daily basis.

11. All structures shall have a minimum of a 5-foot perimeter clearance that is to be free from any combustible debris or materials.

6.1.9 Overhead Protection

Overhead protection from falling objects shall be provided over DTPW facilities whenever there is a possibility, due to the nature of a construction operation, that objects could fall in or around DTPW guideway, at- grade sections, DTPW facilities, DTPW station entrances and areas designated for public access to DTPW facilities. Erection of the overhead protection for these areas shall be done in strict accordance with the requirements of this Manual and applicable standards cited herein.

The design live load for all overhead protection shall be in compliance with the minimum required by the current Florida Building Code and/or other(s) enforceable code. Overhead protection design shall include provision for impact loading when located adjacent to demolition projects or construction / maintenance projects where it is foreseeable that construction debris could fall on or near DTPW Facilities. Overhead protection for impact loading must be designed for a minimum of 300 pounds per square foot and to resist the force of impact of the largest foreseeable member or building element as taken from the elevation of that element. All overhead protection shall be designed by a licensed professional engineer. The design wind load on the temporary structures shall be in accordance with the calculated loads for components and claddings per the latest edition of the ASCE 7 Code.

Overhead protection over sidewalks and pedestrian areas shall be constructed of fire resistant materials. The vertical clearance between walking surface and the lowest projection of the overhead protection shall be 6'- 8". Construction materials and equipment shall not be stored on the completed walkway and pedestrian areas of the overhead protection roofs. A clear path from any DTPW emergency exit to the public street shall be maintained at all times.

The contractor will provide special protection, such as netting, barricades, walks, screens, scaffolds, etc., acceptable to DTPW, to help ensure the safety of DTPW property, patrons and employees. No work shall be permitted unless such protection is provided as determined necessary by DTPW. Erection of protective structures shall not be done during normal passenger hours unless by written authorization through DTPW.

Lighting of overhead protection at sidewalks and pedestrian areas is required and shall be provided under the overhead protective to maintain a minimum level of ten (10) foot candles at the walking surface. The temporary lighting will be maintained by the contractor.

With written DTPW authorization, the Overhead or Fall Protection structure may be constructed over the right of way and the guideway, if designed for the use for which it is intended, as well as in accordance with the above minimum design load requirements. The shield shall be constructed or installed during non-passenger hours. Once installed, limited work may proceed above the overhead protection during non-passenger hours.

6.1.10 Cranes and Swing Stage Scaffolding

General Requirements

The erection or staging of cranes, construction elevators and man lifts, swing stage or scaffolding, debris chutes or gantries shall not be performed within the 30 feet of the guideway drip line during passenger hours, without an authorized DTPW "Monitor" under radio communication with Central Control, on site.

Crane lifts located within 30 feet of the DTPW guideway drip line are permitted during non-peak passenger operating hours only when coordinated by an authorized DTPW crane Monitor or DTPW authorized employee under radio communication with Central Control on site. Under no conditions will loads be permitted to be swung over or within 5 feet of the guideway.

Crane lifts and exterior building operation conducted from swing stage that are located within the DTPW Right of Way or within 30 feet of the guideway drip line are permitted only during non-peak operating hours and only when coordinated by an authorized DTPW Monitor under radio contact with Central Control.

No construction elevators or cranes will be erected on the Metrorail / Metromover guideway side of the building /structure.

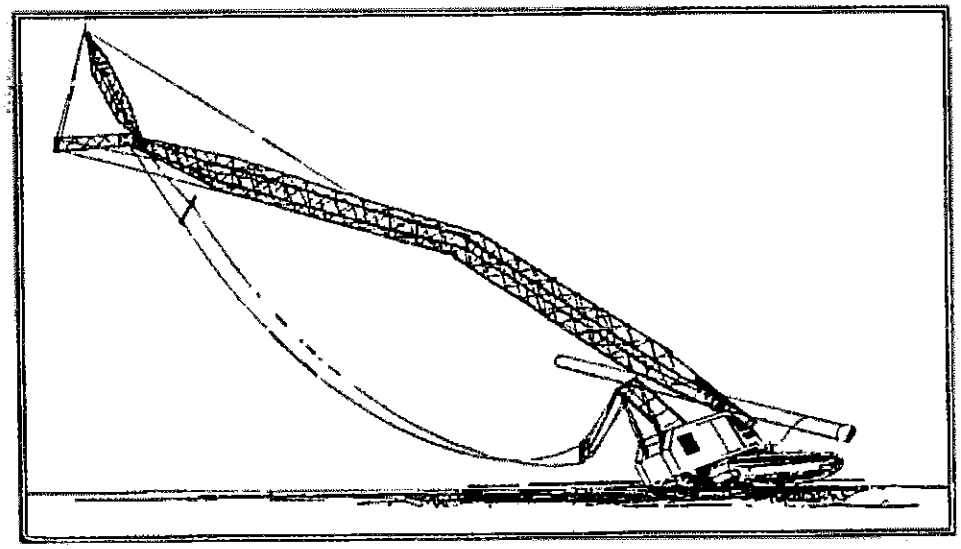
The contractor must ensure that all cranes are operated only by trained, experienced and competent operators who hold either an Operating Engineers, Local Union, Verification of Competence and Experience or equivalent licensure.

The contractor must also ensure that the men who direct, rig and handle loads are adequately trained, able to establish load weights, judge distance, heights and clearance and capable of selecting tackle and lifting gear suitable for the loads lifted.

All crane/scaffolding operations within the DTPW Right of Way and 30 feet of the guideway drip line are subject to inspection by the DTPW Design and Engineering Division, Metromover Maintenance Division and DTPW Office of Safety and Security. Cranes operated within DTPW Right of Way and Safety zones shall have complete maintenance, repair and inspection logs present on the machine and available for review. DTPW reserves the right to refuse the operation of any machine that the structural condition or stability of the machine is questioned regarding the task attempted by the contractor.

MOBILE CRANES

Over 50% of all Crane Accidents are "caused" when the machine is improperly set up.



The size, boom length and capacity of all cranes operated on projects within the DTPW Right of Way and Protective Safety Zones must be clearly shown on a site plan as part of an DTPW Access Permit application. The swing radius of the machine must be shown on the site plan with respect to the location of DTPW facilities.

Adequate care must be demonstrated by the contractor to DTPW representatives when setting up cranes and booms. Cranes shall be erected in strict conformance with the manufacturer's specifications and standard of good construction practice. Outriggers and support shall be adequately cribbed and blocked so as to properly brace the crane frame.

Adequate swing clearance shall be provided at the counterweight of the crane cab. At no time shall the counterweight swing clearance be less than 5 feet from the DTPW guideway drip line, without an authorized DTPW crane Monitor or employee under radio communication with Central Control on site. Overturning boom stops are required on all cranes when the boom angle exceeds 50 degrees from horizontal.

Mechanical swing limit switches and stops may be required to limit crane swing over and adjacent to the DTPW guideway and DTPW facilities. At no time will loads be allowed to be swung over the DTPW guideway, DTPW Stations or DTPW facilities.

Sheet pile and driven pile crane operations should be erected so that the crane and boom are situated perpendicular to the DTPW guideway. Staging and erection of piling should be adequately restrained or stayed such that the piling cannot topple into DTPW facilities during setup operations.

Tower Cranes
Tower cranes may be employed on projects that are adjacent to the DTPW facilities and guideway systems and that are tall enough, have sufficient jib length to reach a distance of 30 feet from the guideway drip line or that loads could be swung over DTPW facilities, are regulated by this manual. In general all tower cranes with base of tower located at a distance from the DTPW guideway drip line less than the height of the tower crane are subject to the restrictions in operation of this chapter.

Tower cranes are subject to wind movement and must be able to weather-vane during periods of high wind. Weather-vaning tower cranes, when cranes are not in use, are allowed to swing over DTPW guideway or facilities during passenger hours.

Tower cranes are subject to fatigue cracking and failure at the tower and jib connections. A certified structural inspection log of the Crane tower, jib, cables and haulage assemblies must be provided to DTPW on all tower cranes located in areas that they could affect DTPW facilities.

6.1.11 Excavations, Foundations and Sheet Piling

Until provisions for permanent support have been made, all excavations shall be properly guarded and protected so as to prevent the same from becoming dangerous to life and property and shall be sheet piled, braced and/or shored, where necessary, to prevent the adjoining earth from caving in; such protection to be provided by the person causing the excavation to be made. No excavation, for any purpose, shall extend within five (5) feet of the angle of repose of any soil bearing footing or foundation unless such footing or foundation is first properly underpinned or protected against settlement.

The design of all soils excavations, stabilization, modifications, underpinning or laterally protected with sheet piling shall be designed by a licensed professional engineer known to the Building Official to be qualified to evaluate the bearing capacity of soils. This design shall include a Geotechnical Soils investigation such that the registered Professional Engineer shall submit to the Building Official a letter attesting that the site has been observed and the foundation conditions are similar to those upon which the designed is based. The letter shall be signed and bear the impress seal of the engineer or architect, as applicable. Geotechnical soils sampling shall be conducted at sufficient frequency to ensure that the soils conditions on the project site are representative of the design conditions.

Angle of Repose
The angle of repose of all support soils within the DTPW Right of Way and safety zones shall be considered as 1:1 ratio. No excavation, for any purpose, shall extend within five (5) feet of the angle of repose of any DTPW soil bearing footing or foundation unless the design capacity of that footing is evaluated by the design Engineer of Record and his recommendations are approved by DTPW with respect to the design engineers modifications. Refer to Appendix B for clarification.

Pilings
Sheet pilings, driven pilings, auger cast pilings or other operations that create significant soils vibration shall be closely monitored with seismic accelerometers to verify the energy transmitted into the DTPW structures is less than 0.22 inches per second. Additional detailed survey analysis may be required to verify that no settlement has occurred in the course of the work.

Excavators
Excavation equipment operated within the DTPW Right of Way and Safety Zones must take extra care to avoid causing damage to DTPW facilities. Track excavators have similar swing geometry problems as mobile cranes and are capable of causing significant damage if improperly operated. Similarly, improper operation of wheel loaders, excavators, dump trucks and vibratory rollers can cause impact and vibration damage to structures.

The contractor must ensure that all heavy excavation equipment is operated only by trained, experienced and competent operators who hold either an Operating Engineers, Local Union, Verification of Competence and Experience or equivalent licensure.

Excavations may be conducted within the DTPW Right of Way and Safety Zones only during non-passenger hours. Excavation operations within the DTPW Right of Way and Safety Zones require a trained DTPW Monitor, in radio communication with DTPW Central Control, during all excavation operations.

Protection of underground site utilities is the responsibility of the contractor. All utilities must be located by an approved utilities locator service prior to the start of any excavation or piling activities.

DTPW may, at its discretion, modify any of the above conditions or impose additional conditions, to help ensure the safety of the public, and its patrons, employees or property.

6.1.12 Demolition
No Demolition of structures adjacent to DTPW facilities by blasting shall be permitted. During piece-by-piece demolition, it is essential that the DTPW escalators, and/or other DTPW equipment be protected from dust generated by the demolition. The DTPW equipment must be covered with polyethylene sheets during demolition to prevent dust from entering the equipment. Guideway protection diagrams and location plans shall be submitted by the contractor when appropriate or requested by DTPW. Such plans shall clearly show the alignment of the DTPW right-of-way together with the setback dimensions of the portions of the building to be demolished.

Application

This section is intended to apply to all activity on the exterior of buildings located within the Safety Zone including maintenance, inspections, probing, demolition operations and shall comply with the American National Standard (ANSI) A 10.6 standard for demolition

operations. In cases of practical difficulty and unnecessary hardship, or where other extenuating circumstances exist, DTPW may grant exceptions to the requirements stated herein, or may permit alternative methods, but only when it is clearly evident that equivalent protection is thereby secured.

Demolition Plan

The contractor must submit a detailed demolition plan to DTPW Engineering for review as part of the permit application package. This Demolition plan must include the scope of proposed demolition, location plan and building elevation of the proposed demolition work detailing the setback distance to DTPW facilities. Additionally the anticipated contractor means and methods, anticipated protective methods, equipment list including sizing of all demolition equipment should be supplied in the demolition submittal plan. The plan shall describe the type of construction (concrete, steel frame, masonry, etc.) and the overall construction configuration.

Guideway protection diagrams and location plans shall be submitted by the contractor when appropriate and requested by DTPW. Such plans shall clearly show the alignment of the DTPW right-of-way together with the setback dimensions of the portions of the building to be demolished.

Protection

During demolition, it is essential that the DTPW facilities be protected from dust generated by the demolition. The DTPW stations, escalators, train control and traction power rooms/buildings must be covered with polyethylene lined sheets during demolition to prevent dust from entering the DTPW switch gear and equipment.

Structural Condition and Analysis Survey

Prior to starting any demolition operation within the safety zone, an engineering survey of the structure shall be made to determine the condition at all locations of the exterior walls adjacent to the DTPW system. The purpose of the survey is to determine the condition of the framing, floors, and walls so that actions can be taken, if needed to prevent premature collapse of any portion of the structure. Such survey shall be made on the outside utilizing swing stages with full rail protection. The survey shall consist of documenting all locations displaying loose, cracked, and/or deteriorated stucco, tile, or other building facade materials in which such condition could result in falling debris.

An exterior crack survey may be required as part of the engineering survey of building to be demolished. A crack survey should be prepared locating all significant cracks including a location sketch, description, width, estimated recent activity, and the existence of previous repairs. Cracks of any significance shall be physically marked so that future observation may be made with telescopic equipment at the ground level. A stucco condition survey locating all significant irregularities in the stucco facade including bulges, micro/map cracking, hollow and de-bonded areas, discoloration due to water absorbance effervesce scaling, or other abnormalities should be included in the crack / engineering survey.

Guideway Protection Diagrams and Location Plans shall be submitted by the contractor when appropriate and requested by DTPW. Such plans shall clearly show the alignment of the DTPW right-of-way together with the setback dimensions of the portions of the building to be demolished.

Similarly a window / wall opening survey of the condition of window vents, plywood covers, sill stability, and other characteristics from which conclusions can be made as to the security of such openings. Where a hazard exists from fragmentation of glass or instability of the window frame/vent, all glazed openings shall be removed or protected.

Scheduling
Exterior building element demolition activities located within the safety zone are permitted only during non-passenger operating hours and only when coordinated by an authorized DTPW "Monitor" under radio communication with Central Control on site.

Protective Measures
Remove all loose materials by hand which are in imminent danger of falling. The removal of such loose materials must also include a temporary repair or stabilization at any location where the removal results in an opening or area, which can allow water to penetrate resulting in further or future deterioration.

Pedestrian Site Security and Safeguards
Prior to the engineering survey of the building exterior and other invasive activities, it is necessary to fully protect the public and in particular, DTPW facilities. Every sidewalk, train guideway, station platform, stairs, escalator, or public thoroughfare adjacent to or near enough to be affected by the operations on the building shall be closed, relocated or protected as specified in overhead protection above.

Demolition Observer
Provide a full time observer who is classified as a qualified person and who is capable of recognizing changes in the building facade and appearance. The purpose of this person is to provide warnings to the DTPW operators in the event of a sudden change in the building's outward appearance or stability so that service on a rail section may be discontinued. The observer and shall remain at the site at all times DTPW is in operation and providing service to the public

Periodic Demolition Reports
A certification shall be provided by a licensed engineer after each periodic inspection stating that the building components are secure and that it is safe to operate the DTPW system in that location.

Demolition Means and Methods
No wall sections shall be permitted to stand alone without lateral bracing. Additionally, all walls shall be left in a stable condition at the end of each shift. Masonry walls or other sections of masonry shall not be permitted to fall upon the floors of the building unless qualified persons have determined the impact of such masses will not exceed the safe carrying capacities of the floors.

Chutes
Materials shall be dropped only through chutes to any point lying outside the exterior walls of the building and chutes at any angle exceeding 45 degrees from the horizontal shall be entirely enclosed. Also, chutes shall be designed and constructed to eliminate hazards of impact of materials or debris

Particle Velocity and Seismograph Reports
When required, the contractor shall measure and furnish reports of particle velocity caused by impacts in accordance with provisions in Appendix E of this document.

Additional Requirements
DTPW may, at its discretion, modify any of the above conditions or impose additional conditions, to help ensure the safety of the public, and its patrons, employees or property.

6.1.13 Exterior Building Maintenance

Pressure Washing	Painting
Window Washing	Sandblasting
Stucco Damage Repair	Other Maintenance Operations
Structural/ Non-Structural Inspections	

General
In general, some routine maintenance activities associated with the exterior building envelope of buildings may not require a building permit. However, to adequately ensure the safety of the DTPW system, provisions are made in this manual detailing specific requirements and limitations of allowed building maintenance activities within the DTPW Safety Zone. A DTPW Access Permit is required on all exterior building maintenance activities for buildings located within the Safety Zone.

Access to exterior building components located within the Safety Zone including window cleaning operations and roofing operations is prohibited during DTPW passenger hours without a DTPW Monitor. The simple DTPW policy is that "there shall not be any exterior building maintenance activity at or above the elevation of the DTPW guideway during normal passenger operations without a DTPW Monitor".

Maintenance
This section is intended to apply to all activity on the exterior of buildings located within the Safety Zone including maintenance, inspections, probing, stucco repair, painting and waterproofing operations. In cases of practical difficulty and unnecessary hardship, or where other extenuating circumstances exist, DTPW may grant exceptions to the requirements stated herein, or may permit alternative methods, but only when it is clearly evident that equivalent protection is thereby secured.

Small Particle Protection
Routine exterior building cleaning is required to some extent on most structures. Much of this work is commonly accomplished by access to the building exterior via either swing stage or boson chair. Access on building exteriors located within the safety zones is prohibited during passenger hours without a DTPW Monitor.

Pressure cleaning and sandblasting activities produce over spray, dirt and particle fallout below the work area. DTPW guideway, stations and facilities must be adequately protected from the fallout of the dirt, particles, sand, loose paint, etc. prior to the start of any exterior building cleaning activity. Such protection may be in the form of polyurethane lines, canvas tarps or other catchment devices. Design of required protection must be approved by DTPW.

Stucco probing and repair, painting and waterproofing activities produce falling debris. DTPW guideway and DTPW Facilities must be adequately protected with overhead protection as described in this manual as part of the DTPW Work Order for stucco repair and painting activities.

DTPW may, at its discretion, modify any of the above conditions or impose additional conditions, to help ensure the safety of the public, and its patrons, employees or property.

DTPW Operations and Scheduling
DTPW shall have the right to stop any work or construction activity that affects the safety of DTPW patrons and or facilities or normal DTPW operations. DTPW will exercise reasonable advance notice, except for any matters related to immediate system safety concerns which will require no advance notice.

Construction work which may have any impact on the Metrorail/Metromover System may be scheduled during the Non-Peak Operating Hours or Non-Passenger Hours. Non- Peak Operating Hours are defined as weekdays prior to 6:30 A.M. or after 7:00 P.M. and between 10 A.M. and 3 P.M.; and all day Saturday and Sunday. Non-Passenger hours are defined as Monday through Sunday 12:30 A.M. to 4:30 A.M. or such other hours as may be designated by the County as Non-Passenger Hours. Passenger hours may change without notice as needed by DTPW.

Weekends / Holidays & Special Events
Construction work that may impact weekend or special operational conditions will be limited. Schedule requirements will be addressed on a project to project basis where the individual scheduling needs of the project can be evaluated with respect to the operations of the DTPW systems.

APPENDIX A: GLOSSARY

The following terms shall, for the purpose of this Manual, have the meanings respectively ascribed to them:

ACCIDENT - An unforeseen event or occurrence that causes death, injury or damage to property. Any abnormal condition that requires the attention or intervention of responsible personnel or an individual monitoring the transit system operation.

