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ARTICLE 1 – CONTRACT DOCUMENTS

1.1 DEFINITIONS

1.1.1 The Contract Documents – The Contract Documents consist of the Contractor Agreement with Broward Health, the Request For Qualifications (RFQ) or the Request for Proposal (RFP) for Professional General Contractor Services, the General Contractor’s Proposal, the Conditions of the Contract (the North Broward Hospital District General Conditions Special Conditions, and other Conditions, if any), the Drawings, the Specifications, and all Addenda issued prior to and all Modifications required for the proper execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a written interpretation issued by the Architect pursuant to Subsection 2.2.8, or (4) a written order for a minor change in the Work issued by the Architect pursuant to Section 11.3. The Contract Documents shall also include the Invitation to Bid, the Instructions to Bidders, the General Contractor’s Bid and the index contained herein and all documents and pages enumerated in said index.

1.1.2 The Contract – The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification as defined in Subsection 1.1.1. Nothing contained in the Contract Documents shall create any contractual relationship between the (i) Owner and/or the Architect and (ii) any Subcontractor or Sub-Subcontractor. The Contract Documents shall not be construed to create any contractual relationship of any kind between the Architect and the General Contractor, but the Architect shall be entitled to performance of obligations intended for his benefit and enforcement thereof. The term “Contractor Agreement” shall also refer to the Contract.

1.1.3 The Work – The Work means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the General Contractor to fulfill the General Contractor’s obligations. The Work may constitute the whole or a part of the Project.

1.1.4 The Project – The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part. The Project is a facility at which healthcare is provided and such facility is denoted as the Medical Facility.

1.1.5 Business Days – Business Days are days which are not Saturdays, Sundays, or federally recognized bank holidays.

1.1.6 Owner – The Owner under the Contract is the North Broward Hospital District, and is denoted as the Owner, NBHD, or as Broward Health.
1.2 EXECUTION, CORRELATION AND INTENT

1.2.1 The Contract Documents shall be signed in not less than quadruplicate by Broward Health and General Contractor. If either Broward Health or the General Contractor or both do not sign the Conditions of the Contract, Drawings, Specifications, or any of the other Contract Documents, the Architect shall identify such Documents and present such Documents to Broward Health and Contractor for signing.

1.2.2 By executing the Contract, the General Contractor represents that he and all his Subcontractors and Sub-Subcontractors have visited the site, familiarized themselves and investigated all local conditions of the area such as local weather, labor agreements, codes and zoning ordinances, traffic restrictions, utility company regulations, noise and vibration limitations, trash dump site availability, and other site conditions, as applicable to their individual scopes of work and have accounted for same in the Bids.

1.2.3 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work. In accordance with this intent, it has not been considered necessary to enumerate all wiring, plumbing, and other requirements of the local building code and all other ordinances and regulations of public authorities having jurisdiction over this type of work (the Codes). A partial listing of applicable current codes for the Projects is as follows:

1. Florida Building Code
2. National Fire Codes
3. National Electrical Code
5. State of Florida Agency for Health Care Administration, a Division of Health and Rehabilitation Services:
   1. [ ] Chapter 59A-3 Hospital Licensure,
   2. [ ] Chapter 59A-4 Nursing Homes; and
   3. [ ] Chapter 59A-5 Ambulatory Surgical Center
6. O.S.H.A.
7. C.P.S.A.

The General Contractor in making any Proposal agrees that the requirements of such latest codes and regulations will be as carefully adhered to by him as if they were specifically set forth in the Specifications.
The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. Work not covered in the Contract Documents will not be required unless it is consistent therewith and is reasonably inferable therefrom as being necessary to produce the intended results. Words, abbreviations, symbols, drawing methods and conventions, and similar devices, in these Contract Documents, used to convey information, unless otherwise specifically defined, shall be construed in accordance with their respective well-known meaning recognized by architects and engineers in the South Florida area.

1.2.4 The organization of the Drawings and Specifications into groups, sections or divisions has been done solely to establish order and convenience. These divisions, etc., are not suitable for and shall not be used to delineate Sub-Contracts. Determination of limits of responsibility of the Subcontractors shall be the sole responsibility of the General Contractor. No responsibility, either direct or implied, is assumed by Broward Health for omission or duplication by the General Contractor or his Subcontractors, due to real or alleged errors in arrangement of matter in these Contract Documents.

1.3 OWNERSHIP AND USE OF DOCUMENTS

1.3.1 All Drawings, Specifications and copies thereof furnished by the General Contractor become the property of Broward Health. The General Contractor shall be furnished, free of charge, six (6) copies of Plans and Specifications by Broward Health for execution of the Work. Additional copies may be obtained at reproduction costs charged to the General Contractor. With the exception of one Contract set for each party to the Contract, such documents are to be returned or suitably accounted for to Broward Health on request at the completion of the Work. Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect’s common law copyright, or other reserved rights.

ARTICLE 2 – ARCHITECT

2.1 DEFINITION

2.1.1 The Architect is the person lawfully licensed to practice architecture, or any entity lawfully practicing architecture identified as such in the Owner-Contractor Agreement, and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term Architect means the Architect or his authorized representative.

2.2 ADMINISTRATION OF THE CONTRACT

2.2.1 The Architect will provide administration of the Contract as hereinafter described.

2.2.2 The Architect will be Broward Health’s representative during construction and until final payment is due. The Architect will advise and consult with the Broward Health. Broward Health’s instructions to the General Contractor shall be forwarded through the Architect. The Architect will have authority to act on behalf of Broward Health only to
the extent provided in the Contract Documents, unless otherwise modified by written instrument in accordance with Subsection 2.2.18.

2.2.3 The Architect will visit the site at intervals appropriate to the stage of construction to familiarize himself generally with the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous onsite inspections to check the quality or quantity of the Work. On the basis of his onsite observations as an Architect, he will keep Broward Health informed of the progress of the Work, and will endeavor to guard Broward Health against defects and deficiencies in the Work of the General Contractor. At the request of the General Contractor, upon forty-eight (48) hours’ notice, the Architect or his representative will make a field inspection of the Work.

2.2.4 The Architect will not be responsible for and will not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work. The Architect will not be responsible for or have control or charge over the acts or omissions of the General Contractor, Subcontractors, or any of their agents or employees, or any other persons performing any of the Work, except to the extent that these acts or omissions are caused by the Architect’s failure to fulfill his Contractual duties.

2.2.5 The Architect shall at all times have access to the Work whenever it is in preparation and progress. The General Contractor shall provide facilities for such access so the Architect may perform his functions under the Contract Documents.

2.2.6 Based on the Architect’s observations and an evaluation of the General Contractor’s Applications for Payment, the Architect will determine the amounts owing to the General Contractor and will issue Certificates for Payment in such amounts, as provided in Section 8.4.

2.2.7 The Architect will be the interpreter of the requirements of the Contract Documents and the judge of the performance thereunder by both Broward Health and General Contractor.

2.2.8 The Architect will render interpretations necessary for the proper execution or progress of the Work, with reasonable promptness and in accordance with any time limit agreed upon. Either party to the Contract may make written request to the Architect for such interpretations. Official interpretations will be rendered in writing by the Architect in no more than fifteen (15) days from the date of receipt by the Architect of a written request for such interpretations.

2.2.9 Claims, disputes and other matters in question between the General Contractor and Broward Health relating to the execution or progress of the Work or the interpretation of the Contract Documents shall be referred initially to the Architect for decision which he will render in writing within fifteen (15) days.
2.2.10 All interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. In his capacity as interpreter and judge, he will endeavor to secure faithful performance by both Broward Health and the General Contractor, will not show partiality to either and will not be liable for the result of any interpretation or decision rendered in good faith in such capacity.

2.2.11 The Architect’s decisions in matters relating to artistic effect will be final if consistent with the intent of the Contract Documents.

2.2.12 Any claim, dispute or other matter in question between the General Contractor and Broward Health referred to the Architect, except those relating to artistic effect as provided in Subsection 2.2.11 and except those which have been waived by the making or acceptance of final payment as provided in Subsections 8.9.6 and 8.9.7 may be subject to arbitration provided Broward Health and General Contractor agree to such arbitration in writing, as provided in Section 20.2 and shall apply to all proceedings under this Section 2.2.

2.2.13 The Architect will have authority to reject Work which does not conform to the Contract Documents. Whenever, in his opinion, he considers it necessary or advisable for the implementation of the intent of the Contract Documents, he will have authority to require special inspection or testing of the Work in accordance with Subsection 9.5.2, whether or not such Work be then fabricated, installed or completed. However, the Architect’s decision either to exercise or not to exercise such authority shall not give rise to any duty or responsibility of the Architect to the General Contractor, any Subcontractor, any of their agents or employees, or any other person performing any of the Work as long as such action or inaction was in good faith.

2.2.14 The Architect will review and approve or take other appropriate action upon the General Contractor’s submittals such as Shop Drawings, Product Data and Samples, but only for conformance with the design concept of the Work and with the information given in the Contract Documents. Such action shall be taken with reasonable promptness so as to cause no delay. The Architect’s approval of a specific item shall not indicate approval of an assembly of which the item is a component.

2.2.15 The Architect will prepare Change Orders in accordance with Article 11 and will have authority to order minor changes in the Work as provided in Subsection 11.3.1.

2.2.16 The Architect will conduct inspections to determine the dates of Substantial Completion and final completion, will receive and forward to Broward Health for Broward Health’s review, written warranties and related documents required by the Contract and assembled by the General Contractor, and will issue a final Certificate for Payment upon compliance with the requirements of Section 8.9.

2.2.17 If Broward Health and Architect agree, the Architect will provide one or more Project Representatives to assist the Architect in carrying out his responsibilities at the site. The
duties, responsibilities and limitations of authority of any such Project Representative shall be as set forth in an exhibit to be incorporated in the Contract Documents.

2.2.18 The duties, responsibilities and limitations of authority of the Architect as Broward Health’s representative during construction as set forth in the Contract Documents will not be modified or extended without written consent of Broward Health, the General Contractor and the Architect.

ARTICLE 3 – BROWARD HEALTH

3.1 DEFINITION

3.1.1 The Owner is North Broward Hospital District and may be denoted as Owner, Broward Health, or NBHD, and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term Owner, Broward Health, or NBHD means the Broward Health or his authorized representative. In terms of the construction, Broward Health’s representative will be the Director of Design & Construction or his appointed representative; however, the Board of the North Broward Hospital District is the ultimate authority for the Broward Health.

3.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

3.2.1 Broward Health shall, to the extent available, furnish all surveys describing the physical characteristics, legal limitations and utility locations for the site of the Projects, and a legal description of the site.

3.2.2 Except as provided in Subsection 4.7.1, Broward Health shall secure and pay for necessary approvals, easements, assessments and charges required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

3.2.3 Information or services under Broward Health’s control shall be furnished by the Broward Health with reasonable promptness to avoid delay in the orderly progress of the Work.

3.2.4 Unless otherwise provide in the Contract Documents, the General Contractor will be furnished, free of charge, six copies of Drawing and Specifications. Additional copies will be made available for reproduction costs at General Contractor’s expense.

3.2.5 Broward Health shall forward all instructions to the General Contractor through the Broward Health’s Project Manager except where safety or patient care requires immediate action.

3.2.6 The foregoing are in addition to other duties and responsibilities of Broward Health enumerated herein and especially those in respect to Work by Broward Health or by Separate Contractors, Payment and Completion and Insurance in Article 6, Article 8, and Article 10, respectively.
3.3 **BROWARD HEALTH’S RIGHT TO STOP THE WORK**

3.3.1 If the General Contractor fails to correct defective Work as required by Section 12.2 or persistently fails to carry out the Work in accordance with the Contract Documents, or for any other reason pertaining to the operation of vital services of the Medical Facility, Broward Health, by a written order signed by a Board Member, Chief Executive Officer (CEO), Chief Financial Officer (CFO), Director Design & Construction, or their appointed representative may order the General Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated. However, this right of Broward Health to stop the Work shall not give rise to any duty on the part of Broward Health to exercise this right for the benefit of the General Contractor or any other person or entity. Broward Health’s decision to stop or not stop the Work will not waive any other legal remedies Broward Health may have against the General Contractor.

3.4 **BROWARD HEALTH’S RIGHT TO CARRY OUT THE WORK**

3.4.1 If the General Contractor defaults or neglects to carry out the Work or to correct defective Work in accordance with the Contract Documents and fails within seven (7) days after receipt of written notice from Broward Health to commence and continue correction of such default or neglect with diligence and promptness, Broward Health may, after seven (7) days following receipt by the General Contractor of an additional written notice and without prejudice to any other remedy he may have, make good such deficiencies. In such case, an appropriate Change Order shall be issued deducting from the payments then or thereafter due the General Contractor the cost of correcting such deficiencies, including compensation for the Architect’s additional services made necessary by such default, neglect or failure. If the payments then or thereafter due the General Contractor are not sufficient to cover such amount, the General Contractor shall pay the difference to Broward Health within five (5) Business Days of demand.

**ARTICLE 4 – GENERAL CONTRACTOR**

4.1 **DEFINITION, SERVICES AND RESPONSIBILITIES**

4.1.1 The General Contractor is the person or entity identified as such in the Owner-General Contractor Contract and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term General Contractor means the General Contractor or his authorized representative.

4.1.2 The General Contractor represents and warrants to Broward Health that the General Contractor is has all valid licenses required for General Contractor’s performance under the Contract. The provisions of this Subsection 4.1.2 shall survive the expiration or sooner termination of the Contract.

4.2 **REVIEW OF CONTRACT DOCUMENTS**

4.2.1 The General Contractor shall carefully study and compare the Contract Documents and shall as soon as is possible report in writing to the Architect and Broward Health any error, inconsistency or omission he discovers especially pertaining to code or field
variances. The General Contractor shall not be liable to Broward Health or Architect for any damage resulting from any errors, inconsistencies or omissions in the Contract Documents which he has reported in writing to the Architect and Broward Health or which a reasonably prudent General Contractor would not have discovered. The General Contractor shall perform no portion of the Work at any time without Contract Documents or, where required, approved Shop Drawings, Product Data or Samples for such portion of the Work.

4.3 SUPERVISION AND CONSTRUCTION

4.3.1 The General Contractor shall supervise and direct the Work, using his best skill and attention. He shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract.

4.3.2 The General Contractor shall be responsible to Broward Health for the errors and omissions of his employees, Subcontractors and their agents and employees, and other persons performing any of the Work under a Contract with the General Contractor.

4.3.3 The General Contractor shall not be relieved from his obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the Architect in his administrations of the Contract, or by inspections, tests or approvals required or performed under Section 9.5 by persons other than the General Contractor.

4.4 LABOR AND MATERIALS

4.4.1 Unless otherwise provided in the Contract Documents, the General Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation and other facilities and services necessary for the proper execution and completion of the Work, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work. Whenever a material, article or piece of equipment is identified on the Drawings or in the Specifications by reference to manufacturers’ or vendors’ names, trade names, catalog numbers, or the like, it is so identified for the purpose of establishing a standard, and any material, article, or piece of equipment of other manufacturers or vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article, or piece of equipment so proposed is, in the opinion of the Architect and Broward Health, of equal substance, appearance and function. It shall not be purchased or installed by the General Contractor without Broward Health’s and Architect’s written approval prior to bidding and notification of change to Broward Health.

4.4.2 The General Contractor shall at all times enforce strict discipline and good order among his employees and shall not employ on the Work any unfit person or anyone not skilled in the task assigned to him. Broward Health may order the removal of any employee of the General Contractor or Subcontractors who is felt by Broward Health to be unfit for any reasonable and just cause.
4.5 **WARRANTY**

4.5.1 The General Contractor warrants to Broward Health that all materials and equipment furnished under the Contract will be new unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in strict conformance with the Contract Documents for a period of one (1) year from date of completion and acceptance of the Work by Broward Health. Work not conforming to these requirements shall be corrected in accordance with Article 12. All Work not conforming to these requirements, including substitutions not properly approved and authorized by Broward Health may be considered defective. If required by the Architect, the General Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is not limited by the provisions of Section 12.2. All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of Broward Health, or shall be transferable to Broward Health, and shall commence in accordance with Subsection 8.8.1.

4.6 **TAXES**

4.6.1 Unless expressly stated to the contrary in the Contract Documents, the General Contractor shall pay all sales, consumer, use and other similar taxes for the Work or portions thereof provided by the General Contractor which are legally enacted at the time the General Contractor’s Cost Proposal is received, whether or not yet effective. Broward Health makes no representations whatsoever as to General Contractor’s liability for the payment of sales taxes upon materials used or incorporated in construction. All questions upon such issue, and applicable laws of Florida and any other applicable taxing jurisdiction, shall be determined by the General Contractor.

4.7 **PERMITS, FEES AND NOTICES**

4.7.1 Unless otherwise provided in the Contract Documents, the General Contractor shall secure and pay for the Building Permit(s) and for any and all other Permits, and governmental fees, licenses and inspections necessary for the proper execution and completion of the Work which are customarily secured after execution of the Contract and which are legally required at the time the Cost Proposals are received.

4.7.2 The General Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any Public Authority bearing on the performance of the Work pertaining to Construction Means and Methods as opposed to Design (“Applicable Laws”).

4.7.3 If the General Contractor observes that any of the Contract Documents are at variance with any Applicable Laws in any respect, he shall notify the Architect and Broward Health in writing, immediately, and any necessary changes shall be accomplished by appropriate Modification.

4.7.4 If the General Contractor performs any work which he knows, or a reasonably prudent contractor should know, to be contrary to Applicable Laws and without such notice to...
the Architect and Broward Health, he shall assume full responsibility therefor and shall bear all costs attributable thereto.

4.7.5 The General Contractor shall assist Broward Health in filing documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.

4.8 ALLOWANCES

4.8.1 The General Contractor shall include in the Contract Sum for all allowances stated in the Contract Documents. Items covered by these allowances shall be supplied for such amounts and by such persons as Broward Health may direct.

4.8.2 Unless otherwise provided in the Contract Documents:

4.8.2.1 These allowances shall cover the cost to the General Contractor, less any applicable trade discount, of the materials and equipment required by the allowance delivered at the site, and all applicable taxes.

4.8.2.2 The General Contractor’s costs of unloading and handling on the site, labor, installation costs, overhead, profit and other expenses contemplated for the original allowance shall be included in the Contract Sum and not in the allowance.

