

TENDER AGREEMENT

This Tender Agreement ("Agreement") is made and entered into this 25th day of July, 2025 ("Effective Date") by and between Seminole County (the "Owner"), Merchants Bonding Company (Mutual) (the "Surety"), Ovation Construction Company, Inc. (the "Original Contractor"), and L7 Construction, Inc. (the "Completing Contractor"). Now therefore, in consideration of the following good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the mutual promises and agreements herein contained, the parties agree as follows:

1. **The Prime Contract.** The Original Contractor and the Owner entered into a construction contract dated April 2, 2024 (the "Prime Contract") for the construction of Yankee Lake Water Reclamation Facility Renewal and Replacement – Phase 2 (the "Project").

2. **The Bonds.** Under the terms of the Prime Contract, Original Contractor and the Surety made, executed and delivered to the Owner Performance Bond and Payment Bond No. 100270546 (collectively, the "Bonds" individually the "Performance Bond" and "Payment Bond"), both in the penal sum of \$2,909,291.89.

3. **Principal's Termination.** The Owner formally terminated the Original Contractor under the Prime Contract on March 27, 2025 and made demand on the Surety under the Performance Bond to complete the Project. Upon execution of this Agreement, the Owner has agreed to change the Original Contractor's Termination for Cause to a Termination for Convenience. In exchange, the Original Contractor agrees to not submit any bids or proposals to the Owner for five (5) years from the Effective Date.

4. **Completion of Prime Contract.** The Surety obtained a proposal for completion of the Prime Contract from the Completing Contractor. In fulfillment of the terms of the Performance Bond, the Surety tenders the Completing Contractor to the Owner and the Owner accepts the tender of the Completing Contractor to complete the Prime Contract upon the terms set forth therein and in this Agreement.

5. **Completing Contractor's Proposal.** Completing Contractor has submitted a bid proposal in the amount of \$2,921,736.00 to complete the obligations of the Prime Contract upon the terms set forth therein (except as modified by this Agreement) in strict accordance with the terms and conditions of the Prime Contract and this Agreement. The obligations of the Completing Contractor under this Agreement and under the Prime Contract are all hereinafter sometimes jointly referred to as the "Work."

6. **Original Contractor Assignment of Materials.** Original Contractor shall provide the Completing Contractor with materials as detailed hereto as Exhibit "A". All associated material warranties shall be provided by the Completing Contractor to Owner and must be in accordance with the Contract Documents. For the avoidance of doubt, all warranties for materials and the Work must be provided by the Completing Contractor as if Completing Contractor had entered into the contract with the Owner for the Prime Contract in the first instance. Failure of Original Contractor to provide the materials and all warranties for materials specified in Exhibit "A" to Completing Contractor shall deem this Agreement null and void.

Completing Contractor waives, releases, discharges and acquits Owner from any and all liability related in any way to the materials received from the Original Contractor, and any and all other claims it now has or may have, whether known or unknown, including those in the past, present, or future related in any way to the materials received from the Original Contractor. Completing Contractor acknowledges that this waiver is intended to include, without limitation, all claims that were or could have been raised, which the Completing Contractor did not know of or suspect to exist regarding the materials received from the Original Contractor and that this waiver contemplates extinguishment of all such claims that were or could have been raised related to such materials.

7. **New Performance & Payment Bonds.** Completing Contractor shall within seven (7) days of the execution of this Agreement, provide Owner a Performance Bond and a Payment Bond (hereinafter referred to as "New Performance Bond" and "New Payment Bond," respectively) in the amount of \$2,921,736.00 naming Completing Contractor as Principal and "Seminole County" as Oblige. Such New Performance Bond and New Payment Bond must be in the form provided in this Agreement as Exhibit "B" and in accordance with the Contract Documents. The New Performance Bond shall guarantee Completing Contractor's performance of the terms of this Agreement and the Prime Contract. Accordingly, the Completing Contractor must notify the surety for the New Performance Bond and new Payment Bond of this Agreement and provide an executed copy of this Agreement to the new surety. The New Payment Bond shall guarantee Completing Contractor's payment of all laborers, materialmen, and suppliers for all labor, equipment, and materials provided to or on behalf of Completing Contractor. The New Performance Bond and New Payment Bond shall be effective as of the Effective Date of this Agreement and from a surety acceptable to the Owner and Surety. Premium costs for said bonds shall be borne by the Completing Contractor.