ALARM CONDITION - Deviation from nominal performance, which does not cause a significant, effect on system performance but does warrant investigation and/or repair. Sanctioned or accepted by the building official and Department of Transportation and Public Works.

AUTOMATIC - A term applied to a system, subsystem, or device, which has the inherent capability to function without direct manual participation.

CATCH PLATFORM - A temporary structure erected around or attached to, and abutting a building for the purpose of safeguarding the employees, and the public, by catching and retaining falling objects or debris.

CENTRAL CONTROL - That place where train control or train supervision is accomplished for the entire Metro-rail and Metro-mover system; the train command center.

CONSTRUCTION SAFETY - The optimum degree of safety within the constraints of construction effectiveness, time and cost through specific application of safety management throughout all phases of the construction.

CONSTRUCTION SAFETY MANUAL - Issued as a contract document by Department of Transportation and Public Works (DTPW), to be used as a guide by the Contractor in developing his Accident Prevention Program.

DTPW ACCESS PERMIT - Issued written authorization from DTPW for work in the DTPW Right of Way and DTPW Safety Zones. Construction Work Orders are specific with regard to the scope, extent, additional requirements or limitations, and allowable

schedule of approved work to be completed in the DTPW Right of Way and Safety Zones.

CONTRACT DRAWINGS - The plans, profiles, typical cross-sections, general cross-sections, elevations, schedules and details which show locations, character and dimensions of the work.

CONTRACTOR'S AUTHORIZED SAFETY REPRESENTATIVE - The person designated as authorized safety representative who will be responsible for work site safety and for reporting all insurance claims.

CONTRACTOR- The individual, firm, partnership, corporation, or combination thereof, private, municipal, or public, including joint ventures, which, as an independent contractor, has entered into a contract with MDC, who is referred to throughout the Contract Documents by singular in number and masculine in gender.

CHUTE- A trough or tube used to guide and transport sliding objects, materials, or debris from a higher to a lower level.

DEGRADATION - Falling from an initial level to a lower level in quality or performance.

DEMOLITION - Dismantling, razing, destroying, or wrecking any fixed building or structure or any part thereof.

EMERGENCY - A situation which is life threatening or which can cause serious damage on or in the immediate vicinity of any transit facility, structure, bus or train.

EMPLOYEE - A person employed by the Contractor or Subcontractor.

EQUIPMENT FAILURE - The state in which equipment no longer meets the minimum acceptable specified performance and cannot be restored through operator adjustment or control.

FTA - Federal Transit Administration, formerly UMTA.

FAILURE - An inability to perform an intended function within specified tolerances.

HAZARD - Any real or potential condition that can cause injury or death; or damage to or loss of equipment or property.

HAZARD MANAGEMENT (LOSS CONTROL) - An element of the system safety management function that evaluates the safety effects of potential hazards considering acceptance, control, or elimination of such hazards with respect to expenditure or resources. (The feasibility of hazard elimination must be considered in light of financial, legal, and human considerations).

HAZARD SEVERITY – A qualitative measure or the worst potential consequences that could be caused by a specific hazard.

Category I Catastrophic	May cause death, serious injury/illness or major system loss.
Category II Critical	May cause injury/illness, or major system damage.
Category III Marginal	May cause minor injury/illness, or minor system damage.
Category IV Negligible	Will not result in injury/illness, or system damage.

HAZARD RESOLUTION - The analysis and subsequent actions taken to reduce, to the lowest level practical, the risk associated with an identified hazard.

IMMINENT DANGER - Refers to any condition or practice where there is reasonable certainty that a danger exists that can be expected to cause death or serious physical harm and/or serious property damage immediately or before the danger can be eliminated through normal enforcement procedures

INCIDENT - An unforeseen event or occurrence that does not necessarily result in injury or property damage.

MAINTENANCE - All actions necessary for retaining an item in or restoring it to an operable condition.

MALFUNCTION - Any anomaly or failure wherein the system, subsystem, or component fails to function as intended.

MAY - A permissive condition. Where the work "may" is used, it is considered to denote permissive usage

MIAMI DADE COUNTY - The Board of County Commissioners of Dade County, (MDC) Florida, political subdivision of the State of Florida, and the DTPW, an office under the County manager of Miami Dade County, Created March 1, 1974, by Administrative

Order No. 3-8, under the authority of Sections 4.01 and 4.02 of the Miami Dade County Charter - and any authority, board, body, commission, official or officials to which or to whom the powers now belonging to DTPW in respect to the location, construction, equipment, maintenance and operation of transit facilities shall, by virtue of any act or acts, hereinafter pass or appertain.

DTPW - Department of Transportation and Public Works, Miami-Dade County, located at 701 N.W. 1st Court, Suite 1700, Miami, Florida 33136

DTPW RIGHT OF WAY- As defined by the legal description of the properties that the DTPW facilities occupy or are situated above and supportive easements. For the purpose of this manual the Right of Way shall be defined as those properties located within the drip lines of the DTPW rails, stations and facilities and include those properties used for access and egress to the DTPW facilities by the general public and normal DTPW operations.

MISHAP - An unplanned event or series of events that result in death, injury, occupational illness, or damage to or loss of equipment or property. (See also ACCIDENT).

MONITOR - An authorized DTPW employee, DTPW contractor or DTPW consultant monitoring the movement of construction equipment or materials that may infringe upon the 30' "Safety Zone" (that area of the Department of Transportation and Public Works Guideway (Metrorail and/or Metromover) that lies within 30' of the outermost edge of the superstructure) which has the potential to interfere with Department of Transportation and Public Works operations and/or maintenance. This person(s) shall ensure the safety of Department of Transportation and Public Works patrons, employees, property and the public. DTPW contractors and DTPW consultants shall be trained per DTPW Rail Services Metromover and Metrorail training packages before they perform duties as Monitors.

OPERATOR - That person having direct and immediate control of the movement of a vehicle or machinery.

OPERATING TIME - The time period between turn-on and turn-off of a system, subsystem, component or part during which time operation is as specified. Total operating time is the summation of all operating time periods

OSHA - The Occupational Safety and Health Administration. An agency of the U.S. Government which sets standards to provide for the safety of employees in the workplace. The local area office is located in Ft. Lauderdale, Florida, phone (305) 527-7292

PERSONAL PROTECTIVE EQUIPMENT (PPE) - Equipment designed and worn to provide protection against hazard to some part of an employee's body. Examples of PPE are safety glasses, respirators, hart hats, gloves etc. All PPE used at DTPW work sites must comply with applicable OSHA standards

POWER RAIL - Three separate rails center mounted on insulators on the guidebeam which provides traction power for vehicle propulsion. (Metromover)

PROCEDURES - Established methods to perform a series of tasks.

QUALIFIED PERSONS - Those who by possession of a recognized degree, certificate, or professional standing, or by extensive knowledge, training, and experience in the demolition industry have successfully demonstrated their ability to solve or resolve problems relating to the subject matter of demolition.

QUALIFYING BUILDINGS - Buildings located within 30 feet of DTPW Right of Way corridor, and greater than 35 feet, in height, that have a building
footprint located adjacent to a Safety Zone where the elevation of the building encroaches into the Vertical Safety Zone extensions as defined in Safety Zone above and at the rate of 1 foot horizontal offset per 4 feet of building height above DTPW facility. See the definition of Safety Zone above and attached drawing CZ-1 (Appendix C).

QUALIFYING STRUCTURES - Cranes whose boom swing infringes within the 30 feet Safety Zone or DTPW Right-of-Way corridor. Signs located within the safety zone. Temporary scaffolding or construction towers within the Safety Zone or DTPW Right of Way corridor with heights greater than 30 feet.

QUALIFYING WORK- Any construction, demolition, equipment operations or building maintenance activity performed on or in a building or structure which may be hazardous to persons or property within the DTPW Right of Way or protective safety zones.

RELIABILITY - The probability that the system or sub-system will perform satisfactorily for a given period of time when used under stated conditions.

REPAIR - The maintenance activity which restores a failed item to operable state.

RISK - An expression of possible loss over a specific period of time or number of operational cycles. It may be indicated in terms of hazard severity and probability.

RISK MANAGEMENT - The Risk Management Division, Miami Dade County, General Services Administration, located at III N.W. I" Street, Suite 2340, Miami, Florida 33128; phone 375-4280.

RULE - A law or order authoritatively governing conduct or action.

SAFE - Secure from danger of loss.

SAFETY - A reasonable degree of freedom from those conditions that can cause injury or death to personnel; damage to or loss of equipment or property; and freedom from danger.

SAFETY CHECKLIST - A list for examining the safety aspects of equipment, procedures and personnel.

SAFETY CRITICAL - A designation placed on a system, sub-system, element, component, device, or function denoting that satisfactory operation of such is mandatory to assurance of patron, personnel, equipment, or facility safety. Such a designation dictates incorporation of special safety design features.

SAFETY DEVICES - Protective devices which do not alter the fundamental nature of a hazard but which do control the extent of the hazard in some manner.

SAFETY MANAGEMENT - An element of management that establishes safety program requirements and ensures the planning, implementation and accomplishment of task and activities to achieve work place safety.

SAFETY PROGRAM - The combined task and activities of safety management and safety engineering that enhance operational effectiveness by satisfying the safety requirements in a timely, cost-effective manner throughout all phases of the work.

SAFETY SUBCONTRACTOR - A subcontractor who satisfies the Florida Department of Labor and Employment Security Industrial Safety and Health Programs, Chapter 38F-44, and is duly approved by MDC

SAFETY ZONE - Safety Zones are defined as a protective safety buffer zone adjacent to the DTPW Right of Way. Safety Zones include all lands public or private within 30 feet (horizontally) of the DTPW Right of Way measured from the drip line of the facility/guideway. No work is allowed at the exterior of any building located within the protective safety zone without an approved DTPW Access Permit.

SERVICE CONTRACTS/ CONTRACTOR - Those operations that are providing any services, or repair, replacement or maintenance functions that are indigenous to the construction process on the Work Site.

SHALL - A mandatory condition. Where certain requirement are described with the "shall" stipulation, it is mandatory that these requirements be met.

SHOULD - An advisory condition. Where the " should" is used, it is considered to be advisable usage, recommended but not mandatory.

STATE - The State of Florida.

SUBCONTRACTOR - Any person, firm or corporation, other than the employees of the Contractor, who contracts with the Contractor to furnish labor and/or materials under this Contract.

SUPPLIER/VENDOR - Those entities whose. sole responsibility to the project is the delivery of goods or materials, exclusive of direct labor.

SYSTEM - A composite of people, procedures and equipment operating in a specific environment to accomplish a specific mission or task

THIRD RAIL - A rail mounted on insulators adjacent to running rails which provides traction power for train propulsion. (Metrorail).

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TRANSIT SYSTEM - A transportation system comprised of fleets of motor buses and electrically propelled transit vehicles and all of their operational / support personnel and systems (e.g. maintenance facilities, tracks, structures, etc.) utilized for the mass movement of passengers within a metropolitan area.

UNUSUAL OCCURRENCE - An unforeseen event or incident which does not necessarily result in injury or property damage.

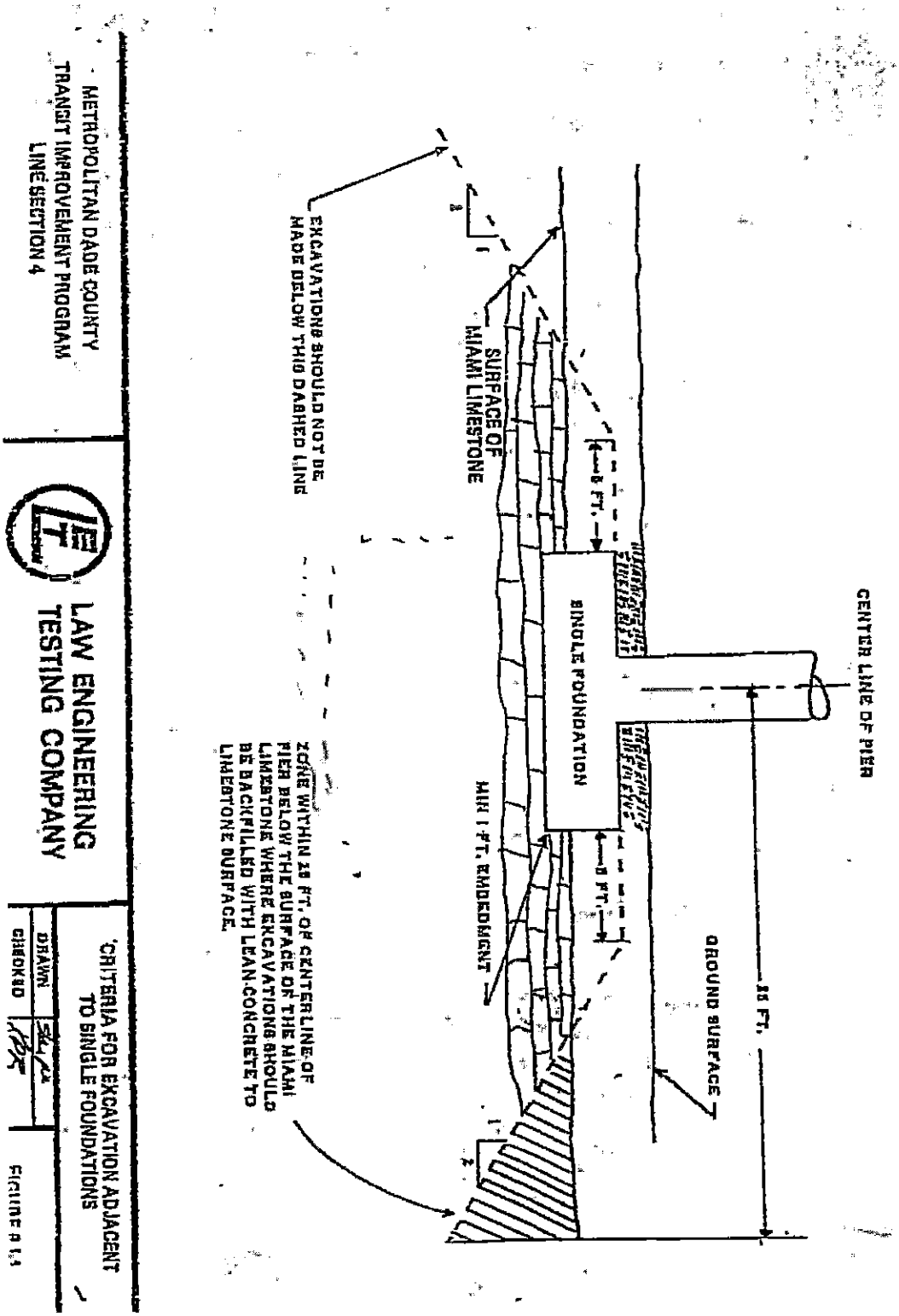
UNSAFE CONDITION - Any condition which if not corrected, will endanger human life or property.

WARNING DEVICES - Sensors that monitor or detect conditions and provide visible and/or audible alerting signals as desired for selected events.

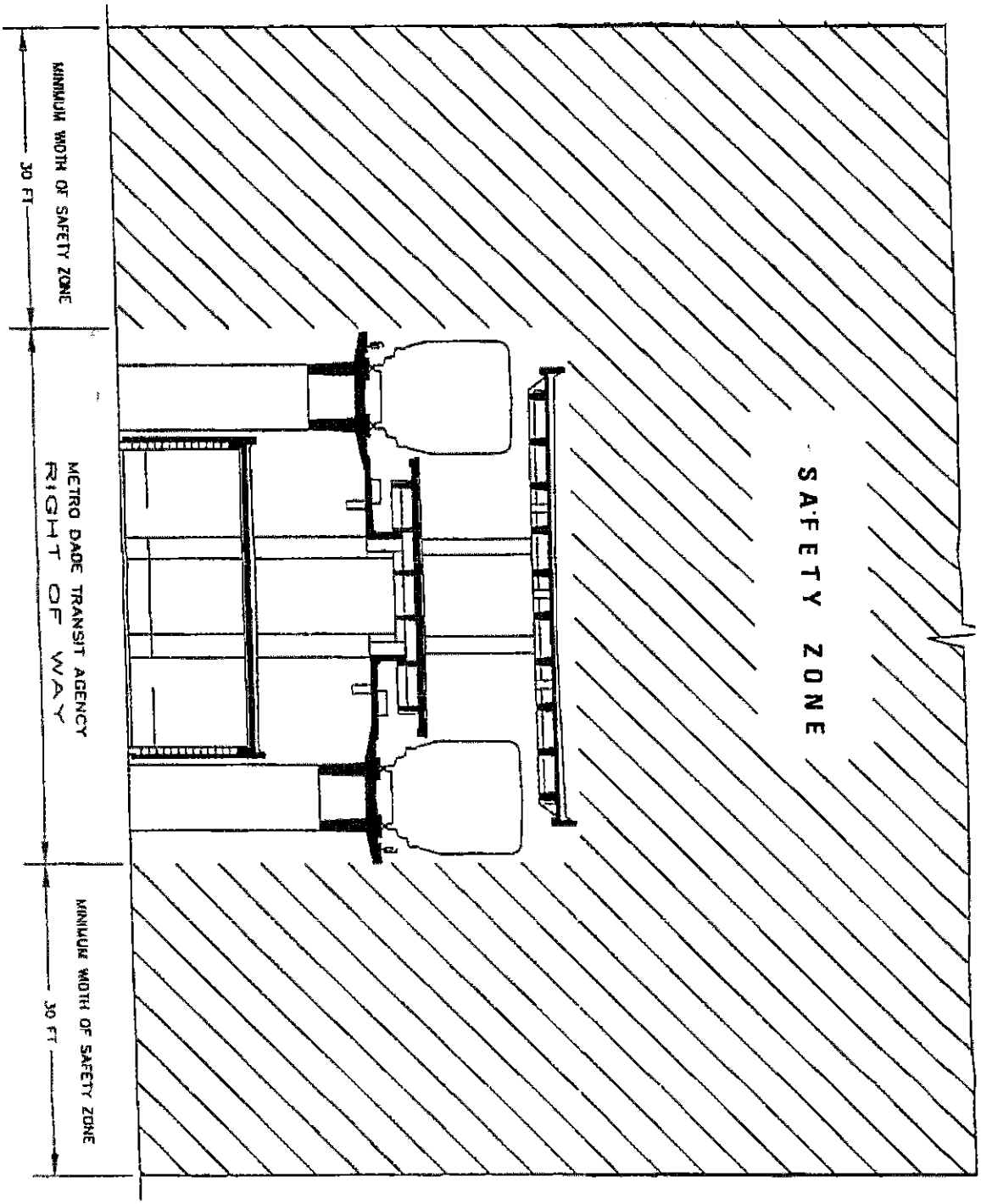
WORK SITE - The area enclosed by the limit of Work indicated in the Project Drawings and boundaries of local streets and public easements in which the Contractor is to perform the work under the Contract. It shall also include areas obtained by the Contractor for use in connection with the Contract, when contiguous to the Limit of Work.

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APPENDIX B: CRITERIA FOR EXCAVATION ADJACENT TO SINGLE FOUNDATIONS



APPENDIX C: SAFETY ZONE CRITERIA



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APPENDIX D: SAMPLE CRANE SAFETY INSPECTION CHECKLIST

CRANE SAFETY INSPECTION CHECKLIST

Location:

Area Inspected:

Inspected By: Date:

* Check Items to be inspected in your area - Disregard others as not applicable

		THE CRANE CREW		
		Is the operator and crew properly trained?		
		Operating is a full time job--does the operator pay strict attention to his duties?		
		Do crane personnel wear hard hats when away from the crane?		
		Is the operator aware of the regulations involving working close to high voltage lines and electrical equipment?		
		High voltage, even from a distant source, can be introduced in metal parts of the crane. Is the operator aware of these situations?		
		Does the operator know the weight of each piece before he picks it?		
		Does the crane crew know the manufacturer's proper recommendations for making short moves on the job site?		
		Does the crew get help when lifting heavy objects?		
		Does the crew periodically check for level?		
		Do they check the outriggers for stability?		
		Do they check the boom angle indicator and other electronic load equipment for accuracy?		
		Does the operator allow anyone to ride the load or to the hooks?		
		THE GROUND CREW (HOOKING UP THE LOAD)		
		Does the ground crew have, maintain and use proper safety equipment?		
		Are they familiar with the product erection sequence?		
		Are they familiar with the crane signals and general operation of the crane?		
		Do they know how to properly hook pieces and provide aerial stability?		
		Do they know how to properly use tag lines?		
		Are the tag lines in good condition, strong enough and long enough?		