4.8.2.3 Whenever the cost is more than or less than the allowance, the Contract Sum shall be adjusted accordingly by Change Order, the amount of which will recognize changes, if any, in handling costs on the site, labor, installation costs, overhead, profit and other expenses.

4.9 SUPERINTENDENT

4.9.1 The General Contractor shall employ a competent Superintendent and necessary assistants who shall be in attendance at the Project site during the progress of the Work. The Superintendent shall represent the General Contractor and all communications given to the Superintendent shall be as binding as if given to the General Contractor. Important communications shall be so confirmed on written request in each case pursuant to Section 20.23. Broward Health, in writing, may require for cause, the replacement of the Superintendent.

4.9.2 The General Contractor, as soon as practicable after award of the Contract, shall notify Broward Health and Architect of the name and qualifications of a proposed superintendent. Within fourteen (14) days of receipt of the information, Broward Health or Architect may notify the General Contractor, stating whether Broward Health or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the fourteen (14)-day period shall constitute notice of no reasonable objection.
4.9.3 The General Contractor shall not employ a proposed superintendent to whom Broward Health or Architect has made reasonable and timely objection. The General Contractor shall not change the superintendent without Broward Health’s consent, pursuant to the procedure provided in Subsection 4.9.2.

4.10 PROGRESS SCHEDULE

4.10.1 The General Contractor, immediately after being awarded the Contract, shall prepare and submit for Broward Health’s and Architect’s information and Broward Health’s approval, a Progress Schedule for the Work. The Progress Schedule shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

4.10.2 A job meeting will be held at least once per month with representatives of the Broward Health, Architect and General Contractor present to review the progress of the Work and any problems arising from the Project.

4.11 DOCUMENTS AND SAMPLES AT THE SITE

4.11.1 The General Contractor shall, on a daily basis, maintain at the site for Broward Health one current record copy of all Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked to record all changes made during Construction, and approved Shop Drawings, Product Data and Samples. These shall become the property of Broward Health upon completion of the Work.

4.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

4.12.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the General Contractor or any Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work and shall be available to the Architect.

4.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the General Contractor to illustrate a material, product or system for some portion of the Work.

4.12.3 Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

4.12.4 The General Contractor shall review, approve and submit to the Architect for review and approval all Shop Drawings, Product Data and Samples required by the Contract Documents, within such sequence as to cause no delay in the Work, or in the activities of the Architect, Broward Health or any separate General Contractor. A rejected Shop Drawing is no cause for request of extension of time.

4.12.5 By approving and submitting Shop Drawings, Product Data and Samples, the General Contractor represents that he has determined and verified all materials, field measurements, and field construction criteria related thereto, or will do so as soon as
possible, and that he has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

4.12.6 The General Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Architect’s approval of Shop Drawings, Product Data or Samples under Subsection 2.2.14, unless the General Contractor has specifically informed the Architect in writing of such deviation at the time of submission and the Architect has given written approval to the specific deviation. The General Contractor shall not be relieved from responsibility for errors or omissions in the Shop Drawings, Product Data or Samples by the Architect’s approval thereof.

4.12.7 The General Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data or Samples, to revisions other than those requested by the Architect on previous submittals.

4.12.8 No portion of the Work requiring submission of a Shop Drawing, Product Data or Sample shall be commenced until the submittal has been approved by the Architect as provided in Subsection 2.2.14. All such portions of the Work shall be in accordance with approved submittals.

4.13 USE OF SITE

4.13.1 The General Contractor shall confine operations at the site to areas permitted by Applicable Laws, permits, and the Contract Documents and shall not unreasonably encumber the site with any materials or equipment.

4.13.2 All areas of the adjacent Medical Facility and existing buildings are in operation and must remain so throughout construction. It is imperative that every effort be made to complete the Work and any other Contract obligations in the shortest possible time and with the least possible interference to this operation. It is with this in mind that the following restrictions are made:

4.13.2.1 All materials stored on the ground shall be enclosed on all sides with substantial fencing not less than seven (7) feet high with a gate which shall be kept locked during all nonworking hours. A fenced compound is required for any materials which remain on the ground overnight. The location of any compound must be approved by Broward Health.

4.13.2.2 Except as specified otherwise, construction shall begin no earlier than 7:00 a.m. and end no later than 6:00 p.m., Monday through Friday, unless approved by Facilities Management, and required to meet construction deadline.

4.13.2.3 Utility Service Interruptions, Shutoff, etc. Should it become necessary to have a Utility Service Interruption, Shutoff, etc. for a short period of time, an official Shut-Down request (Attachment I) shall be filed by the General Contractor with Broward Health’s representative, outlining the time, duration
and exact location of the Shut-Down, and the precautions being taken to ensure critical areas and services are maintained and also ensure there shall be equivalent fire safety levels for the Building during the Shut-Down. All such considerations must meet with the approval of Broward Health.

Facilities Management needs at least forty-eight (48) hours’ notice before any utility services are interrupted. This notice is needed so Facilities Management can notify those departments affected by the interruption or shutdown of utility services.

After the construction work that affected the shutdown is completed the General Contractor and Regional Facilities Services personnel will work together on restoration of the appropriate utility service that has been previously disconnected.

4.13.2.4 No parking will be allowed in adjacent or surrounding public right-of-way near the Project. Parking areas for the General Contractor and all Subcontractors will be designated by Broward Health.

4.13.3 The General Contractor’s attention is directed to the fact that Codes governing the Work prohibit interference with, or obstruction to, required means of egress unless alternate routes are established which do not reduce exit provisions below Code minimums. In the event such interference or obstruction becomes necessary, it shall be the General Contractor’s responsibility to propose alternate solutions and obtain the written approval of Facilities Management, AHCA, and Fire and Building Departments. (See also Special Conditions).

4.13.4 Radios, boom boxes, and other noises, or dust, fumes, vapors, mists and odors which create a nuisance in or around any Broward Health occupied facility (areas in which patients, staff or visitors are present) will not be permitted. It is recognized that all demolition will involve noise. It shall be the responsibility, however, of the General Contractor to limit the amount of noise as far as possible. Since this the facility in which the Project is located, and will remain through the construction period, a functioning Medical Facility, such nuisances will be disturbing to both personnel and patients. Under critical conditions the Work may have to be regulated to certain limited hours. This shall be considered a part of the Contract and no additional charges will be allowed for such limitations. If overtime work is directed by the Architect or Broward Health, additional payment will be based solely on the difference between overtime and normal rates actually paid. No impact hammer shall be used in demolition. No internal combustion engines shall be used.

4.13.5 Interim Life Safety Measures (ILSM) and Infection Control Risk Assessment (ICRA) will be maintained during all phases of construction. (See also Special Conditions.)
4.14 **CUTTING AND PATCHING WORK**

4.14.1 The General Contractor shall be responsible for all cutting, fitting or patching that may be required to complete the Work or to make its several parts fit together properly. This includes refinishing to corners or to the next line of delineation.

4.14.2 General Contractor shall not damage or endanger any portion of the Work, or the Work of Broward Health, or any separate contractors by cutting, patching or otherwise altering any Work, or by excavation. The General Contractor shall not cut or otherwise alter the Work of Broward Health or any separate contractor except with the written consent of Broward Health and of any separate contractor. The General Contractor shall not unreasonably withhold from Broward Health or any separate contractor his consent to cutting or otherwise altering the Work.

4.15 **CLEANING UP**

4.15.1 The General Contractor at all times shall keep the facility free from accumulation of waste materials or rubbish caused by his operations. At the completion of the Work, he shall remove all his waste materials and rubbish from and about the Project as well as all his tools, construction equipment, machinery and surplus materials.

4.15.2 If the General Contractor fails to clean up at the completion of the Work, Broward Health may do so as provided in Section 3.4 and the cost thereof shall be charged to the General Contractor.

4.15.3 The General Contractor shall be responsible for daily removal of all construction trash, including debris from demolition work. He shall provide a large volume waste container exterior to the building, such as a dumpster, where directed, and convey thereto, at the end of each day’s Work. The contents of the large volume waste container shall be removed from the site on a regular basis or whenever loaded to capacity. Highly combustible or inflammable debris shall be removed from the site immediately and not stored in the waste container.

4.15.3.1 General Contractor shall not use Broward Health’s waste system.

4.15.3.2 General Contractor shall not permit waste materials to accumulate within the existing Building so as to create a fire hazard, or constitute a potential accident hazard.

4.15.3.3 General Contractor shall dampen all demolition areas to prevent dangerous airborne dust.

4.15.4 The General Contractor shall “broom clean” all areas of Work frequently so as to prevent tracking through occupied areas of the building. At completion of the Work, or whenever an area is to be turned over to Broward Health, General Contractor shall thoroughly clean and polish all items and finishes. It is understood that the quality of cleaning required for acceptance of an area by Broward Health, shall be far in excess of the normal “broom clean” practices of the construction industry. All items, finishes,
surfaces, equipment, etc., shall be thoroughly washed, cleaned with appropriate solvent, removed of all foreign substances, and highly polished. The General Contractor shall install a maintenance coat of wax on all new resilient floor tile areas. At such time as all areas have been cleaned, if dirt or damage is found, the General Contractor shall immediately proceed to correct such damage and re-clean the affected area. Similarly, all construction barriers shall be removed, and the existing building and landscaped areas restored to pre-contract condition. The General Contractor shall also remove all debris, and clean and polish all installed items and equipment of separate contractors, when labeled “By Broward Health” or “By Others” on the Contract Documents.

4.16 COMMUNICATIONS

4.16.1 The General Contractor shall forward all communications to the Architect with copies to Broward Health.

4.17 ROYALTIES, PATENTS, AND COPYRIGHTS

4.17.1 The General Contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any copyrights and patent rights and shall save Broward Health harmless from loss on account thereof, except that Broward Health shall be responsible for all such losses when a particular design, process or the product of a particular manufacturer or manufacturers is specified by Broward Health or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by Broward Health, but if the General Contractor has reason to believe that the design, process or product specified is an infringement of a copyright or patent, he shall be responsible for such loss unless he promptly gives such information in writing to the Architect and Broward Health.

4.18 INDEMNIFICATION

4.18.1 In consideration of Twenty-five Dollars ($25.00), separately acknowledged by General Contractor, and other valuable consideration, General Contractor shall indemnify, save harmless, and at Broward Health General Counsel’s option, defend Broward Health, its officers, officials, agents and employees, from or on account of any death, bodily injuries or damages, received or sustained by any person or persons during or on account of any operations connected with the Project; or by or in consequence of any negligence (excluding sole negligence of Broward Health), in connection with the same; or by use of any improper materials or by or on account of any act, error or omission of General Contractor or any Subcontractor, consultants, agents, servants or employees. General Contractor agrees to indemnify, save harmless and, at Broward Health General Counsel’s option, defend Broward Health, its officers, officials, agents and employees, from and against any claims or liability arising from or based upon the violation of any Applicable Law by General Contractor, its Subcontractors, agents, servants or employees. General Contractor further agrees to indemnify, save harmless and, at Broward Health General Counsel’s option, defend Broward Health, its officers, officials, agents and employees from all such claims and fees, and from any and all suits and actions of every name and description that may be brought against Broward Health.
on account of any claims, fees, royalties, or costs for any invention or patent, and from any and all suits and actions that may be brought against Broward Health for the infringement of any and all patents or patent rights claimed by any person, contractor, or corporation. This consideration is separate and distinct from any other consideration received by General Contractor.

4.18.2 General Contractor further agrees to indemnify, save harmless and, at Broward Health General Counsel’s option, defend Broward Health, its agents, servants and employees, from and against any claim, demand or cause of action of whatever kind or nature arising out of any conduct or misconduct of General Contractor not included in Subsection 4.18.1, and for which Broward Health, its agents, servants or employees, are alleged to be liable.

4.18.3 The indemnification provided above shall obligate General Contractor to defend at its own expense to and through appellate, supplemental or bankruptcy proceeding, or to provide for such defense, at Broward Health General Counsel’s option, any and all claims of liability and all suits and actions of every name and description that may be brought against Broward Health which may result from the operations and activities under the Contract whether the construction operations be performed by General Contractor, its Subcontractors, its consultants or by anyone directly or indirectly employed by any of the above.

4.18.4 General Contractor shall defend and indemnify Broward Health from all loss, liability, damage or expense, including reasonable attorneys’ and paraprofessional fees and litigation expenses, arising out of any claim of lien or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a claim of lien or other claim for payment, Broward Health shall notify the General Contractor. If approved by the applicable court, when required, General Contractor may substitute a surety bond for the liened property against which the lien or other claim for payment has been asserted.

4.18.5 The execution of the Contract by General Contractor shall obligate General Contractor to comply with the foregoing indemnification provision; however, the collateral obligation of insuring this indemnity must be complied with as set forth herein. The indemnity obligation shall survive expiration or termination of the Contract.

4.18.6 General Contractor assumes entire responsibility and liability and shall fully indemnify, defend, and hold Broward Health, its commissioners, officers, and its employees, harmless from any and all claims, actions, liabilities, damages, losses and costs, including, but not limited to fines imposed by governmental or regulatory authorities on Broward Health, its commissioners, officers, or its employees, and reasonable attorneys’ and paraprofessional fees on both trial and appellate levels incurred in the defense of same, as a result of the negligence, recklessness, or intentional wrongful misconduct of the General Contractor, its agents, employees, or subcontractors, with respect to or arising out of bodily injuries to or death to persons, damages to or destruction of property, or the failure of any of them to comply with governmental regulations.
ARTICLE 5 – SUBCONTRACTORS

5.1 DEFINITION

5.1.1 A Subcontractor is a person or entity who has a contract with the General Contractor to perform any of the Work at the site pertaining to the Contract and shall include Subcontractors and Sub-Subcontractors of any tier. The term Subcontractor is referred to throughout the Contract Documents as if singular in number and masculine in gender and means a Subcontractor or his authorized representative. The term Subcontractor does not include any separate contractor or his Subcontractors or any party having a direct contract with Broward Health.

5.2 AWARD OF SUBCONTRACTS & OTHER CONTRACTS FOR PORTIONS OF THE WORK

5.2.1 In the Cost Proposal, the General Contractor shall furnish to Broward Health and the Architect in writing the names of all Subcontractors (including those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the Work. The Architect will reply to the General Contractor in writing within fifteen (15) days stating if Broward Health or Architect, after due investigation, has reasonable objection to any such proposed Subcontractor. Failure to report objection shall constitute acceptance.

5.2.2 The General Contractor shall not contract with any such proposed Subcontractor to whom Broward Health or the Architect has made reasonable objection under the provisions of Subsection 5.2.1. The General Contractor shall not be required to contract with anyone to whom General Contractor has a reasonable objection.

5.2.3 If Broward Health or the Architect has reasonable objection to any such proposed Subcontractor, the General Contractor shall submit a substitute to whom Broward Health and the Architect has no reasonable objection, and the Contract Sum shall be increased or decreased by the difference in cost occasioned by such substitution and an appropriate Change Order shall be issued; however, no increase in the Contract Sum shall be allowed for any such substitution, unless the General Contractor has acted promptly and responsively in submitting names as required by Subsection 5.2.1.

5.2.4 The General Contractor shall make no substitution for any Subcontractor, person, or entity previously selected unless approved by Broward Health, said approval not to be unreasonably withheld.

5.3 SUBCONTRACTUAL RELATIONS

5.3.1 By an appropriate written agreement, the General Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the General Contractor by the terms of the Contract Documents, and to assume toward the General Contractor all the obligations and responsibilities which the General Contractor, by the Contract Documents, assumes toward Broward Health and the Architect. Said agreement shall preserve and protect the rights of Broward Health and
the Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that the subcontracting will not prejudice such rights and shall allow to the Subcontractor, unless specifically provided otherwise in the General Contractor-Subcontractor agreement, the benefit of all rights, remedies, and redress against the General Contractor that the General Contractor, by the Contract Documents, has against Broward Health. Where appropriate, the General Contractor shall require each Subcontractor to enter into similar agreements with Sub-Subcontractors. The General Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract, copies of the Contract Documents by which the Subcontractor will be bound. Further, the Subcontractor will be bound by this Section 5.3 and the General Contractor will identify to the Subcontractor any terms and conditions of the proposed Subcontract which may be at variance with the Contract Documents. Each Subcontractor shall similarly make copies of such Contract Documents available to his Sub-Subcontractors.

5.3.2 The General Contractor shall include in each individual subcontract all covenants stated in AIA Document A401 and AGC655, latest Edition or equivalent, including but not limited to warranty, certifications, and insurance and bonds provisions. All Subcontractors shall abide by the provisions set forth herein for the General Contractor.

5.3.3 The subcontract shall also include a provision acknowledging Broward Health as an intended third party beneficiary of the subcontract.

ARTICLE 6 – WORK BY OWNER OR BY SEPARATE CONTRACTORS

6.1 OWNER’S RIGHT TO PERFORM WORK AND TO AWARD SEPARATE CONTRACTS

6.1.1 Broward Health reserves the right to perform work related to the Project with his own forces, and to award separate contracts in connection with other portions of the Project or other work on the site under these or similar conditions of the Contract. If the General Contractor claims that delay or additional cost is involved because of such action by Broward Health, he shall make such claims as provided elsewhere in the Contract Documents. However, the General Contractor shall not be entitled to any relief for any claimed delay or additional cost which should have been reasonably foreseen at the time of Bidding.

6.1.2 When separate contracts are awarded for different portions of the Project or other Work on the site, the term General Contractor in the Contract Documents in each case shall mean the General Contractor who executes each separate Owner-General Contractor Contract.

6.1.3 Broward Health will provide for the coordination of the work of its own forces and of each separate Contractor with the Work of the General Contractor, who shall cooperate therewith as provided in Section 6.2.
6.2  MUTUAL RESPONSIBILITY

6.2.1 The General Contractor shall afford Broward Health and separate contractors reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall connect and coordinate his Work with theirs as required by the Contract Documents. It is probable that Broward Health will enter into other construction contracts on the same site during the progress of the Work under the Contract. The same areas of the building may be involved under the different contracts and a high degree of cooperation and coordinated effort will be required among all contractors and sub-contractors in order to accomplish the desired end result for Broward Health. Such cooperation is a specific requirement of the Contract and failure to do so shall be grounds for termination of the Contract by Broward Health or for requiring replacement of a non-cooperating Subcontractor at no additional cost to Broward Health.

6.2.2 If any part of the General Contractor’s Work depends for proper execution or results upon the work of Broward Health or any separate contractor, the General Contractor shall, prior to proceeding with the Work, promptly report in writing to the Architect any apparent discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of the General Contractor to so report shall constitute an acceptance of Broward Health’s or separate contractor’s work as fit and proper to receive his Work, except as to defects which may subsequently become apparent in such work by others.