8. **Payment Bond Subject to its Terms.** The Payment Bond shall remain in full force and effect only for valid and timely claims for the obligations of Original Contractor in accordance with the terms of the Payment Bond. Original Contractor and Surety retain all obligations, rights, and defenses related thereto. Completing Contractor shall not be responsible for debt or obligations incurred by Original Contractor except as set forth herein. The Payment Bond shall not be responsible for labor or material supplied to Completing Contractor and shall not be considered a co-surety with Completing Contractor's surety. All payments made by Surety relating to claims on its Payment Bond as provided herein shall be credited against the penal limit of its Payment Bond. Surety shall not, under any circumstances, be obligated to expend more than the penal limit of its Payment Bond. Surety shall in no way be responsible for any payment obligations, debts, or failures undertaken by Completing Contractor and its surety. Nothing herein shall in any way expand or extend the Surety's liability under the Payment Bond.

9. **Insurance Requirements.** Completing Contractor shall comply with all Prime Contract insurance requirements as set forth in the Prime Contract. Completing Contractor must provide evidence of compliance with the insurance provisions of the Prime Contract to the Owner prior commencement of work on the Project.

10. **Opportunity to Inspect and Review.** Completing Contractor represents that it has received copies the Prime Contract, plans, and specifications and addenda thereto, together with all other documents comprising the Contract Documents as that term is defined in the Prime Contract. Completing Contractor further represents that it has diligently investigated and

inspected the Prime Contract and Project jobsite and is familiar with the condition thereof, the materials available but not yet incorporated into the Project, and the nature and scope of the work to be performed by Original Contractor, and that Completing Contractor has considered all such documents, conditions, and observations in making its proposal herein to complete the Prime Contract. Completing Contractor confirms that no representations with respect to same have been made by Surety, Owner, or any of their representatives. Owner nor Surety have made any warranties or representations, express or implied, to Completing Contractor with respect to the Prime Contract or the Project. Surety makes no representation or warranty regarding any future performance of any subcontractor or supplier, the availability of any leased equipment or facilities, or the availability of any materials supplied or to be supplied to the Project.

11. **Responsibility for Prime Contract.** Completing Contractor and its surety shall assume full, total, and complete responsibility for all obligations and work and materials to be incorporated into the Project pursuant to the Prime Contract requirements. Any change orders requested by the Completing Contractor on the new construction must be approved in accordance with the same procedure specified in the Prime Contract.

12. **Warranty.** Completing Contractor warrants all work performed under the Prime Contract according to the warranty terms of the Prime Contract. In addition, Completing Contractor agrees to adhere to the warranties and representations made by the Original Contractor under the Prime Contract, and further assumes all risks associated therewith and shall perform all warranty work that may be required.

13. **Prime Contract Balance.** The Surety and the Owner agree that the contract balance remaining under the Prime Contract is \$2,909,291.89 (the "Contract Balance"). The Owner agrees to rededicate the entire remaining Contract Balance to payment of the Completing Contractor for completion of the Project.

14. **Performance Payment by Surety or Original Contractor.** The Original Contractor agrees a payment of \$52,194.11 shall be made to Owner within thirty (30) calendar days of execution of this Agreement by the Owner, the Surety, Original Contractor, and the Completing Contractor (the "Performance Payment") in full settlement of the Performance Bond claim for the Prime Contract. If the Original Contractor fails to make payment within thirty (30) calendar days, the Surety shall make payment within an additional ten (10) calendar days thereafter. This amount represents the difference between the Contract Balance and the bid of the Completing Contractor and the amount of agreed to liquidated damages. The Owner agrees that this consideration is and shall be deemed full and final satisfaction of any and all claims against the Surety related to the Performance Bond or the Project including, without limitation, claims for delay damages, including but not limited to liquidated damages.

15. **Preservation of Penal Limit.** The Owner agrees that nothing herein shall be deemed to waive the limitation of the Surety's liability under the Performance Bond above and beyond the penal limit of the Performance Bond, except as provided in this Agreement.

16. **Payment.** Completing Contractor agrees to accept and the Owner agrees to pay Completing Contractor \$2,921,736.00 for the Work, including the Completing Contractor's work in completion of the Prime Contract and in compliance with the terms of this Agreement. The

Owner shall pay Completing Contractor in the same manner and upon the same terms as set forth in the Prime Contract, and as modified by this Agreement.

17. **Mutual Release by Original Contractor, Owner, and Surety.** Effective upon complete execution of this Agreement, the Original Contractor, Owner, and Surety expressly release, acquit, and forever discharge each other, their heirs, successors and assigns, subsidiaries, parents or affiliates from any and all claims, rights, demands and/or causes of action of whatsoever kind which the Original Contractor, Owner, and Surety have or may claim to have against each other under and/or by reason of the Prime Contract and Performance Bond contingent on strict performance of obligations by the parties to this Agreement. Failure to comply with the requirements set forth in this Agreement will render this Agreement null and void as if it had not been entered into resulting in reinstatement of the obligations required under the Prime Contract and the Performance Bond by the Original Contractor and Surety, as applicable.