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APPENDIX D: SAMPLE CRANE SAFETY INSPECTION CHECKLIST (CONT)

		Is two way communication between the operator and the erection foreman being used? Does the crew know how to use and maintain the equipment? Are spare parts available for quick repair?		
		Is the crane swing radius roped off to prohibit the crane (during swing) from causing damage or hurting someone? Is entire swing checked including the counterweights?		
		THE MACHINE		
		Is the crane operated within all capacities?		
		Is the machine inspected daily?		
		Are the required crane inspections recorded?		
		Are all controls properly identified?		
		Are warning devices operative?		
		Is the manufacturer's rating plate visible?		
		Is the operator's manual available to the crew for easy reference?		
		Are load charts, operating signals and other important information posted and/or readily available?		
		Are brakes within operating limits?		
		Are clutch and brake surfaces dry?		
		Are all protective panels and guards in place?		
		Are electrical systems in good condition?		
		Are all of the sheaves properly aligned so as to reduce rope wear during work?		
		Is cable in good conditions?		
		Are hooks in good condition?		
		Have hooks been inspected by magnetic particle inspection?		
		Are there safety latches on the hooks?		
		Are fuel tanks in good condition and without leaks?		
		Are fire extinguishers available and routinely inspected?		
		SLINGS		
		Are slings in good condition/ Is safety factor of 6 maintained?		
		Are slings stored properly?		
		Are sling inspection reports maintained?		
		Are "U" bolt wire rope clips correctly placed?		
		Are all other lifting devices in good condition?		

Crane Safety Inspection Checklist Page 2 of 2 Rev. 08/03/05

APPENDIX D: CHECKLIST FOR CRITICAL LIFTS

CHECKLIST FOR CRITICAL LIFTS

This form is to be completed when the load exceeds 80% of the load chart for the crane or derrick or where the pick involves two or more cranes.

LIFT DATE: _____

1) Supervisor responsible for the lift: _____
2) Description of item to be lifted and estimated weight: _____
   _____
   _____
   _____
3) Equipment and Lift Relationship:
   a. Operating Radius _____
   b. Boom Length _____
   c. Allowable Load (From Load Chart) _____
   d. Ratio of Lift to Allowable Load _____
   e. Clearance to Surrounding Facilities _____
   f. Sling Angle _____
4) Condition of Hoisting Equipment and Rigging
   a. Has all equipment been reinspected for this lift: ____Yes ____No
5) Stability of Ground Area:
   a. Check Soil/Ground Bearing Allowable Load (List Conditions) _____
      _____
      _____
   b. Will mats be needed? ____Yes ____No
   c. Any underground installations needing special attention? ____Yes ____No
   d. Will it be necessary for the crane to walk with the load? ____Yes ____No
   e. Is the surface level and stable where the crane will be walking?
      ____Yes ____No

APPENDIX D: CHECKLIST FOR CRITICAL LIFTS (CONT)

f. Have facilities been provided to keep the load radius from changing?

____Yes ____No

g. Have all overhead facilities been checked for clearance in the area where the crane will be moving/operating? ____Yes ____No

6) Does the operator have the necessary experience on the crane and this type of lift?

____Yes ____No

7) If the lift involves the use of two cranes answer the following:

a. Have operators worked together before? ____Yes ____No

b. Who will coordinate instructions to operators? _____

_____

_____

By: _____

Contractor's Superintendent

APPENDIX E: RECOMMENDED VIBRATION LIMITS

Seismological research by the U.S. Bureau of Mines, foreign investigative groups, and individual seismologists has established criteria relating the occurrence of structural damage to certain frequencies and levels of ground motion.

USBM Report of Investigations 8507[1] states that residential structures are most prone to damage as a result of vibration energy within the frequency range of 4-12 hertz. Within this range, a 0.5-inch per second maximum particle velocity is recommended to preclude 'threshold' damage to the plaster-on-wood-lath interior portions of older structures.

Threshold damage is defined by the USBM as the loosening of paint, small plaster cracks at joints between construction elements or the lengthening of old plaster cracks. A maximum of 0.75 inch per second is recommended for the protection of modern drywall interior construction. The damage threshold is normally considerably higher for load bearing or other structural portions of a house.

Above 12 hertz, the allowable vibration increases as the frequency increases, up to 40 hertz, above 40 hertz, a constant 2.0 inches per second level is recommended to protect the interior walls and ceilings of structures, regardless of construction material. A graphic representation of the USBM recommended criteria is shown In the velocity versus frequency curve on the following page, and the vibration analysis of the recordings are plotted on graphic representations at the end of this report.

It should be noted[2], however, that it is almost impossible in actual practice to visually determine if the recorded peak vibration on a typical seismogram is actually within the Bureau's 4-12 hertz range. This is because ground vibration is usually a complex mixture of many frequencies that cannot be accurately separated by visual analysis of a seismogram.

Proper implementation of the Bureau's limit can only be accomplished by a computerized technique that analyzes the seismographic data in terms of both peak particle velocity and frequency. Therefore, in order to best determine the potential effects of ground vibrations recorded in this study, a computerized response versus frequency technique known as RSVP was used in the preparation of this report.

RSVP TECHNIQUE

The Response Spectrum Velocity Profile (RSVP) technique used in this study was developed by Dr. Kenneth Medearis. It is a powerful vibration analysis tool which not only conforms to USSM recommendations, but also provides insight into the responses of various types of residences to a given vibration episode.

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[2] Siskind, David *et al*, *Structural Response and Damage Produced by Ground Vibration From Blasting*, *U.S. Bureau of* Mines, RI, 1980.

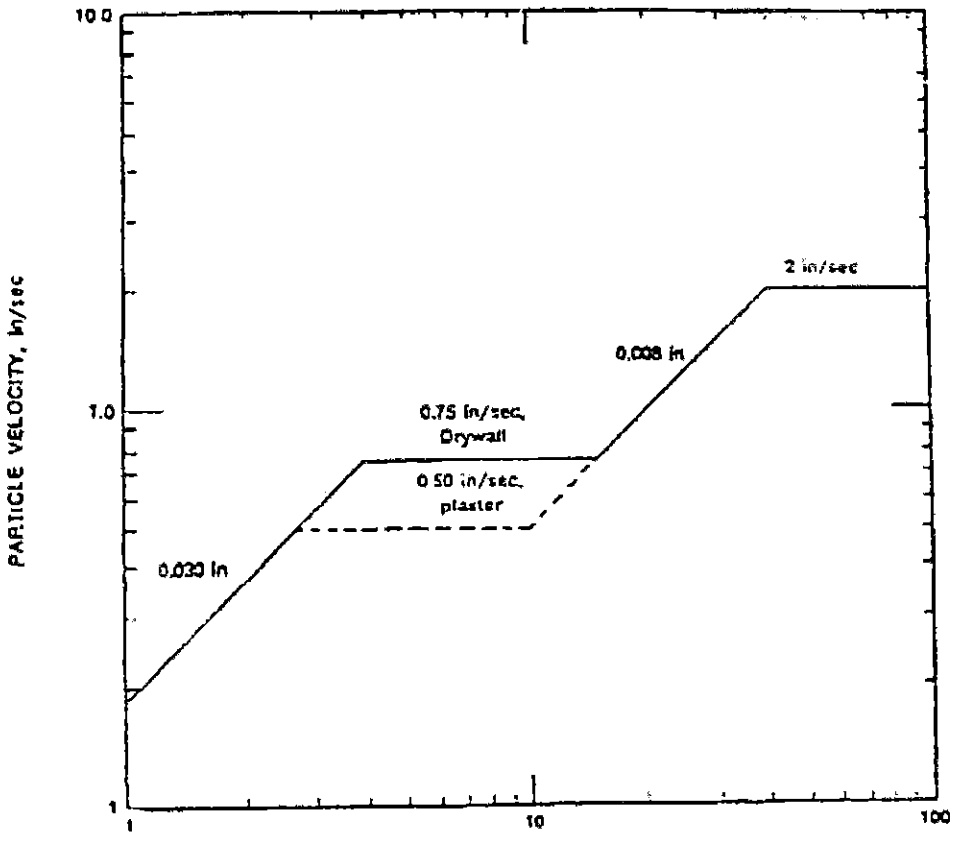
APPENDIX E: RECOMMENDED VIBRATION LIMITS (cont)

All buildings are characterized by a single natural fundamental frequency. This means that, as with a pendulum or a tuning fork, there is one dominant frequency at which a particular building will vibrate when excited. The fundamental natural frequency of a building depends primarily upon its height. Tall buildings are more flexible and vibrate at low frequencies. Low-rise structures, being stiffer, vibrate at higher frequencies.

When the frequency of a ground vibration wave matches the structure's natural frequency, the ground motion will be amplified within the structure. According to the USSM, the natural frequency of typical residential structures ranges between 4 and 12 hertz. Thus, it is within this range that the vibration limits recommended by the USBM are most stringent.

By applying the computerized RSVP Technique to the data obtained in this survey, both the ground particle velocity and response characteristics of residential structures are considered over a wide range of frequencies. The results are then related to the USSM velocity versus frequency curve discussed previously, and are plotted on the analysis sheets at the end of this report.

When particle velocities exceed the limits of the USBM Curve, non-damage probability calculations are performed, based on the research of Medearis. These probabilities are given under the graphs on the analysis sheet for 1, 1-1/2, and 2story houses. When no figures are given, probability of non-damage is essentially 100 percent.



APPENDIX 20

RESPONSIBILITY MATRIX

APPENDIX 20

RESPONSIBILITY MATRIX

1. PURPOSE AND DEFINITIONS

1.1. Purpose. The purpose of this section is to provide clarity regarding the specific roles and responsibilities of the County and Developer in relation to specific Project tasks associated to four main areas:

(1) Security Systems,
(2) Furniture,
(3) Utilities, and
(4) Communications and Audiovisual Systems and Equipment.

1.2. Definitions. The following definitions of the functions below apply to this Appendix and the Responsibility Matrix:

"Custodial Services" means the obligation associated to maintain cleanliness of particular premises, equipment or system elements.

"Design Provisions & Coordination" refers to the responsibility of arranging preparation, developing stipulations and conducting coordination of design tasks and requirements.

"Infrastructure" refers to the basic or fundamental framework, features, facilities or systems necessary for a particular system or element to work.

"Installation" means the obligation or responsibility to place in position or connect for service.

"Investment" refers to the necessary capital outlay required in order for an equipment or element to be available.

"Life-Cycle" refers to obligations associated to the replacement and refurbishment of equipment or system elements with the intention of extending their useful life.

"Maintenance" refers to responsibility of keeping system elements in proper physical condition.

"Operate" means the responsibility of running and ensuring performance of system elements and/or equipment.

"Payment" refers to the payment necessary for a system element or equipment to be available for the Project.

"Payment to Provider" means payments to a provider of a utility service.

"Procurement" refers to the act of conducting a competitive or deliberative process or procedure to acquire a system element or equipment.

"Repair" means the responsibility to restoring a system element or equipment to a good condition.

2. RESPONSIBILITY MATRIX

This section proposes a matrix that clearly allocates certain responsibilities between the County and Developer with respect to the four main areas listed above (the "Responsibility

Matrix"). More specifically, the Responsibility Matrix is designed to provide a breakdown of functions related to each of the main areas and responsibilities of the County and Developer for each function. The allocation of responsibilities is summarized in the tables below and follow a legend to identify the responsible party for each function. A letter D is assigned when the responsible party is the Developer, a letter C for the County and a D/C is assigned to denote that such responsibility will be conducted by the Developer but reimbursed by the County.

SECURITY SYSTEMS									
Security System Element	**FUNCTION**								
	Design Provisions & Coordination	**Procurement**	**Payment**	**Installation**	**Custodial Services**	**Repair***	**Maintenance**	**Operate**	**Life-Cycle**
All Security Systems & Equipment Infrastructure (Conduits and Cabling)	D	D	D	D	D	D	D	D	D
Surveillance Cameras	D	D	C	D	D	C	C	C	C
Security Card Access Readers	D	D	C	D	D	C	C	C	C
Access Point Barrier Systems	D	D	C	D	D	C	C	C	C
Magnetometers	D	D	C	D	D	C	C	C	C
Duress Alarms	D	D	C	D	D	C	C	C	C
Intrusion Alarm	D	D	C	D	D	C	C	C	C
X-ray Screening Equipment	D	D	C	D	D	C	C	C	C
Required Equipment to Integrate to Countywide Security Systems/Network	D/C	C	C	C	C	C	C	C	C

* The County will be responsible for repair obligations only after the expiration of warranties. The Developer will be responsible for repair when warranties are still valid and in effect. Provisions related to Vandalism are outlined in the Project Agreement.

FURNITURE								
Furniture Element	**FUNCTION**							
	Design Provisions & Coordination	**Procurement**	**Payment**	**Installation**	**Repair**	**Maintenance**	**Operate**	**Life-Cycle**
Required infrastructure connections (Electric, Data and Communications, etc.)	D	D	D	D	D	D	D	D
Movable Furniture, Fixtures, and Equipment	D	D	C	D	C	C	C	C
Fixed and Custom Built-in Furniture	D	D	D	D	D	D	D	D

UTILITIES										
Utility Element	**FUNCTION**									
	Design Provisions & Coordination	**Infrastructure**	**Investment**	**Installation**	**Custodial Services**	**Repair**	**Maintenance**	**Operate**	**Life-Cycle**	**Provider Payment**
Electricity	D	D	D	D	D	D	D	D	D	C
Water and sewer	D	D	D	D	D	D	D	D	D	C
Chilled Water (to be connected to County Chilled Water Loop)	D	D	D	D	D	D	D	D	D	C
Emergency generator fuel	D	D	D	D	D	D	D	D	D	D
Telephone and Data Provider (outside Facility)	C**	C	C	C	C	C	C	C	C	C
Gas (if needed)	D	D	D	D	D	D	D	D	D	D
Waste Disposal	D	D	D	D	D	D	D	D	D	D

** In coordination with Developer.

COMMUNICATION AND AUDIO VISUAL SYSTEMS & EQUIPMENT	DESIGN PROVISIONS & COORDINATION	PROCUREMENT	PAYMENT	INSTALLATION	CUSTODIAL SERVICES	REPAIR	MAINTAINANCE	OPERATE	LIFE-CYCLE
All Communications and Audio Visual Systems & Equipment Infrastructure (Conduits, Plywood, Cable Trays and Cabling)	D	D	D	D	D	D	D	D	D
Grommets on Conduits/Power Poles and all Building Penetrations	D	D	D	D	D	D	D	D	D
Racks, Cabinets, PDU, Ladder Trays	D	D	D	D	D	D	D	D	D
Service Provider Entrance Conduit(Fiber from AT&T, Comcast and City Owned Fiber from Other Buildings)	D	D	D	D	D	D	D	D	D
All IT WAN Conduit into the Building	D	D	D	D	D	D	D	D	D
Metronet Connectivity	C	C	C	C	C	C	C	C	C
WAN Services	C	C	C	C	C	C	C	C	C
ASE's	C	C	C	C	C	C	C	C	C
SONET	C	C	C	C	C	C	C	C	C
Telecommunications Grounding System (Backbone and Ground Bars)	D	D	D	D	D	D	D	D	D
CAT6A Low Voltage Wiring , Coaxial Backbone Cable and Coaxial Drops	D	D	D	D	D	D	D	D	D
Wall Mounted TV. Brackets (For TVs not Part of an AV System)	D/C	C	C	C	C	C	C	C	C
TV Sets (For TVs not part of an AV System)	C	C	C	C	C	C	C	C	C
Passive Taps and Distribution AMPS (Components of the Distribution System for Cable TV)	C	C	C	C	C	C	C	C	C
Wiring Maps/as Built Drawings	D	D	D	D	D	D	D	D	D
Fire Stopping Material	D	D	D	D	D	D	D	D	D
Signal Strength Tests	D	D	D	D	D	D	D	D	D
Cable Labeling	D	D	D	D	D	D	D	D	D
Cable for Satellite TV System	D	D	D	D	D	D	D	D	D
Fiber riser	D	D	D	D	D	D	D	D	D
Visual Mass Notification System (VMNS)	D	D	D/C	D	D	D	D	C	C
Electronic Docket System (EDS)	D/C	C	C	C	C	C	C	C	C
Electronic Building Directory System (EBDS)	D/C	C	C	C	C	C	C	C	C

COMMUNICATION AND AUDIO VISUAL SYSTEMS & EQUIPMENT	DESIGN PROVISIONS & COORDINATION	PROCUREMENT	PAYMENT	INSTALLATION	CUSTODIAL SERVICES	REPAIR	MAINTAINANCE	OPERATE	LIFE-CYCLE
Room Scheduling Display System (RSDS)	D/C	D	D	D	D	D	D	D	D
Audio/Visual Systems for the Judicial Meeting Room	D/C	C	C	C	C	C	C	C	C
Audio/Visual Systems for the Courtrooms	D/C	C	C	C	C	C	C	C	C
Audio/Visual Systems for the Courtrooms	D/C	C	C	C	C	C	C	C	C
Projection Screens	D/C	C	C	C	C	C	C	C	C
Active Electronics (All Powered Devices Like DVD, VCR, Projectors, Etc.)	D/C	C	C	C	C	C	C	C	C
COC Front Counter Queuing System	D/C	C	C	C	C	C	C	C	C
Wall Mounted TV. Brackets (For TVs part of an AV system)	D/C	C	C	C	C	C	C	C	C
Projector Support Infrastructure	D	D	D	D	D	D	D	D	D
Projector Brackets	D	D	D	D	D	D	D	D	D
TV Sets (For TVs part of an AV system)	D/C	C	C	C	C	C	C	C	C
Paging System (Overhead Speakers) for Common Areas	D/C	C	C	C	C	C	C	C	C
Distributed Antenna System (DAS)	D/C	C	C	C	C	C	C	C	C
Distributed Antenna System (DAS) Active Equipment	D/C	C	C	C	C	C	C	C	C
Antennas	D/C	C	C	C	C	C	C	C	C
Signal Strength Study	D/C	C	C	C	C	C	C	C	C
Radio Infrastructure Switches	D/C	C	C	C	C	C	C	C	C
Wireless Survey (for WI-FI)	D/C	C	C	C	C	C	C	C	C
Wireless Access Points	D/C	C	C	C	C	C	C	C	C
Active Electronics (Other than Security System Equipment)	D/C	C	C	C	C	C	C	C	C
Fire Alarm and all Associated Systems	D	D	D	D	D	D	D	D	D
Doors, Door Frames, Door Hardware Including all Door Contacts, Wiring Harnesses and Power Supplies.	D/C	D	D	D	D	D	D	D	D
Siemens Interface and all HW and SW Needed for Interfaces to the BMS Including Interfaces to SPCC	D	D	D	D	D	D	D	D	D

COMMUNICATION AND AUDIO VISUAL SYSTEMS & EQUIPMENT	DESIGN PROVISIONS & COORDINATION	PROCUREMENT	PAYMENT	INSTALLATION	CUSTODIAL SERVICES	REPAIR	MAINTAINANCE	OPERATE	LIFE-CYCLE
Speakers, Amplifiers, Pre-Recorded Message Unit for Security Announcements	D/C	C	C	C	C	C	C	C	C
Integration Between PA System and Security System for Code Brown Alarms	C	C	C	C	C	C	C	C	C
Integration Between PA System and Telephone System for Regular Page Announcements	C	C	C	C	C	C	C	C	C
Data Network Switches, Phone Switch, PBX, Routers and Servers not part of any Building System	C	C	C	C	C	C	C	C	C
Desktop Personal Computers and Laptops (excluding Developers equipment)	C	C	C	C	C	C	C	C	C
Copiers, Printers, and Scanners (excluding Developers equipment)	C	C	C	C	C	C	C	C	C
Voicemail System (Hardware, Servers and Software)	C	C	C	C	C	C	C	C	C
Telephone (Equipment & Billing)	C	C	C	C	C	C	C	C	C

APPENDIX 21

MINIMUM OPERATING STANDARDS FOR FOOD SERVICES FACILITY

APPENDIX 21

MINIMUM OPERATING STANDARDS FOR FOOD SERVICES FACILITY

1.1. Employee Hygiene. The Developer shall require all employees providing food services at the Courthouse to abide by the following:

- Employees with boils, infected wounds, respiratory infections, or other communicable diseases shall be prohibited in areas where there is a likelihood of transmission of disease to patrons or to other employees.
- Employees shall be prohibited from smoking or using other tobacco products in any form while in food production or service areas.
- Employees shall thoroughly wash their hands and exposed portions of their arms with soap and warm water before starting work, during work, or as often as necessary to keep them clean, especially after smoking, eating, drinking, or using the restroom.
- Employees shall keep their fingernails clean and trimmed.
- Employees will consume food only in designated areas.
- Employees will wear hairnets or hats to keep hair from contaminating food.
- Uniforms shall be kept clean.
- Employees who may come into contact with food shall use disposable latex or plastic food handler's gloves. They are to be changed after each task with hand washing and sanitizing in between glove changes.