6.2.3 Any costs caused by defective or ill-timed work shall be borne by the party responsible therefor.

6.2.4 Should the General Contractor wrongfully cause damage to the work or property of Broward Health, or to other work on the site, the General Contractor shall promptly remedy such damage as provided in Subsection 9.2.11.

6.2.5 Should the General Contractor wrongfully cause damage to the work or property of any separate contractor, the General Contractor shall upon due notice promptly attempt to settle with such other contractor by agreement, or otherwise to resolve the dispute. If such separate contractor sues or initiates an arbitration proceeding against Broward Health on account of any damage alleged to have been caused by the General Contractor, Broward Health shall notify the General Contractor who shall defend such proceedings at the General Contractor’s expense, and if any judgment or award against Broward Health arises therefrom, the General Contractor shall pay or satisfy it and shall reimburse Broward Health for all reasonable attorneys’ and paraprofessional fees and court or arbitration costs which Broward Health has incurred. This indemnification shall survive termination or expiration of the Contract.

6.2.6 The following are specific definitions of Separate Contractors items or work labeled herein or on the Drawings as “By Others”, “By Broward Health”, and “N.I.C.”.
“By Others” or “By Broward Health”: Shall denote items or work by some separate contractor(s) which will require specific work under the Contract, such as assembly, installation, connection, etc. The extent of required Work under the Contract shall be as specifically described in appropriate areas of the Contract Documents.

“N.I.C.” (Not in Contract): Shall denote items or work by some separate contractor(s) which will require only those General Contractor responsibilities as outlined in Subsections 6.2.1, 6.2.2, and 6.2.3.

The General Contractor shall be fully responsible for the protection of such items or work once delivered to the Site and/or incorporated into the Work. General Contractor shall make provision for the inclusion of all such items in his required insurance coverage.

The General Contractor shall be responsible for removal from the site of all construction debris, excess materials, delivery crates, etc., resulting from such items or work of separate contractor(s). At completion of the Work, the General Contractor shall clean and polish such items or work of separate contractors as part of his required cleanup work.

6.3 OWNER’S RIGHT TO CLEANUP

6.3.1 If a dispute arises between the General Contractor and separate contractors as to their responsibility for cleaning up as required by Section 4.15 and Subsection 6.2.6, Broward Health may clean up and charge the cost thereof to the General Contractor or separate contractor responsible therefor, as the Architect shall determine to be just.

ARTICLE 7 – TIME

7.1 DEFINITIONS

7.1.1 Unless otherwise provided, the Contract Time is the period of time allotted as shown in the Proposal/Bid Documents for Substantial Completion of the Work as defined in Subsection 7.1.3, including written authorized adjustments thereto.

7.1.2 The Date of Commencement of the Contract Time of the Work is the date of the issuance of a Building Permit. The General Contractor shall apply for all required Building Permits within one week after the execution of the Contract, and to follow up on the application by providing all necessary documentation and services required for the issuance of the Building Permit within the shortest possible time.

7.1.3 The date of Substantial Completion of the Work or agreed portion thereof is the date certified by the Architect when construction or an agreed upon portion thereof is sufficiently complete, in accordance with the Contract Documents, so Broward Health can occupy and utilize the Work or agreed portion thereof for its intended use. A Certificate of Occupancy, Temporary Certificate of Occupancy or a Certificate of Substantial Completion, as applicable, must be obtained by the General Contractor prior to Substantial Completion.
7.1.4 The term “day” as used in the Contract Documents shall mean calendar day unless otherwise specifically designated.

7.2 PROGRESS AND COMPLETION

7.2.1 All time limits stated in the Contract Documents are of the essence of the Contract.

7.2.2 The General Contractor shall begin the Work on the date of commencement as defined in Subsection 7.1.2. He shall carry the Work forward expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

7.3 NO DAMAGES FOR DELAY

7.3.1 NO CLAIM FOR DAMAGES OR ANY CLAIM OTHER THAN FOR AN EXTENSION OF TIME SHALL BE MADE OR ASSERTED AGAINST BROWARD HEALTH BY REASON OF ANY DELAYS. General Contractor shall not be entitled to an increase in the Contract Sum or payment or compensation of any kind from Broward Health for direct, indirect, consequential, impact or other costs, expenses or damages, including, but not limited to, costs of acceleration or inefficiency, arising because of delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable; provided, however, that this provision shall not preclude recovery of damages by General Contractor for hindrances or delays due solely to fraud, bad faith or active interference on the part of Broward Health or its agents. Otherwise, General Contractor shall be entitled only to extensions of the Contract Time as the sole and exclusive remedy for such resulting delays, in accordance with and to the extent specifically provided above. The specific application of this Article 7 to other provisions of the Contract shall not be construed as a limitation of any sort upon the further application of this Section 7.3.

7.4 EXCUSABLE DELAY; COMPENSABLE; NON-COMPENSABLE

7.4.1 Excusable Delay. Delay which extends the completion of the Work and which is caused by circumstances beyond the control of General Contractor or its Subcontractors, material persons, suppliers, or vendors is Excusable Delay.

General Contractor is entitled to a time extension of the Contract Time for each day the Work is delayed due to Excusable Delay. Such request shall be submitted within ten (10) days after the occurrence of the event which causes the delay. General Contractor shall document its claim for any time extensions as provided in the Contract.

Failure of General Contractor to timely request an extension of time in accordance with the Contract as to any particular event of delay shall be deemed conclusively to constitute a waiver, abandonment or relinquishment of any and all claims resulting from that particular event of delay.

Excusable Delay may be compensable or non-compensable:
7.4.1.1 Compensable Excusable Delay. Excusable Delay is compensable when (i) the delay extends the Contract Time, (ii) is caused by circumstances beyond the control of General Contractor or its Subcontractors, material persons, suppliers or vendors and (iii) is caused solely by fraud, bad faith or active interference on the part of Broward Health or its agents. In no event shall General Contractor be compensated for interim delays, which do not extend the Contract Time unless General Contractor can show that additional costs were incurred to overcome delays not caused by them to meet the Contract Time. Claims for increase in the Contract Sum because of Excusable Delay shall be made pursuant to Subsection 11.2.1.

7.4.1.2 Non-Compensable Excusable Delay. When Excusable Delay is (i) caused by circumstances beyond the control of General Contractor, its Subcontractors, material persons, suppliers and vendors, and is also caused by circumstances beyond the control of Broward Health, or (ii) is caused jointly or concurrently by General Contractor or its Subcontractors, material persons, suppliers or vendors and by Broward Health, then General Contractor shall be entitled only to a time extension and no further compensation for the delay.

ARTICLE 8 – PAYMENTS AND COMPLETION

8.1 CONTRACT SUM

8.1.1 The Contract Sum for is stated in the Contract and, including authorized adjustments thereto, is the total amount payable by Broward Health to the General Contractor for the performance of the Work under the Contract Documents.

8.2 SCHEDULE OF VALUES

8.2.1 General Contractor shall submit to Architect a Schedule of Values no later than fifteen (15) days after execution of the Contract or acceptance of the General Contractor’s Proposal in the case of a Contractor Agreement executed before RFPs or RFQs have been issued. The Schedule of Values shall allocate the entire Contract Sum among the various portions of the Work and be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This Schedule shall be used as a basis for reviewing the General Contractor’s Applications for Payment.

8.3 APPLICATION FOR PAYMENT

8.3.1 The period covered by each Application/Certificate for Payment shall be one calendar month ending on the 22nd day of the month and shall be submitted on AIA Form “Application/Certificate for Payment” G702 and G703. The General Contractor shall submit the itemized Application / Certificate for Payment to the Architect by the 22nd day of the month. This document will be executed under oath and duly notarized and reflect ninety percent (90%) of the value, based on the Contract prices of labor and materials suitably stored on the site.
8.3.2 Each Application/Certificate for Payment shall be based upon the Schedule of Values submitted by the General Contractor and approved by Broward Health.

8.3.3 Unless otherwise provided in the Contract Documents, payments will be made on account of materials or equipment not incorporated in the Work but delivered and suitably stored at the site. Payments for materials or equipment stored on the site shall be conditioned upon submission by the General Contractor of bills of sale or such other procedures satisfactory to Broward Health to establish Broward Health’s title to such materials or equipment and otherwise protect Broward Health’s interest, including applicable insurance.

8.3.4 The General Contractor warrants that title to all Work, materials and equipment covered by an Application/Certificate for Payment will pass to Broward Health either by incorporation in the construction or upon the receipt of payment by the General Contractor, whichever occurs first, free and clear of liens, claims, security interests of encumbrances, hereinafter referred to in this Article 8 as “liens”; and that no Work, materials or equipment covered by an Application/Certificate for Payment will have been acquired by the General Contractor, or by any other person performing the Work at the site or furnishing materials and equipment for the Project, subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the General Contractor or such other person.

8.3.5 General Contractor shall provide Contractor Affidavits, Releases of Lien, Waivers and Consents to Payment by Surety, as requested by Broward Health.

8.4 CERTIFICATE FOR PAYMENT

8.4.1 The Architect will, within seven (7) days after the receipt of the General Contractor’s Application/Certificate for Payment, either issue an Application/Certificate for Payment to Broward Health, with a copy to the General Contractor for such amount as the Architect determines is properly due, or notify the General Contractor in writing his reasons for withholding an Application/Certificate as provided in Subsection 8.6.1.

8.4.2 The issuance of an Application/Certificate for Payment will constitute a representation by the Architect to Broward Health, based on his observations at the site as provided in Subsection 2.2.3 and the data comprising the Application/Certificate for Payment, that the Work has progressed to the point indicated; that, to the best of his knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by or performed under the Contract Documents, to minor deviations from the Contract Documents correctable prior to completion, and to any specific qualifications stated in his Certificate); and that the General Contractor is entitled to payment in the amount certified. However, by issuing an Application/Certificate for Payment, the Architect shall not thereby be deemed to represent that he has made any examination to ascertain how or for what purpose the General Contractor has used the moneys previously paid on account of the Contract Sum.
8.5 PROGRESS PAYMENTS

8.5.1 Provided properly submitted and correct Application/Certificate for Payment is received by the Architect not later than the 22nd day of the month, Broward Health shall make payment to the General Contractor not later than the 10th day of the following month. If a properly submitted and correct Application/Certificate for Payment is received by the Architect after the 22nd day of any month, payment shall be made by Broward Health within a reasonable time after receipt of a properly submitted and correct Application/Certificate for Payment.

8.5.2 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

8.5.2.1 Take that portion of the Contract sum properly allocable to completed Work as determined by multiplying the completion of each portion of the Work by the share of total Contract Sum allocated to that portion of the Work in the Schedule of Values, less retainage of ten percent (10%).

8.5.2.2 Add that portion of the Contract sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by Broward Health, suitably stored off the site at a location agreed upon in writing), less retainage of ten percent (10%).

8.5.2.3 Subtract the aggregate of previous payments made by Broward Health.

8.5.3 In accordance with Section 255.078, Florida Statutes, after the Project is fifty percent (50%) complete, the retainage on each subsequent progress payment shall be reduced to five percent (5%). After fifty percent (50%) completion of the Project, the General Contractor may request up to one-half of the retainage being held, which amount will be paid unless said amounts are the subject of a good faith dispute, the subject of a claim brought pursuant to Section 255.05, Florida Statutes, or otherwise the subject of a claim or demand by the General Contractor or Broward Health. This Subsection 8.5.3 does not apply if the Work is paid in whole or in part, with federal funds and are subject to federal grantor laws and regulations or requirements that are contrary to any provision of the Florida Prompt Payment Act. Furthermore, this Subsection 8.5.3 does not apply to the Contract for $200,000 or less.

8.5.4 The General Contractor shall promptly (but in no event later than ten (10) business days after receiving payment from Broward Health) pay each Subcontractor, upon receipt of payment from Broward Health, out of the amount paid to the General Contractor on account of such Subcontractor’s work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the General Contractor on account of such Subcontractors work. The General Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to its Sub-Subcontractors in similar manner.
8.5.5 Neither Broward Health nor the Architect shall have any obligation to pay or to be responsible in any way for payment to a Contractor or Subcontractor of the General Contractor, except as may otherwise be required by law.

8.5.6 No progress payment, application/certificate for progress payment, or any partial or entire use or occupancy of the Project by Broward Health shall constitute an acceptance of any Work not in accordance with the Contract Documents.

8.6 PAYMENT WITHHELD

8.6.1 The Architect shall decline to certify payment and shall withhold his Application/Certificate for Payment in whole or in part, to the extent necessary and reasonable to protect Broward Health. If the Architect is unable to make representations to Broward Health as provided in Subsection 8.4.2 and to certify payment in the amount of the Application/Certificate for Payment, he will notify the General Contractor as provided in Subsection 8.4.1. The General Contractor can then submit a new Application/Certificate for Payment to the Architect, who will promptly issue the Application/Certificate for Payment for the amount for which the Architect is able to make such representations to Broward Health.

8.6.2 The Architect shall also decline to certify payment, or, because of subsequently discovered evidence or subsequent observations, he may nullify the whole or any part of any Application/Certificate for Payment previously issued, to such extent as may be necessary in his opinion to protect Broward Health from loss because of:

8.6.2.1 Defective work not remedied;

8.6.2.2 Third party claims filed or the presence of reasonable evidence indicating probable filing of such claims;

8.6.2.3 Failure of the General Contractor to make payments properly to Subcontractors or for labor, materials, or equipment;

8.6.2.4 Evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;

8.6.2.5 Damage to Broward Health or another contractor;

8.6.2.6 Evidence that the Work will not be completed within the Contract Time;

8.6.2.7 Persistent failure to carry out the Work in accordance with the Contract Documents; or

8.6.2.8 Failure to maintain progress of the Work in accordance with the approved Progress Schedule.

8.6.3 When the grounds in Subsection 8.6.2 above are removed, payment shall be made for the amount withheld because of them.
8.7  FAILURE OF PAYMENT

8.7.1  If the Architect does not issue an Application/Certificate for Payment, through no fault of the General Contractor, within seven (7) days after receipt of the General Contractor’s Application/Certificate for Payment, or if Broward Health does not pay the General Contractor within fifteen (15) days after the next regularly scheduled North Broward Hospital District Board Meeting, any amount certified by the Architect or awarded by arbitration or litigation, then the General Contractor may, upon seven additional days’ written notice to Broward Health and the Architect, stop the Work until payment of the amount owing has been received. The Contract Sum shall be increased by the amount of the General Contractor’s reasonable costs of shut-down, delay and startup, as applicable, which shall be effected by appropriate Change Order in accordance with Section 11.1. The increased costs shall be paid by either Broward Health or the Architect, depending on which party caused the delay in nonpayment to the General Contractor.

8.8  SUBSTANTIAL COMPLETION

8.8.1  The General Contractor shall notify Broward Health when the Work or a designated portion thereof is substantially complete as defined in Subsection 7.1.3 by issuing a Certificate of Substantial Completion, which shall establish the Date of Substantial Completion, state the responsibility of each party for security, maintenance, heat, utilities, damage to the Work and insurance, include a list of items to be completed or corrected, and fix the time within which the General Contractor shall complete the items listed therein. The failure to include any items on such list does not alter the responsibility of the General Contractor to complete all Work in accordance with the Contract Documents. Warranties required by the Contract Documents shall commence on the Date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

8.8.2  Upon General Contractor issuing a Certificate of Substantial Completion of the Work or designated portion thereof and upon application by the General Contractor and acceptance and approval by Broward Health, the Broward Health shall make payment, reflecting adjustment in retainage, if any, for such Work or portion thereof, as provided in the Contract Documents.

8.8.3  The General Contractor shall agree to Broward Health’s use and occupancy of a portion or unit of the Project before formal acceptance by Broward Health under the following conditions:

8.8.3.1  A Certificate of Substantial Completion shall be prepared and executed as provided for in Subsection 8.8.1 except that when in the opinion of the Architect, the General Contractor is responsible for unwarranted delay in completing the Work or other Contract requirements, the signature of the General Contractor shall not be required;
8.8.3.2 Occupancy by Broward Health shall not be construed by the General Contractor as being an acceptance of that part of the Project to be occupied;

8.8.3.3 Occupancy by Broward Health shall not be deemed to constitute a waiver of existing claims on behalf of the Broward Health or General Contractor against each other; and

8.8.3.4 Use and Occupancy by Broward Health prior to Project acceptance does not relieve the General Contractor of his responsibility to maintain all insurance and bonds required of the General Contractor under the Contract until the Project is completed and accepted by Broward Health.

8.9 **FINAL COMPLETION AND FINAL PAYMENT**

8.9.1 Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application/Certificate for Payment, the Architect will promptly make such inspection and, when he finds the Work acceptable under the Contract Documents and the Contract fully performed, he will promptly issue a final Application/Certificate for Payment stating that to the best of his knowledge, information and belief, and on the basis of his observations and inspections, the Work has been completed in accordance with the terms and conditions of the Contract Documents and that the entire balance found to be due the General Contractor, and noted in said final Application/Certificate for Payment, is due and payable. The procedures provided in Section 8.6.1 above shall apply if the Architect determines that the Architect’s Application/Certificate for Payment should be withheld. The Architect’s final Application/Certificate for Payment will constitute further representation that the conditions precedent to the General Contractor’s being entitled to final payment as set forth in Subsection 8.9.3 have been fulfilled.

8.9.2 Contractor must provide Broward Health with a full set of close-out documents upon completion of the job, including but not limited to As-Builts, Warranties, Affidavits, Releases of Lien and Consent of Surety.

8.9.3 Neither final payment nor the remaining retained percentage shall become due until the General Contractor submits to the Architect (1) an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work through and including the date of the previous application for payment for which Broward Health or his property might in any way be responsible, have been paid or otherwise satisfied; (2) a final contractor’s affidavit and lien release; (3) consent of surety to final payment; (4) a certificate that insurance required by the Contract Documents is in force following completion of the Work; and (5) other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Contract, to the extent and in such form as may be designated by Broward Health. If any Subcontractor or Sub-sub-contractor refuses to furnish a release or waiver required by Broward Health for payments made to that Subcontractor or Sub-sub-contractor, the General Contractor shall refund to Broward Health all moneys that the latter may be
compelled to pay in discharging such lien, including all costs and reasonable attorneys’
and paraprofessional fees.

