



STANDARD FORM OF AGREEMENT BETWEEN OWNER and CONTRACTOR
for a small project where the basis of payment is a Stipulated Sum

AGREEMENT

made as of the ____ day of ____ in the year of ____

BETWEEN the Owner:

The School Board of Volusia County Florida
200 North Clara Avenue, DeLand Florida 32720

Document mailing address: 3750 Olson Drive, Daytona Beach Florida 32124

and the **Contractor**:
(Name and address)

for the following **Project**:
(Include detailed description of Project, project number, location, address and scope.)

the **Architect / Engineer** is:
(Name and address)

The Owner and Contractor agree as follows:

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ARTICLE 1 THE CONTRACT DOCUMENTS

1.1 The Contractor shall complete the Work described in the Contract Documents for the project. The Contract Documents consist of:

- .1 this Agreement signed by the Owner and Contractor;
- .2 the Specifications and Drawings prepared by the Architect, dated _____, and enumerated as follows:

Specifications:

Exhibit	Title	Pages
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Drawings:

Exhibit	Title	Pages
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- .3 addenda prepared by the Architect as follows:

Number	Date	Pages
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- .4 written change orders or orders for minor changes in the Work issued after execution of this Agreement; and
- .5 other documents, if any, identified as follows:

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION DATE

2.1 The date of commencement shall be the date of the Notice to Proceed unless otherwise indicated below. The Contractor shall substantially complete the Work not later than _____ (____) consecutive calendar days from the date of the Notice to Proceed, subject to adjustment by Change Order.

(Insert the date or number of calendar days after the date of commencement.)

2.2 LIQUIDATED DAMAGES: The parties acknowledge the School Board will suffer damages if the project has not reached Substantial Completion and Final Completion on the dates set forth in the Contract. The damages suffered by the School Board, in the event of a delay, are not readily ascertainable. Due to the difficulty in ascertaining the damages, The Contractor and the Contractor's surety shall be liable for and shall pay, as liquidated damages, the sum of _____ dollars (\$____) per calendar day for each calendar day to part thereof, the delay in the project continues beyond the deadline set by the terms of the Contract for Substantial Completion of the work. The parties acknowledge that these sums are not a penalty, but are the amount agreed upon by the parties as liquidated damages representing the losses to the School Board which would be incurred in the event the project is delayed by the Contractor beyond the date of Substantial Completion as set forth in the Contract. Time is of the essence. Any such liquidated damages may, at the option of the Owner, be withheld and deducted from any unpaid portion of the Contract Sum.

ARTICLE 3 CONTRACT SUM

3.1 Subject to additions and deductions by Change Order, the Contract Sum is: _____ (\$____)

3.2 The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work.

3.3 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

Number	Description	Amount (\$0.00)
_____	_____	\$ _____

3.4 Unit prices, if any, are as follows:

Number	Description	Units	Price (\$0.00)
_____	_____	_____	\$ _____

ARTICLE 4 PAYMENTS AND COMPLETION

4.1 Based on Contractor's Applications for Payment certified by the Architect or Owner, the Owner shall make progress payments to the Contractor as stipulated in this Agreement. The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, unless otherwise agreed, in writing, by the Owner.

4.2 Provided that an Application for Payment is received by the Architect or Owner not later than the first day of a month and certified to the Owner by the seventh day of the month, the Owner shall make payment to the Contractor not later than the last day of the same month. If an Application for Payment is received by the Architect and certified to the Owner after the application date fixed above, payment shall be made by the Owner not later than thirty (30) days after the Architect receives the Application for Payment.

4.3 Each Application for Payment shall be based on the Schedule of Values submitted by the Contractor in accordance with the Contract Documents. The Schedule of Values shall be used as a basis for reviewing the Contractor's Applications for Payment.

4.4 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

4.5 FINAL PAYMENT

4.5.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1** the Contractor has fully performed the Contract and to satisfy other requirements, if any, which may extend beyond final payment; and
- .2** applicable for Final Payment along with all warranties, guarantees, close out documents including all as built drawings in paper document and digital combined PDF format, transmitted via FTP or other Owner accepted protocol, and items required under the Contract Documents as submitted to the Architect or Engineer for review and transmittal to the Owner; and
- .3** Board acceptance of the Certificate of Final Inspection (CFI); and
- .4** a final Certificate for Payment has been issued by the Architect.

4.5.2 The Owner's final payment to the Contractor shall be made 30 days after the issuance of the Architect's final Certificate for Payment.

ARTICLE 5 INSURANCE

5.1 The Contractor shall provide Contractor's Liability and other Insurance as follows:

5.1.1 Worker's Compensation:

- .1** State: as required by Chapter 440 F.S.
- .2** Applicable Federal (e.g. Longshoremen's Statute)
- .3** Employer's Liability
- .4** Policy limits not less than one million dollars (\$1,000,000) each accident, each employee and policy limit.
- .5** In the event the Contractor is using leased employees (PEO arrangement), provide the same workers' compensation policy limits as Section 5.1.1; and a waiver of subrogation in favor of alternate employers endorsement showing the subcontractor as the alternate employer.