1.2. Minimum Purchase Specifications. The Developer shall only sell food items that comply with the below minimum requirements:

- All meats, meat products, poultry, poultry products, and fish shall be U.S. Government inspected.
- Beef, lamb, and veal shall be U.S.D.A. Grade "Choice" or better.
- Pork shall be U.S. No. 1.
- Poultry shall be U.S. Government Grade "A".
- Fresh fish and seafood shall be top grade.
- Frozen fish and seafood shall be a nationally distributed brand, packed under continuous inspection of the U.S.D.A.
- All fresh eggs shall be U.S.D.A. or state graded.
- All cheese shall be U.S.D.A. Grade "A" for all graded cheese.
- All butter shall be U.S.D.A. Grade "A" (92).
- All milk and milk products shall be U.S.D.A. Grade "A".
- All fresh fruits and vegetables shall be U.S.D.A. Fancy or U.S.D.A Number "1".
- All dry stored items and canned goods shall be U.S.D.A. Grade "A" or Fancy.
- Frozen fruits and vegetables shall be U.S.D.A. Grade "A".

1.3. Green Purchasing. The Developer shall purchase and utilize environmentally responsible products at the Food Services Facility and shall refrain from utilizing polystyrene packaging.

1.4. Food Time and Temperature Control. The Developer shall comply with the food preparation, storage, and temperature requirements below:

- Thermometers shall be available in areas where needed and employees shall be trained to use them properly.
- Time and temperature controls shall be built into each recipe.

- Only freshly prepared products shall be served. Cook, hold and cool (if necessary). No leftovers will be used.
- Food shall be discarded if it spends more than four hours total in the temperature danger zone, which is defined as 41°F to 140°F (5°C to 60°C).

1.5. Customer Standards and Procedures. The Developer shall:

- Regularly conduct customer service seminars with all Food Services Facility employees.
- Recognize and accommodate the needs and preferences of a diverse customer base by providing varied menu choices.

TRANSACTION FORM A

FINANCIAL CLOSE SECURITY

TRANSACTION FORM A

FINANCIAL CLOSE SECURITY

IRREVOCABLE STANDBY LETTER OF CREDIT

ISSUER: [_____]

PLACE FOR PRESENTATION OF DRAFT: [(Name and Address of Bank/Branch)]

APPLICANT: [_____]

BENEFICIARY: Miami-Dade County
[Address]
[Address]

LETTER OF CREDIT NUMBER: [_____]

PLACE AND DATE OF ISSUE: [_____]

AMOUNT: **Ten Million Dollars ($10,000,000)** [*Note: The amount of a single letter of credit may be less, on the condition that the sum of the letters of credit total $10,000,000 in the aggregate. In lieu of a new letter of credit, an amendment to the original letter of credit submitted for the Proposal Security may be provided, on the condition that the sum of the original letter of credit and the amendment total $10,000,000 in the aggregate, the original expiration date is amended to the date required herein, and all other applicable amendments are made to comply with the requirements herein.*]

STATED EXPIRATION DATE: [_____] ***[Note: Insert date that is at least 190 days from the later of (i) 90 days following the Project Agreement Effective Date and (ii) January 27, 2020.]***

The Issuer hereby issues this Irrevocable Standby Letter of Credit ("Letter of Credit") in favor of the Miami-Dade County ("MDC"), for the amount of Ten **Million Dollars ($10,000,000)**, available by draft at sight drawn on the Issuer. Any draft under this Letter of Credit shall:

1. Identify this Letter of Credit by the name of the Issuer, Letter of Credit Number, Amount, and Place and Date of Issue; and

2. Be accompanied by a certificate, executed by an authorized signatory of the Beneficiary, stating that:

   (a) the person signing the certificate is an authorized signatory of the Beneficiary; and

   (b) "This drawing is due to _____'s failure **to achieve financial close by** the Financial Close Deadline set forth in the Project Agreement between _____ and Miami-Dade County to Design, Build, Finance, Operate and Maintain the Civil and Probate Courthouse."

All drafts will be honored if presented to [(Bank/Branch - Name & Address)] on or before the Stated Expiration Date described above. If a draft in compliance with the terms and conditions of this Letter of Credit is presented at or prior to [(time)] Eastern time on any Banking Day, Issuer will

TRANSACTION FORM A

FINANCIAL CLOSE SECURITY

IRREVOCABLE STANDBY LETTER OF CREDIT

honor the draft on the same day. If such draft is presented after (time) Eastern time on any Banking Day, Issuer will honor the draft before (time) Eastern time on the following Banking Day. Drafts under this Letter of Credit may be presented between [ ] a.m. and [ ] p.m. Eastern time on any Banking Day. As used herein, "Banking Day" means any date that is not a Saturday or Sunday or other day on which commercial banks in [ ] are authorized by law or executive order to close.

This Letter of Credit shall be canceled on the earlier of (i) the stated "Expiration Date" (above) and (ii) the date of receipt by the Issuer of a letter, signed by the Beneficiary, stating that this Letter of Credit may be canceled and accompanied by the original Letter of Credit and any original amendments(s), if any.

This Letter of Credit is governed by the laws of the State of Florida and is subject to the International Standby Practices (ISP98), International Chamber of Commerce Publication No. 590 [ISP]. In the event of any conflict between Florida law and the ISP, Florida law shall prevail. This Letter of Credit shall be deemed to be a contract made under the laws of the State of Florida, and the parties expressly agree that the courts of the State of Florida shall have exclusive jurisdiction to decide any questions arising hereunder.

Issuer: [ ]

By: [ ]

(Authorized signature of Issuer)

TRANSACTION FORM B

LENDERS' REMEDIES AGREEMENT

LENDERS' REMEDIES AGREEMENT

for the

MIAMI-DADE COUNTY CIVIL AND PROBATE COURTHOUSE

between

MIAMI-DADE COUNTY, FLORIDA

and

[AGENT]

and

PLENARY JUSTICE MIAMI LLC

Dated [_____ __], 2019

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LENDERS' REMEDIES AGREEMENT[1]

THIS LENDERS' REMEDIES AGREEMENT is made and entered into as of [_____ __], 2019, by and among Miami-Dade County, Florida, a political subdivision of the State of Florida, (the "**County**"), [_____], a bank organized and existing under the laws of [____] and authorized to do business in the State of Florida, acting as agent to the Senior Lenders pursuant to the Senior Financing Agreements (as defined below) (the "**Agent**"), and Plenary Justice Miami LLC, a limited liability company, organized and existing under the laws of the State of Delaware and authorized to do business in the State of Florida (the "**Developer**").

RECITALS

The County and the Developer have entered into the Project Agreement (as defined below);

Pursuant to the Credit Agreement (as defined below), the Senior Lenders have agreed, subject to the terms and conditions contained therein, to make available to the Developer the loan facility specified therein to finance certain costs to be incurred and expenditures to be made by the Developer in connection with the Project Agreement; and

It is a condition precedent to the obligations of the Senior Lenders under the Credit Agreement that this Agreement be executed and delivered by the parties.

NOW, THEREFORE, in consideration of the mutual promises and agreements of the parties herein expressed and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows:

ARTICLE 1

DEFINITIONS AND INTERPRETATION

SECTION 1.1. DEFINITIONS. Unless otherwise specified or the context otherwise requires, capitalized but otherwise undefined terms in this Agreement shall have the respective meanings given to such terms in the Project Agreement, and:

"**Agent's Cure Notice**" has the meaning set forth in Section 3.9.

"**Agent's Cure Period**" has the meaning set forth in Section 3.9.

"**Agent's Indicative Step-In Notice**" has the meaning given to it in Section 3.4.

"**Agent's Indicative Transfer Notice**" has the meaning given to it in Section 3.4.

"**Agent's Step-In Notice**" means a notice given by the Agent to the County pursuant to Section 4.1.

"**Agent's Step-Out Notice**" has the meaning given it in Section 5.1.

"**Agent's Withdrawal Notice**" has the meaning set forth in Section 3.5.

[1] [Certain defined terms and other terminology in this agreement will be conformed with the Developer's financing structure as appropriate.]

"**Agreement**" means this agreement including any recitals, schedules and appendices to this agreement, as amended, supplemented or restated from time to time.

"**Antecedent Liabilities**" means, at any time:

(1) all amounts due and payable by the Developer to the County under the Project Agreement at such time; and

(2) all obligations which should have, but have not, been performed and outstanding liabilities of the Developer under the Project Agreement at such time.

"**Appointed Representative**" means the Senior Lenders' Representative identified in a Step-In Notice.

"**Bankruptcy Law**" means the United States Bankruptcy Code, 11 U.S.C. 101 et seq., as amended from time to time and any successor statute thereto. "Bankruptcy Law" shall also include any similar state law relating to bankruptcy, insolvency, the rights and remedies of creditors, the appointment of receivers or the liquidation of companies and estates that are unable to pay their debts when due.

"**Bankruptcy Officer**" means any trustee, receiver, liquidator, sequestrator, administrator or other custodian in connection with the bankruptcy of the Developer or any of its assets.

"**Bankruptcy Proceedings**" means:

(1) any:

(a) formal step (including petition, proposal, application, convening of a meeting or other proceeding) taken with a view to or for the purpose of considering;

(b) appointment of a Bankruptcy Officer in connection with;

(c) order or resolution passed in connection with; or

(d) formal agreement reached regarding,

a dissolution, bankruptcy, receivership, winding-up, liquidation, administration or other similar proceedings or any other proceeding seeking a stay of proceedings, reorganization, debt arrangement, compromise of the claims of creditors or any distribution of assets in respect of the Developer (whether voluntary or involuntary) made or commenced by any party under any Bankruptcy Law; or

(2) any distress, attachment, sequestration or execution or other similar process affecting any of the assets of the Developer or any other similar process or event occurring in relation to the Developer's assets in any other jurisdiction.

"**County's Event Notice**" means a notice given by the County to the Agent under Section 3.1.

"**County's Termination Notice**" means a notice given by the County to the Agent under Section 3.2.

"**Credit Agreement**" means the credit agreement dated [_____], 2019 between the Developer, the Senior Lenders and the Agent in respect of the Senior Debt.

"**Credit Agreement Event of Default**" means an event of default as defined in the Credit Agreement.

"**Discharged Obligations**" has the meaning set forth in Section 6.4.

"**Discharged Rights**" has the meaning set forth in Section 6.4.

"**Finance Parties**" has the meaning given to it in the Credit Agreement.

"Governmental Body" has the meaning set forth in the Project Agreement.

"**Indicative Notice**" means either an Agent's Indicative Step-In Notice or an Agent's Indicative Transfer Notice given in accordance with Section 3.4.

"**Indicative Notice Period**" means the period commencing on the date of delivery of an Indicative Notice and ending on the earlier of:

(1) the Step-In Date;

(2) the date of delivery of an Agent's Withdrawal Notice; or

(3) 180 days following the date of delivery of the Agent's Indicative Notice.

"**Insurance Trust Account**" has the meaning given to it in the Credit Agreement.

"**Insurance Trust Agreement**" has the meaning given to it in the Credit Agreement.

"**Liability Report**" has the meaning given in Section 3.6.

"**Material Antecedent Liabilities**" means Antecedent Liabilities that are:

(1) financial liabilities; or

(2) non-financial liabilities, the breach of which shall trigger any remedy of the County under Article 20 (Developer Events of Default) of the Project Agreement or Section 24.1 (Developer's Obligation to Indemnify) of the Project Agreement.

"**Notice Period**" means:

(1) any Agent's Cure Period;

(2) any County's Termination Notice Period; and

(3) any Indicative Notice Period.

"**Project Agreement**" means the Project Agreement for the Design, Construction, Financing, Operation and Maintenance of the Miami-Dade County Civil and Probate Courthouse, dated [_____], 2019 between the County and the Developer.

"**Project Documents**" means, collectively, the Project Agreement and any other agreement (other than this Agreement) entered into from time to time by the County and the Developer (with or without other parties) in connection with the Project; and "Project Document" means any one of the foregoing.

"**Reported Antecedent Liabilities**" means the Antecedent Liabilities identified in the Liability Report.

"**Restricted Action**" means the exercise of any right to:

(1) cancel, terminate, step in, novate, expropriate, condemn, or take any other action that may result in the County having a right to take any such action;

(2) cancel, step in, novate or otherwise assume (whether directly or through a substitute entity) the benefit or burden of the Developer's rights against, or obligations to, the Design-Builder or any Facilities Management Service Provider, as the case may be;

(3) make any claim or take any action or enforce any rights under or in connection with any collateral agreement or security agreement entered into by the County, the Design-Builder, any Facilities Management Service Provider or the Developer, but does not include the exercise of any of the County's rights under Section 19.3 (County's Temporary Step-in Rights During the Facility Management Period) of the Project Agreement and the related exercise of its rights under Section 19.4 (County's Rectification Rights) of the Project Agreement, or any rights of the County as beneficiary under any letter of credit provided by the Developer under Section 5.3 (Financial Close Security) of the Project Agreement; or

(4) issue any notice to the Developer regarding any of the actions in (1) to (3) above.

"**Restricted Person**" has the meaning set forth in the Project Agreement.

"**Revocation of Termination Notice**" means a written notice from the County to the Agent revoking a County Termination Notice.

"**Security Documents**" means those documents set forth in Section [___] of the Credit Agreement, including the Insurance Trust Agreement.

"**Security Trustee**" has the meaning given to it in the Credit Agreement.

"**Senior Debt Discharge Date**" means the date on which all amounts due and owing to the Senior Lenders under the Senior Financing Agreements have been fully and irrevocably paid or discharged (whether or not as a result of enforcement) and the Senior Lenders are under no further obligation to advance under the relevant Senior Financing Agreement.

"**Senior Debt Loan Life Cover Ratio**" has the meaning given to it in the Credit Agreement.

"**Senior Financing Agreements**" means the Credit Agreement and any security agreements and other agreements entered into with respect to or in connection with the Credit Agreement, as set forth in Schedule 1 hereto.

"**Senior Lenders' Representative**" means:

(1) the Agent or any Senior Lender identified as such in a notice from the Agent to the County;

(2) a receiver of the Developer appointed under or in connection with the Security Documents; or

(3) any other person approved by the County (such approval not to be unreasonably withheld, conditioned or delayed).

"**Step-In Date**" means five Business Days after delivery of an Agent's Step-In Notice.

"**Step-In Period**" means, subject to Section 4.3, the period from the Step-In Date up to and including the earliest of:

(1) the Step-Out Date;

(2) the date of any transfer under Article 4;

(3) the date of any termination under Section 4.5;

(4) the Expiration Date; and

(5) if the County Termination Notice was given before Occupancy Readiness, the date that is 180 days after the Longstop Date.

"**Step-Out Date**" means the date that is 20 Business Days after the date of a Step-Out Notice.

"**Step-Out Notice**" means a notice from the Agent or Appointed Representative to the County pursuant to Section 5.1.

"**Suitable Substitute Developer**" means a person that is not a Restricted Person and that is approved by the County (such approval not to be unreasonably withheld, conditioned or delayed) as:

(1) having the legal capacity, power and authority to become a party to and perform the obligations of the Developer under the Project Agreement; and

(2) employing persons having the appropriate qualifications, experience and technical competence and having the resources available to it (including applicable committed financial resources and sub-contracts) which are sufficient to enable it to perform the obligations of the Developer under the Project Agreement.

"**Termination Notice Period**" or "**County's Termination Notice Period**" means the period beginning on the date of giving of a County's Termination Notice and ending on the earlier of:

(1) the Step-In Date;

(2) the date of service of a revocation of a County's Termination Notice; and

(3) the proposed Termination Date (subject to the minimum notice requirements under Section 3.2(1)) set forth in the County's Termination Notice.

SECTION 1.2. INTERPRETATION.

This Agreement shall be interpreted according to the following provisions, except to the extent that the context or the express provisions of this Agreement otherwise require.

(1) Plurality. Words importing the singular number mean and include the plural number and vice versa.

(2) Persons. Words importing persons include individuals, legal personal representatives, firms, companies, associations, joint ventures, general partnerships, limited partnerships, limited liability partnerships, limited liability companies, trusts, business trusts, corporations, governmental bodies, and other legal entities.

(3) Headings. The table of contents and any headings preceding the text of the Articles, Sections and subsections of this Agreement shall be solely for convenience of reference and shall not affect its meaning, construction or effect.

(4) References Hereto. The terms "hereby," "hereof," "herein," "hereunder" and any similar terms refer to this Agreement.

(5) References to Days and Time of Day. All references to days herein are references to calendar days, unless otherwise indicated, such as by reference to Business Days. Each reference to time of day is a reference to Eastern Standard Time or Eastern Daylight Saving Time, as the case may be.

(6) References to Business Days. If the time for doing an act falls or expires on a day that is not a Business Day, the time for doing such act shall be extended to the next Business Day.

(7) References to Including. The words "include", "includes" and including" are to be construed as meaning "include without limitation", "includes without limitation" and "including without limitation", respectively.

(8) References to Statutes. Each reference to a statute or statutory provision includes any statute or statutory provision which amends, extends, consolidates or replaces the statute or statutory provision or which has been amended, extended, consolidated or replaced by the statute or statutory provision and includes any orders, regulations, by-laws, ordinances, codes of practice or instruments made under the relevant statute.

(9) References to Governmental Bodies. Each reference to a Governmental Body is deemed to include a reference to any successor to such Governmental Body or any organization or entity or organizations or entities which has or have taken over the functions or responsibilities of such Governmental Body.

(10) References to Documents and Standards. Each reference to an agreement, document, standard, principle or other instrument includes (subject to all relevant approvals and any other provision of this Agreement expressly concerning such agreement, document, standard, principle or other instrument) a reference to that agreement, document, standard, principle or instrument as amended, supplemented, substituted, novated or assigned.