8.9.4 If, after Substantial Completion of the Work, final completion thereof is materially
delayed through no fault of the General Contractor or by the issuance of Change Orders
affecting final completion, and the Architect so confirms in either case, Broward Health
shall, upon acceptance of a properly submitted and correct Application by the General
Contractor and Certification by the Architect and without terminating the Contract,
make payment of the balance due for that portion of the Work fully completed and
accepted. If the remaining balance for Work not fully completed or corrected is less
than the retainage stipulated in the Contract Documents, and if bonds have been
furnished as provided in Section 10.6, the written consent of the surety to the payment
of the balance due for that portion of the Work fully completed and accepted shall be
submitted by the General Contractor to the Architect prior to certification of such
payment. Such payment shall be made under the terms and conditions governing final
payment, except that it shall not constitute a waiver of claims.

8.9.5 Subject to the provisions of Subsection 8.9.3, final payment constituting the entire
unpaid balance due shall be paid by Broward Health to the General Contractor upon
Broward Health’s receipt of the General Contractor’s final Application Certificate for
Payment when the Work has been completed and the Contract fully performed, except
for those responsibilities of the General Contractor that survive termination.

8.9.6 The making of final payment shall not constitute a waiver of any claims by Broward
Health including but not limited to:

8.9.6.1 Unsettled liens;

8.9.6.2 Faulty or defective Work not discovered or known by Broward Health until
after Substantial Completion;

8.9.6.3 Failure of the Work to comply with the requirements of the Contract
Documents;

8.9.6.4 Terms of any special warranties required by the Contract Documents or
indemnifications given under the Contract Documents

8.9.6.5 Audits to be performed by Broward Health as provided by the Contract
Documents.

8.9.7 The acceptance of final payment shall constitute a waiver of all claims by the General
Contractor, except those previously made in writing in accordance with the Contract
and identified by the General Contractor as unsettled at the time of the final
Application/Certificate for Payment.

8.9.8 In the event a final invoice is not submitted to Broward Health within sixty (60) days
after the conditions provided in this Section 8.9 have been satisfied, General Contractor
hereby releases Broward Health from and waives any right to payment for such final invoice for any sum remaining unpaid under the Contract.

8.10 DISTRICT SET-OFF RIGHTS

8.10.1 Notwithstanding any provision of the Contract or of the General Conditions to the contrary, Broward Health may set-off against any sum or payment due to the General Contractor under the Contract any sum (“Set-Off Sum”) owed to Broward Health by the General Contractor whether or not such Set-Off Sum is related to the Contract or the Project.

ARTICLE 9 – PROTECTION OF PERSONS AND PROPERTY

9.1 SAFETY PRECAUTIONS AND PROGRAMS

9.1.1 The General Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work.

9.2 SAFETY OF PERSONS AND PROPERTY

9.2.1 The General Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:

9.2.1.1 All of Broward Health’s employees, visitors, patients and physicians and all other persons who may be affected thereby;

9.2.1.2 All the Work and all materials and equipment to be incorporated therein, whether in storage on the site, under the care, custody or control of the General Contractor or any of his Subcontractors or Sub-Subcontractors;

9.2.1.3 Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction;

9.2.2 Grassed, landscaped areas shall be protected so as to limit damage as much as possible by the General Contractor. All damage must be restored by the General Contractor to original condition at the completion of the Work unless further Work is specified;

9.2.3 The General Contractor shall be responsible to erect and maintain all barriers, shields, signs, fences, etc., necessary for the protection of the Hospital personnel, doctors, visitors, his own employees and any other persons on the site. In addition, he shall establish and enforce safety procedures to be followed during the progress of the Work;

9.2.4 The General Contractor shall protect Broward Health’s property. All damage which occurs as a result of the Contract shall be promptly restored to at least its original pre-contracted condition;
9.2.5 The General Contractor shall maintain the Work in a watertight condition at all times. Penetration through the roof or walls shall be promptly sealed. The General Contractor shall be fully responsible for repairs necessitated by failure to properly waterproof the Work. All construction materials subject to corrosion, decay or other damage caused by the weather shall be adequately protected at all times;

9.2.6 Materials and equipment subject to weathering or deterioration shall not be placed on the job site unless completely and adequately protected. If at any time the protection is not adequate, in the opinion of the Architect, additional protection shall be provided as he directs or the material or equipment shall be removed to a protected warehouse at no cost to Broward Health; and

9.2.7 The General Contractor shall comply with all Applicable Laws, including but not limited to, the Florida Industrial Commission, State and Federal Departments of Commerce and Labor, Agency for Health Care Administration, Codes and Standards, the OSHA Laws, and the Florida Building Code, as they may apply to the Work. The General Contractor shall also comply with all rules and regulations of the State Board of Health concerning Sanitary and Drinking Water provisions for the employees.

9.2.8 The General Contractor shall give all notices and comply with all Applicable Laws, and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss. The General Contractor shall perform all duties of Broward Health that are required under the Florida Building Code with respect to the provision providing for scaffolding and supervision as to safe premises for all employees, Subcontractors and their employees.

9.2.9 The General Contractor shall erect and maintain, as required by existing conditions and progress of the Work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities. The General Contractor shall also provide both visible and audible warning devices for all hazardous areas of construction. Such areas must be separated from normal pedestrian traffic by suitable barricades placed at an appropriate distance from the hazard. The General Contractor shall, within a 24-hour notice from Broward Health or the Architect, proceed to take down all portions of the Work and remove from the grounds or buildings, all materials, whether worked or unworked, which the Broward Health, the Architect, or their authorized representatives shall condemn as unsound or improper, or as in any way failing to conform to the Contract Documents. The General Contractor shall make good at its own expense, all work damaged or destroyed thereby.

9.2.10 The General Contractor shall handle all hazardous materials or equipment properly. The use of explosives is prohibited.

9.2.11 The General Contractor shall promptly remedy all damage or loss (other than damage or loss insured under Section 10.1) to any property caused in whole or in part by the General Contractor, any Subcontractor, Sub-subcontractor, anyone directly or indirectly employed by any of them, and by anyone for whose acts any of them may be liable and
for which the General Contractor is responsible, except damage or loss attributable to the acts or omissions of Broward Health or Architect. The foregoing obligations of the General Contractor are in addition to his obligations under Section 4.18.

9.2.12 The General Contractor shall designate a responsible member of his organization at the site whose duty shall be the prevention of accidents. This person shall be the General Contractor’s superintendent unless otherwise designated by the General Contractor in writing to Broward Health and the Architect. The General Contractor shall notify Broward Health’s representative of all accidents which may occur to persons or property and shall provide the Broward Health’s representative with a copy of all accident reports on appropriate forms. All reports shall be signed by the General Contractor or its authorized representative and submitted within five (5) days of the occurrence giving rise to such report.

9.2.13 The General Contractor shall not load or permit any part of the Work to be loaded so as to endanger its safety. The loading of new beams, floor slabs, etc., shall be done only upon written permission of the Structural Engineer.

9.2.14 The General Contractor shall comply with all pertinent OSHA standards (CFR Title 29). See also Attachment IV of the Special Conditions.

9.3 **EMERGENCIES**

9.3.1 In any emergency affecting the safety of persons or property, the General Contractor shall act to prevent life-threatening damage, injury or loss. Any additional compensation or extension of time claimed by the General Contractor on account of emergency work shall be determined as provided in Article 11 for Changes in the Work.

9.4 **SPECIAL SAFETY PROCEDURES**

9.4.1 All contractors working on Broward Health’s property will meet with the appropriate member of Facilities Management to discuss safe operating practices during construction or maintenance projects.

9.4.2 All contractors will report to the appropriate member of Facilities Management who has the responsibility for construction or maintenance on a daily basis.

9.4.3 Fire and safety procedures are to be discussed on a daily basis depending on the type of Work and the area in which the Work takes place.

9.4.4 All contractors are responsible for informing Facilities Management any time utility services need to be interrupted, shutdown, etc. during a construction or maintenance project. Should it become necessary to have a Utility Service Interruption, Shutoff, etc. for a short period of time, an official Shut-Down Report (see Attachment I) shall be filed by the General Contractor with Broward Health’s representative, outlining the time, duration and exact location of the Shut-Down, and the precautions being taken to ensure critical areas and services are maintained and also ensure there shall be
equivalent fire safety levels for the Building during the interim. All such considerations must meet with the approval of Broward Health.

Facilities Management needs at least forty-eight (48) hours’ notice before any utility services are interrupted. This notice is needed so Facilities Management can notify those departments affected by the interruption or shutdown of utility services.

After the construction work that affected the shutdown is completed, the General Contractor and Facilities Management personnel will work together on restoration of the appropriate utility service that has been previously disconnected.

**9.4.5** All personnel of the General Contractor assigned to the Project shall be fit, experienced, and competent to perform their tasks and shall work in a safe, courteous, and cooperative fashion with Broward Health and the other participants who are present at the site at any given time. Harassment and other improper conduct shall not be tolerated. The General Contractor shall ensure compliance with the provisions of this Subsection 9.4.5 by all employees of the General Contractor, all Subcontractors and Sub-Subcontractors.

**9.4.6** All contractors are to be informed that there is a No Smoking policy in and around all Broward Health’s property and all construction areas, except in designated areas on the facility grounds.

**9.5 TESTS**

**9.5.1** If the Contract Documents, Applicable Laws or orders of any public authority having jurisdiction require any portion of the Work to be inspected, tested or approved, the General Contractor shall give the Architect timely notice of its readiness so the Architect may observe such inspection, testing or approval. The General Contractor shall bear all costs of such inspections, tests or approvals conducted by public authorities. Unless otherwise provided, Broward Health shall bear all costs of other inspections, tests or approvals.

**9.5.2** If the Architect determines that any Work requires special inspection, testing or approval which Subsection 9.5.1 does not include, he will instruct the General Contractor to order such special inspection, testing or approval, and the General Contractor shall give notice as provided in Subsection 9.5.1. If such special inspection or testing reveals a failure of the Work to comply with the requirements of the Contract Documents, the General Contractor shall bear all costs thereof including compensation for the Architect’s additional services made necessary by such failure, otherwise, Broward Health shall bear costs and an appropriate Change Order shall be issued.

**9.5.3** Required certificates of inspection, testing or approval shall be secured by the General Contractor and promptly delivered by him to the Architect.

**9.5.4** If the Architect is to observe the inspections, tests or approvals required by the Contract Documents, he will do so promptly and where practicable at the source of supply.
ARTICLE 10 – INSURANCE AND BONDS

10.1 INSURANCE COVERAGE

The Insurance Requirements contained in the Contract represent the minimal protection necessary for Broward Health as determined by Broward Health’s Claims and Insurance Services Department. Further modifications of the requirements may be made at the sole discretion of Broward Health’s Claims and Insurance Services Department if circumstances change or additional protection of Broward Health is necessary. No Notice to Proceed will be issued until a written determination is made by Broward Health’s Claims and Insurance Services Department that Broward Health is adequately protected. General Contractor shall provide, pay for, and maintain in force until all of the Projects performed under the Contract have been completed and accepted by Broward Health (or for such duration as is otherwise specified hereinafter), the insurance coverage set forth in this Section 10.1 General Contractor shall, at all times during the term of the Contract, maintain at its cost the following insurance coverage:

<table>
<thead>
<tr>
<th>TYPE OF COVERAGE</th>
<th>AMOUNT OF COVERAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comprehensive Commercial General Liability, Including Premises-Operations; Independent Contractors Protective; Products and Completed Operation Broad Forms; Explosion, Collapse and Underground Coverage; and Property Damages</td>
<td>$1,000,000 per occurrence $3,000,000 annual aggregate</td>
</tr>
<tr>
<td>Worker’s Compensation, including Employer’s Liability Insurance</td>
<td>$Statutory Limits $1,000,000 per occurrence</td>
</tr>
<tr>
<td>Comprehensive Automobile Liability</td>
<td>$1,000,000 per occurrence $3,000,000 annual aggregate</td>
</tr>
<tr>
<td>Builder’s Risk</td>
<td>The limits shall be cumulative based upon the value of construction in progress as determined by the Contract Administrator</td>
</tr>
<tr>
<td>Umbrella</td>
<td>$5,000,000 annual aggregate</td>
</tr>
<tr>
<td>Pollution Liability</td>
<td>The limits shall be determined based upon the Project and established in the bid documents</td>
</tr>
</tbody>
</table>

The pollution liability insurance shall provide coverage for any and all losses arising from or in any way related to pollution conditions, both sudden and accidental and gradual, which arise from General Contractor’s operations under the Contract, whether directly or indirectly, or that are in any other way related to General Contractor’s operations during performance of the Contract, whether such operations be by General Contractor, its Subcontractors or anyone directly or indirectly employed by any of them.
(“Losses”). The coverage shall be endorsed to include: (i) bodily injury (including death), property damage and environmental cleanup costs, both on-Site and off-Site; (ii) transportation of any waste, including loading / unloading, from the Site to the final disposal location, with all such disposal locations being scheduled as non-owned disposal sites for coverage under the policy, and (iii) removal and/or abatement of asbestos. Each Subcontractor hired by General Contractor to perform any Work under the Contract must be covered by insurance of the same character and in the same amounts as required of General Contractor.

All insurance policies with the exception of Workers’ Compensation insurance hereunder will name Broward Health as an additional insured, and the General Contractor will furnish Broward Health evidence of such insurance coverage by way of an endorsement to same or a certificate of insurance no later than ten (10) days prior to the execution of the Contract. The requirement that Broward Health be named as an additional insured under all insurance policies is not intended to satisfy, in whole or in part, General Contractor’s obligation to indemnify set forth in the Contract Documents.

All such insurance will be with an insurance carrier authorized to do business in the state of Florida, acceptable to Broward Health, and who must have a rating of no less than Best’s A Class X in the latest edition of “Best’s Key Rating Guide”. All such insurance policies may not be modified or terminated without thirty (30) days’ prior written notice to Broward Health. In the event General Contractor receives any notice of termination or modification of any policy, General Contractor shall forthwith provide a copy of the notice to Broward Health.

10.2 **BUILDER’S RISK INSURANCE**

Until the entire Project is completed and accepted by Broward Health, Contractor shall purchase and maintain Builder’s Risk insurance upon the entire Project at the site(s) to the full insurable value of the Work thereof. This insurance shall include the interests of Broward Health, the General Contractor, Subcontractor and Sub-subcontractor in the Project against the perils of fire and extended coverage and shall include “All-Risk” insurance for physical loss or damage including, without duplication of coverage, theft, vandalism and malicious mischief.

10.3 **INSURANCE PROCEEDS**

Any loss insured under Section 10.2 is to be adjusted with Broward Health and made payable to Broward Health as trustee for the insured, as their interests may appear. The General Contractor shall pay each Subcontractor a just share of any insurance moneys received by the General Contractor, and by appropriate written agreement, shall require each Subcontractor to make payments to his Sub-Subcontractors in similar manner.

10.4 **GENERAL CONTRACTOR INSURANCE**

The General Contractor shall be responsible for any General Contractor-owned tools and equipment that are used in the performance of the Project. The General Contractor
shall be responsible to provide its own insurance to protect itself in the event of a loss due to theft, vandalism, or malicious mischief.

10.5 **WAIVER OF RIGHTS**

Broward Health and General Contractor waive all rights against (1) each other and the Subcontractor, Sub-Subcontractors, agents and employees each of the other, and (2) separate contractor, if any, and their Subcontractors, Sub-Subcontractors, agents and employees for damages caused by fire or other perils to the extent covered by any insurance applicable to the Project, except such rights as they may have to the proceeds of such insurance held by Broward Health as trustee. Broward Health or the General Contractor, as appropriate, shall require of the separate contractors, including the Architect only in the event that the Architect is named as an additional insured on the Builder’s Risk policy, Subcontractors and Sub-Subcontractor, by appropriate agreements, written where legally required for validity, similar waivers each in favor of all other parties enumerated in this Section 10.5.

10.6 **PERFORMANCE BOND AND LABOR AND MATERIAL PAYMENT BOND**

General Contractor shall furnish a Performance and payment Bond as described below:

10.6.1 **Performance and Payment Bond (Surety):**

10.6.1.1 A Performance Bond and Payment Bond in the form and containing all the provisions of the Performance and Payment Bond attached hereto and made a part hereof as Attachment II.

10.6.1.2 The Bonds shall each be in the amount of one hundred percent (100%) of the Contract sum guaranteeing to Broward Health the completion and performance of all Work covered in the Contract as well as full payment of all suppliers, material persons, laborers, or Subcontractors. Such Bonds shall be with a surety company which is qualified pursuant to Subsection 10.6.2, Qualifications of Surety.

10.6.1.3 Such Bonds shall continue in effect for one year after completion and acceptance of the Project, or any portion thereof, with liability equal to one hundred percent (100%) of the Contract Sum, or an additional bond shall be conditioned that General Contractor will, upon notification by Broward Health, correct any defective or faulty work or materials which appear within one year after completion of the Contract.

10.6.1.4 Pursuant to the requirements of Section 255.05(1), *Florida Statutes*, as may be amended from time to time, General Contractor shall ensure that the bonds referenced above shall be recorded in the public records and provide Broward Health with evidence of such recording.
10.6.2 Qualifications of Surety:

10.6.2.1 Each bond required by the Contract must be executed by a surety company of recognized standing, authorized to do business in the State of Florida as surety, having a resident agent in the State of Florida and having been in business with a record of successful continuous operation for at least five (5) years.