18. **Acceptance of Completing Contractor.** The Owner accepts Completing Contractor for the completion of the Prime Contract, including Completing Contractor's responsibility for all labor and material contemplated under the Prime Contract and this Agreement. The Owner conveys the Prime Contract, dated April 2, 2024 to the Completing Contractor and Completing Contractor accepts same with full rights and responsibilities as if the Completing Contractor had entered into a contract for the Work directly with the Owner.

19. **Project Schedule.** The New Performance Bonds, New Payment Bonds, and the Performance Payment must be provided in accordance with the timeframes set forth in this Agreement, but prior to commencement of Work. The time of performance of the Work of the Prime Contract pursuant to the terms of this Agreement shall be the following:

<u>Commencement of Work:</u>	September 1, 2025
<u>Substantial Completion:</u>	August 7, 2026
<u>Final Completion:</u>	September 4, 2026

In the event Completing Contractor does not achieve substantial completion of the Prime Contract within the time established as set forth above, or as modified by the Prime Contract terms or the terms of this Agreement, Completing Contractor shall be assessed delay damages as specified in the Prime Contract. Under no circumstances shall Surety be liable for the assessment of delay damages beyond those specified in this Agreement.

20. **Entirety of Agreement.** The Owner, Surety, and Completing Contractor hereby represent that this Agreement, including all documents incorporated herein by reference (including, but not limited to, the Prime Contract, all of its attachments, any and all documents incorporated into the Prime Contract) constitutes the complete agreement between the parties hereto. No oral understandings shall constitute any portion hereof. Notwithstanding any provision of this Agreement, nothing contained herein shall prevent the Owner and Completing Contractor from making changes to the Prime Contract pursuant to its terms. Notwithstanding any other provision of this Agreement, the Original Contractor agrees that the release provisions of this Agreement do not include or in any way modify or limit the General Application and Agreement of Indemnity Contractors Form dated May 30, 2014. Further, this Agreement shall

not release or in any way modify any other written agreements or documents executed by Original Contractor, Bertin J. Karpinski, Jr., and Susan Karpinski for the benefit of the Surety.

21. **No Owner or Surety Obligations.** The Owner and Completing Contractor expressly agree that Surety shall have no further obligations, liabilities, or responsibilities for contract administration in completion of the Prime Contract. Completing Contractor agrees that it shall not look to Owner or Surety for payment of any costs or expenses related to performance of the Work beyond those specified in the Prime Contract and this Agreement. Completing Contractor agrees that it will administer the Work solely with the Owner as if Completing Contractor had entered into the contract with the Owner for the Prime Contract in the first instance.

22. **Release of Surety by Completing Contractor.** Completing Contractor waives, releases, discharges and acquits Surety from any and all liability related in any way to the performance of the Work, the adequacy of the plans and specifications, the administration of the contract and any and all other claims it now has or may have, whether known or unknown, including those in the past, present or future. Surety and Completing Contractor acknowledge that this waiver is intended to include, without limitation, all claims that were or could have been raised, which the parties did not know of or suspect to exist regarding the Prime Contract, the Project and this Agreement and that this waiver contemplates extinguishment of all such claims that were or could have been raised.

23. **Construction.** The parties, together with their respective attorneys, participated in the drafting and preparation of this Agreement. Therefore, the Agreement shall not be construed in favor of or against any party on the basis that such party did or did not draft this Agreement or any attachment to it. If any covenant, term, or condition of this Agreement is illegal, invalid, or unenforceable for any reason, the illegality, invalidity, or unenforceability shall not affect the legality, validity, or enforceability of the remaining terms, covenants, conditions, or provisions of this Agreement.

24. **No Admission of Liability.** The parties agree that this Agreement is not an admission of liability by any party but is rather a compromise of disputed liability, the express purpose of which is to settle existing claims, preclude any additional claims, and avoid the uncertainties and costs of litigation.

25. **Authority.** The parties hereto warrant that they are authorized to execute this Agreement on behalf of their respective entities.

26. **No Third-Party Beneficiaries.** This Agreement is solely for the benefit of the parties hereto. The parties do not intend by any provision hereof to create any third-party beneficiaries or to cover any benefit upon or enforce rights hereunder or otherwise upon anyone other than the parties hereto.

27. **Modifications.** No change, addition, alteration or amendments can be made to this Agreement unless made in writing and signed by all parties to the Agreement.

28. **Venue.** The parties hereby stipulate and agree that if it becomes necessary for any party to this Agreement to file any action in connection with this Agreement including,

without limitation, to enforce any breach of this Agreement, that such action shall be brought in Seminole County, Florida, and that venue is proper therein.