(11) References to All Reasonable Efforts. The expression "all reasonable efforts" and expressions of like import, when used in connection with an obligation of the Senior Lenders, the Agent, the Security Trustee, the Appointed Representative or any other Senior Lenders' Representative, means taking in good faith and with due diligence all commercially

reasonable steps to achieve the objective and to perform the obligation, including doing all that can reasonably be done in the circumstances taking into account each party's obligations hereunder to mitigate delays and additional costs to the other party, and in any event taking no less steps and efforts than those that would be taken by a commercially reasonable and prudent person in comparable circumstances but where the whole of the benefit of the obligation and where all the results of taking such steps and efforts accrued solely to that person's own benefit.

(12) Entire Agreement. This Agreement contains the entire agreement between the parties hereto with respect to the transactions contemplated by this Agreement. Without limiting the generality of the foregoing, this Agreement shall completely and fully supersede all other understandings and agreements among the parties with respect to such transactions.

(13) Governing Law. This Agreement shall be governed by and construed in accordance with the applicable laws of the State of Florida and the County.

(14) Severability. Each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Agreement is held to be invalid, unenforceable or illegal to any extent, such provision may be severed and such invalidity, unenforceability or illegality shall not prejudice or affect the validity, enforceability and legality of the remaining provisions of this Agreement. If any such provision of this Agreement is held to be invalid, unenforceable or illegal, the parties will promptly endeavor in good faith to negotiate new provisions to eliminate such invalidity, unenforceability or illegality and to restore this Agreement as nearly as possible to its original intent and effect.

(15) Drafting Responsibility. The parties waive the application of any rule of law which otherwise would be applicable in connection with the construction of this Agreement that ambiguous or conflicting terms or provisions should be construed against the party who (or whose counsel) prepared the executed agreement or any earlier draft of the same.

(16) Accounting and Financial Terms. All accounting and financial terms used herein are, unless otherwise indicated, to be interpreted and applied in accordance with generally accepted accounting principles, consistently applied, in the United States.

(17) Consents. Any consent required to be given under this Agreement must be in writing.

ARTICLE 2

CONSENT TO SECURITY

SECTION 2.1. CONSENT. The County acknowledges notice of, and (notwithstanding anything to the contrary in the Project Agreement) consents to, the assignment of and first priority lien and security interest granted by the Developer in favor of the Finance Parties under the Senior Financing Agreements over:

(1) the Developer's rights under the Project Agreement and all other Project Documents;

(2) the Developer's rights under the Material Contracts;

(3) the Developer's interest in any warranties, guarantees, letters of credit or other performance or payment security granted under any Project Contracts or Subcontracts;

(4) the Developer's assets, including any cash, securities, investments or balances in any Developer bank accounts;

(5) the Developer's rights to Insurance Proceeds and Insurance Receivables;

(6) any equity interests in the Developer, and

(7) any other Developer Collateral (as defined in the Senior Financing Agreements).

SECTION 2.2. COUNTY OBLIGATIONS. Except as specifically provided for in this Agreement, the County has no obligations (whether express, implied, collateral or otherwise) to the Agent or the Senior Lenders in connection with this Agreement, the Project Agreement, other Project Documents or the Project. All of the obligations and liabilities given, undertaken or arising on the part of the County under this Agreement are given solely to the Agent on behalf of the Senior Lenders and do not confer any rights on or in favor of the Developer or any Affiliate of the Developer or any other person.

SECTION 2.3. COUNTY'S RIGHTS NOT PREJUDICED. The parties acknowledge that nothing in the Senior Financing Agreements, this Agreement or any other agreement between any of them (including any giving by the Agent of a notice hereunder) will, except as between the Senior Lenders, the Agent and the County as expressly set forth in this Agreement, affect the rights of the County under the Project Agreement (but an exercise by the County of those rights will not preclude a proper exercise by the Agent of its rights under this Agreement). For greater certainty and without limiting the generality of the foregoing, nothing in this Agreement will limit, and the County will be entitled at all times in accordance with the provisions thereof to exercise, the County's rights under **Section 19.3** (County's Temporary Step-in Rights) of the Project Agreement and the related exercise of its rights under Section 19.4 (County's Rectification Rights) of the Project Agreement.

ARTICLE 3

NOTICES

SECTION 3.1. COUNTY'S EVENT NOTICES.

The County shall provide the Agent written notice (a "County's Event Notice") promptly upon issuing to the Developer any notice regarding:

(1) the occurrence of a Developer Event of Default; and

(2) any event giving rise to a no-fault termination of the Project Agreement as referred to in Section 3 (No-Fault Termination) of Appendix 13 (Compensation on Termination) of the Project Agreement.

A County's Event Notice shall contain a brief summary of the facts relating to the relevant event in order to assist the Agent in determining an appropriate course of action. No failure of the County to give a County's Event Notice shall create any County liability, or impair any right of the County under this Agreement, the Project Agreement or any related agreement.

SECTION 3.2. COUNTY'S TERMINATION NOTICE. The County shall not terminate or deliver any notice terminating the Project Agreement or take any Restricted Action, in respect of Developer Event of Default pursuant to Section 20.4 (County Termination Right) of the Project Agreement (except for Developer Event of Default arising from a failure to achieve

Financial Close) without giving to the Agent written notice (a **"County's Termination Notice"**) stating:

(1) that a Developer Event of Default has occurred and the proposed Termination Date, which:

(a) will be not sooner than 180 days after the Termination Notice; and

(2) the grounds for termination in reasonable detail, including:

(a) the nature of any Default and related unperformed obligations and uncured breaches by the Developer forming the basis of such notice and the resulting grounds for termination of the Project Agreement so as to enable the Project Company and the Agent to assess the scope and amount of any liability of the Project Company resulting therefrom;;

(b) the nature and amount of all sums due and payable by the Developer to the County under the Project Agreement, if any, on or before the date of the County's Termination Notice and which remain unpaid at such date; and

(c) a reasonably estimated amount of any payments the County reasonably foresees shall become due and payable from the Developer to the County under the Project Agreement.

SECTION 3.3. AGENT'S NOTICE OF CREDIT AGREEMENT EVENT OF DEFAULT. Concurrently with delivery by it to the Developer of any notice of a Credit Agreement Event of Default, the Agent shall provide a copy of such notice to the County.

SECTION 3.4. AGENT'S INDICATIVE NOTICE. Without prejudice to the Security Trustee's rights under the Security Documents, at any time upon the occurrence of a Developer Event of Default or the receipt of a County's Termination Notice, and where relevant to a Developer Event of Default continuance of such a Developer Event of Default, the Agent or the Security Trustee may give notice to the County of its intention to nominate a Senior Lenders' Representative to step-in in accordance with Section 4.1 (an "Agent's Indicative Step-In Notice") or to effect a transfer in accordance with Section 6.1 (an "Agent's Indicative Transfer Notice").

SECTION 3.5. AGENT'S WITHDRAWAL NOTICE. If at any time after the giving of an Agent's Indicative Notice or a County's Termination Notice, the Agent has determined that it is not, or is no longer, considering appointing a Senior Lenders' Representative or effecting a transfer of the Developer's rights and liabilities under the Project Agreement to a Suitable Substitute Developer in accordance with this Agreement, the Agent or the Security Trustee shall give notice (an "Agent's Withdrawal Notice") to the County, and thereafter the provisions of this Agreement shall not be applicable with respect to the Project and the County shall be at liberty to take any and all action available to it under the Project Agreement and other Project Documents.

SECTION 3.6. NOTICE OF ANTECEDENT LIABILITIES.

Unless an Agent's Withdrawal Notice has been given, not later than 30 days after the date of delivery by the County of a County's Termination Notice or the date of delivery by the Agent or the Security Trustee of an Agent's Indicative Notice, as the case may be, the County shall give the Agent a notice (the "Liability Report") containing reasonable details of:

(1) any Material Antecedent Liabilities accrued and outstanding as of the date of delivery of the County's Termination Notice or Agent's Indicative Notice, as the case may be; and

(2) any financial liabilities of which the County is aware (after reasonable inquiry) that will fall due under the Project Agreement on or after the date of delivery of the County's Termination Notice or Agent's Indicative Notice, as the case may be, and on or prior to:

(a) in the case of a County's Termination Notice, the proposed Termination Date set forth in that notice; and

(b) in the case of an Agent's Indicative Notice, 120 days after the date of delivery of the Agent's Indicative Notice.

SECTION 3.7. SUBSEQUENT COUNTY NOTICE OF LIABILITIES. After the delivery of the Liability Report, unless an Agent's Withdrawal Notice has been given, the County shall, promptly upon becoming aware of them, notify the Agent in writing of any additional Material Antecedent Liabilities arising on or after the date of delivery of the County's Termination Notice or Agent's Indicative Notice, as the case may be, and prior to the end of the Termination Notice Period or the Indicative Notice Period, as the case may be.

SECTION 3.8. NO RIGHT TO TERMINATE OR TAKE RESTRICTED ACTION. The County shall not terminate or deliver any notice terminating the Project Agreement, or take any Restricted Action, during any Notice Period that would have the effect of terminating the Project Agreement prior to the expiration of the applicable 180 day period referred to in Section 3.2; provided, however, that until the expiration of such period the County shall be entitled to require the Developer to remedy any Developer Event of Default which is capable of being cured pursuant to Section 20.3 of the Project Agreement and shall be entitled to exercise all rights under the Project Agreement other than termination of such agreement.

SECTION 3.9. AGENT'S RIGHT TO CURE A DEVELOPER BREACH OR DEFAULT WITHOUT STEP-IN OR TRANSFER. The Agent or the Security Trustee shall have the right to take such actions as may be necessary, in the Agent (acting at the direction of the required Senior Lenders) or Security Trustee's sole discretion, to cure or remedy a Developer Event of Default which is capable of being cured pursuant to Section 20.3 of the Project Agreement, prior to any Step-In Period and without the necessity of issuing an Agent's Indicative Step-In Notice or Agent's Indicative Transfer Notice. Prior to exercising any such right, the Agent or the Security Trustee shall deliver a written notice thereof to the County (an "Agent's Cure Notice"). The County shall have no duty to deal with the Agent or the Security Trustee in any such circumstances, but the County will accept performance by the Agent or the Trustee as performance by the Developer. Any acts by the Agent or the Security Trustee in the exercise of such right shall be deemed to be acts of the Developer for the purposes of the Project Agreement, including the indemnity provisions thereof. The Agent or the Security Trustee may exercise such rights for a period (the "Agent's Cure Period") commencing on the date of delivery of an Agent's Cure Notice and ending on the earlier of:

(1) the Step-In Date;

(2) the date of delivery of an Agent's Withdrawal Notice; or

(3) 90 Business Days following the delivery of a County's Event Notice.

ARTICLE 4

STEP-IN

SECTION 4.1. AGENT'S STEP-IN NOTICE. Subject to Section 4.3, and without prejudice to the Security Trustee's rights under the Security Documents, the Agent may give the County a notice (an "Agent's Step-In Notice") at any time during an Indicative Notice Period or a Termination Notice Period, as the case may be.

SECTION 4.2. CONTENTS OF STEP-IN NOTICE. In the Agent's Step-In Notice, the Agent shall:

(1) state that it intends to exercise its step-in rights under this Agreement; and

(2) identify the Appointed Representative.

SECTION 4.3. ONE STEP-IN PERIOD. There will be not more than one Step-In Period following any one Agent's Indicative Notice or County's Termination Notice.

SECTION 4.4. APPOINTED REPRESENTATIVE RIGHTS. On the Step-In Date, the Appointed Representative shall be entitled to exercise and enjoy the rights of the Developer under the Project Agreement, including any rights to cure a Developer breach, subject to the performance by or on behalf of the Developer's obligations under the Project Agreement. During the Step-In Period, the County shall deal with the Appointed Representative and not the Developer.

SECTION 4.5. COUNTY RIGHT TO TERMINATE. The County shall not terminate the Project Agreement, in whole or in part, or take any Restricted Action during the Step-In Period except as set forth in this Section. The County shall be entitled to terminate the Project Agreement or take any Restricted Action during the Step-In Period by written notice to the Developer, the Agent and the Appointed Representative:

(1) if the Reported Antecedent Liabilities that are financial liabilities owed to the County have not been paid to the County or guaranteed to the County's reasonable satisfaction on or before the Step-In Date or, if the due date for payment thereof is after the Step-In Date, have not been paid or guaranteed to the County's reasonable satisfaction by the due date;

(2) if amounts owed to the County, of which the County was not aware (having made reasonable inquiry) at the time of the Liability Report, subsequently become payable and are not discharged or sufficiently guaranteed to the County's reasonable satisfaction by:

(a) if notice of the liability is given to the Agent at least 30 Days prior to the Step-In Date, the Step-In Date;

(b) if notice of the liability is given to the Agent within 30 Days before the Step-In Date and such liability is material (as stated by the County, acting reasonably, when it gives such notice or by the Agent, acting reasonably, by notice to the County within five Business Days of receipt of the notice from the County), 30 Days after the Step-In Date; or

(c) otherwise, 30 Days after delivery of the notice;

(3) on grounds arising after the Step-In Date in accordance with the terms of the Project Agreement, provided that for the purposes of termination under the Project Agreement, any Deductions that arose prior to the Step-In Date will not be taken into account during the Step-In Period;

(4) on grounds arising prior to the Step-In Date (whether or not continuing at the Step-In Date) in accordance with the terms of the Project Agreement but only if the Appointed Representative is not using all reasonable efforts to remedy the relevant Reported Antecedent Liabilities which are non-financial liabilities (including, if necessary to effect any such remedy, diligent efforts to obtain possession or control of the Project); or

(5) on grounds arising prior to the Occupancy Readiness Date if the Occupancy Readiness Date does not occur on or before the date that is 180 Days after the Longstop Date.

ARTICLE 5

STEP-OUT

SECTION 5.1. AGENT'S STEP-OUT NOTICE. The Agent or the Appointed Representative may at any time during the Step-In Period deliver to the County a notice (an "Agent's Step-Out Notice") which specifies the Step-Out Date.

SECTION 5.2. EXPIRATION OF STEP-IN PERIOD. Upon the expiration of the Step-In Period:

(1) the rights of the County against the Appointed Representative and the rights of the Appointed Representative against the County shall be cancelled; and

(2) the County shall no longer deal with the Appointed Representative and shall deal with the Developer in connection with the Project Agreement.

SECTION 5.3. DEVELOPER REMAINS BOUND. Subject to Section 6.4, the Developer shall continue to be bound by the terms of the Project Agreement notwithstanding the occurrence of an Agent's Cure Notice, an Agent's Indicative Notice, an Agent's Step-In Notice, a Step-In Period, an Agent's Step-Out Notice, a Step-Out Date, any action by the Agent, Appointed Representative, Security Trustee or the Senior Lenders or any provision of this Agreement, and for greater certainty the Developer shall be liable for any and all obligations and liabilities arising under the Project Agreement prior to the expiration of the Step-in Period from actions or inactions of the Agent, the Appointed Representative, Security Trustee or Senior Lenders. The Developer shall remain liable for any unpaid amounts due and payable to the County by the Developer under the Project Agreement.

ARTICLE 6

SENIOR LENDER REPLACEMENT OF THE DEVELOPER

SECTION 6.1. DEVELOPER TRANSFER NOTICE. Subject to Section 6.2, at any time:

(1) upon the occurrence of a Developer Event of Default, and where relevant to such a Developer Event of Default during the continuance of a Developer Event of Default; or

(2) during the Step-In Period,

the Agent may, on 30 Days' notice to the County and any Appointed Representative, take any action available to it to cause the transfer of the Developer's rights and liabilities under the Project Agreement, and all of the Developer's right, title and interest in any Material Contract to a Suitable Substitute Developer in accordance with the provisions of Section 6.4.

SECTION 6.2. COUNTY CONSENT. The County shall notify the Agent as to whether any person to whom the Agent proposes to transfer the Developer's rights and liabilities under the Project Agreement is a Suitable Substitute Developer, not later than 30 Days after the date of receipt from the Agent of all information reasonably required by the County to decide whether the proposed transferee is a Suitable Substitute Developer. In the event the County does not approve such person, such notice shall set forth in reasonable detail the reasons for withholding approval.

SECTION 6.3. WITHHOLDING OF CONSENT. The County shall not unreasonably withhold, condition or delay its decision on whether the proposed transferee is a Suitable Substitute Developer and it shall, without limitation, be reasonable for the County to withhold its consent:

(1) if there are unremedied breaches under the Project Agreement and there is no remedial program reasonably acceptable to the County in respect of the breaches; or

(2) based on any of the factors set forth in Section 23.3 (Factors the County May Consider) of the Project Agreement with respect to any transfer, including any assignment, to such person or Change in Control resulting from the transfer.

SECTION 6.4. TERMS OF TRANSFER. Upon the transfer referred to in Section 6.1 becoming effective:

(1) the Developer and the County shall be released from their obligations under the Project Agreement to each other, including with respect to indemnification under the Project Agreement whether arising prior to or after such transfer (the "Discharged Obligations");

(2) the Suitable Substitute Developer shall assume all of the Discharged Obligations, but owed to or assumed by the Suitable Substitute Developer instead of the Developer;

(3) the rights of the Developer against the County under the Project Agreement and vice versa (the "Discharged Rights") will be cancelled;

(4) the Suitable Substitute Developer and the County shall acquire rights against each other which differ from the Discharged Rights only insofar as they are exercisable by or against the Suitable Substitute Developer instead of the Developer; provided, however, that the Suitable Substitute Developer shall not assume any material new obligations and the County shall not assume any material new rights without the prior written consent of the Agent, at the direction of the required Senior Lenders acting reasonably;

(5) any subsisting ground for termination of the Project Agreement by the County shall be deemed to have no effect and any subsisting Termination Notice will be automatically revoked; and

(6) the County shall enter into a lenders' remedies agreement with the Suitable Substitute Developer and a representative of Senior Lenders lending to the Suitable Substitute Developer on substantially the same terms as this Agreement.

ARTICLE 7

INSURANCE

SECTION 7.1. DEPOSIT OF PROCEEDS AND CALCULATION OF COVER RATIO. If all or substantially all of the Courthouse is destroyed or substantially destroyed, the property Insurance Proceeds available for the restoration of the Courthouse, as applicable, shall be deposited in the Insurance Trust Account as provided in subsection 14.3(F) (Application of Property Insurance Proceeds Available for Repair, Replacement or Restoration) of the Project Agreement and applied as provided in this Article. Promptly following the occurrence of such an event the Developer shall calculate the [Senior Debt Loan Life Cover Ratio.] The Agent and the Developer shall notify the County in writing as to the applicable calculations together with all relevant facts in order for the County to verify the accuracy of the calculation.

SECTION 7.2. APPLICATION OF INSURANCE PROCEEDS IF COVER RATIO TEST IS SATISFIED. If the calculation required by Section 7.1 shows that the Senior Debt Loan Life Cover Ratio is greater than the level required to avoid an event of default under the Credit Agreement, then the Insurance Proceeds available in the Insurance Trust Account shall be applied to the restoration of the Courthouse in accordance with the terms of the Project Agreement. Any funds remaining in the Insurance Trust Account in excess of the amounts required to meet all restoration obligations under the Project Agreement shall be paid to the Agent for payment of the Senior Debt and other purposes in accordance with the terms of the Senior Financing Agreements.

SECTION 7.3. APPLICATION OF INSURANCE PROCEEDS IF COVER RATIO TEST IS NOT SATISFIED. If the calculation required by Section 7.1 shows that the [Senior Debt Loan Life Cover Ratio] is less than the level required to avoid an event of default under the Credit Agreement, then an amount equal to the lesser of:

(1) the Insurance Proceeds available in the Insurance Trust Account; and

(2) all amounts owed and outstanding under the Senior Financing Agreements

shall be released from the Insurance Trust Account to the Agent, on a timely basis, but not earlier than 10 Business Days following the delivery to the County of the calculations and relevant facts so as to permit verification of their accuracy by the County.