10.6.2.2 In addition to the above-minimum qualifications, the surety company must meet at least one (1) of the following additional qualifications: The surety company shall hold a current certificate of authority as acceptable surety on federal bonds in accordance with United States Department of Treasury Circular 570, Current Revisions. If the amount of the Bond exceeds the underwriting limitation set forth in the Circular, in order to qualify, the net retention of the surety company shall not exceed the underwriting limitation in the Circular, and the excess risks must be protected by coinsurance, reinsurance, or other methods in accordance with Treasury Circular 297, revised September 1, 1978 (31 CFR Section 223.10, Section 223.11). Further, the surety company shall provide Broward Health with evidence satisfactory to Broward Health’s Risk Manager, that such excess risk has been protected in an acceptable manner; or

10.6.2.3 The surety company shall have at least the following minimum ratings in the latest revision of Best’s Insurance Report published by A.M. Best Company:

<table>
<thead>
<tr>
<th>AMOUNT OF BOND</th>
<th>POLICY HOLDER’S RATING</th>
<th>BEST’S SIZE FINANCIAL CATEGORY</th>
</tr>
</thead>
<tbody>
<tr>
<td>$500,001 to $1,000,000</td>
<td>B+</td>
<td>Class I</td>
</tr>
<tr>
<td>$1,000,001 to $2,000,000</td>
<td>B+</td>
<td>Class II</td>
</tr>
<tr>
<td>$2,000,001 to $5,000,000</td>
<td>A</td>
<td>Class III</td>
</tr>
<tr>
<td>$5,000,001 to $10,000,000</td>
<td>A</td>
<td>Class IV</td>
</tr>
<tr>
<td>$10,000,001 to $25,000,000</td>
<td>A</td>
<td>Class V</td>
</tr>
<tr>
<td>$25,000,001 to $50,000,000</td>
<td>A</td>
<td>Class VI</td>
</tr>
<tr>
<td>$50,000,001 or more</td>
<td>A</td>
<td>Class VII</td>
</tr>
</tbody>
</table>

ARTICLE 11 – CHANGES IN THE WORK

11.1 CHANGE ORDERS

11.1.1 A Change Order is a written order to the General Contractor signed by Broward Health and the Architect issued after execution of the Contract, authorizing a change in the Work or an adjustment in the Contract Sum or Contract Time. The Contract Sum and the Contract Time may be changed only by Change Order. A Change Order signed by
the General Contractor indicates his agreement therewith, including the adjustment in the Contract Sum or the Contract Time. Any Change Order that increases the cost of the Work to Broward Health, including without limitation increases in the Contract Sum or the Guaranteed Maximum Price, shall be approved in writing according to Broward Health’s procurement policies and evidenced by a written amended Purchase Order. Any such Change Order not approved and incorporated in the amended Purchase Order shall not be enforceable against Broward Health, and Broward Health shall have no obligation to pay such increased cost even if the Work provided on the Change Order had been performed. In the event a Purchase Order, Request for Quotation, or Request for Proposal includes a provision for Broward Health contingency for Broward Health Contingency items, the contingency fund is only for Broward Health’s internal budgeting use for changes in scope of work, such as but not limited to, unforeseen conditions or changes requested by governmental agencies having jurisdiction. Any use of such contingency provision, including without limitation to increase the Contract Sum or Guaranteed Maximum Price, shall require a Change Order that must be approved and incorporated in the amended Purchase Order.

11.1.2 Broward Health, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revision, the Contract Sum and the Contract Time being adjusted accordingly. All such changes in the Work shall be authorized by Change Order, and shall be performed under the applicable conditions of the Contract Documents.

11.1.3 The cost or credit to Broward Health resulting from a change in the Work shall be determined in one or more of the following ways:

11.1.3.1 By mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluations;

11.1.3.2 By unit prices stated in the Contract Documents or subsequently agreed upon;

11.1.3.3 By cost to be determined in a manner agreed upon by the parties and the applicable fixed percentage fee set forth in the General Contractor’s Cost Proposal, if any; or

11.1.3.4 If none of the methods set forth in Subsections 11.1.3.1, 11.1.3.2, or 11.1.3.3 is agreed upon, the General Contractor, provided he receives a written order signed by Broward Health, shall promptly proceed with the Work involved. The cost of such Work shall then be determined by the Architect on the basis of the reasonable actual expenditures and savings of those performing the Work attributable to the change, including, in the case of an increase in the Contract Sum, a reasonable allowance for overhead and profit limited to ten percent (10%) of the cost of such Work. General Contractor’s overhead shall include, but shall not be limited to, costs of the superintendence, home office overhead, job site overhead, supervision, administration, field office personnel, clerical costs and other general expenses. In such case, and also under Subsections 11.1.3.1, 11.1.3.2, and 11.1.3.3 above, the General
Contractor shall keep and present, in such form as the Architect may prescribe, itemized accounting together with appropriate supporting data for inclusion in a Change Order. Unless otherwise provided in the Contract Documents, the cost of such Work shall be limited to the following: cost of materials, including sales tax and cost of delivery, cost of direct labor, including social security, old age and unemployment insurance, and fringe benefits required by agreement or custom, worker’s or workmen’s compensation insurance, bond premiums, and rental value of equipment and machinery. The amount of credit to be allowed by the General Contractor to Broward Health for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase, if any, with respect to that change.

11.1.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order, that application of the agreed unit prices to the quantities of Work proposed will cause substantial inequity to Broward Health or the General Contractor, the applicable unit prices shall be equitably adjusted.

11.1.5 Broward Health shall not be responsible for any costs resulting from delay in notice by the General Contractor of a required change in the Work. However, it is understood that it will take a reasonable period of time for Broward Health to process any requested change.

11.1.6 Requests for time extensions on a Change Order will be considered only if appropriate back-up material is submitted and supporting evidence to show that such a claim is justified and that the Work affects the actual progress of the job.

11.2 CLAIMS FOR ADDITIONAL COST

11.2.1 If the General Contractor wishes to make a claim for an increase in the Contract Sum, he shall give the Architect and Broward Health written notice thereof within ten (10) days after the occurrence of the event giving rise to such claim. This notice shall be given to the Architect and Broward Health before proceeding to execute the Work, except in an emergency endangering life or property in which case the General Contractor shall proceed with the Work in accordance with Section 9.3 and then give written notice in accordance with this Subsection 11.2.1. No such claim shall be valid unless so made. If Broward Health and the General Contractor cannot agree on the amount of the adjustment in the Contract Sum, it shall be determined by the Architect. Any change in the Contract Sum resulting from such claim shall be authorized by Change Order.

11.2.2 When Work causes disruption or interference with normal sequence of operation of Broward Health’s Medical Facilities, it shall be executed at specific time periods
directed by Broward Health in writing. Where such disruption or interference is anticipated, the General Contractor shall notify Broward Health in writing not less than three (3) days prior to such disruption, and receive approval in writing from Broward Health before proceeding with this portion of the Work. This approval will be granted only by a “Shut Down Report” properly filled out by the General Contractor. (See Attachment I.)

11.2.3 Broward Health shall not be responsible to the General Contractor for payment of additional funds as compensation for any required overtime or premium costs. If the General Contractor falls behind the normal work schedule as outlined in the job schedule, he may at his choice, add additional personnel to the Project in order to gain back lost time or he may work all of his crews on such premium time as may be required. Such overtime work shall be approved by Broward Health as to any interference it may cause in the normal operation of the Medical Facility. Broward Health will not be responsible for any compensation to the General Contractor for such additional costs resulting from overtime and premium time.

11.2.4 Prior to proceeding with any Work, the General Contractor shall investigate and determine location of all existing valving within the building to permit him to make his shut downs and shall include in his Cost Proposals any requirements for additional valving, temporary caps, etc., as he may be required to install to minimize length of time of any required shut down.

11.2.5 Shut downs called for by the General Contractor shall be brought to Broward Health’s attention in the form of written Shut Down Report (Attachment I) to be filed by the General Contractor with Broward Health at the regularly scheduled weekly work meeting. Shut downs requested which will occur within a period of seventy-two (72) hours from the time of the weekly meeting shall be requested at the previous meeting to give Broward Health sufficient time to anticipate such a shut down.

11.2.6 If shut down of any service or discharge line or facility or supply, etc., is required by the General Contractor to extend beyond a period of twenty-four (24) hours, the General Contractor shall include in his Proposal the cost of rerouting all pipes, conduits, power, sewerage, etc., at his own expense or shall provide valving of capping, etc., as may be required to limit such shut down to a period of twenty-four (24) hours. There shall not be justification for a shutdown exceeding the twenty-four (24) hour limitations above. Similarly, multiple shut downs of any such items shall not be permitted if, with additional coordination, the General Contractor can limit such shut downs to a single shut down, accomplishing all work required. Any exceptions to this must be approved by Broward Health.

11.3 MINOR CHANGES IN WORK

11.3.1 The Architect shall have authority to order minor changes in the Work consistent with the intent of the Contract Documents not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents and not affecting the quality of the Work. Such changes shall be effected
by written order to the General Contractor and Broward Health and shall be binding on
Broward Health and the General Contractor. The General Contractor shall carry out
such written orders promptly.

11.4  REGULATORY CHANGES

11.4.1  The General Contractor shall be compensated for changes in the Work necessitated by
the enactment or revision of codes, laws or regulations subsequent to the submission of
the General Contractor’s Proposal.

ARTICLE 12 – UNCOVERING AND CORRECTION OF WORK

12.1  UNCOVERING OF WORK

12.1.1  If any portion of the Work should be covered contrary to the requirements specifically
expressed in the Contract Documents, it must, if requested in writing by the Architect
or Broward Health, be uncovered for the Architect’s or Broward Health’s observation
and shall be replaced at the General Contractor’s expense without change in the Contract
Time.

12.1.2  If any other portion of the Work has been covered which the Architect has not
specifically requested to observe prior to being covered, the Architect may request
to see such Work and it shall be uncovered by the General Contractor. If such Work is
found in accordance with the Contract Documents, the cost of uncovering and
replacement shall, by appropriate Change Order, be charged to Broward Health. If such
Work is found not in accordance with the Contract Documents, the General Contractor
shall pay such costs unless it is found that this condition was caused by Broward Health
or a separate contractor as provided in Article 6, in which event the Broward Health
shall be responsible for the payment of such costs.

12.2  CORRECTION OF WORK

12.2.1  The General Contractor shall promptly correct all Work rejected by the Architect or
known by the General Contractor to be defective or failing to conform to the Contract
Documents, whether observed before or after Substantial Completion and whether or
not fabricated, installed or completed. The General Contractor shall bear all costs of
correcting such rejected Work, including reasonable compensation for the Architect’s
additional services made necessary thereby.

12.2.2  If, within one year after the Date of Substantial Completion of the Work or designated
portion thereof or within one year after acceptance by Broward Health of designated
equipment or within such longer period of time as may be prescribed by law or by the
terms of any applicable special warranty required by the Contract Documents, any of
the Work or designated equipment is found to be defective or not in accordance with
the Contract Documents, the General Contractor shall correct it promptly after receipt
of a written notice from Broward Health to do so, unless Broward Health has previously
given the General Contractor a written acceptance of such condition. This obligation
shall survive expiration or termination of the Contract. Broward Health shall give such notice promptly after discovery of the condition.

12.2.3 The General Contractor shall remove from the site all portions of the Work which are defective or non-conforming and which have not been corrected under Subsections 4.5.1, 12.2.1 and 12.2.2, unless removal is waived by Broward Health.

12.2.4 If the General Contractor fails to correct defective or non-conforming Work as provided in Subsections 4.5.1, 12.2.1 and 12.2.2, Broward Health may correct it in accordance with Section 3.4.

12.2.5 If the General Contractor fails, defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within seven (7) days after receipt of written notice from the Architect to commence and continue correction of such defective or non-conforming Work within a reasonable time fixed by written notice from the Architect, Broward Health may remove it and may store the materials or equipment at the expense of the General Contractor. If the General Contractor does not pay the cost of such removal and storage within ten (10) days thereafter, Broward Health may upon ten (10) additional days written notice, sell such Work at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs that should have been paid by the General Contractor, including compensation for the Architect’s additional services made necessary thereby. If such proceeds of sale do not cover all costs which the General Contractor should have borne, the difference shall be charged to the General Contractor and an appropriate Change Order shall be issued. If the payments then or thereafter due the General Contractor are not sufficient to cover such amount, the General Contractor shall pay the difference to Broward Health. The sale price of any materials or equipment shall be conclusive as to its fair and reasonable value.

12.2.6 The General Contractor shall bear the cost of making good all work of Broward Health or separate contractors destroyed or damaged by such correction or removal.

12.2.7 Nothing contained in Section 12.2 shall be construed to establish a period of limitation with respect to any other obligation which the General Contractor might have under the Contract Documents, including Section 4.5 hereof. The establishment of the time period of one (1) year after the Date of Substantial Completion or such longer period of time as may be prescribed by law or by terms of any warranty required by the Contract Documents relates only to the specific obligation of the General Contractor to correct the Work, and has no relationship to the time within which his obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the General Contractor’s liability with respect to his obligations other than specifically to correct the Work.

12.2.8 All methods of correction shall be approved by the Architect in advance of executing same. Schedule of time of correction work shall also be approved by Broward Health. Broward Health and Architect will cooperate with the General Contractor in permitting
correction of defective work under the conditions of proper patient care and operation of the Medical Facility.

12.3 ACCEPTANCE OF DEFECTIVE OR NON-CONFORMING WORK

12.3.1 If Broward Health prefers to accept defective or nonconforming Work, he may do so instead of requiring its removal and correction, in which case a Change Order will be issued to reflect a reduction in the Contract Sum where appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 – TERMINATION OF THE CONTRACT

13.1 TERMINATION BY THE GENERAL CONTRACTOR

13.1.1 If the Work is stopped for a period of thirty (30) days under an order of any court or other public authority having jurisdiction, or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of the General Contractor or Subcontractor or their agents or employees or any other persons performing any of the Work under a contract with the General Contractor, or if the Work should be stopped for a period of thirty days by the General Contractor because the Architect has not issued a Certificate of Payment as provided in Section 8.4, then the General Contractor may, upon seven (7) additional days submit written notice to the Architect and Broward Health, terminate the Contract and recover from Broward Health payment for all Work executed and for any proven loss sustained upon any materials, equipment, tools, construction equipment and machinery, including reasonable profit and damages for Work done by General Contractor through the date of termination, assuming that these goods were not prematurely ordered and properly stored. The General Contractor shall have a duty to mitigate his damages.

13.2 TERMINATION BY BROWARD HEALTH

13.2.1 Termination for Convenience:

13.2.1.1 Broward Health may for any reason whatsoever terminate performance under the Contract by the General Contractor for convenience. Broward Health shall give written notice of such termination to the General Contractor specifying when termination becomes effective.

13.2.1.2 The General Contractor shall incur no further obligations in connection with the Work and the General Contractor shall stop Work when such termination becomes effective. The General Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders. Broward Health may direct the General Contractor to assign the General Contractor’s right, title and interest under terminated orders or subcontracts to Broward Health or its designee.
13.2.1.3 The General Contractor shall transfer title and deliver to Broward Health such completed or partially completed Work and materials, equipment, parts, fixtures, information and contract rights as the General Contractor has.

13.2.1.4 (a) The General Contractor shall submit a termination claim to Broward Health and the Architect specifying the amounts due because of the termination for convenience together with the costs, pricing or other data required by Broward Health within sixty (60) days from the effective date of termination. If the General Contractor files a termination claim within sixty (60) days from the effective date of termination, Broward Health shall pay the General Contractor an amount derived in accordance with sub-paragraph (b) below.

(b) Absent agreement to the amount due to the General Contractor, Broward Health shall pay the General Contractor the following amounts:

(i) Contract prices for labor, materials, equipment and other services accepted under the Contract;

(ii) Reasonable costs incurred in preparing to perform and in performing the terminated portion of the Work, and in terminating the General Contractor’s performance; and

(iii) Reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Subsection 13.2.1.2. These costs shall not include amounts paid in accordance with other provisions hereof.

13.2.1.5 The total sum to be paid by the General Contractor shall not exceed the total Contract Sum, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

13.2.1.6 General Contractor shall not be entitled to any lost future profits, indirect or special home office overhead, labor, supervision, job site overhead, claims for equitable adjustment, or other damages.

13.2.1.7 Upon receipt of notice of termination pursuant to Subsection 13.2.2.1, General Contractor shall promptly discontinue all affected Work unless the notice of termination directs otherwise and deliver or otherwise make available to the Contract Administrator all data, drawings, specifications, reports, estimates, summaries and such other information as may have been required by the Contract Documents whether completed or in process.

13.2.2 Termination for Cause:

The following shall give Broward Health the right to terminate the Contract with General Contractor:
13.2.2.1 If General Contractor fails to begin the construction of the Project, or any portion thereof, within the time specified, or fails to perform the Project, or any portion thereof, with sufficient workers and equipment or with sufficient materials to insure the prompt completion of the Project, or shall perform the work unsuitably, or cause it to be rejected as defective and unsuitable, or shall discontinue the prosecution of the Project, or if General Contractor shall become insolvent, be declared bankrupt, commit any act of bankruptcy or insolvency, make an assignment for the benefit of creditors, or as a result of any other cause whatsoever not carry on the Project, or any portion thereof, in an acceptable manner, the Contract Administrator may give notice in writing to General Contractor and its Surety of such delay, neglect or default, specifying the same. If General Contractor, within a period of ten (10) days after such notice, shall not proceed in accordance therewith, then Broward Health may, upon written certificate from the Contract Administrator of the fact of such delay, neglect or default and General Contractor’s failure to comply with such notice, terminate the services of General Contractor, exclude General Contractor from the site(s) and take the prosecution of the Project out of the hands of General Contractor, and appropriate or use any or all materials and equipment on the Project site as may be suitable and acceptable.

13.2.2.2 In the event of an occurrence under Subsection 13.2.2.1 above, General Contractor shall not be entitled to receive any further payment until the Project is finished.

13.2.2.3 In the event of an occurrence under Subsection 13.2.2.1 above, Broward Health may enter into a separate agreement for the completion of the Project according to the terms and provisions of the Contract Documents or use such other methods as in its opinion shall be required for the completion of the Project in an acceptable manner.

13.2.2.4 In the event of an occurrence under Subsection 13.2.2.1 above, all damages, costs and charges incurred by Broward Health shall be deducted from any monies due or which may become due to General Contractor. Actions will be instituted to recover on the posted bonds. In case the damages and expenses so incurred by Broward Health shall be less than the sum which would have been payable under the Contract, if it had been completed by said General Contractor, then General Contractor shall be entitled to receive the difference. If such damages and costs exceed the unpaid balance, then General Contractor shall be liable and shall pay to Broward Health the amount of said excess.

13.2.2.5 If, after notice of termination is given to General Contractor, it is determined for any reason that General Contractor was not in default, the rights and obligations of Broward Health and General Contractor shall be the same as if the notice of termination had been issued pursuant to the termination for convenience clause as set forth in Subsection 13.2.1.
13.2.2.6 Upon receipt of notice of termination pursuant to Subsection 13.2.2.1 above, General Contractor shall promptly discontinue all affected Work unless the notice of termination directs otherwise and deliver or otherwise make available to the Contract Administrator all data, drawings, specifications, reports, estimates, summaries and such other information as may have been required by the Contract Documents whether completed or in process.

13.3 SUSPENSION BY BROWARD HEALTH FOR CONVENIENCE:

13.3.1.1 Broward Health may, without cause, order the General Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as Broward Health may determine.