29. **Governing Law and Jury Trial Waiver.** This Agreement shall be governed by and controlled by the laws of the State of Florida, without giving effect to the principles of conflict of laws. The parties expressly waive any right to a trial by jury.

30. **Multiple Counterparts.** This Agreement may be executed in counterparts each of which shall be deemed an original.

31. **Capacity and Authority.** The parties represent and warrant that: (a) they have the legal capacity and are duly authorized to execute and deliver this Agreement; (b) they have taken all action and obtained all consent, if any, necessary to authorize the execution and delivery of this Agreement; (c) this Agreement is a legal, valid, and binding obligation, enforceable in accordance with its terms; and (d) the execution and delivery of this Agreement does not conflict with or result in a breach of any of the terms or provisions of, or constitute a default under, any materials agreement or instrument or any other provision of law, statute, or regulation to which they may be bound.

32. **Terms are Contractual.** The provisions of this Agreement are contractual and are not mere recitals.

33. **Headings.** The headings of the sections and subsections of this Agreement are inserted for convenience only and shall not control or affect the meaning, construction, or effect of this Agreement, or any provisions hereof.

EXECUTED as of the Effective Date.

SEMINOLE COUNTY

By: See attached signature page.
Name: _____
Title: _____

MERCHANTS BONDING COMPANY
(MUTUAL)

By: Chris J. McElroy
Name: Chris McElroy
Title: Claims Attorney

L7 CONSTRUCTION, INC.

By: _____
Name: _____
Title: _____

OVATION CONSTRUCTION COMPANY, INC.

By: _____
Name: _____
Title: _____

EXECUTED as of the Effective Date.


SEMINOLE COUNTY

By: _____
Name: _____
Title: _____


MERCHANTS BONDING COMPANY
(MUTUAL)

By: _____
Name: _____
Title: _____

L7 CONSTRUCTION, INC.

By:  _____
Name: BRETT LEFEVER
Title: PRESIDENT

OVATION CONSTRUCTION COMPANY, INC.

By:  _____
Name: Michael Provost
Title: President

EXECUTED as of the Effective Date.

SEMINOLE COUNTY, FLORIDA

Branda McCracken
Witness

Branda McCracken
Print Name

[Signature]
Witness

Kristen L. Swenson
Print Name

For the use and reliance of
Seminole County only.

Approved as to form and
legal sufficiency.

Brian Patel
County Attorney

By: [Signature]
DARREN GRAY, County Manager

Date: 7/30/25

As authorized for execution by the Board of
County Commissioners at its June 10, 2025,
regular meeting.