ARTICLE 8

COVENANTS

SECTION 8.1. COUNTY COVENANTS. The County agrees with the Agent that the County shall:

(1) as soon as is reasonably practicable, at the Developer's expense, take whatever action the Agent, an Appointed Representative or a Suitable Substitute Developer taking a transfer in accordance with Article 6 may reasonably require for perfecting any transfer or release under this Agreement, including the execution of any transfer or assignment, and the giving of any notice, order or direction and the making of any registration which, in each case, the Agent or Appointed Representative or Suitable Substitute Developer reasonably requires;

(2) not, prior to the Senior Debt Discharge Date, unless the Agent, at the direction of the required Senior Lenders, has (acting reasonably) consented in writing:

(a) appoint a Bankruptcy Officer;

(b) commence any Bankruptcy Proceedings;

(c) sanction, by voting or failing to vote on, any Bankruptcy Proceedings and shall, if requested to do so by the Agent, vote against any Bankruptcy Proceedings;

(d) without prejudice to its rights of set-off under the Project Agreement, including rights to take amounts owing by the Developer into account in calculating termination compensation payable, claim or prove as creditor or otherwise in competition with any Finance Party in respect of any monies owing to it by the Developer for or on account of the Developer's liabilities under the Project Documents in the event of any Bankruptcy Proceedings; or

(e) take any action authorizing, or which might result in or is in furtherance of, any of the prohibited matters referred to in items (a), (b), (c) or (d) above;

(3) not take or fail to take any action (including amendments, waivers and contractual enforcement action) with respect to any material agreement between the County and a third party directly relating to the Project, the effect of which would be reasonably likely to render the County unable to satisfy its obligations under the Project Agreement or to cause the occurrence of a County Event of Default; and

(4) not issue any notice under [Section • of the Project Contractor Collateral Agreement] at any time that the Senior Lenders are validly exercising under any Senior Lender Financing Agreement any step-in rights with respect to the relevant Material Contract; and

(5) unless otherwise directed by the Agent, deposit all amounts due and payable by it under the Project Agreement into the Designated Account and the Developer agrees that any such payment made will constitute a complete discharge of the County's relevant payment obligations under the Project Agreement.

SECTION 8.2. AGENT COVENANTS. The Agent shall promptly:

(1) notify the County when it believes the Senior Debt Discharge Date will occur or has occurred, and in any event shall so notify no later than 20 Days after its occurrence;

(2) notify the County of any Credit Agreement Event of Default of which the Agent has received written notice;

(3) notify the County of any decision by the Senior Lenders to take action under Section [ ] of the Credit Agreement of which the Agent has received written notice;

(4) unless notice is already provided under the above provisions, notify the County of any decision by the Senior Lenders, of which the Agent has received written notice, to:

(a) appoint a Bankruptcy Officer;

(b) commence any Bankruptcy Proceedings;

(c) sanction, by voting or failing to vote on, any Bankruptcy Proceedings; or

(d) take any action authorizing, or which might result in or is in furtherance of, any of the matters referred to in items (a), (b) or (c) above; and

(5) upon request by the County, and provided the Senior Debt Discharge has occurred, cause all security on any real or personal property constituting part of the Project to be promptly discharged and released on the date requested by the County (which will be on or after the Senior Debt Discharge Date).

SECTION 8.3. DEVELOPER COVENANT. The Developer acknowledges and consents to the arrangements set forth in this Agreement and agrees not to do or omit to do anything that may prevent any party from enforcing its rights under this Agreement.

ARTICLE 9

ASSIGNMENT

SECTION 9.1. RESTRICTION ON ASSIGNMENT. No party to this Agreement may assign or transfer all or any part of its rights or obligations under this Agreement except as provided in this Article.

SECTION 9.2. ASSIGNMENT BY AGENT. The Agent may assign or transfer its rights and obligations under this Agreement to a successor Agent in accordance with the Senior Financing Agreements without the consent of the County, provided that the Agent delivers to the County not less than 10 Business Days prior to such assignment a notice setting out such contact information regarding the assignee as the County may reasonably require, and further provided that the assignee or transferee is not a Restricted Person.

SECTION 9.3. ASSIGNMENT BY SENIOR LENDER. Any Senior Lender may assign or transfer its rights and obligations under the Senior Financing Agreements in accordance with the terms of the Senior Financing Agreements without the consent of the County provided the assignee or transferee is not a Restricted Person.

SECTION 9.4. ASSIGNMENT BY COUNTY. The County shall assign or transfer its rights and obligations under this Agreement to any permitted assignee of its interest in the Project Agreement concurrently with the assignment of the Project Agreement to such assignee, and the Agent and the Senior Lenders shall co-operate with the County in completing the formalities of any transfer or assignment including by executing any additional documents as may be reasonably required by the County.

SECTION 9.5. NEW AGREEMENT. If Section 9.2 applies in relation to the Agent, the County and the Developer shall, upon request by the new Agent, enter into a new lenders' remedies agreement with the new Agent on substantially the same terms as this Agreement.

ARTICLE 10

REPRESENTATIONS AND WARRANTIES

SECTION 10.1. REPRESENTATIONS AND WARRANTIES OF AGENT. The Agent represents and warrants, as of the date of this Agreement, that:

(1) it has the full power and authority to execute, deliver and perform its obligations under this Agreement;

(2) it has duly authorized the execution and delivery of this Agreement by its signatories hereto and the performance of its obligations hereunder; and

(3) this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforceability of the rights of creditors generally and by general principles of equity

SECTION 10.2. REPRESENTATIONS AND WARRANTIES OF DEVELOPER. The Developer represents and warrants, as of the date of this Agreement, that:

(1) it has the full power and authority to execute, deliver and perform its obligations under this Agreement;

(2) it has duly authorized the execution and delivery of this Agreement by its signatories hereto and the performance of its obligations hereunder;

(3) this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforceability of the rights of creditors generally and by general principles of equity; and

(4) no Developer Event of Default, or to its knowledge, any County Event of Default, has occurred and is continuing, and no fact or event exists that with the passage of time or giving of notice would constitute such a Developer Event of Default, or to its knowledge, a County Event of Default.

SECTION 10.3. REPRESENTATIONS AND WARRANTIES OF COUNTY. The County represents and warrants, as of the date of this Agreement, that:

(1) it has the full power and authority to execute, deliver and perform its obligations under this Agreement;

(2) it has duly authorized the execution and delivery of this Agreement by its signatories hereto and the performance of its obligations hereunder;

(3) this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforceability of the rights of creditors generally and by general principles of equity; and

(4) no County Event of Default has occurred and is continuing, and no fact or event exists that with the passage of time or giving of notice would constitute such a County Event of Default.

ARTICLE 11

GENERAL

SECTION 11.1. TERM. This Agreement shall remain in effect until the earlier of:

(1) the Senior Debt Discharge Date;

(2) the date upon which a new lenders' remedies agreement is entered into pursuant to Section 9.5 following an assignment or transfer by the Agent of its rights and obligations under this Agreement to a successor Agent; or

(3) subject to compliance with Section 6.4(6) above, the date of transfer of the Developer's rights and liabilities under the Project Agreement to a Suitable Substitute Developer pursuant to Section 6.1.

SECTION 11.2. NO COUNTY RESPONSIBILITY FOR SENIOR DEBT.

None of the County, or any other agency, instrumentality or political subdivision of the County, and no board member, director, officer, employee, agent or representative of any of them, shall have any liability whatsoever for payment of the principal sum of any Senior Debt, any other obligations issued or incurred by the Developer in connection with the Project Agreement or the Project, or any interest accrued thereon or any other sum secured by or accruing under the Financing Agreements. Except for a violation by the County of its express obligations to Senior Lenders set forth in this Agreement, no Senior Lender shall be entitled to seek any damages or other amounts from the County, whether for Senior Debt or any other obligation amount. The County's review of the Senior Financing Agreements or other Project financing documents is not a guarantee or endorsement of the Senior Debt, any other obligations issued or incurred by the Developer in connection with this Project Agreement or the Project, and is not a representation, warranty or other assurance as to the ability of the Developer to perform its obligations with respect to the Senior Debt or any other obligations issued or incurred by the Developer in connection with the Project Agreement or the Project, or as to the adequacy of the Service Fee to provide for payment of the Senior Debt or any other obligations issued or incurred by the Developer in connection with the Project Agreement or the Project, except that the foregoing does not affect any of County's liability to the Developer under Article 22 of the Project Agreement and any Termination Payment that is measured in whole or in part by outstanding Senior Debt.

SECTION 11.3. CONFLICT OR INCONSISTENCY. If there is any conflict or inconsistency between the provisions of this Agreement and the Project Agreement, the provisions of this Agreement shall prevail.

SECTION 11.4. ENTIRE AGREEMENT. Unless otherwise stated in this Agreement, this Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all prior representations, communications, negotiations and understandings concerning the subject matter of this Agreement. No party has relied on any representation except as expressly set forth in this Agreement.

SECTION 11.5. VENUE. For the purposes of any legal actions or proceedings brought by any party hereto against the other party, the parties hereby irrevocably submit to the exclusive jurisdiction of the courts of the State of Florida and acknowledge their competence and the convenience and propriety of the venue and agree to be bound by any judgment thereof and not to seek, and hereby waive, review of its merits by the courts of any other jurisdiction.

SECTION 11.6. WAIVER. The failure of any party to exercise any contractual right or remedy will not constitute a waiver thereof and no waiver will be effective, unless it is communicated in writing to the other party. A waiver of any right or remedy arising from a breach of this Agreement shall not constitute a waiver of any right or remedy arising from any other breach of this Agreement.

SECTION 11.7. COUNTERPARTS. This Agreement may be executed in any number of counterparts, all of which when taken together will constitute one and the same instrument.

SECTION 11.8. RECORDS. The Agent shall be bound to comply with: (a) the public records obligations contained in the Project Agreement in relation to all information obtained by the Agent in connection with the Project; (b) the Project Agreement in relation to the County's Inspector General and Commission Auditor contained in Section 4.8(D) and (E) of the Project Agreement, except that such compliance by the Agent shall be at the expense of the Developer; and (c) the rights of the County as a sovereign contained in Section 25.11 (Actions of the County in its Government Capacity) of the Project Agreement.

SECTION 11.9. NOTICES. Any notice or communication required or permitted to be given under this Agreement will be in writing and will be considered to have been sufficiently given if delivered by hand or by registered mail to the address of each party set forth below:

if to the County:

Miami-Dade County Internal Services Department
Attention: Dan Chatlos
111 NW 1st Street, Suite 2100
Miami, FL 33128
Telephone: 305-375-4812
Email: chatlos@miamidade.gov

with a copy to:

Miami-Dade County Attorney's Office
111 N.W. 1st Street, Suite 2810
Miami, FL 33128
Attention: Eduardo Gonzalez, Monica Rizo Perez and Oren Rosenthal
Telephone: 305-375-5151
Email: EduardoCAO.Gonzalez@miamidade.gov
Monica.Rizo@miamidade.gov
Oren.Rosenthal@miamidade.gov

if to the Agent:

U.S. Bank National Association
633 W 5th St, 24th Floor
Los Angeles, CA 90071
Attention: Ashraf Almurdaah (Vice President)
Telephone: 213-615-6002
Email: ashraf.almurdaah@usbank.com

if to the Developer:

Plenary Justice Miami LLC
100 N. Tampa St., Suite 2840
Tampa, FL 33602
Attention: Mike Schutt (Vice President) and Nigel Kirkwood (Vice President)
Telephone No.: 813-387-3880
Email: mike.schutt@plenarygroup.com

nigel.kirkwood@plenarygroup.com

or to such other address as any party may, from time to time, designate in the manner set forth above.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

ATTEST:

_____

[Name of Agent]

By:_____(SEAL)

Name: _____

Title:_____

Date:_____

ATTEST:

_____

Plenary Justice Miami LLC

By:_____(SEAL)

Name: _____

Title: _____

Date:_____

ATTEST:

_____
Clerk of the Board

MIAMI-DADE COUNTY, FLORIDA

By:_____

Name: Carlos A. Gimenez

Title: Mayor

Date:_____

APPROVED FOR FORM AND LEGAL SUFFICIENCY
this ____ day of _____, 2019.

_____
Assistant County Attorney

SCHEDULE 1

SENIOR FINANCING AGREEMENT

TRANSACTION FORM C

PROJECT CONTRACTOR COLLATERAL AGREEMENT

Transaction Form C consists of two documents:

1. Design-Builder – Project Contractor Collateral Agreement; and
2. Facility Manager – Project Contractor Collateral Agreement.

DESIGN-BUILDER

PROJECT CONTRACTOR COLLATERAL AGREEMENT

for the

MIAMI-DADE COUNTY CIVIL AND PROBATE COURTHOUSE

between

MIAMI-DADE COUNTY, FLORIDA

and

PLENARY JUSTICE MIAMI LLC

and

TUTOR PERINI CORPORATION

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DESIGN-BUILDER

PROJECT CONTRACTOR COLLATERAL AGREEMENT

THIS PROJECT CONTRACTOR COLLATERAL AGREEMENT is made and entered into [_____ __], 2019, between Miami-Dade County, Florida (the "County"), Plenary Justice Miami LLC, a limited liability company organized and existing under the laws of the State of Delaware and authorized to do business in the State of Florida (the "Developer"), and Tutor Perini Corporation, a corporation incorporated under the laws of the Commonwealth of Massachusetts and authorized to do business in the State of Florida (the "Contractor").

RECITALS

The County and the Developer have entered into an agreement dated [_____ ___], 2019 (the "Project Agreement") whereby the Developer has agreed to design, construct, finance, operate and maintain the new Civil and Probate Courthouse in Miami-Dade County, Florida (the "Project"), all as more particularly described in the Project Agreement;

The Developer and the Contractor have entered into an agreement dated October 18, 2019 (the "Material Contract") whereby the Contractor has agreed to carry out and complete that part of the Developer's obligations under the Project Agreement consisting of the design and construction of the Miami-Dade County Civil and Probate Courthouse, all as more particularly described in the Material Contract; and

It is a condition of the Material Contract that the Contractor enter into this Agreement with the County and the Developer.

NOW, THEREFORE, in consideration of the mutual promises and agreements of the parties herein expressed and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows:

ARTICLE 1

DEFINITIONS AND INTERPRETATION

SECTION 1.1. DEFINITIONS. Unless otherwise specified or the context otherwise requires, capitalized but otherwise undefined terms in this Agreement shall have the respective meaning given to such terms in the Project Agreement.

SECTION 1.2. INTERPRETATION.

This Agreement shall be interpreted according to the following provisions, except to the extent that the context or the express provisions of this Agreement otherwise require.

(1) Plurality. Words importing the singular number mean and include the plural number and vice versa.

(2) Persons. Words importing persons include individuals, legal personal representatives, firms, companies, associations, joint ventures, general partnerships, limited partnerships, limited liability partnerships, limited liability companies, trusts, business trusts, corporations, governmental bodies, and other legal entities.

(3) Headings. The table of contents and any headings preceding the text of the Articles, Sections and subsections of this Agreement shall be solely for convenience of reference and shall not affect its meaning, construction or effect.

(4) References Hereto. The terms "hereby," "hereof," "herein," "hereunder" and any similar terms refer to this Agreement.

(5) References to Days and Time of Day. All references to days herein are references to calendar days, unless otherwise indicated, such as by reference to Business Days. Each reference to time of day is a reference to Eastern Standard time or Eastern Daylight Saving time, as the case may be.

(6) References to Business Days. If the time for doing an act falls or expires on a day that is not a Business Day, the time for doing such act shall be extended to the next Business Day.

(7) References to Including. The words "include", "includes" and including" are to be construed as meaning "include without limitation", "includes without limitation" and "including without limitation", respectively.

(8) References to Statutes. Each reference to a statute or statutory provision includes any statute or statutory provision which amends, extends, consolidates or replaces the statute or statutory provision or which has been amended, extended, consolidated or replaced by the statute or statutory provision and includes any orders, regulations, by-laws, ordinances, codes of practice or instruments made under the relevant statute.

(9) References to Governmental Bodies. Each reference to a Governmental Body is deemed to include a reference to any successor to such Governmental Body or any organization or entity or organizations or entities which has or have taken over the functions or responsibilities of such Governmental Body.

(10) References to Documents and Standards. Each reference to an agreement, document, standard, principle or other instrument includes (subject to all relevant approvals and any other provision of this Agreement expressly concerning such agreement, document, standard, principle or other instrument) a reference to that agreement, document, standard, principle or instrument as amended, supplemented, substituted, novated or assigned.

(11) References to All Reasonable Efforts. The expression "all reasonable efforts" and expressions of like import, when used in connection with an obligation of the Developer or the Contractor, means taking in good faith and with due diligence all commercially reasonable steps to achieve the objective and to perform the obligation, including doing all that can reasonably be done in the circumstances taking into account each party's obligations hereunder to mitigate delays and additional costs to the other party, and in any event taking no less steps and efforts than those that would be taken by a commercially reasonable and prudent person in comparable circumstances but where the whole of the benefit of the obligation and where all the results of taking such steps and efforts accrued solely to that person's own benefit.

(12) Entire Agreement. This Agreement contains the entire agreement between the County and the other parties hereto with respect to the transactions contemplated by this Agreement. Without limiting the generality of the foregoing, this Agreement shall completely and fully supersede all other understandings and agreements between the County and the other parties with respect to such transactions.

(13) Counterparts and Delivery by Electronic Mail. This Agreement may be executed in any number of original counterparts. All such counterparts shall constitute but one and the same Agreement. Any party may deliver an executed copy of this Agreement by electronic mail and such counterpart shall be deemed effective upon receipt, but that party will promptly deliver via mail or courier to the other parties an originally executed copy of this Agreement.

(14) Governing Law. This Agreement shall be governed by and construed in accordance with the applicable laws of the State and the County.

(15) Severability. Each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Agreement is held to be invalid, unenforceable or illegal to any extent, such provision may be severed and such invalidity, unenforceability or illegality shall not prejudice or affect the validity, enforceability and legality of the remaining provisions of this Agreement. If any such provision of this Agreement is held to be invalid, unenforceable or illegal, the parties will promptly endeavor in good faith to negotiate new provisions to eliminate such invalidity, unenforceability or illegality and to restore this Agreement as nearly as possible to its original intent and effect.

(16) Drafting Responsibility. The parties waive the application of any rule of law which otherwise would be applicable in connection with the construction of this Agreement that ambiguous or conflicting terms or provisions should be construed against the party who (or whose counsel) prepared the executed agreement or any earlier draft of the same.

(17) Accounting and Financial Terms. All accounting and financial terms used herein are, unless otherwise indicated, to be interpreted and applied in accordance with generally accepted accounting principles, consistently applied, in the United States.

(18) Consents. Any consent required to be given under this Agreement must be in writing.

ARTICLE 2

SUBSTITUTION PROVISIONS

SECTION 2.1. NOTICE TO COUNTY OF INTENT TO TERMINATE. Except as a result of a termination by the Developer pursuant to the terms of the Material Contract, the Contractor shall not terminate or treat as terminated its engagement under the Material Contract or discontinue its services with respect to the Project, without first giving to the County and the Senior Lenders not less than 10 Business Days' prior notice of the Contractor's intention to do so, specifying the grounds for so doing.

SECTION 2.2. SUSPENSION OF TERMINATION. If the County serves on the Contractor a notice in accordance with Section 2.3, the Contractor shall not terminate or treat as terminated its engagement, or discontinue the performance of any of its obligations, under the Material Contract but service of such notice shall not prejudice any other right or remedy the Contractor may have under or in connection with the Material Contract.

SECTION 2.3. SUBSTITUTION NOTICE. Unless the engagement of the Contractor under the Material Contract has been terminated previously (and whether or not the Contractor has served notice on the County pursuant to Section 2.1), and if the Project Agreement has been properly terminated in accordance with its terms, the County will be entitled at any time to serve upon the Contractor a notice requiring the Contractor to thereafter accept the instructions of the County or its appointee to the exclusion of the Developer under and in connection with the Material Contract and the Contractor shall comply with such notice.