13.3.1.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 13.3.1.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent:

(a) that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the General Contractor is responsible; or

(b) that an equitable adjustment is made or denied under another provision of the Contract.

ARTICLE 14 – PRE-CONSTRUCTION CONFERENCE

14.1 DATE AND TIME

There will be a Pre-Construction Conference held within two (2) weeks following the execution of the Contract. The General Contractor will be notified of the exact time and date.

14.2 ATTENDEES

This meeting will be held by Broward Health’s representative, the Architect’s representative, the General Contractor’s representative, and others, as determined by the scope of the Project. The General Contractor and all required Subcontractors must have responsible representatives in attendance at this meeting.

14.3 PURPOSE

The purpose of this meeting will be to clarify the obligations of all parties and to answer all questions that any party might raise.
ARTICLE 15 – WORK SCHEDULE

Because a Medical Facility will be occupied and functioning throughout the Contract, a well-considered and detailed schedule is essential. No Work will begin until this schedule has been approved and sufficient materials received to allow the job to progress without delay. A computer based CPM Schedule will be required for review and approval by Broward Health. This will include critical path items including, but not limited to, required shut downs, schedules, critical Subcontractor Schedules and any other items affecting the progress of the Work.

ARTICLE 16 – OWNERSHIP OF ITEMS REMOVED DURING CONSTRUCTION

Equipment and materials removed during the execution of the Contract, and those not re-installed, shall remain the property of Broward Health. These items shall be sorted and stored on the site as directed by Broward Health. The General Contractor must obtain a signed receipt for all material thus turned over to Broward Health. If Health chooses not to retain ownership of certain articles, the General Contractor shall dispose of these articles off the site in any legal manner he desires.

ARTICLE 17 – PROJECT MEETING

Project meetings will be held periodically, but at least once a month, as agreed upon by Broward Health and General Contractor at a mutually agreeable time. In addition to these, special project meetings may be called as deemed necessary by Broward Health or the General Contractor. Project meetings shall be attended by responsible, knowledgeable representatives of the General Contractor, major Subcontractors and those Subcontractors as may be requested to attend. Such representatives shall have authority to make commitments and decisions for their firms. Failure to attend or take active part in project meetings to a degree that such failure adversely affects the progress of the Project shall be considered a breach of the Contract.

The General Contractor shall be responsible for taking accurate and complete minutes of these meetings, transcribing them and distributing copies to the above mentioned parties.

ARTICLE 18 – DISCRIMINATION AND AUDITS

The General Contractor to take any actions necessary to fulfill these regulations and laws as herein outlined below:

18.1 CIVIL RIGHTS REQUIREMENTS

The General Contractor agrees that he and all Subcontractors will comply with the following regulations as a condition of the Contract:

18.1.1 Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000(d), et seq., which prohibits discrimination on the basis of race, color, religion, sex, or national origin.


18.1.5 Section 654 of the Omnibus Budget Reconciliation Act of 1981, as amended, 42 U.S.C. 9849, which prohibits discrimination on the basis of race, creed, color, national origin, sex, handicap, political affiliation or beliefs.


18.1.7 Florida Civil Rights Act of 1992, Section 760.01, et seq., Florida Statutes.

18.1.8 Broward County Human Rights Act (Chapter 16½, of Broward County Code of Ordinances).

18.1.9 All regulations, guidelines and standards as are now or may be lawfully adopted under the above statutes.

The General Contractor further assures that all contractors, subcontractors, or others with whom it arranges to provide services, labor or materials to participants or employees in connection with this Project are not discriminating against those participants or employees in violation of the above statutes, regulations, guidelines and standards.

18.2 **AUDIT AND RECORDS**

The General Contractor agrees:

18.2.1 To maintain financial records and reports relating to funds paid under the Contract.

18.2.2 To maintain books, records, documents including electronic storage media and the evidence and accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of the Contract, including but not limited to daily construction reports, time logs, invoices, and all records of support services provided with respect to the Project. Such records shall include hard copy, as well as computer readable data, of written policies and procedures; time sheets; payroll registers; cancelled checks; subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, and the like); original estimates; estimating work sheets; correspondence; change order files (including documentation covering negotiated settlements); back charge logs and supporting documentation; general ledger entries detailing cash and trade discounts earned; insurance rebates and dividends; and any other Contractor records which are applicable to the Work and Project and relate to: a) Contractor’ s compliance with contract requirements, b) compliance with Broward Health’ s business ethics policies, and c)
compliance with provisions for pricing change orders, invoices or claims submitted by the General Contractor or its payees.

18.2.3 These records shall be subject at all times to inspection, review, or audit by Broward Health or authorized state personnel. If an inspection, review, or audit discloses overpricing or overcharges (of any nature) by the General Contractor to Broward Health in excess of one-half of one percent (0.5%) of the total Contract Sum, the actual cost of the Broward Health’s inspection, review, or audit shall be reimbursed to Broward Health by the General Contractor. Any adjustments and/or payments that must be made as a result of any such inspection, review, or audit of the General Contractor’s invoices and/or records shall be made within a reasonable amount of time (not to exceed 30 days) from presentation of Broward Health’s findings to General Contractor. In the event General Contractor fails to remit such sum to Broward Health within thirty (30) days, Broward Health may deduct such amount from any sums due General Contractor hereunder.

18.2.4 To include these aforementioned audit and record keeping requirements in all approved subcontracts and assignments.

18.3 RETENTION OF RECORDS

The General Contractor agrees to retain all financial records, supporting documents, statistical records and any other documents including electronic storage media pertinent to the Contract for a period of five (5) years after final payment, or, if audit findings have not been resolved at the end of the five (5) year period, the records shall be retained until resolution of the audit findings. Broward Health and State auditors and any persons duly authorized by the State or Broward Health shall have full access to, and the right to examine any of the said materials during said period.

18.4 DAVIS-BACON ACT

If applicable as set forth in the Bid Documents, the Project shall be subject to all provisions of the Davis-Bacon Act, latest edition, including wages and benefits. When not stated and defined in the Bid Documents, the Project shall not be subject to these provisions.

ARTICLE 19 – DIVERSE VENDOR SUBCONTRACTOR PARTICIPATION REQUIREMENT

19.1 PARTICIPATION PERCENTAGE

General Contractor agrees to utilize Certified Diverse Vendor (“CDV”) subcontractors to perform no less than twenty percent (20%) of the total amount invoiced to Broward Health for the Work, pursuant to the Supplier Diversity Policy and Procedure and CDV Registration Procedures attached hereto as Attachment III.
19.2 **LIST OF SUBCONTRACTORS**

No later than execution of the Contract, General Contractor shall submit to Broward Health a list confirming the identity of the proposed CDV Subcontractors to participate in the Project. General Contractor shall specify the subcontracted dollar amount for each. Each proposed CDV Subcontractor must be a certified diverse vendor with Broward Health. General Contractor shall bind each and every subcontractor to the terms stated in the Contract and shall require the proper licensing of such subcontractors.

19.3 **SUBCONTRACTS**

Within a reasonable time after execution of the Contract (not exceeding thirty (30) days), General Contractor shall submit to Broward Health a copy of all fully executed subcontracts corresponding in all respects to the Contract. General Contractor shall give Broward Health prompt written notice of the termination or expiration of all subcontracts that may terminate or expire during the Term of the Contract.

19.4 **MONTHLY AND FINAL MONITORING REPORT**

Along with General Contractor’s monthly invoice and billing reconciliation report, General Contractor shall also submit a “Certified Diverse Vendor Monthly Utilization Report”. The Report shall include the diversity status, the contract value and percent of agreement, current month payments, payments made to date and remaining payments to be paid to each Certified Diverse Vendor Subcontractor. General Contractor shall utilize this Report to indicate the amount of monetary CDV on a monthly basis. The Monthly Utilization Report submitted by General Contractor for the last month of the General Contractor’s performance of the Work shall also set forth the total CDV participation that was achieved for during the entire Term of the Contract.

19.5 **LIQUIDATED DAMAGES**

If General Contractor fails to comply with Section 19.1 herein, General Contractor shall be in default under the Contract, and such default is considered a material breach of the Contract. Broward Health and General Contractor agree that if the actual total CDV participation is less than the required percentage set forth in Section 19.1 above, the actual damages for the non-compliance will be impossible to determine. In lieu thereof, General Contractor shall pay to Broward Health an amount equal to fifty percent (50%) of the difference between the actual total CDV participation and the required percentage set forth in Section 19.1 above, as fixed, agreed and liquidated damages and not as a penalty, which will be credited against the next and/or final payment due to General Contractor by Broward Health.
ARTICLE 20 – MISCELLANEOUS PROVISIONS

20.1 RIGHTS AND REMEDIES

20.1.1 The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

20.1.2 No action or failure to act by Broward Health, Architect and General Contractor shall constitute a waiver of any right or duty afforded either of them under the Contract Documents except as expressly set forth in the Contract Documents, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

20.2 ARBITRATION

20.2.1 All claims, disputes and other matters in question between the General Contractor and Broward Health arising out of, or relating to, the Contract Documents or the breach thereof, except for claims which have been waived by the making or acceptance of final payment as provided by Subsections 8.9.6 and 8.9.7, may be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then applying, provided Broward Health and General Contractor agree in writing to such arbitration. If Broward Health and General Contractor do not agree in writing to arbitration, the dispute shall be settled by the courts. No action shall include consolidation, joinder, or in any other manner, parties other than Broward Health, the General Contractor and any other persons substantially involved in a common question of fact or law, whose presence is required if complete relief is to be accorded in the action. No person other than Broward Health or General Contractor shall be included as an original third party or additional third party to an action whose interest or responsibility is insubstantial. An agreement to arbitrate and any other agreement to arbitrate with an additional person or persons duly consented to be the parties to the Owner-General Contractor Contract shall be specifically enforceable under the applicable arbitration law. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

20.2.2 Demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. A demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statutes of limitations.

20.2.3 No arbitration arising out of or relating to this Agreement shall include, or consolidation, joinder or in any other manner, an additional person or entity not a part to this Agreement, except by written consent containing a specific reference to this Agreement signed by Broward Health, General Contractor, and any other person or entity sought to
be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by the parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

20.2.4 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

20.2.5 Unless otherwise agreed in writing, the General Contractor shall carry on the Work and maintain its progress during any arbitration or litigation proceedings, and Broward Health shall continue to make payments to the General Contractor in accordance with the Contract Documents, except as to matters in litigation or arbitration.

20.3 ENTIRE AGREEMENT

The Contract Documents form the agreement. The Contract Documents represent the entire understanding and agreement between the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous negotiations, agreements, proposals, responses, understandings and representations, if any, made by and between the parties with respect to the subject matter of the Contract Documents. The Contract Documents may be modified only by a written agreement signed by Broward Health.

20.4 TAX EXEMPTION

Broward Health is a tax-exempt entity (State Tax Exempt Certificate No. 85-801264629-5) and is not obligated to pay sales, use or other similar taxes. If Broward Health is not exempt for a particular tax, it will reimburse General Contractor for those taxes. Notwithstanding anything herein to the contrary, because Broward Health is exempt from sales tax and wishes to generate sales tax savings for the Project, Broward Health reserves the right to make direct purchases of various construction materials and equipment included in the Project. Before purchasing materials or equipment for the Project, or a combination of like items that exceed $25,000 in cost, General Contractor shall identify in writing to Broward Health for Broward Health’s prior approval, all materials and equipment or a combination of like items to be included in the Work that will generate sales tax savings if purchased direct by Broward Health. General Contractor shall fill out all order forms for placing the order. General Contractor’s order form shall then be given and attached to Broward Health’s monthly pay application. As soon as the tax savings have been identified, a deductive Change Order shall be issued for the tax savings less the costs to administer the process, if any, from the Contract Sum. Notwithstanding anything herein to the contrary, General Contractor expressly acknowledges and agrees that any materials or equipment directly purchased by Broward Health pursuant to this Section 20.4 shall be included within and covered to
the same extent as all other warranties and performance guarantees provided by General Contractor pursuant to the terms of the Contract Documents, including bonds.

20.5 **SOVEREIGN IMMUNITY**

The parties hereto acknowledge that Broward Health is a political subdivision of the state of Florida and enjoys sovereign immunity. Nothing in the Contract Documents shall be construed to require Broward Health to indemnify General Contractor or insure General Contractor for its negligence or to assume any liability for General Contractor’s negligence. Further, nothing in the Contract shall alter Broward Health’s sovereign immunity or extend Broward Health’s liability beyond the limits established in Section 768.28, *Florida Statutes*, as amended.

20.6 **ACCESS TO BOOKS AND RECORDS**

General Contractor shall (a) until the expiration of five (5) years after the furnishing of services pursuant to the Contract Documents, make available, upon written request by the United States Secretary of Health and Human Services (the “Secretary”), AHCA or other state or federal regulatory agencies, if applicable, or duly authorized representatives and Broward Health or its duly authorized representatives, a copy of the Contract Documents and such books, documents and records as are necessary to certify the nature and extent of the costs of the services provided by General Contractor under the Contract Documents; and (b) in the event General Contractor carries out any of its duties under the Contract Documents through a subcontract with a related organization, with a value or cost of Ten Thousand Dollars ($10,000) or more over a twelve (12) month period, such subcontract shall contain a clause to the effect that until the expiration of five (5) years after the furnishing of such services pursuant to such subcontract, the related organization shall, upon written request, make available to the Secretary, AHCA or other state or federal regulatory agencies or Broward Health, or any of their duly authorized representatives, a copy of such subcontract and such books, documents and records of such organization as are necessary to verify the nature and extent of such costs.

20.7 **PROHIBITION AGAINST CONTINGENT FEES**

General Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the General Contractor to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, other than a bona fide employee working solely for General Contractor any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Contract. This prohibition is more fully set forth in Section 287.055(6), *Florida Statutes*, as amended. For the breach or violation of this provision, Broward Health shall have the right to terminate the Contract without liability and, at its discretion, to deduct from the Contract Sum, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.
20.8 **EQUAL OPPORTUNITY EMPLOYMENT**

General Contractor agrees that it will not discriminate against any employee or applicant for employment for work under this Contract because of race, color, religion, sex, age or national origin and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age, disability, marital status, political affiliation, sexual orientation, pregnancy, gender expression or identity, or national origin. This provision shall include, but not be limited to the following: employment upgrading, demotion, or transfer, recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeships. General Contractor further agrees to comply with Executive Order No. 11246 entitled “Equal Employment Opportunity” as amended and as supplemented by the Department of Labor Regulations (41 CFR, Part 60).

20.9 **COMPLIANCE WITH LAW**

General Contractor is familiar with and shall comply with all Applicable Laws. Ignorance on the part of the General Contractor will in no way relieve it from responsibility.

20.10 **ASSIGNMENT**

General Contractor agrees not to assign, transfer, convey, sublet, or otherwise dispose of the Contract Documents or General Contractor’s obligations under the Contract Documents, or any or all of its right, title or interest herein, without Broward Health’s prior written consent, which consent may be withheld in the sole and absolute discretion of Broward Health. Broward Health may assign the Contract Documents to a successor or assign.

20.11 **GOVERNING LAW, JURISDICTION AND VENUE**

The Contract Documents have been executed and delivered in, and shall be interpreted, governed, construed and enforced pursuant to and in accordance with the internal laws of the State of Florida without giving effect to the principles of conflict of laws thereof. The parties agree that the sole and exclusive venue for any litigation, mediation, arbitration, special proceeding or other proceeding as between the parties that may be brought or that arises out of or in connection with or by reason of the Contract Documents shall be Broward County, Florida.

20.12 **ATTORNEYS’ FEES**

In connection with any litigation, arbitration, special proceeding or other proceeding arising out of or relating to the Contract Documents, the prevailing party shall be entitled to recover from the other party its costs and reasonable attorneys’ fees, through and including any appeal or post-judgment proceeding. Broward Health’s liability for costs and reasonable attorneys’ and paraprofessional fees are limited by Section 768.28, *Florida Statutes*, as amended.
20.13 **INDEPENDENT CONTRACTOR**

It is expressly acknowledged by the parties hereto that the General Contractor is an independent contractor, and nothing contained in the Contract Documents will be deemed or construed to create a partnership or joint venture between Broward Health and General Contractor or any other relationship between the parties. Additionally, nothing in the Contract Documents is intended nor shall be construed to create an employer/employee relationship, or to allow Broward Health, or its agents, representative, or employees, to exercise control or direction over the manner or method by which the General Contractor performs any services which are the subject of the Contract Documents.

20.14 **FORCE MAJEURE**

Neither party shall be liable nor deemed to be in default for any delay or failure in performance under the Contract Documents or for other interruption of service deemed resulting, directly or indirectly, from acts of God, civil or military authorities, acts of the public enemy, war (whether or not declared), riots, insurrections, acts of government, accidents, fires, explosions, earthquakes, floods, failure of transportation, strikes or any similar or dissimilar cause beyond the reasonable control of either party.

20.15 **WAIVER**

No inaction upon any breach or waiver of any breach of any provision of the Contract Documents by any party shall be construed to be a waiver of any prior or subsequent breach of the same or any other provision of the Contract Documents. Nor will any custom or practice which may grow up between the parties in the administration of the provisions hereof be construed to waive or lessen the right of Broward Health to insist upon the performance by General Contractor in strict accordance with the terms hereof.

20.16 **THIRD PARTY BENEFICIARY**

Broward Health and General Contractor expressly agree and acknowledge that the Contract Documents do not and are not intended to grant to or create any rights in other persons as third-party beneficiaries or otherwise. Nothing herein shall be construed as consent to be sued or made subject to arbitration by third parties in any matter arising out of the Contract Documents.

20.17 **WAIVER OF SUBROGATION**

Broward Health and General Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect’s consultants; and (3) separate contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Contract or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. Broward Health or General Contractor, as appropriate, shall require similar written waivers in favor of the
individuals and entities identified above from the Architect, Architect’s consultants, separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this Section 20.17 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

20.18 **PARTIAL INVALIDITY**

If any provision of the Contract Documents or the application thereof to any person or circumstance shall to any extent be held invalid, then the remainder of the Contract Documents or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby, and each provision of the Contract Documents shall be valid and enforced to the fullest extent permitted by law.

20.19 **SEPARABILITY**

Each and every covenant and agreement contained in the Contract Documents shall for all purposes be construed to be a separate and independent covenant and agreement, and the breach of any covenant or agreement contained herein by either party shall in no way or manner discharge or relieve the other party from its obligation to perform all other covenants and agreements herein.