EXHIBIT A

No.	Supplier	Qty.	Material
1	McDade Waterworks, Inc	2	36" X 24 " Open close electric actuators w/ valve position indicator, manual override handwheel & stem protector (80-SG-1, 80-SG-2) existing Rotork IQFM (verify)
2	McDade Waterworks, Inc	6	16" open close electric actuators w/ valve position indicator, manual override handwheel & stem protector; (80-v-1a, 80-v-1b, 80-v-2a, 80-v-2b, 80-v-4, 80-v-5)
3	McDade Waterworks, Inc	2	12" open close electric actuators w/ valve position indicator, manual override handwheel and stem protector; (80-v-1c, 80-v-2c) existing rotork iqt500fa10
4	McDade Waterworks, Inc	2	20" open close electric actuators w/ valve position indicator, manual override handwheel and stem protector; (80-v-1d, 80-v-2d) existing rotork iqt2000fa14
5	McDade Waterworks, Inc	13	6" flg ecc plug valve rect port awwa c517 pec, ss bearings, weld-in nickel seat pec,6,f1,ci1n1r1s20sbo*gs-6-hd8)(96564 92) (tag: 135, 171, 177, 197, 211, 237)
6	McDade Waterworks, Inc	2	10" flg ecc plug valve rect port awwa c517 pec, ss bearings, weld-in nickel seat pec,6,f1,ci1n1r,s20sbo*gs-12-hd16) (tag: 122)
7	McDade Waterworks, Inc	2	01" threaded air release valve (arv,11,200a,t1,di,r14-nbr-s2-s2-s2*)(966 8145) (tag: 93)
8	McDade Waterworks, Inc	8	02" threaded air release valve (sewage) (asr,2,450,t1,di1r12-nbr-s2-s2-s2*bfk) (9660486) (tag: 55, 143, 188, 224, 243)
9	McDade Waterworks, Inc	7	06" flg l&w swing check valve series 250 (cvs,6,250a,f1,di,f,di-s11-s2-nbr*lw,del2 2)(9630570) (tag: 75, 134, 196)
10	McDade Waterworks, Inc	13	1/2" apollo cf8m ss thrd ball valve, 1000wog, #76f-103-01a (tag: 103, 152, 203,272)
11	McDade Waterworks, Inc	1	6" c153 mj 90, c/l, l/accys (tag: 108)
12	McDade Waterworks, Inc	1	8" c153 mj l/p sleeve, l/accys (tag: 112)
13	McDade Waterworks, Inc	1	08" x 06" c153 mj tee, c/l, l/accys (tag: 110)
14	McDade Waterworks, Inc	12	08" modulating electric actuators w/ valve position indicator, manual override handwheel and stem protector; (35-v-1 - 35-v-12) existing rotork iqt250fa10
15	McDade Waterworks, Inc	1	12" modulating electric actuator w/ valve position indicator, manual override handwheel and stem protector; (80-v-6) existing rotork iqt500fa10
16	McDade Waterworks, Inc	3	06" flg butterfly valve (baw,6,f1,ci,epdn-epdm,150b,di-s2*gs*6 b-hd8)(9704728) (tag: 78)
17	McDade Waterworks, Inc	8	02" threaded ecc plug valve rec port awwa c517 pec (pec,2,t1,s2,nbr,cr/lv,sb16) (tag: 54,142, 187, 223, 242)
18	TSC-Jacobs North	1	<p>TAGS: 10-GC-1</p> <p>Qty. (1) 18" Full Flare Weir End WEMCO Hydrogritter</p> <ul style="list-style-type: none"> Stainless steel tank Stainless steel spiral, hardware, and supports Stainless Steel Spiral Guard Stainless Steel Spiral Single Pitch ARS Wear Shoes Stainless Steel driven assembly (belt driven with Fiberglass/Polyethylene belt guard) Stainless steel sluice water valve with NEMA 4 Enclosure 1 HP 1800 RPM Premium Efficient TENV Severe Duty Motor with 120V Space Heater Qty 2 - Stainless steel side feedboxes <p>Spare Parts:</p> <ul style="list-style-type: none"> 1 Set - Spare Drive Belts 1 Set - LOWER BEARING KIT 1 Set - LOWER BEARING TOOL 1 Set - WEARSHOE & HARDWARE (DBL 18") 1 Set - Spare liners <p>Please refer to the enclosed Technical Offer 2105854 Item 10-GC-1, 10-GY-1 and 10-GY-2 for further details.</p>
19	TSC-Jacobs North	2	<p>TAGS: 10-GY-1, 10-GY-2</p> <p>Qty. (2) 1000C Wemclone</p> <ul style="list-style-type: none"> Double 1000C Aluminum Wemclone with Neoprene liner (Quantity 2) Stainless Steel Wemclone Hardware Stainless Steel Wemclone support (for double Wemclone configuration) 0-15PSI Wemclone Steel Pressure Gauge <p>Spare Parts:</p> <ul style="list-style-type: none"> 1 Set - Spare Drive Belts 1 Set - LOWER BEARING KIT 1 Set - LOWER BEARING TOOL 1 Set - WEARSHOE & HARDWARE (DBL 18") 1 Set - Spare liners <p>Please refer to the enclosed Technical Offer 2105854 Item 10-GC-1, 10-GY-1 and 10-GY-2 for further details.</p>

No.	Supplier	Qty.	Material
20	TSC-Jacobs North	2	<p>GRIT PUMPS - Tags: 10-P-1, 10-P-2</p> <p>Qty. (2) 4" X 4" WEMCO MODEL C recessed impeller pump</p> <ul style="list-style-type: none"> • High Chrome case, wear plate and impeller ((650+ BHN hardness) • 10 HP 1800 RPM premium efficiency, explosion proof, TEFC horizontal motor (NEMA Class 1, Division 2) with 3 N/C motor thermostats and 120V Space Heater. • Acrylic/graphite packing • 416 SST Shaft Sleeve • Cast Iron Gland housing • Bronze Gland • Fabricated steel, Side Mounted, belt driven baseplate with fiberglass/polyethylene guards • TB Woods variable speed (adjustable) Belts and Sheaves • Factory certified, non-witnessed hydrostatic and performance testing • Spare Parts per pump: <ul style="list-style-type: none"> o Packing o Bearings o Gaskets and Orings o Shaft Sleeves o Impeller o Shaft o Wearplate <p>Please refer to the enclosed Technical Offer 2105854 Item 10-P-1 and 10-P-2 for further details.</p>
21	TSC-Jacobs North	2	<p>SLUDGE RETURN PUMPS - Tags: 110-P-3, 110-P-4</p> <p>Qty. (2) 4" X 4" WEMCO MODEL C recessed impeller pump</p> <ul style="list-style-type: none"> • High Chrome case, wear plate and impeller ((650+ BHN hardness) • 30 HP 1200 RPM premium efficiency, explosion proof, TEFC horizontal motor (NEMA Class 1, Division 2) with 3 N/C motor thermostats and 120V Space Heater. • Chesterton Double Mechanical Seal 255 TT/CT (Flush Plan by others) • 416 SST Shaft Sleeve • Cast Iron Gland housing • Bronze Gland • Fabricated steel, Direct-Connected baseplate with fiberglass/polyethylene guards for coupling • VIVA VS215 (VFD rated) Coupling • Factory certified, vibration, non-witnessed hydrostatic and performance testing • Spare Parts per pump: <ul style="list-style-type: none"> o Chesterton Seal o Bearings o Gaskets and Orings o Shaft Sleeves o Impeller o Shaft o Wearplate <p>Please refer to the enclosed Technical Offer 2105854 Item 110-P-3 and 110-P-4 for further details.</p>
22	TSC-Jacobs North	1	REXA X3R Actuator