5.1.2 Comprehensive General Liability (including Premises Operations; Products and Complete Operations; Broad Form Property Damage):

- .1** Bodily Injury:
\$1,000,000 per Claimant
\$1,000,000 per Incident or Occurrence
- .2** Property Damage:
\$1,000,000 per Claimant
\$1,000,000 per Incident or Occurrence
- .3** Products and completed operations to be maintained for one year after final payment
- .4** Property Damage Liability Insurance shall provide X, C or U coverage
- .5** The School Board shall be named as an additional insured on the Contractor's policy

5.1.3 Contractual Liability:

- .1** Bodily Injury:
\$1,000,000 per Claimant
\$1,000,000 per Incident or Occurrence
- .2** Property Damage:
\$1,000,000 per Claimant
\$1,000,000 per Incident or Occurrence

5.1.4 Personal Injury, with Employment Exclusion deleted:

- .1** \$1,000,000 Annual Aggregate

5.1.5 Comprehensive Automobile Liability covering vehicles owned, hired, leased and non-owned vehicles used by the Contractor:

- .1** Bodily Injury:
\$1,000,000 per Claimant
\$1,000,000 per Incident
- .2** Property Damage:
\$1,000,000 per Claimant
- .3** The Owner is to be named as additionally insured. The State of Florida has no-fault automobile insurance requirements; the Contractor shall be certain coverage is provided which conforms to any specific stipulation in this law.

5.2 REQUIRED PROPERTY INSURANCE

5.2.1 The Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made or until no person or entity other than the Owner has an insurable interest in the property required by this Section 5.3 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.

5.2.2 Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss.

5.2.3 If the property insurance requires deductibles, the Contractor shall pay costs not covered because of such deductibles.

5.2.4 This property insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.

5.2.5 Partial occupancy or use shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

5.2.6 The Contractor shall obtain an endorsement to its general liability insurance policy to cover the Contractor's obligations as indicated in 5.3.1 below.

5.3 INDEMNIFICATION

5.3.1 For one percent (1%) of the contract price, the other good and valuable considerations, receipt of which is hereby acknowledged by the Contractor as consideration for the indemnity herein; said Contractor hereby agree to indemnify the Owner and the Architect and or Engineer and their Agents and employees in the manner hereinafter provided in accordance with 725.06 F.S., to the fullest extent permitted by law, from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from the performance of work, provided that any such claim, damage, loss or expense is (1) attributed to bodily injury, sickness, disease or death, or to injury to, or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom, and (2) caused in whole or in part by any act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in the Article.

5.3.2 Certificates of insurance shall be provided by each party showing their respective coverages prior to commencement of the Work.

ARTICLE 6 OTHER TERMS AND CONDITIONS

6.1 PERMITS, FEES AND NOTICES

6.1.1 This Project is exempt from City building permit and inspection fees. Owner will pay for impact fees and water and sewer connection fees. Contractor will be responsible for all other government fees and licenses necessary for the proper execution and completion of the Work, including fees associated with permanent and temporary electrical services.

6.1.2 Certain permits, regulations and fees may apply to work involved in this Project when such work takes place beyond the limits of the school site. This may include but not be limited to hauling and disposal of materials and debris resulting from demolition. The Contractor shall pay the cost of any and all fees required by such offsite work.

6.1.3 The School Board of Volusia County Florida building department is the jurisdiction having authority for building code compliance. A School Board of Volusia County Florida building permit is required to be issued before construction can commence and will be furnished to the Contractor at no cost.

6.2 The Owner's representative:
(Name, address, email and other information)

6.3 The Contractor's representative:
(Name, address, email and other information)

6.4 COMPLIANCE WITH LAWS

6.4.1 E-VERIFY

6.4.1.1 State of Florida, Office of the Governor, Executive Order 11-116 (superseding Executive Order 11-02) requires all agencies under the direction of the Governor to verify the employment eligibility of all new employees through the U.S. Department of Homeland Security's E-Verify system. Further, in conjunction with Section 448.095 F.S., the Contractor is directed to include as a condition of all contracts for the provision of goods or services to the School Board of Volusia County in excess of nominal value, an express requirement that the Contractor utilizes the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the contract term, and an express requirement that the Contractor include in such subcontracts the requirement that subcontractors performing work or providing services pursuant to the state contract utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term. To enroll in the E-Verify system employers should visit www.e-verify.gov.

6.4.1.2 Failure to comply shall be cause for termination of contract by the Owner, at its sole discretion. The Contractor is liable for any additional costs incurred as a result of the termination of Contract, Section 448.095(2) F.S.