20.20 **PROVISIONS BINDING**

Except as otherwise expressly provided in the Contract Documents, all covenants, conditions and provisions of the Contract Documents shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

20.21 **HEADINGS AND TERMS**

The headings to the various paragraphs of the Contract Documents have been inserted for convenient reference only and shall not in any manner be construed as modifying, amending or affecting in any way the expressed terms and provisions hereof.

20.22 **GENDER AND NUMBER**

All personal pronouns used in the Contract Documents shall include the other genders whether used in the masculine, feminine or neuter gender and the singular shall include the plural whenever and as often as may be appropriate.
20.23 **NOTICE**

All statements, invoices, notices, or other communications permitted or required hereunder will be in writing, signed by the party making the same, and will be delivered to the addresses below in person or by same day courier, by reputable overnight delivery service for next business day delivery, by U.S. Mail, postage prepaid, properly addressed, registered or certified mail, return receipt requested, or transmitted by facsimile or email (and in the event of a notice of termination or of default sent by facsimile or email, notice by one of the other methods set forth herein shall promptly follow) before 5:00 p.m. on a business day (i.e., Monday through Friday except a legal holiday under the laws of the United States) to the other party hereto, at the addresses set forth herein, or to such other address or addresses as may be designated in writing by notice given to the other party pursuant to this Section 20.23. The effective date of such notice or communication will be the date of delivery in the case of hand delivery or delivery by same day courier, or overnight next business day delivery, or three (3) days after mailing as aforesaid, or the date and time of transmission of a facsimile or email, unless otherwise specified herein. Notices of change of address shall be effective upon receipt.

**Notice to General Contractor**

**Related to the Project:**

Attn: ____________________________

Facsimile: __________________________

Email: ____________________________

**Invoices and Notice to Broward Health Related to the Work:**

Director, Design & Construction
Broward Health
1608 S.E. 3rd Avenue, Suite 507
Fort Lauderdale, FL 33316
Facsimile: __________________________
Email: ____________________________

**With a copy of Notices to:**

President/CEO
Broward Health
1800 N.W. 49th Street
Fort Lauderdale, FL 33309
Facsimile: __________________________
Email: ____________________________

**With a copy of Notices to:**

General Counsel
Broward Health
1800 N.W. 49th Street
Fort Lauderdale, FL 33309
Facsimile: __________________________
Email: ____________________________
20.24 MUTUAL REPRESENTATION OF AUTHORITY

Broward Health and General Contractor represent and warrant to each other they have full right, power and authority to enter into the Contract without any consent or approval not already obtained. The signatory on behalf of Broward Health and the General Contractor further represent and warrant that they have full right, power and authority to act on behalf of Broward Health and the General Contractor in entering into and executing the Contract.

20.25 RIGHTS OF VARIOUS INTERESTS

Whenever work being done by Broward Health’s forces or by other contractors is contiguous to Work covered by the Contract Documents, the respective rights of the various interests involved shall be established by the Contract Administrator to secure the completion of the various portions of the work in general harmony.

20.26 INTEREST

Any monies not paid by Broward Health when claimed to be due to General Contractor under the Contract shall bear interest from the date payment is due at the rate of eight percent (8%) per annum. However, the provisions of Section 218.70, et seq., Florida Statutes, as such relates to the payment of interest, shall apply to valid and proper invoices.

20.27 OWNERSHIP OF DOCUMENTS

Drawings, specifications, designs, models, photographs, computer electronic discs, reports, surveys, and other data provided in connection with the Contract Documents are and shall become and remain the property of Broward Health whether the Project for which they are made is executed or not. Prior to the final completion of construction services, there shall be established a record set of as built plans and specifications, both electronically and on full size Mylar drawings, which shall bear the approval of General Contractor and the concurrence of the Contract Administrator. In the event of termination of the Contract, any reports, photographs, surveys, and other data and documents prepared by General Contractor, whether finished or unfinished, shall become the property of Broward Health and shall be delivered by General Contractor to the Contract Administrator within fourteen (14) days of General Contractor’s receipt of termination notice. If applicable, Broward Health may withhold any payments then due to General Contractor until General Contractor complies with the provisions of this Section 20.27.

20.28 REPRESENTATIVES FOR BROWARD HEALTH AND GENERAL CONTRACTOR

20.28.1 It is recognized that questions in the day-to-day conduct of the Project will arise. The Contract Administrator shall designate in writing and shall advise General Contractor in writing, of one (1) or more representatives to whom all communications pertaining
to the day-to-day conduct of the Project shall be addressed, if other than the Contract Administrator.

20.28.2 General Contractor shall inform the Contract Administrator in writing of the representative of General Contractor to whom matters involving the day-to-day conduct of the Project shall be addressed.

20.29 **TRUTH-IN-NEGOTIATION CERTIFICATE**

Signature on the Contract by General Contractor shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. The original Contract price and any additions thereto shall be adjusted to exclude any significant sums by which Broward Health determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of the Contract.

20.30 **PUBLIC ENTITY CRIME STATEMENT**

General Contractor represents that the execution of the Agreement will not violate Section 287.133(2)(a), *Florida Statutes*, ("Public Entity Crimes Act") which provides, in part, that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to Broward Health, may not submit a bid on a contract with Broward Health for the construction or repair of a public building or public work, may not submit bids on leases of real property to Broward Health, may not be awarded or perform work as a contractor, supplier, Subcontractor, or consultant under a contract with Broward Health, and may not transact business with Broward Health in excess of the threshold amount provided in Section 287.017, *Florida Statutes*, for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this section by General Contractor shall result in termination of the Agreement by Broward Health without penalty.

In addition to the foregoing, General Contractor further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, *Florida Statutes*, as a “public entity crime” and that it has not been formally charged with committing an act defined as a “public entity crime” regardless of the amount of money involved or whether General Contractor has been placed on the convicted vendor list.

20.31 **SCRUTINIZED COMPANIES**

Pursuant to Section 287.135, *Florida Statutes*, if it is found that the General Contractor has been placed on the Scrutinized Companies that Boycott Israel List (as defined in Section 215.4725, *Florida Statutes*) or is engaged in a boycott of Israel, or if the compensation provided to General Contractor in the Agreement is in excess of One Million ($1,000,000.00) Dollars and it is found that the General Contractor has
submitted any false certifications to Broward Health while submitting a bid or proposal or prior to entering into or renewing the Agreement, or the General Contractor has been placed on the Scrutinized Companies with Activities in Sudan List (as defined by Section 215.473, Florida Statutes), the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List (as defined by Section 215.473, Florida Statutes), or if the General Contractor has engaged in any business operations in Cuba or Syria, except in the event such business operations are authorized by an agency of the U.S. federal government having jurisdiction over the subject matter, Broward Health may terminate the Agreement immediately without cost, penalty or the imposition of liquidated damages.

20.32 GENERAL CONTRACTOR WARRANTIES

General Contractor hereby represents and warrants to Broward Health that:

20.32.1 General Contractor and its directors, officers, employees, agents, and subcontractors performing services under the Agreement (collectively, “Employees”) have not engaged in, and during the Term of the Agreement shall not engage in, any activities prohibited under the federal anti-kickback laws (42 U.S.C. 1320a-7, 1320a-7a, 1320a-7b), the regulations promulgated pursuant to such federal statutes, related state or local statutes or regulations, or rules of professional conduct.

20.32.2 Neither General Contractor nor its Employees performing services under this Agreement are or have been excluded, debarred, suspended, or has been otherwise determined to be, or identified as, ineligible to participate (including revocation of enrollment and billing privileges) in any Federal or State Health Care Program, including but not limited to, the Medicare and Medicaid Programs, nor has General Contractor or any Employees received notice that he or she is to be excluded, debarred, suspended or otherwise determined to be, or identified as, ineligible to participate (including revocation of enrollment and billing privileges) in any Federal or State Health Care Program. Neither General Contractor nor any Employees further have received any information or notice, or has become aware, by any means or methods, that General Contractor or any Employees are the subject of any investigation or review regarding General Contractor’s or any Employees’ participation in any Federal or State Health Care Program or is subject to investigation related to his or her conduct as an employee of a public entity.

20.32.3 General Contractor has not employed or retained any company or person, other than a bona fide employee working solely for General Contractor, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for General Contractor, any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, Broward Health shall have the right to terminate this Agreement without liability, at its discretion, or to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.
20.32.4 General Contractor agrees to notify Broward Health in writing immediately, but in no event more than one (1) business day, after it becomes actually aware (or should have been aware) that any of the foregoing warranties has changed.

20.32.5 General Contractor acknowledges and understands that the failure to comply with the foregoing constitutes a material breach of the Agreement and that Broward Health may determine, in its sole discretion and notwithstanding any other provision of the Agreement to the contrary, that the material breach may be not able to be cured. In such event, Broward Health may immediately terminate the Agreement.

20.33 USE OF BROWARD HEALTH’S NAME

20.33.1 The General Contractor shall not use Broward Health’s name in any promotional literature or in any other context, manner or circumstance without the prior written consent of Broward Health. The General Contractor shall include this provision in any contract with its subcontractors and require such subcontractor to include this provision in any contracts with subcontractors.

20.34 CORPORATE COMPLIANCE

General Contractor acknowledges that Broward Health has adopted a program to facilitate its compliance with laws and regulations ("Compliance and Ethics Program"). General Contractor agrees to participate in Broward Health’s Compliance and Ethics Program including, but not limited to, adherence to the Code of Conduct and all applicable written policies, procedures and guidelines of Compliance and Ethics Program, all as may be amended from time to time. Such codes, policies, procedures, and guidelines can be found on Broward Health’s website at www.browardhealth.org.

ARTICLE 21 EDUCATIONAL REQUIREMENTS

The General Contractor shall within two (2) weeks prior to the start of any contracted work, complete the Broward Health-required computer-based environment of care educational module. General Contractor shall guarantee that the onsite supervisor also complete the educational module and General Contractor shall furnish a copy of the completion report to Broward Health or to Broward Health’s Project Manager. If it becomes necessary to remove and replace the onsite supervisor, the General Contractor shall ensure that the educational module is completed by the replacement onsite supervisor, with a copy of the completed certificate provided to Broward Health or Broward Health’s Project Manager, prior to the new onsite supervisor being placed onsite.
Attachment I

**SHUT DOWN REPORT**

- □ Broward Health Medical Center
- □ Broward Health North
- □ Broward Health Imperial Point
- □ Broward Health Coral Springs

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Attachment II

PERFORMANCE AND PAYMENT BONDS

Current forms of AIA A312 Payment Bond and Performance Bond approved by Broward Health
Attachment III

CERTIFIED DIVERSE VENDOR POLICIES AND REGISTRATION

[Follows this Sheet]
I. PURPOSE

It is the mission of the Office of Supplier Diversity (OSD) to provide accessibility to all Diverse Vendors seeking inclusion in the procurement opportunities with Broward Health (BROWARD HEALTH). The vision of OSD is to be the leader in diverse supply chain management.

II. DEFINITIONS

The words and acronyms defined in this Policy shall have the meanings set forth in the Master Procurement Code (the "Code") regardless of whether they are capitalized, unless:

a. The context in which they are used clearly requires a different meaning; or

b. A different definition is prescribed for a particular section of this Policy.

Words not defined shall be given their common and ordinary meaning unless the context in which they are used requires otherwise.

For purposes of this Policy, the below terms shall have the following meanings associated with them:

**Broward Health:** the North Broward Hospital District d/b/a Broward Health, a political subdivision of the State of Florida.

**Second Tier Direct:** spend with Broward Health's diverse vendors which are working directly with a prime vendor/contractor on a Broward Health contract / project (i.e. such as a sub-contractor or supplier of the contract/project)

**Second Tier In-Direct:** spend with small, minority and women owned businesses that support a prime vendor/contractor's overall business strategy, but do not directly support Broward Health's contract/project (i.e. such as a diverse vendor providing office supplies or accounting services)
**Broward Health Certification Partner:** governmental agencies and non-governmental national organizations approved by Broward Health's SD policy for SBE/MBE/WBE certification recognition.

**Certified Diverse Vendor (CDV):** vendors approved as a SBE/MBE/WBE with one of Broward Health's approved certification partners. ONLY Certified Diverse Vendors are eligible to participate in Broward Health's Supplier Diversity Program enhancements.

**Commercial Useful Function:** to own, operate and maintain a licensed establishment in which commodities are bought and regularly sold to the general public in the usual course of doing business or an establishment which professional services are offered to the general public in the usual course of doing business.

**Diverse Vendor (DV):** any Broward Health Certified or Verified Small, Minority or Woman Business Enterprise (SBE/MBE/WBE).

**Front:** a business concern that falsely claims to be owned and controlled by minority persons or women or a business concern that provides fraudulent or incorrect information regarding the size of the firm.

**Good Faith Effort:** the process of documenting a prime vendor/consultant/contractor's efforts of solicitation and utilization of certified diverse vendors during the bid process and/or on a project/contract with CDV subcontracting requirements. (i.e. Prime Vendor/Contractor/Consultant, must contact BROWARD HEALTH's Office of Supplier Diversity for assistance).

**Minority Business Enterprise (MBE):** any for profit legal entity which is organized to perform a commercial useful function and which is at least 51% owned, managed, and operated by minority person(s), as defined by an approved Broward Health Certification Partner.

**Non-Certified Diverse Vendor:** any vendor that does not currently hold a CDV eligibility letter from Broward Health.

**Non-Diverse Vendor:** any vendor that has not been designated as a certified or verified Diverse Vendor with Broward Health.

**Participation:** any activity involving Diverse Vendors that results in dollars awarded to SBE/MBE/WBEs.

**Procurement Divisions:** Contracts Administration (CA) and Supply Chain Services (SCS)

**Small Business Enterprise (SBE):** firms certified as a local, state, or National/Federal SBE by one of Broward Health's approved Certification partners for Small Business status.

**SBE/MBE/WBE Certification:** the process and necessary documentation required to determine whether a vendor is a small, minority or women business enterprise, as defined by an approved Broward Health Certification Partner.

**Supplier Diversity Enhancements:** strategies designed by Broward Health which are intended to increase procurement opportunities with Certified Diverse Vendors.

**Vendor Development:** the practice of providing specific and directed technical assistance to Broward Health's Certified Diverse Vendors that enhances their capability to do business with Broward Health.
Verified Diverse Vendor (VDV): vendors identified via the vendor registration process, by self-declaring size, minority or woman owned business status via completing the verified diverse vendor affidavit. Vendors seeking VDV status as a small business must provide proof of SBE certification by a Federal, State or Local governmental agency, not listed as a Broward Health approved certification partner. Vendors that register as a small business in the Federal Government – System for Award Management (SAM), must provide a copy of the firm's SAM registration profile; noting the confirmed size standard by the SBA, DUNS number, and SAM Registration Expiration date.

VRS: Broward Health's online "vendor managed" Vendor Registration System (VRS). The system is the resource pool for all vendors to include CDVs and VDVs.

Woman-Owned Business Enterprise (WBE): any for profit legal entity, which is organized to perform a commercial useful function, and which is at least 51% owned, managed and operated by one or more women, as defined by an approved Broward Health Certification Partner.

Note: SBE, MBE and WBE certification status is determined by Broward Health's Approved Certification Partners.

III. POLICY

A. SUPPLIER DIVERSITY STRUCTURE

OSD is aligned with Broward Health's Procurement Division, incorporating Diverse Vendor Development/Advocacy & Diverse Supply Chain Management and reports directly to the Vice President of Supply Chain Services / Chief Procurement Officer.

1. Supplier Diversity Functional Areas:

   a. Outreach - Broward Health reaffirms its commitment to equal access procurement via its outreach efforts. Such efforts include Internal initiatives such as the Annual Supplier Diversity EXPO and Key Contact Matchmaking (Staff and Broward Health Prime Vendors/Contractors). In addition, External Outreach Initiatives include Vendor Advocacy and Matchmaking; Research & Development (Best Practices); and SD Promotion & Marketing (i.e. the presence and participation of Supplier Diversity and Procurement Staff in public forums, EXPOs, organizations and publications that advocate diversity within procurement). Also, Certification Outreach, serving on certification committees of Broward Health's approved certification partners (including governmental and non-governmental agencies) to ensure the integrity of the certification process.

   b. Vendor Development – Broward Health is committed to conducting business with diverse vendors and ensuring those wanting to do business with Broward Health are ready, willing and able to provide quality products/services at a competitive price. Broward Health's Vendor Development Initiatives include: the application of Supplier Diversity Enhancements, Second Tier Matchmaking, and Technical Assistance (TA).
OSD provides in-house procurement TA and business development TA via referral to Broward Health's Supplier Diversity Resource Partners.

c. **Compliance** – Via its compliance initiatives, OSD ensures systems, procedures, processes, and individuals conform to the policies, regulations and contractual agreements governing Certified Diverse Vendor participation.

i. **Contract Compliance** ensures all segments of the procurement process are complied with; tracking all phases of the process from the assignment of the Supplier Diversity Enhancement RFP/RFQ language to contract completion, verifying assigned certified diverse vendor participation levels have been met, and communicating any noncompliance to the project/contract manager. **ONLY CDV spend will meet the contract requirement for diverse vendor participation.** Should the Prime Vendor/Contractor fail to meet the established Supplier Diversity Participation/Enhancement, as identified in the RFP and/or Contract process, a waiver may be requested via the OSD and approved by the Procurement Steering Committee ("PSC"). OSD will document the Prime Vendor/Contractor's "good faith efforts" and present to the PSC for approval.

ii. **Certification and Verification Compliance** ensures that all segments of the certification and verification process is complied with, that those vendors in the Diverse Vendor Resource Pool are "what they say they are," and the spend and participation levels of the Diverse Vendors (certified and verified) are recorded accurately via current Data Management reporting tools.

The verified vendor status is intended to be a "temporary" status, as it is Broward Health's goal to have all Small, Minority and Women owned businesses certified as such. Verified vendors are NOT eligible to participate in Broward Health's SD Program enhancements; **ONLY** Broward Health Certified Diverse Vendors are eligible to participate. The Verified Diverse Vendor process ensures Broward Health accounts for all Diverse Vendor participation accurately.

**B. ADMINISTRATIVE PROCEDURES**

1. **Procurement Process:**

The Procurement Process is governed by Broward Health's Procurement Code, which provides direction and guidance for the internal operations of the procurement of supplies, equipment, and services. The following are the procurement acquisition categories as defined by the Procurement Code:

1. **Micro Purchases** or Commitments up to and including Threshold Category 1;

2. **Small Purchases** or Commitments exceeding Threshold Category 1 and up to and including Threshold Category 2;

3. **Medium Purchases** or Commitments exceeding Threshold Category 2 and up to and including Threshold Category 3; and
4. **Large/Formal Purchases** or Commitments exceeding Threshold Category 3.