SECTION 2.4. SUBSTITUTION OF THE COUNTY. From and after the date of service of the notice under and in compliance with Section 2.3, provided that the Contractor has received notice from either the County or the Developer that the Project Agreement has been terminated, the Developer shall be deemed to have assigned all the rights, and the County or its appointee shall be deemed to have accepted the assignment and assumed and agreed to perform all the obligations, of the Developer under the Material Contract outstanding as of the date of service of such notice by the County under Section 2.3, whether incurred prior to or after the date of service of such notice by the County under Section 2.3, provided that such deemed assignment and assumption shall not affect or derogate from any right of action the Developer may have against the Contractor in respect of any breach by the Contractor of its obligations under the Material Contract happening prior to the date of service of notice by the County under Section 2.3. As a condition precedent to the Contractor's obligation to perform on behalf of the County, the County shall provide reasonable assurances in writing to the Contractor that the funds necessary to pay the outstanding obligations under the Material Contract will be available for such purposes in a timely manner.

SECTION 2.5. REPLACEMENT MATERIAL CONTRACT. If the engagement of the Contractor under the Material Contract is terminated before service of any notice under Section 2.3, the Contractor shall, if required to do so by notice served by the County not later than 20 Business Days after the date the Contractor serves notice pursuant to Section 2.1, enter into a new Material Contract with the County or its appointee on the same terms as the Material Contract but with such revisions as the County or the Contractor reasonably requires to reflect altered circumstances. In such event, references in this Agreement to "Material Contract" shall be deemed to include such a new Material Contract. The rights of the County under this Section 2.5 will be applicable only after the Project Agreement has been properly terminated in accordance with its terms. As a condition precedent to the Material Contractor's obligation to enter into the new Material Contract, the County shall provide reasonable assurances in writing to the Project Contractor that the funds necessary to pay the obligations of the County under the new Material Contract will be available for such purposes in a timely manner.

SECTION 2.6. NOTICE TO PREVAIL. As against the Developer and the County, the Contractor shall be entitled to rely upon and obligated to comply with any notice served by the County under Section 2.3 or Section 2.5, and shall not make, nor be required to make, any inquiry into the entitlement of the County as against the Developer to serve such notice.

SECTION 2.7. SENIOR LENDERS' RIGHTS PARAMOUNT. Notwithstanding the above, the County shall only be entitled to issue a notice under Section 2.3 or Section 2.5 where the Senior Lenders have not timely exercised any similar rights of substitution they may have pursuant to the Lenders' Remedies Agreement.

SECTION 2.8. DEVELOPER BOUND. The Developer shall be bound to the provisions of this Article 2.

ARTICLE 3

INSURANCE

SECTION 3.1. POLICY IN FORCE. The Contractor shall keep in force at all times until the termination of its engagement under the Material Contract all of the policies of insurance that it is required to obtain and maintain under the Material Contract, except, however, the Contractor shall maintain completed operations liability insurance until two years after the termination of its engagement under the Material Contract.

SECTION 3.2. EVIDENCE OF INSURANCE. Upon the issue of and upon every renewal of a policy of insurance, and otherwise upon request by the County, the Contractor shall deliver to the County a copy of the policy of insurance or other evidence of insurance required under the Material Contract. Upon request by the County, the Contractor shall deliver proof of payment of premiums for insurance required to be obtained and maintained under the Material Contract.

ARTICLE 4

CONFIDENTIALITY

SECTION 4.1. CONFIDENTIAL INFORMATION. The Contractor represents and warrants that it has and shall hold in confidence any Confidential Information, provided that the provisions of this Section shall not restrict the Contractor from passing such information to its professional advisors, to the extent necessary, to enable the Contractor to perform (or cause to be performed) or to enforce its rights or obligations under the Material Contract or to such other persons as may be expressly required by the Material Contract.

SECTION 4.2. EXCEPTIONS. The obligation to maintain the confidentiality of the Confidential Information does not apply to Confidential Information:

(A) which the County confirms in writing is not required to be treated as Confidential Information;

(B) which is or comes into the public domain otherwise than through any disclosure prohibited by this Agreement;

(C) to the extent the Contractor is required to disclose such Confidential Information by Applicable Law or any Governmental Body (but only to that extent); or

(D) to the extent consistent with any County policy the details of which have been provided to the Contractor in writing prior to the disclosure.

SECTION 4.3. ANNOUNCEMENTS. Unless otherwise required by any Applicable Law, by any Governmental Body or by the rules, orders or regulations of any stock exchange (but only to that extent), the Contractor shall not make or permit to be made any public announcement or disclosure (whether for publication in the press, radio, television or any other medium) of any Confidential Information or the Contractor's interest in the Project or any matters relating thereto, without the prior written consent of the County, which will not be unreasonably withheld or delayed.

ARTICLE 5

GENERAL

SECTION 5.1. ASSIGNMENT. Other than in conjunction with a permitted assignment of the Material Contract in accordance with its terms, the Contractor may assign this Agreement only with the prior written consent of the County, which consent may be given in the County's sole discretion.

SECTION 5.2. INUREMENT. This Agreement inures to the benefit of and binds the parties and their respective successors and permitted assigns.

SECTION 5.3. NOTICES. Each notice to a party must be given in writing. A notice may be given by delivery to an individual or by electronic mail, and will be validly given if delivered on

a Business Day to an individual at the following address, or, if transmitted on a Business Day by electronic mail addressed to the following party:

if to the County:

Miami-Dade County Internal Services Department
Attention: Dan Chatlos
111 NW 1st Street, Suite 2100
Miami, Florida 33128
Telephone: 305-375-4812
Email: chatlos@miamidade.gov

with a copy to:

Miami-Dade County Attorney's Office
111 N.W. 1st Street, Suite 2810
Miami, Florida 33128
Attention: Eduardo Gonzalez, Monica Rizo Perez and Oren Rosenthal
Telephone: 305-375-5151
Email: EduardoCAO.Gonzalez@miamidade.gov
Monica.Rizo@miamidade.gov
Oren.Rosenthal@miamidade.gov

if to the Developer:

Plenary Justice Miami LLC
100 N Tampa Street, Suite 2840
Tampa, Florida 33602
Attention: Mike Schutt
Telephone: 813-387-3880
Email: notices@plenarygroup.com

with a copy to:

Plenary Group (Canada) Ltd.
400 Burrard Street, Suite 2000
Vancouver, BC V6C 3A6
Attention: Vice President

if to the Contractor:

Tutor Perini Corporation
One East Broward Blvd., Suite 1300
Fort Lauderdale, Florida 33301
Attention: Danny Hoisman
Telephone: 954-733-4211
Email: danny.hoisman@tutorperini.com

or to such other address as any party may, from time to time, designate in the manner set forth above.

SECTION 5.4. WAIVERS. No waiver of any provision of this Agreement is binding unless it is in writing and signed by all the parties to this Agreement except that any provision which does not give rights or benefits to particular parties may be waived in writing, signed only by those parties who have rights under, or hold the benefit of, the provision being waived if those parties promptly send a copy of the executed waiver to all other parties. No failure to exercise, and no delay in exercising, any right or remedy under this Agreement will be deemed to be a waiver of that right or remedy. No waiver of any breach of any provision of this Agreement will be deemed to be a waiver of any subsequent breach of that provision or of any similar provision.

SECTION 5.5. NO PARTNERSHIP OR AGENCY. Nothing in this Agreement will be construed as creating a partnership or as constituting the Contractor as an agent of the County. The Contractor shall not hold itself out as having any power to bind the County in any way.

SECTION 5.6. CONFLICTING AGREEMENT. If there is any conflict or inconsistency between the provisions of this Agreement and the Project Agreement, the provisions of the Project Agreement will prevail.

SECTION 5.7. REMEDIES CUMULATIVE. The rights and remedies under this Agreement are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise. No single or partial exercise by a party of any right or remedy precludes or otherwise affects the exercise of any other right or remedy to which that party may be entitled.

SECTION 5.8. NO INDIRECT LOSSES. No party may claim damages for breach of this Agreement or tortious act, whether under statute, contract, tort, common law or on any other basis whatsoever, to the extent that any loss claimed is for Indirect Losses suffered or allegedly suffered by such party. For purposes of this Section 5.8, "Indirect Losses" means any special, incidental, consequential, punitive or similar losses or damages based upon claims arising out of or in connection with the performance or non-performance of a party's obligations or otherwise under this Agreement, or any representation made in this Agreement being materially incorrect.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF the parties have executed this Agreement on the day and year first above written.

ATTEST:

Notary Public

Notary Seal

PLENARY JUSTICE MIAMI LLC

By: _____

Name: Brian Budden

Title: President

Date: _____

ATTEST:

Notary Public

Notary Seal

KATRINA MARIE BALENTYNE
MY COMMISSION # GG010216
EXPIRES July 10, 2020
(407) 398-0153 FloridaNotaryService.com

By: _____

Name: Mike Schutt

Title: Vice President

Date: _____

ATTEST:

Notary Public

Notary Seal

TUTOR PERINI CORPORATION

By: _____

Name: _____

Title: _____

Date: _____

ATTEST:

Clerk of the Board

MIAMI-DADE COUNTY, FLORIDA

By: _____

Name: Carlos A. Gimenez

Title: Mayor

Date: _____

APPROVED FOR FORM AND LEGAL SUFFICIENCY
this _____ day of _____, 2019.

Assistant County Attorney

IN WITNESS WHEREOF the parties have executed this Agreement on the day and year first above written.

ATTEST:

Notary Public

Notary Seal

PLENARY JUSTICE MIAMI LLC

By:

Name: Brian Budden

Title: President

Date:

ATTEST:

Notary Public

Notary Seal

By:

Name: Mike Schutt

Title: Vice President

Date:

ATTEST:

See attached.

Notary Public

Notary Seal

TUTOR PERINI CORPORATION

By:

Name: Ronald N. Tutor

Title: Chief Executive Officer

Date:

ATTEST:

Clerk of the Board

MIAMI-DADE COUNTY, FLORIDA

By:

Name: Carlos A. Gimenez

Title: Mayor

Date:

APPROVED FOR FORM AND LEGAL SUFFICIENCY
this ____ day of _____, 2019.

Assistant County Attorney

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Los Angeles }

On October 11, 2019 before me, B. Dianne Shorte, Notary Public
Date *Here Insert Name and Title of the Officer*

personally appeared Ronald Newton Tutor
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

B. DIANNE SHORTE
Notary Public – California
Los Angeles County
Commission # 2193454
My Comm. Expires May 21, 2021

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature B. Dianne Shorte

Place Notary Seal and/or Stamp Above *Signature of Notary Public*

OPTIONAL

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Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer – Title(s): _____	☐ Corporate Officer – Title(s): _____
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian of Conservator	☐ Trustee ☐ Guardian of Conservator
☐ Other: _____	☐ Other: _____
Signer is Representing: _____	Signer is Representing: _____

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FACILITY MANAGER

PROJECT CONTRACTOR COLLATERAL AGREEMENT

for the

MIAMI-DADE COUNTY CIVIL AND PROBATE COURTHOUSE

between

MIAMI-DADE COUNTY, FLORIDA

and

PLENARY JUSTICE MIAMI LLC

and

JOHNSON CONTROLS, INC.

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FACILITY MANAGER

PROJECT CONTRACTOR COLLATERAL AGREEMENT

THIS PROJECT CONTRACTOR COLLATERAL AGREEMENT is made and entered into [_____ __], 2019, between Miami-Dade County, Florida (the "County"), Plenary Justice Miami LLC, a limited liability company organized and existing under the laws of the State of Delaware and authorized to do business in the State of Florida (the "Developer"), and Johnson Controls, Inc., a corporation incorporated under the laws of the State of Wisconsin and authorized to do business in the State of Florida (the "Contractor").

RECITALS

The County and the Developer have entered into an agreement dated [_____ ___], 2019 (the "Project Agreement") whereby the Developer has agreed to design, construct, finance, operate and maintain the new Civil and Probate Courthouse in Miami-Dade County, Florida (the "Project"), all as more particularly described in the Project Agreement;

The Developer and the Contractor have entered into an agreement dated October 18, 2019 (the "Material Contract") whereby the Contractor has agreed to carry out and complete that part of the Developer's obligations under the Project Agreement consisting of the operation and maintenance of the Miami-Dade County Civil and Probate Courthouse, all as more particularly described in the Material Contract; and

It is a condition of the Material Contract that the Contractor enter into this Agreement with the County and the Developer.

NOW, THEREFORE, in consideration of the mutual promises and agreements of the parties herein expressed and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows:

ARTICLE 1

DEFINITIONS AND INTERPRETATION

SECTION 1.1. DEFINITIONS. Unless otherwise specified or the context otherwise requires, capitalized but otherwise undefined terms in this Agreement shall have the respective meaning given to such terms in the Project Agreement.

SECTION 1.2. INTERPRETATION.

This Agreement shall be interpreted according to the following provisions, except to the extent that the context or the express provisions of this Agreement otherwise require.

(1) Plurality. Words importing the singular number mean and include the plural number and vice versa.

(2) Persons. Words importing persons include individuals, legal personal representatives, firms, companies, associations, joint ventures, general partnerships, limited partnerships, limited liability partnerships, limited liability companies, trusts, business trusts, corporations, governmental bodies, and other legal entities.

(3) Headings. The table of contents and any headings preceding the text of the Articles, Sections and subsections of this Agreement shall be solely for convenience of reference and shall not affect its meaning, construction or effect.

(4) References Hereto. The terms "hereby," "hereof," "herein," "hereunder" and any similar terms refer to this Agreement.

(5) References to Days and Time of Day. All references to days herein are references to calendar days, unless otherwise indicated, such as by reference to Business Days. Each reference to time of day is a reference to Eastern Standard time or Eastern Daylight Saving time, as the case may be.

(6) References to Business Days. If the time for doing an act falls or expires on a day that is not a Business Day, the time for doing such act shall be extended to the next Business Day.

(7) References to Including. The words "include", "includes" and including" are to be construed as meaning "include without limitation", "includes without limitation" and "including without limitation", respectively.

(8) References to Statutes. Each reference to a statute or statutory provision includes any statute or statutory provision which amends, extends, consolidates or replaces the statute or statutory provision or which has been amended, extended, consolidated or replaced by the statute or statutory provision and includes any orders, regulations, by-laws, ordinances, codes of practice or instruments made under the relevant statute.

(9) References to Governmental Bodies. Each reference to a Governmental Body is deemed to include a reference to any successor to such Governmental Body or any organization or entity or organizations or entities which has or have taken over the functions or responsibilities of such Governmental Body.

(10) References to Documents and Standards. Each reference to an agreement, document, standard, principle or other instrument includes (subject to all relevant approvals and any other provision of this Agreement expressly concerning such agreement, document, standard, principle or other instrument) a reference to that agreement, document, standard, principle or instrument as amended, supplemented, substituted, novated or assigned.

(11) References to All Reasonable Efforts. The expression "all reasonable efforts" and expressions of like import, when used in connection with an obligation of the Developer or the Contractor, means taking in good faith and with due diligence all commercially reasonable steps to achieve the objective and to perform the obligation, including doing all that can reasonably be done in the circumstances taking into account each party's obligations hereunder to mitigate delays and additional costs to the other party, and in any event taking no less steps and efforts than those that would be taken by a commercially reasonable and prudent person in comparable circumstances but where the whole of the benefit of the obligation and where all the results of taking such steps and efforts accrued solely to that person's own benefit.

(12) Entire Agreement. This Agreement contains the entire agreement between the County and the other parties hereto with respect to the transactions contemplated by this Agreement. Without limiting the generality of the foregoing, this Agreement shall completely and fully supersede all other understandings and agreements between the County and the other parties with respect to such transactions.

(13) Counterparts and Delivery by Electronic Mail. This Agreement may be executed in any number of original counterparts. All such counterparts shall constitute but one and the same Agreement. Any party may deliver an executed copy of this Agreement by electronic mail and such counterpart shall be deemed effective upon receipt, but that party will promptly deliver via mail or courier to the other parties an originally executed copy of this Agreement.

(14) Governing Law. This Agreement shall be governed by and construed in accordance with the applicable laws of the State and the County.

(15) Severability. Each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Agreement is held to be invalid, unenforceable or illegal to any extent, such provision may be severed and such invalidity, unenforceability or illegality shall not prejudice or affect the validity, enforceability and legality of the remaining provisions of this Agreement. If any such provision of this Agreement is held to be invalid, unenforceable or illegal, the parties will promptly endeavor in good faith to negotiate new provisions to eliminate such invalidity, unenforceability or illegality and to restore this Agreement as nearly as possible to its original intent and effect.

(16) Drafting Responsibility. The parties waive the application of any rule of law which otherwise would be applicable in connection with the construction of this Agreement that ambiguous or conflicting terms or provisions should be construed against the party who (or whose counsel) prepared the executed agreement or any earlier draft of the same.

(17) Accounting and Financial Terms. All accounting and financial terms used herein are, unless otherwise indicated, to be interpreted and applied in accordance with generally accepted accounting principles, consistently applied, in the United States.

(18) Consents. Any consent required to be given under this Agreement must be in writing.

ARTICLE 2

SUBSTITUTION PROVISIONS

SECTION 2.1. NOTICE TO COUNTY OF INTENT TO TERMINATE. Except as a result of a termination by the Developer pursuant to the terms of the Material Contract, the Contractor shall not terminate or treat as terminated its engagement under the Material Contract or discontinue its services with respect to the Project, without first giving to the County and the Senior Lenders not less than 10 Business Days' prior notice of the Contractor's intention to do so, specifying the grounds for so doing.

SECTION 2.2. SUSPENSION OF TERMINATION. If the County serves on the Contractor a notice in accordance with Section 2.3, the Contractor shall not terminate or treat as terminated its engagement, or discontinue the performance of any of its obligations, under the Material Contract but service of such notice shall not prejudice any other right or remedy the Contractor may have under or in connection with the Material Contract.

SECTION 2.3. SUBSTITUTION NOTICE. Unless the engagement of the Contractor under the Material Contract has been terminated previously (and whether or not the Contractor has served notice on the County pursuant to Section 2.1), and if the Project Agreement has been properly terminated in accordance with its terms, the County will be entitled at any time, but subject to Section 2.5 where a notice has been served by the County, to serve upon the Contractor a notice informing the Contractor that the Project Agreement has been terminated and requiring the Contractor to thereafter accept the instructions of the County or its appointee to the

exclusion of the Developer under and in connection with the Material Contract and the Contractor shall comply with such notice.

SECTION 2.4. SUBSTITUTION OF THE COUNTY. From and after the date of service of the notice under and in compliance with Section 2.3, provided that the Contractor has received notice from either the County or the Developer that the Project Agreement has been terminated, the Developer shall be deemed to have assigned all the rights, and the County or its appointee shall be deemed to have accepted the assignment and assumed and agreed to perform all the obligations, of the Developer under the Material Contract outstanding as of the date of service of such notice by the County under Section 2.3, whether incurred prior to or after the date of service of such notice by the County under Section 2.3, provided that such deemed assignment and assumption shall not affect or derogate from any right of action the Developer may have against the Contractor in respect of any breach by the Contractor of its obligations under the Material Contract happening prior to the date of service of notice by the County under Section 2.3. As a condition precedent to the Contractor's obligation to perform on behalf of the County, the County shall provide reasonable assurances in writing to the Contractor that the funds necessary to pay the outstanding obligations under the Material Contract will be available for such purposes in a timely manner.