Note: L7 to sign off acknowledging receipt of materials upon delivery from Ovation or their vendors

EXHIBIT B

DRAFT – NOT FOR EXECUTION

PAYMENT BOND

BOND NO.: _____

KNOW ALL MEN BY THESE PRESENTS that [CONTRACTOR NAME] [Address, Phone No.], as Principal, and [SURETY NAME], [Address, Phone No.], as Surety, are held and firmly bound to Seminole County, Florida, [Address, Phone No.], as Oblige, in the sum of _____ and 00/100 Dollars (\$_____.00), for the payment of which Principal and Surety do bind themselves, their heirs, executors, personal representatives, administrators, successors, and assigns, jointly and severally.

WHEREAS, Principal has agreed to perform construction services for the construction project titled _____, located at _____, which involves [general description of the project] ("Project"); and

WHEREAS, Principal entered into Contract No.: _____ with Oblige ("Contract"), which is hereby incorporated by reference and made a part hereof.

THE CONDITION OF THIS BOND is that if Principal:

- a. Promptly makes payment to all claimants, as defined in Section 255.05(1), *Florida Statutes*, supplying Principal with labor, materials, or supplies used directly or indirectly by Principal in the prosecution of the work provided for in the Contract;
- b. Pays Oblige all losses, damages, expenses, costs, and attorney's fees, including appellate proceedings, that Oblige sustains because of Principal's failure to make payments to claimants; and
- c. Defends, indemnifies, and holds Oblige harmless from any claims, demands, suits, or liens,

then the obligation of this Bond is void, otherwise, it remains in full force.

1. Surety's obligations to Oblige under this Bond shall be triggered upon Surety's receipt of Oblige's written correspondence notifying Principal and Surety of any claims, demands, liens, or suits against Oblige or the Project by any person or entity seeking payment for labor, materials, or equipment provided to Principal for use in performance of the Contract.
2. Upon Surety's receipt of Oblige's written notice identified in Paragraph 1, Surety shall promptly, and at its sole expense, defend, indemnify, and hold Oblige harmless against any claim, demand, lien, or suit by any person or entity seeking payment for labor, materials, or equipment provided to Principal for use in performance of the Contract.
3. Any changes in or under the Contract, including changes to time or price, are binding on Surety and will not affect Surety's obligation under this Bond. Any increase to the Contract price shall accordingly increase the amount of this Bond. Surety hereby waives its right to notice of any change to the Contract.
4. Any claim against this Bond by a claimant shall be submitted in accordance with Section 255.05, *Florida Statutes*. Any suit or action by a claimant pursuant to this Bond must be commenced in accordance with the time and notice provisions of Section 255.05(2) and

(10), *Florida Statutes*. Any suit or action pursuant to this Bond shall be instituted in the courts of Seminole County, Florida. Any suit or action pursuant to this Bond, except an action for recovery of retainage, must be instituted within one (1) year after the last day of furnishing labor, services, or materials by claimant.