6.4.1.3 The Contractor is required to submit to the Owner FAC Document 639, Contractor E-Verify Affidavit, upon contract execution.

6.4.2 PUBLIC RECORDS COMPLIANCE

6.4.2.1 If the Contractor has questions regarding the application of Chapter 119, Florida Statutes, to the Contractor's duty to provide public records relating to this contract, contact the Custodian of Public Records at (386) 734-7190 extension 20119, custserv@volusia.k12.fl.us or 200 North Clara Avenue, DeLand Florida 32720.

6.4.2.2 The Contractor shall:

- .1 Keep and maintain public records required by the school district to perform the service;
- .2 Upon request from the school district's custodian of public records, provide the school district's 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 this chapter or as otherwise provided by 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 duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the school district; and
- .4 Upon completion of the contract, transfer, at no cost, to the school district all public records in possession of the Contractor or keep and maintain public records required by the school district to perform the service. If the Contractor transfers all public records to the school district upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the school district, upon request from the school district's custodian of public records, in a format that is compatible with the information technology systems of the school district.

6.4.2.3 Failure of the Contractor to abide by the terms of this provision shall be deemed a material breach of this agreement and the School District of Volusia County may enforce the terms of this provision in the form of a court proceeding and shall, as a prevailing party, be entitled to reimbursement of all attorney's fees and costs associated with that proceeding. This provision shall survive termination or expiration of the contract.

6.4.3 USE OF COERCION FOR LABOR AND SERVICES

Section 787.06(13) F.S., requires all nongovernmental entities executing, renewing or extending a contract with a governmental entity to provide an affidavit signed by an officer or representative of the nongovernmental entity under penalty of perjury that the nongovernmental entity does not use coercion for labor or services as defined in that statute. The School Board of Volusia County Florida is a governmental entity for purposes of this

statute. Unless otherwise directed by the Owner, said affidavit shall be submitted as part of the Contractor's Pre-qualification via the School District's Purchasing Department.

(Strike section 6.4.4.1 – 6.4.4.3 if “not required” is selected.)

6.4.4 PERFORMANCE AND PAYMENT BONDS ☐ Required ☐ Not required

6.4.4.1 If required, unless otherwise agreed in writing prior to beginning Work, the Contractor shall furnish and pay for a Performance and Payment Bond on the Project in the amount of one-hundred percent (100%) of the Contract Price. The liability under said Bond shall be coextensive with the Contractor for all damages arising out of Contractor's breach of this agreement or failure to perform, including, but not limited to, delay damages, liquidated damages (if any), and completion of punch lists. "Conditional" Payment Bonds under Section 713.245 F.S., shall not be acceptable. Proper Power of Attorney shall accompany said bonds. The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

6.4.4.2 The Contractor shall provide a Public Construction Bond as required by 255.05 F.S.; the Performance and Payment Bond shall be on forms provided and approved by the Owner.

6.4.4.3 Bonds shall be secured through sources acceptable to the Owner. To be acceptable to the Owner as Surety for Performance and Payment Bonds, a Surety Company shall comply with the following provisions:

- .1 the Surety Company must be authorized to do business in the State of Florida; and
- .2 the Surety Company shall have been in business and have a record of successful continuous operations for at least five years; and
- .3 the Surety Company shall have at least A.M. Best Company Policyholder's Rating of "A-" and "Financial Size Category" of class XI or an equivalent rating from the Insurance Commissioner if not rated by A.M. Best.

6.5 DIGITAL DATA

6.5.1 Parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form.

6.5.2 The Owner, at its discretion and direction, intends to utilize Procore Construction Management software platform which is licensed to the Owner. Access to the platform shall be provided to the Contractor at no cost to the Contractor.

- .1 The Procore Certification Program, as applicable to the Contractor's software access, shall be provided to those deemed necessary by the Contractor and Owner for the Project. The program is a self-paced webinar format intended to familiarize the user with the software. Time will be allotted to the Contractor for this purpose.
- .2 The Contractor shall perform the following:
 - .1 upload pertinent documents and files within the Procore software as established by the Owner; and
 - .2 utilize Procore Tools to manage specific data based documents and information; and
 - .3 collaborate and communicate with the Owner and Consultants within the Procore software; and
 - .4 modify the drawings within the Procore software throughout the Project in order to create as built drawings; and
 - .5 other Owner assigned and/or required Procore software processes necessary for the successful completion of the Project.

This Agreement is entered into as of the day and year first written above; a copy will be provided by the Owner to the Architect/Engineer for project administration.

SCHOOL BOARD OF VOLUSIA COUNTY FLORIDA

CONTRACTOR *(Signature)*

(Printed name and title)

OWNER *(Signature)*

Chief Operating Officer
(Printed name and title)

DRAFT