SECTION 2.5. REPLACEMENT MATERIAL CONTRACT. If the engagement of the Contractor under the Material Contract is terminated before service by the County of any notice under Section 2.3, the Contractor shall, if required to do so by notice served by the County not later than 20 Business Days after the date the Contractor serves notice pursuant to Section 2.1, enter into a new Material Contract with the County or its appointee on the same terms as the Material Contract but with such revisions as the County or the Contractor reasonably requires to reflect altered circumstances. Following the execution of a new Material Contract, references in this Agreement to "Material Contract" shall be deemed to mean the new Material Contract. The rights of the County under this Section 2.5 will be applicable only after the Project Agreement has been properly terminated in accordance with its terms. As a condition precedent to the Material Contractor's obligation to enter into the new Material Contract, the County shall provide reasonable assurances in writing to the Project Contractor that the funds necessary to pay the obligations of the County under the new Material Contract will be available for such purposes in a timely manner.

SECTION 2.6. NOTICE TO PREVAIL. As against the Developer and the County, the Contractor shall be entitled to rely upon and obligated to comply with any notice served by the County under Section 2.3 or Section 2.5, and shall not make, nor be required to make, any inquiry into the entitlement of the County as against the Developer to serve such notice.

SECTION 2.7. SENIOR LENDERS' RIGHTS PARAMOUNT. Notwithstanding the above, the County shall only be entitled to issue a notice under Section 2.3 or Section 2.5 where the Senior Lenders have not, within 20 Business Days of receiving the Contractor's notice pursuant to Section 2.1, exercised any similar rights of substitution they may have pursuant to the Lenders' Remedies Agreement.

SECTION 2.8. DEVELOPER BOUND. The Developer shall be bound to the provisions of this Article 2.

ARTICLE 3

INSURANCE

SECTION 3.1. POLICY IN FORCE. The Contractor shall keep in force at all times until the termination of its engagement under the Material Contract all of the policies of insurance

that it is required to obtain and maintain under the Material Contract, except, however, the Contractor shall maintain completed operations liability insurance until two years after the termination of its engagement under the Material Contract.

SECTION 3.2. EVIDENCE OF INSURANCE. Upon the issue of and upon every renewal of a policy of insurance, and otherwise upon request by the County, the Contractor shall deliver to the County a copy of the policy of insurance or other evidence of insurance required under the Material Contract. Upon request by the County, the Contractor shall deliver proof of payment of premiums for insurance required to be obtained and maintained under the Material Contract.

ARTICLE 4

CONFIDENTIALITY

SECTION 4.1. CONFIDENTIAL INFORMATION. The Contractor represents and warrants that it has and shall hold in confidence any Confidential Information, provided that the provisions of this Section shall not restrict the Contractor from passing such information to its professional advisors, to the extent necessary, to enable the Contractor to perform (or cause to be performed) or to enforce its rights or obligations under the Material Contract or to such other persons as may be expressly required by the Material Contract.

SECTION 4.2. EXCEPTIONS. The obligation to maintain the confidentiality of the Confidential Information does not apply to Confidential Information:

(A) which the County confirms in writing is not required to be treated as Confidential Information;

(B) which is or comes into the public domain otherwise than through any disclosure prohibited by this Agreement;

(C) to the extent the Contractor is required to disclose such Confidential Information by Applicable Law or any Governmental Body (but only to that extent); or

(D) to the extent consistent with any County policy the details of which have been provided to the Contractor in writing prior to the disclosure.

SECTION 4.3. ANNOUNCEMENTS. Unless otherwise required by any Applicable Law, by any Governmental Body or by the rules, orders or regulations of any stock exchange (but only to that extent), the Contractor shall not make or permit to be made any public announcement or disclosure (whether for publication in the press, radio, television or any other medium) of any Confidential Information or the Contractor's interest in the Project or any matters relating thereto, without the prior written consent of the County, which will not be unreasonably withheld or delayed.

ARTICLE 5

GENERAL

SECTION 5.1. ASSIGNMENT. Other than in conjunction with a permitted assignment of the Material Contract in accordance with its terms, the Contractor may assign this Agreement only with the prior written consent of the County, which consent may be given in the County's sole discretion.

SECTION 5.2. INUREMENT. This Agreement inures to the benefit of and binds the parties and their respective successors and permitted assigns.

SECTION 5.3. NOTICES. Each notice to a party must be given in writing. A notice may be given by delivery to an individual or by electronic mail, and will be validly given if delivered on a Business Day to an individual at the following address, or, if transmitted on a Business Day by electronic mail addressed to the following party:

if to the County:

Miami-Dade County Internal Services Department
Attention: Dan Chatlos
111 NW 1st Street, Suite 2100
Miami, Florida 33128
Telephone: 305-375-4812
Email: chatlos@miamidade.gov

with a copy to:

Miami-Dade County Attorney's Office
111 N.W. 1st Street, Suite 2810
Miami, Florida 33128
Attention: Eduardo Gonzalez, Monica Rizo Perez and Oren Rosenthal
Telephone: 305-375-5151
Email: EduardoCAO.Gonzalez@miamidade.gov
Monica.Rizo@miamidade.gov
Oren.Rosenthal@miamidade.gov

if to the Developer:

Plenary Justice Miami LLC
100 N Tampa Street, Suite 2840
Tampa, Florida 33602
Attention: Mike Schutt
Telephone: 813-387-3880
Email: notices@plenarygroup.com

with a copy to:

Plenary Group (Canada) Ltd.
400 Burrard Street, Suite 2000
Vancouver, BC V6C 3A6
Attention: Vice President

if to the Contractor:

Johnson Controls, Inc.
56 Leek Crescent
Richmond Hill, Ontario L4B 1H1
Attention: John J. Fleming

Telephone: 905-747-3736
Email: john.j.fleming@jci.com

with a copy to:

Johnson Controls, Inc.
Building Technology & Solutions
507 East Michigan Street
Milwaukee, WI 53202
Attention: VP & General Counsel
Telephone: 414-524-1200

or to such other address as any party may, from time to time, designate in the manner set forth above.

SECTION 5.4. WAIVERS. No waiver of any provision of this Agreement is binding unless it is in writing and signed by all the parties to this Agreement except that any provision which does not give rights or benefits to particular parties may be waived in writing, signed only by those parties who have rights under, or hold the benefit of, the provision being waived if those parties promptly send a copy of the executed waiver to all other parties. No failure to exercise, and no delay in exercising, any right or remedy under this Agreement will be deemed to be a waiver of that right or remedy. No waiver of any breach of any provision of this Agreement will be deemed to be a waiver of any subsequent breach of that provision or of any similar provision.

SECTION 5.5. NO PARTNERSHIP OR AGENCY. Nothing in this Agreement will be construed as creating a partnership or as constituting the Contractor as an agent of the County. The Contractor shall not hold itself out as having any power to bind the County in any way.

SECTION 5.6. CONFLICTING AGREEMENT. If there is any conflict or inconsistency between the provisions of this Agreement and the Project Agreement, the provisions of the Project Agreement will prevail.

SECTION 5.7. REMEDIES CUMULATIVE. The rights and remedies under this Agreement are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise. No single or partial exercise by a party of any right or remedy precludes or otherwise affects the exercise of any other right or remedy to which that party may be entitled.

SECTION 5.8. NO INDIRECT LOSSES. No party may claim damages for breach of this Agreement or tortious act, whether under statute, contract, tort, common law or on any other basis whatsoever, to the extent that any loss claimed is for Indirect Losses suffered or allegedly suffered by such party. For purposes of this Section 5.8, "Indirect Losses" means any special, incidental, consequential, punitive or similar losses or damages based upon claims arising out of or in connection with the performance or non-performance of a party's obligations or otherwise under this Agreement, or any representation made in this Agreement being materially incorrect.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF the parties have executed this Agreement on the day and year first above written.

ATTEST:

Notary Public

Notary Seal

PLENARY JUSTICE MIAMI LLC

By:

Name: Brian Budden

Title: President

Date:

ATTEST:

Notary Public

Notary Seal

KATRINA MARIE BALENTYNE
MY COMMISSION # GG010216
EXPIRES July 10, 2020
(407) 398-0153 FloridaNotaryService.com

By:

Name: Mike Schutt

Title: Vice President

Date:

ATTEST:

Notary Public

Notary Seal

JOHNSON CONTROLS, INC.

By:

Name: Claudio W. Andreetta

Title: Director, P3 Business Development

Date:

ATTEST:

Clerk of the Board

MIAMI-DADE COUNTY, FLORIDA

By:

Name: Carlos A. Gimenez

Title: Mayor

Date:

APPROVED FOR FORM AND LEGAL SUFFICIENCY
this ____ day of _____, 2019.

Assistant County Attorney

IN WITNESS WHEREOF the parties have executed this Agreement on the day and year first above written.

ATTEST:

Notary Public

Notary Seal

PLENARY JUSTICE MIAMI LLC

By:

Name: Brian Budden

Title: President

Date:

ATTEST:

Notary Public

Notary Seal

By:

Name: Mike Schutt

Title: Vice President

Date:

ATTEST:

SEE ATTACHED

Notary Public

Notary Seal

JOHNSON CONTROLS, INC.

By:

Name: Claudio W. Andreetta

Title: Director, P3 Business Development

Date: 10-11-19

ATTEST:

Clerk of the Board

MIAMI-DADE COUNTY, FLORIDA

By:

Name: Carlos A. Gimenez

Title: Mayor

Date:

APPROVED FOR FORM AND LEGAL SUFFICIENCY
this ____ day of _____, 2019.

Assistant County Attorney

This certificate is attached to a _____ *page document dealing with/entitled* Collateral agreement *and dated* _____

California JURAT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Orange

Subscribed and sworn to (or affirmed) before me on this 11 day of October, 20 19, by Claudio William Andreetta,

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

JOSEPH C. ROCHA
COMM.# 2272436
NOTARY PUBLIC - CALIFORNIA
ORANGE COUNTY
My Comm. Expires Dec. 22, 2022

Signature _____ (Seal)

Printed 01-18

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Courthouse Interdepartmental Agreement

Interdepartmental Agreement between Miami-Dade Department of Transportation and Public Works and The Miami-Dade Internal Services Department for Management of Construction and Operation of a County Courthouse on Transit Property

This Interdepartmental Agreement ("Agreement") is made and entered into this 25 day of October 2019 between Miami-Dade Department of Transportation and Public Works, located at 701 N.W. 1st Court, Miami, FL 33136, hereafter referred to as **DTPW**, and the Miami-Dade Internal Services Department located at 111 NW 1st Street, Miami, Florida 33128, hereafter referred to as **ISD** (collectively the "Parties").

WHEREAS, the property upon which the new Miami-Dade County Civil and Probate Courthouse ("Courthouse") is to be constructed and operated, as more fully described in Exhibit A ("Property"), was acquired by DTPW with partial funding in the amount of eighty percent (80%) under Urban Mass Transportation Administration ("UMTA") Grant No. FL03-0036 as part of the land acquisition process for the Miami-Dade County Metrorail system; and

WHEREAS, Miami-Dade County ("County") through ISD proposes to enter into an agreement with Plenary Justice Miami LLC (the "Developer") to design, finance, construct, operate and maintain the Courthouse on the Property ("Courthouse Project Agreement") attached hereto and incorporated herein as Exhibit B; and

WHEREAS, the County will retain ownership and control of the Property and Courthouse; and

WHEREAS, the County, through ISD, will retain the obligation and responsibility to manage the Courthouse Project Agreement between the County and Plenary Justice Miami LLC; and

WHEREAS, ISD agrees at all times during the term of this Agreement, to use reasonable efforts to manage the Courthouse Project Agreement in a manner which enhances the ridership and usage of the Metrorail, Metromover and Metrobus systems (the "System") and creates strong, continuous and unrestricted access links between the Property, the Courthouse and those systems; and

WHEREAS, the Federal Transit Administration ("FTA") requires DTPW, as the recipient of the grant for the acquisition of the Property upon which the Courthouse will be constructed and operated, to comply with the FTA requirements regarding joint development, including, but not limited to, the requirement that DTPW retain continuing control of the Property acquired with federal funds and that the development of the Property will provide a fair share of revenue that will be used for DTPW transit services.

NOW THEREFORE in consideration of the foregoing and mutual covenants expressed herein, ISD and DTPW agree as follows:

1. Recitals

The recitals are true and correct and are incorporated herein by this reference to form a part of this Agreement.

2. Term of Agreement

The initial term of this Agreement shall be for a period of thirty-four (34) years and shall commence, subject to the prior approval by the FTA, upon award of an agreement by the County to Plenary Justice Miami LLC for the design, financing, construction, operation and maintenance of the Courthouse. Provided that this Agreement is not then in default, ISD shall have the right to renew this Agreement for up to four (4) additional consecutive twenty (20) year renewal terms prior to the expiration of the then applicable term. Additionally, ISD shall have the right to terminate this Agreement upon one hundred-eighty (180) days prior written notice to DTPW, provided however, prior to any termination, the Courthouse shall be demolished and the property returned to substantially the condition that existed prior to the commencement of this Agreement.

3. Definitions

a) Agreement shall mean this interdepartmental agreement and all agreements and exhibits incorporated therein.
b) Courthouse shall mean the new Miami-Dade County Civil and Probate Courthouse to be constructed and operated on the Property.
c) Developer shall mean Plenary Justice Miami LLC, the entity awarded the Courthouse Project Agreement by the County to finance, design, construct, operate and maintain the Courthouse.
d) Impositions shall mean all ad valorem taxes, special assessments, sales taxes and other governmental charges and assessments levied or assessed with respect to the Property, the improvements and the activities conducted thereon or therein.
e) Property shall mean the County-owned property described in Exhibit A.

4. Rent

ISD shall pay to DTPW rent in the amount of one-million fifty thousand dollars ($1,050,000) annually during the initial 34-year term of this Agreement. Prior to the expiration of the initial term and the expiration of any renewal term thereafter, DTPW shall perform an appraisal of the property which appraisal shall be subject to the use of the property as the site of a County courthouse. Prior to any renewal term, DTPW and ISD shall mutually agree upon a new annual rent to be applicable for the ensuing renewal term which shall be based upon 1) the fair market rental value of the land established by the appraisal and 2) consideration of the continued public use and benefit of the County courthouse on the site. The new rent shall be due to DTPW upon exercise of the applicable renewal term.

DTPW shall use the rent in support of the Strategic Miami Area Rapid Transit (SMART) Plan. The County shall incorporate any necessary budgetary adjustments in the current and future proposed budgets to reflect this arrangement. Rent for the first year of the Agreement shall be paid within 30 days of execution of the Project Agreement and on each anniversary thereafter without notice.

5. Designation of Coordinators

ISD and DTPW shall each designate a coordinator to act as a liaison in administering this agreement. The coordinator may be changed by written notice to the other party.

6. All Work Performed in Compliance with the Courthouse Project Agreement

The Parties recognize and acknowledge that the manner in which the Property is developed, used and operated are matters of critical importance to DTPW and to the general welfare of the community. ISD will require the Developer to use reasonable efforts to develop the Property in a manner that is substantially consistent with this Agreement, which is intended to enhance the ridership and usage of the System.

Any work or activities performed on the Property shall be in compliance with the Courthouse Project Agreement and the terms and conditions contained therein. Any activities which may impact any transit facilities including but not limited to the Metrorail System, the Metromover System or the Metrobus System and access to those systems must be reviewed and approved by DTPW prior to the commencement of any such work or activities.

DTPW reserves the right, as determined by DTPW at its sole discretion and subject to change from time to time and at the sole cost of the Developer, to require employees or representatives to be present to monitor and coordinate any work or activities on the Property that may potentially impact any portion of the System, County or transit facilities, and/or County employees, transit patrons, or any other persons.

7. Dangerous Liquids and Materials

ISD shall not knowingly permit any entity to carry flammable or combustible liquids into or onto the Property at any time except as such substances are used in the ordinary course of business and shall prohibit the storage or manufacture of any flammable or combustible liquid or dangerous or explosive materials in or on the Property; provided that this restriction shall not apply to prevent (a) the entry and parking of motor vehicles carrying flammable or combustible liquids solely for the purpose of their own propulsion, or (b) the use of normal cleaning and maintenance liquids and substances.

8. Amendments to Agreement

No material changes to the project as described and specifically set forth in the Courthouse Project Agreement may be undertaken without an amendment to this Agreement which shall be subject to approval by the FTA.

This Agreement and the agreements and exhibits incorporated herein, including but not limited to the Courthouse Project Agreement, contain the entire agreement of the Parties and there are no conditions or limitations to this undertaking except those stated herein. Any alterations, changes or modifications to this Agreement shall require the mutual consent of the Parties and shall be made in writing and signed by the authorized representatives of DTPW and ISD.

9. Compliance with Laws, Statutes, Regulations and Ordinances.

During the performance of this Agreement, the Parties agree to comply, and to require compliance by the Developer and all of its contractors and subcontractors through the Courthouse Project Agreement, with the following:

a) Non-discrimination - to not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression, status as victim of domestic violence, dating violence or stalking, or veteran status, and on housing related contracts, the source of income and will take affirmative action to ensure that employees and applicants are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to recruitment, employment, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on the job training.
b) The Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95.
c) 49 CFR 26.7 binding parties not to discriminate based on race, color, national origin or sex;
d) 49 CFR 27.7, 27.9(b) and 37 binding parties not to discriminate based on disability and binding same to compliance with the Americans with Disabilities Act with regards to any improvements constructed;
e) Requirements contained in the Federal Transit Administration's Master Agreement, updated annually, particularly related to conflicts of interest, debarment and suspension;
f) All regulations of the U.S. Department of Transportation; all applicable provisions of the Civil Rights Act of 1964;
g) Executive Order 11246 of September 24, 1964 as amended by Executive Order 11375; d
h) Chapter 33C and Articles 3 and 4 of Chapter 11A of the Code of Miami-Dade County; and
i) All applicable laws and ordinances, including applicable provisions of the Fire Life Safety Criteria found in the Metrorail Compendium of Design Criteria, Volume 1, Chapter 9 and DTPW's Adjacent Construction Safety Manual or its replacement. It should be noted that the DTPW Adjacent Construction Safety Manual contains minimum requirements and DTPW may impose more stringent requirements as to construction on the Property if DTPW Owner reasonably determines that more stringent requirements are warranted to adequately protect the System, in whole or in part, and its operation, provided that DTPW shall (a) endeavor to impose such requirements at the earliest stage possible, and (b) cooperate and work in good faith with ISD and the Developer to mitigate any safety standards and requirements that would materially increase construction costs or materially delay construction through alternative practices and procedures to facilitate the construction on the Property without such increase in costs or delays in construction wherever reasonably possible, provided that such alternative practices and procedures shall not jeopardize the safety of the System, in whole or in part, or the users of the System or of any employees, agents, licensees and permittees of the County.

10. Obligation for Enforcement

Upon learning of the occurrence of actions violating any law, statute, regulation or ordinance, ISD shall take immediate corrective action, including the bringing of a suit in the court having jurisdiction, if necessary.

11. Termination of Agreement

This agreement may be terminated as provided in Section 2 above.

12. Agreement Superior to All Other Agreements and Encumbrances

This Agreement and amendments thereto, shall be prior and superior to all other agreements, including but not limited to, the Courthouse Project Agreement, any subcontracts and any financing agreements. Any inconsistency between this Agreement, the Courthouse Project

Agreement, any subcontracts and/or any financing agreements shall be resolved in favor of this Agreement.

13. Approvals and Notices

Approvals and notices required under this Agreement shall be in writing directed to the parties at their respective addresses as follows:

DTPW:

Director
Miami-Dade Department of Transportation and Public Works
701 N.W. 1st Court, 17th Floor
Miami, FL 33136

ISD:

Director
Internal Services Department
111 NW 1st Street, Suite 2100
Miami, FL 33128

IN WITNESS WHEREOF, the Parties hereto have caused this Interdepartmental Agreement to be executed by their respective and duly authorized officers the day and year first above written.

MIAMI-DADE DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS

Alice N. Bravo, P.E.
Director

MIAMI-DADE INTERNAL SERVICES DEPARTMENT

Tara C. Smith
Director