5. Written notice to any party shall be delivered to the party's address identified on page one (1) of this Bond.
6. This Bond is intended to be construed as a statutory bond and not a common law bond. This Bond is furnished to comply with Section 255.05, *Florida Statutes* and shall be construed in accordance with the statute. The terms of this Bond are hereby amended and modified so all provisions and limitations of the statute, including conditions precedent, notice, and time limitations, are incorporated into this Bond. Any provisions of this Bond which conflict with or purport to grant coverage in excess of the minimum requirements of the statute are deemed deleted or amended such that the Bond provisions will provide the only the coverage specified in the statute. This Bond is unconditional. Consistent with Section 255.05, *Florida Statutes*, in any action brought to enforce a claim against this Bond, the prevailing party is entitled to recover a reasonable fee for the services of his or her attorney for trial and appeal or for arbitration, in an amount to be determined by the court, which fee must be taxed as part of the prevailing party's costs.
7. The date of the Bond must not be prior to date of the Contract. If Principal is a joint venture, all venturers shall execute the Bond. If Principal is a partnership, all partners shall execute the Bond. Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570, as amended) and be authorized to transact business in the State of Florida, unless otherwise specifically approved in writing by Obligee. All bonds shall be originals and issued or countersigned by a local producing agent who is authorized to operate in the State of Florida. Attorneys-in-fact who sign bonds must file with such bond a certified copy of their Power of Attorney to sign such bond. Agents of surety companies must list their name, address, and telephone number on all bonds.

[Signatures on Following Pages]

DRAFT – NOT FOR EXECUTION

IN WITNESS WHEREOF, the Principal and Surety have caused this Bond to be executed by their duly authorized officers this _____ day of _____, 20____.

PRINCIPAL:

Witness

Name of Corporation

Printed Name

By: _____

Witness

Printed Name

Printed Name

Title

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _____ 202_, by _____, as _____ of _____.

My Commission Expires:

(Signature of Notary)

Name: _____

(AFFIX OFFICIAL SEAL)

Notary Public, State of Florida

Serial No., If Any: _____

Personally Known _____ OR Produced Identification _____

Type of Identification Produced

SURETY:

Witness

Name of Corporation

Printed Name

By: _____

Witness

Printed Name

Printed Name

Title

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _____ 202_, by _____, as _____ of _____.

My Commission Expires:

(Signature of Notary)

Name: _____

(AFFIX OFFICIAL SEAL)

Notary Public, State of Florida

Serial No., If Any: _____

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

PERFORMANCE BOND

BOND NO.: _____

KNOW ALL MEN BY THESE PRESENTS that **[CONTRACTOR NAME]** **[Address, Phone No.]**, as Principal, and **[SURETY NAME]**, **[Address, Phone No.]**, as Surety, are held and firmly bound to Seminole County, Florida, **[Address, Phone No.]**, as Obligee, in the sum of _____ **and 00/100 Dollars (\$_____00)**, for the payment of which Principal and Surety do bind themselves, their heirs, executors, personal representatives, administrators, successors, and assigns, jointly and severally.

WHEREAS, Principal has agreed to perform construction services for the construction project titled _____, located at _____, which involves **[general description of the project]** (“Project”); and

WHEREAS, Principal entered into Contract No.: _____ with Obligee (“Contract”), which is hereby incorporated by reference and made a part hereof.

THE CONDITION OF THIS BOND is that if Principal:

- a. Promptly, fully, and completely performs the Contract in the time and manner prescribed in the Contract, and
- b. Pays Obligee for any and all losses, damages, expenses, costs and fees, including direct, indirect, and consequential damages, that Obligee sustains as a result of any Principal Default,

then the obligation of this Bond is void, otherwise it remains in full force.

1. Surety’s obligations under this Bond shall be triggered upon Surety’s receipt of Obligee’s written correspondence to Principal and Surety declaring a Principal Default and terminating the Contract.
2. Upon Obligee’s declaration of a Default, Surety shall promptly and at its sole expense, proceed with one of the following:
 - a. Arrange for the Principal to perform and complete the Contract in the time and manner prescribed in the Contract, but only if consented to by the Obligee;
 - b. Perform and complete the Contract itself through an alternative contractor(s) or agent(s), that Obligee approves of, however, Surety may not use the defaulted Principal unless consented to by the Obligee;
 - c. Procure bids or proposals from contractors acceptable to Obligee for performance and completion of the Contract; select a contractor that Obligee approves of; arrange for a contract to be executed by Obligee and contractor to be secured with payment, warranty, and performance bonds from a qualified surety in the same amounts as those issued on the Contract; pay the completion costs and pay damages to Obligee, as provided herein; however, Surety shall complete the foregoing actions no later than thirty (30) days after Surety’s receipt of Obligee’s written correspondence declaring a Principal Default; or

- d. Make payment to Obligees in an amount that Obligees and Surety mutually agree upon; if Obligees and Surety cannot agree to the amount of the payment, then Surety must proceed with a different option under this Paragraph 2.
3. Within ten (10) days of Surety's receipt of Obligees' written notice of a Principal Default, Surety shall notify Obligees, in writing, which of the four (4) actions identified in Paragraph 2 that Surety will perform to remedy the Principal Default.
4. If Surety fails to promptly proceed as provided in Paragraph 2 and Paragraph 3, Obligees shall send written correspondence demanding that the Surety perform its obligations under the Bond ("Breach Correspondence"). If Surety fails to perform within seven (7) days of receipt of the Breach Correspondence, Surety shall be deemed in default under the Bond and Obligees shall be entitled to enforce any remedy available to it in law or in equity. If Surety makes payment pursuant to Paragraph 2.d and Obligees refuses the payment, Obligees shall be entitled to enforce any remedy available to it without further notice to Surety or Principal.
5. Pursuant to this Bond, Surety is responsible for the following:
 - a. Principal's obligation to correct and replace defective work, including post completion warranty work, under the Contract;
 - b. Principal's obligation to complete the Contract within the time specified in the Contract;
 - c. Payment to the Obligees of direct damages, indirect damages, and consequential damages, including but not limited to attorney's fees and costs and design professional fees, resulting from a Default;
 - d. Payment to Obligees of direct damages, indirect damages, and consequential damages resulting from Surety's actions or inaction under Paragraph 4;
 - e. Liquidated damages, or if no liquidated damages are provided under the Contract or if liquidated damages have not yet accrued, Obligees' actual delay damages resulting from Principal's delayed performance or nonperformance.

Surety and Obligees agree that any damages waiver in the Contract shall not bar Obligees' recovery of the damages identified in this Paragraph.

6. If Surety chooses to perform pursuant to the Paragraphs 2(a), 2(c), or 2(d), Surety's liability shall be limited to the amount of this Bond.
7. Surety shall not be responsible for obligations unrelated to the Contract. The Balance of the Contract Price shall not be reduced by any amount unrelated to the Contract. No right of action on this Bond shall accrue to any person or corporation other than the Obligees named herein or its heirs, executors, administrators, successors, and assigns.
8. Any changes in or under the Contract, including changes to time or price, are binding on Surety and will not affect Surety's obligation under this Bond. Any increase to the Contract Price shall accordingly increase the amount of this Bond. Surety hereby waives its right to notice of any change to the Contract.
9. Any proceeding under this Bond shall be instituted in the courts of Seminole County, Florida and shall be instituted within the notice and time limitation provisions in Section 255.05, *Florida Statutes*.

10. In the event any provision of this Bond conflicts with applicable legal or statutory authority, the provision shall be deemed deleted and a conforming provision shall be deemed incorporated herein.
11. This Bond is intended to be construed as a statutory bond and not a common law bond. This Bond is furnished to comply with Section 255.05, *Florida Statutes* and shall be construed in accordance with the statute. The terms of this Bond are hereby amended and modified so all provisions and limitations of the statute, including conditions precedent, notice, and time limitations, are incorporated into this Bond.
12. This Bond shall remain in effect through the expiration of the warranty period specified in the Contract.
13. Written notice to any party shall be delivered to the party's address identified on page one (1) of this Bond
14. The following definitions govern this Bond:
 - a. **Contract Price.** The total amount payable by the Obligor to the Principal for complete and full performance of the Contract.
 - b. **Balance of the Contract Price.** The Contract Price less all payments made on behalf of Obligor to Principal.
 - c. **Principal Default.** Principal's failure to perform or comply with a term of the Contract.
15. The date of the Bond must not be prior to date of the Contract. If Principal is a joint venture, all venturers shall execute the Bond. If Principal is a partnership, all partners shall execute the Bond. Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570, as amended) and be authorized to transact business in the State of Florida, unless otherwise specifically approved in writing by Obligor. All bonds shall be originals and issued or countersigned by a local producing agent who is authorized to operate in the State of Florida. Attorneys-in-fact who sign bonds must file with such bond a certified copy of their Power of Attorney to sign such bond. Agents of surety companies must list their name, address, and telephone number on all bonds.

[Signatures on Following Pages]

DRAFT – NOT FOR EXECUTION

IN WITNESS WHEREOF, the Principal and Surety have caused this Bond to be executed by their duly authorized officers this _____ day of _____, 20____.

PRINCIPAL:

Witness

Name of Corporation

Printed Name

By: _____

Witness

Printed Name

Printed Name

Title

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _____ 202_, by _____, as _____ of _____.

My Commission Expires:

(Signature of Notary)

Name: _____

(AFFIX OFFICIAL SEAL)

Notary Public, State of Florida

Serial No., If Any: _____

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

SURETY:

Witness

Name of Corporation

Printed Name

By: _____

Witness

Printed Name

Printed Name

Title

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _____ 202_, by _____, as _____ of _____.

My Commission Expires:

(Signature of Notary)

Name: _____

(AFFIX OFFICIAL SEAL)

Notary Public, State of Florida

Serial No., If Any: _____

Personally Known _____ OR Produced Identification _____

Type of Identification Produced