Broward Health has designed methods, which are intended to increase certified Diverse Vendor participation in the procurement process. For procurement requests falling within the Micro, Small, or Medium Purchase category, as defined within the Procurement Code, an informal quotation process and vendor selection process is used in accordance with Broward Health's Procurement Code to ensure the equitable inclusion of Certified Diverse Vendors (CDV). Informal quotations processed via VRS will be subject to the standard 5% Quote Price Tolerance ("QPT") (i.e., if a CDV is within 5% of the lowest quote, the CDV will be automatically selected by VRS and awarded upon final review.) Also, informal quotations not processed via VRS may be subject to the standard 5% QPT.

For formal procurement requests (i.e., procurement requests falling within the Large Purchases category, as defined within the Procurement Code), which are presented at the PSC and deemed available for CDV participation, OSD will assign a Supplier Diversity (SD) Enhancement to be approved at PSC in collaboration with the procurement divisions and the project/contract manager. The SD Enhancement is designed to encourage greater participation by Broward Health's Certified Diverse Vendors in the procurement process. Formal procurement requests/Large Purchases not submitted or not timely submitted (i.e., walk-on requests) to PSC shall be reviewed by the OSD for Certified Diverse Vendor participation prior to release for public bid and approved electronically in accordance with PSC procedures.

Vendors registered in Broward Health's VRS will receive notification of procurement opportunities within their specified product/service code(s), according to Broward Health Procurement Code.

2. **Supplier Diversity Enhancements:**

The OSD, in collaboration with the Procurement Divisions and/or the Project/Contract Custodian/Manger, when feasible, will develop, design and otherwise structure potential Broward Health's procurement requests utilizing one or more of the following Supplier Diversity Enhancements in order to encourage and maximize Certified Diverse Vendor participation. Once the Supplier Diversity Enhancement has been approved by PSC, it shall be incorporated into the procurement request/document and the final contract. **ONLY** Certified Diverse Vendors are eligible to participate in these SD Enhancements:

   a. Reduction of Large Contracts;
   b. Payment and Performance Bond Waiver;
   c. Prohibit Double Bonding Requirement;
   d. Prompt Payment Mandate;
   e. Quote Price Tolerance (QPT) Initiative;
   f. Request for Proposal (RFP) Scoring Criteria;
g. Subcontracting Initiative;

h. Targeted Marketing; and

i. Any other options approved by the PSC.

These enhancements are more fully described as follows:

a. **Reduction of Large Contracts** - Procurement Requests may be evaluated prior to release by the PSC to determine the feasibility of reducing them. This is aimed at providing greater opportunity and inclusion of Certified Diverse Vendors to obtain contracts of manageable size. If the PSC determines that the Procurement Request can be broken down into smaller components, then it may direct the appropriate staff to develop the Procurement Request in a particular manner and size. The methodology used for subdividing the Procurement Requests can be tailored to the unique factors present in each situation. Various options are available including:

   i. The full quantity of a given purchased item, service or project on a Procurement Request may be placed on a separate Procurement Request.

   ii. A partial quantity of a given item, service or project on a Procurement Request may be placed on a separate Procurement Request.

   iii. The term of a contract may be shortened.

   iv. Work to be performed may be grouped according to geographic location and placed on a separate Procurement Request.

   v. Unrelated areas of work to be performed or portions of work not requiring completion by a single bidder may be placed on separate Procurement Requests.

Supply Chain Services shall assure that any incremental cost associated with subdividing a Procurement Request is documented and made known to the PSC prior to making its determination.

b. **Payment and Performance Bond Waiver** - Bonding requirements in the construction and architectural fields present obstacles to Diverse Vendors desiring to participate in Broward Health's procurement process due to their inability to meet the standards of the surety companies. Under Florida Statute 255.05, a political subdivision at its own discretion may exempt any person entering into a contract which is for $200,000 or less for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or a public work.

Broward Health's bond waiver initiative shall operate as follows:

i. Broward Health's bond waiver initiative will apply to contracts involving Certified Diverse Vendors up to $200,000 except those projects, which the PSC deems to have exceptional risk, and therefore would require bonding.
ii. Waiver of the performance bond may not eliminate the requirement for a bid bond. A cashier's check will be accepted in lieu of the bid bond. This requirement should be reviewed on a case-by-case basis, and a waiver of this requirement has to be approved by the PSC.

iii. Bidding on projects eligible for the bond waiver initiative should not be limited to local businesses. However, preference shall be given to local vendors in the manner indicated in Administrative Procedures.

Companies participating in the bond waiver initiative must successfully complete one (1) project before receiving another award under this initiative. Otherwise, companies shall not be limited to any set number of projects on an annual basis.

c. Prohibition on Double Bonding Requirement
   
i. PSC may require that on projects in which the prime contractor's payment and performance bond covers the work of the subcontractors, that Broward Health not require separate bonding from the subcontractors and prohibit prime contractors from requiring separate bonds from subcontractors.

   ii. Double bonding requirements are often cost-prohibitive and discourage the participation and utilization of Diverse Vendors in construction projects.

   iii. Bonding by the subcontractor may be required if the PSC deems the proposed project to have exceptional risk and therefore will require bonding.

   d. Prompt Payment Mandate - Upon the written request of the certified Diverse Vendor to the OSD, Broward Health will pay the vendor within fifteen (15) days from the date received in Broward Health's Accounts Payable Department or the project/contract payment administration department. In addition, prime contractors are required to pay Diverse Vendor/Subcontractors within fifteen (15) days from the date the prime contractor is paid. This mandate is an effort to lessen the financial burden of Diverse Vendors and assist these vendors in participating in the procurement process.

   e. Quote Price Tolerance (QPT) Initiative – QPT will be applied to the Informal (Micro/Small/Medium Purchases as defined in the Procurement Code) and Formal (Large Purchases as defined in the Procurement Code) procurement process. Informal procurement requests will be subject to the standard 5% QPT and processed in accordance with the Procurement Code. Informal quotations processed via VRS will be subject to the standard 5% Quote Price Tolerance (i.e. if a CDV is within 5% of the lowest quote, the CDV will be automatically selected by VRS and awarded upon final review.) Additionally, informal quotations not processed via VRS may be subject to the standard 5% QPT.

Under the formal procurement process, this initiative provides Broward Health with the opportunity to include a predetermined price tolerance by OSD and approved at the PSC for Certified Diverse Vendors. For purposes of illustration and assuming the QPT criteria was contained in the original Request for Quote (RFQ) specifications, a CDV who quotes a price that is higher than the lowest priced (Non-CDV) respondent, and within the defined tolerance level.
could be awarded the contract. The RFQ should clearly state that the quote is subject to the QPT Initiative and that, if the quote of a CDV is within the prescribed price tolerance level, the award of the RFQ is to the CDV. The maximum QPT that will be applied to any RFQ is 5% with a dollar value cap of $25,000. Also consideration will be given to the value of the RFQ and historical Diverse Vendor Participation in the specific product/service code.

f. RFP Scoring Criteria - The scoring matrix for Broward Health's formal procurement requests (Large Purchases) will include, when feasible, a scoring factor determined by the Office of Supplier Diversity and approved at the PSC. The Certified Diverse Vendor scoring portion of the RFP will be evaluated by the OSD. The original scoring evaluation form(s) will be forwarded to Supply Chain Bid Office for filing with RFP documentation. This CDV scoring criteria will apply to respondents who are Broward Health Certified Diverse Vendors or Non-Certified Diverse Vendors with documented solicitation and utilization of Diverse Vendors with its proposal at the time of submission. The RFP scoring range, applied to any procurement request, will be a minimum of 5 evaluation points to a maximum of 20 evaluation points. The scoring factor will be determined by the current number of Broward Health Diverse Vendors in the specific product/service code divided by the Total number of Broward Health Registered vendors within the same product/service code. Then, that scoring factor percentage is applied via the matrix below.

RFP Scoring Criteria Application Matrix:

- 0.5 to 5% …………………apply 5 evaluation points to the RFP
- 5.1% to 10%………………apply 10 evaluation points to the RFP
- 10.1% to 15%………………apply 15 evaluation points to the RFP
- 15.1% to 20%………………apply 20 evaluation points to the RFP

The RFP evaluation points may be adjusted up or down based on the following considerations:

- Historical Diverse Vendor Participation in the specific product/service category
- The number of product and/or service/trade areas for which subcontracting/2nd tier is feasible,
- The value of the project/contract, and
- Collaboration with the project/contract custodian/manger and/or procurement division(s)

g. Subcontracting Initiative – Broward Health shall apply subcontracting participation for Broward Health Certified Diverse Vendors for formal procurement requests (i.e., Large Purchases), when feasible in accordance with the Procurement Code. Diverse Vendor subcontracting is the mandatory usage of Broward Health certified Diverse Vendors to perform a predetermined percentage of the total work required under contract. Such contracts shall include a clause stipulating penalties for failure to meet the predetermined percentages. The predetermined
subcontracting percentage is determined by the Office of Supplier Diversity and approved at the PSC.

This enhancement requires Broward Health non-Certified Diverse Vendors/Prime Contractors/Consultants to comply with the assigned CDV subcontracting participation. The subcontracting participation will be determined by the current number of Broward Health Diverse Vendors in the specific product/service code divided by the Total number of Broward Health-registered vendors within the same product/service code. That percentage is then applied via the matrix below.

Subcontracting Application Matrix:

- 0.5 to 10% ..................apply 10% subcontracting participation
- 10.1% to 15%...............apply 15% subcontracting participation
- greater than 15.1%.........apply 20% subcontracting participation

The CDV subcontracting participation may be adjusted up or down based on the following considerations:

- Historical Diverse Vendor Participation in the specific product/service category
- The number of product and/or service/trade areas for which subcontracting / 2nd tier is feasible,
- The value of the project/contract, and
- Collaboration with the project/contract custodian/manger and/or procurement division(s)

h. Targeted Marketing - This is an initiative to provide Diverse Vendors with an opportunity to compete for Broward Health procurement requests based on company size.

i. Any other options approved by the Procurement Steering Committee.

3. Priorities for Award:

Whenever equally responsive Procurement Requests have been submitted, preference shall be given to vendors in the following sequence:

- a. Broward County or Broward Health Certified Diverse Vendor;
- b. Broward County vendor;
- c. Miami-Dade or Palm Beach County Broward Health Certified Diverse Vendor;
- d. Miami-Dade or Palm Beach County vendor;
- e. Any Broward Health Certified Diverse Vendor located in Florida outside the tri-county area;
- f. Florida vendors; or
g. Any Broward Health Certified Diverse Vendor located outside the State of Florida.

4. Applicability of Diverse Vendor Participation with Group Purchasing Organization - Prime Vendors and General Consultants/Contractors:
Broward Health does a significant amount of business through group purchasing organizations. These contractual arrangements allow Broward Health to receive quality goods and services at a competitive price. Similarly, Broward Health utilizes general contractors/consultants when a new facility is to be constructed or there is a major addition to an existing one. This arrangement provides benefits to Broward Health in terms of accessing their construction expertise and in obtaining favorable pricing arrangements with subcontractors.
Supplier Diversity Enhancements may apply to group purchasing - prime vendors and general consultants/contractors. Broward Health will communicate its Diverse Vendor participation commitment to these prime vendors and general consultants and contractors, and will encourage them to utilize diverse vendors/subcontractors to the maximum level feasible.
The Office of Supplier Diversity will serve as a resource to the group purchasing organizations - prime vendors and general consultants/contractors to assist in identifying Diverse Vendors that may be utilized.
Prime vendors and general consultants/contractors will be required to provide Diverse Vendor Utilization Reports (UR) to the OSD indicating products/services provided, the total subcontract value, and the payments to date.
Additional information may be requested by the OSD to allow proper assessment of the efforts of the prime vendors or general consultants/contractors in meeting the letter and intent of Broward Health's Supplier Diversity policy.

5. Certification and Verification Process:
It is the goal of Broward Health to have all vendors that meet the SBE/MBE/WBE certification criteria of one of Broward Health's approved certification partners to become certified as such. As, the verification process for verified diverse vendors is intended to be a "temporary status.

a. Certified Diverse Vendor Process
Broward Health accepts various local, state, federal, and non-government nationl SBE, MBE, and WBE Certifications. All vendors wishing to be recognized as Broward Health Certified Diverse Vendors (CDVs) must register in VRS and upload a current (valid more than 60 days of expiration) SBE/MBE/WBE certification certificate/document issued by one of Broward Health's approved certification partners. A current list of Broward Health's approved Certification Partners can be obtained via the Vendor Registration web page or by contacting Supply Chain – Office of Supplier Diversity. Also, the updated list will be available in VRS via the Supplier Diversity Screen's Certification Partner drop down button, during the online registration process.
Once vendor registration is complete and a current SBE/MBE/WBE certification certificate/document uploaded (within 60 days of registering as a vendor), OSD will validate diverse vendor status within 10 business days and an email notification will be sent via VRS.
VRS is a "vendor managed" system; therefore, the vendor is responsible for updating vendor information to include current SBE/MBE/WBE certification certificate/document. Any changes occurring in ownership and/or managerial/operational control of the firm, the vendor must notify the approving certification partner, immediately. Expired Diverse Vendor status notifications will be sent out via VRS, in accordance with the validated SBE/MBE/WBE certificate/document in VRS. An online Broward Health Certified Diverse Vendor directory will be accessible for Prime Vendors and Contractors to utilize as a resource tool to identify Certified Diverse Vendors by product / services codes.

b. Verified Diverse Vendor Process

Those diverse vendors that do not have a current SBE/MBE/WBE certification certificate/document from one of Broward Health's approved Certification Partners or choose not to be certified as a SBE/MBE/WBE with one of Broward Health's approved certification partners are encouraged to complete the Verified Diverse Vendor (VDV) affidavit. The VDV affidavit affirms the company owner's minority ancestral origin or legal gender or the company's SBE status. This process is conducted via the vendor registration process, whereby the vendor self-declares via a notarized Verified Diverse Vendor Affidavit that the firm is 51% owned, operated and managed by minorities and/or women or is certified as a SBE or has self-declared SBE status with a Federal, State or Local governmental agency, not listed as an approved Broward Health certification partner. Vendors that register as a small business in the Federal Government – System for Award Management (SAM), must provide a copy of the firm's SAM registration profile; noting the confirmed size standard by the SBA, DUNS number, and SAM Registration Expiration date.

The VDV affidavit must be uploaded into VRS with 60 days after completing vendor registration. OSD will then validate VDV status and email notification will be sent within 10 business days, via VRS.

Verified Diverse Vendors are NOT eligible to participate in the Supplier Diversity Program Enhancements. The verified diverse vendor process ensures Broward Health accounts for all diverse vendor spend accurately and is intended to be a temporary status, until the diverse vendor is able to provide a current SBE/MBE/WBE certification certificate/document from one of the approved Broward Health certification partners.

6. Data Management:

a. Vendor Registration System (VRS) - Diverse Vendor Resource Pool

Broward Health will maintain a comprehensive database of registered and Diverse Vendors (certified & verified) to serve as a vendor resource pool. The database will be available for access by all procuring divisions. Prime Vendors and Consultants/Contractors will be able to access Certified Diverse Vendor via the VRS – Certified Diverse Vendor Directory.

Broward Health will have uniformed product/service (P/S) codes. The vendor will select P/S codes during the online vendor registration process. Also, the vendor will elect whether or not they would like to be considered a Diverse Vendor with Broward Health.
All Diverse Vendors (certified or verified) will be validated in VRS by OSD. Notification of procurement opportunities will be communicated via VRS.

b. Statistical Reporting

The OSD is responsible for maintaining Diverse Vendor procurement statistical data. This data provides the basis for enhancing the accessibility of Diverse Vendors to procurement opportunities with Broward Health. Also, the data provides the basis for achieving the objectives of Broward Health's Supplier Diversity Program and self-benchmarking performance.

An End of Fiscal Year ("EOY") Diverse Vendor Participation Report will be included in the Board of Commissioners Finance Committee Meeting Agenda (Book), as an informational report. The EOY report will also be made available via the Procurement Portal on the intranet.

Broward Health is committed to the maximum level of diverse vendor participation. Broward Health will continue to benchmark self-performance against the established baseline performance of prior years' Diverse Vendor achievements. The annual diverse vendor performance may be presented to the Board of Commissioners with any adjustments to the rate of spend for approval, as needed.

7. Retention of Supplier Diversity Records:
Supplier Diversity records will be retained for 3 fiscal years in accordance with the Florida Department of State General Records Schedule for State and Local Government Agencies GS1 – SL Item #169 Minority Business Records effective February 19, 2015. Supplier Diversity records include:

a. Supplier Diversity Committee (SDC) minutes will be retained for 3 fiscal years, this does not include the former Minority Business Enterprise Committee (MBEC) minutes, which are maintained in accordance with Board Committee minutes

b. Diverse Vendor Files (Certification and Verification) – dispose 3 fiscal years after Expiration

c. Contract Compliance Files – dispose 3 fiscal years after contract/project has closed

d. Diverse Vendor Participation Procurement Statistical Reports (electronic copies may still be available for historical trend reporting) - dispose 3 fiscal years after the reporting period ends

e. Outreach and Operational files – dispose 3 fiscal years after completion/expiration

IV. RELATED POLICIES
GA-001-150, Master Procurement Code
V. INTERPRETATION AND ADMINISTRATION

Administration and Interpretation of this policy is the responsibility of the Chief Procurement Officer.

I. Capitalized terms used but not defined herein have meanings assigned to them in the Procurement Code.

II. All references herein to "informal" purchases, commitments, or quotations refer to Micro, Small, and Medium Purchases or Commitments as defined in the Procurement Code. All references herein to "formal" purchases, commitments, or quotations refers to Large Purchases or Commitments as defined in the Procurement Code.
Certified Diverse Vendor (CDV) Registration

To register as a Certified Diverse Vendor with Broward Health:

➢ Go to our on-line Vendor Registration System (VRS) @ https://vrs.browardhealth.org
➢ Upload a current copy of your firm’s MBE/WBE/SBE Certification certificate/document from one of BH’s approved certification partners:
   - National Minority Supplier Development Council (NMSDC)
   - Women Business Enterprise National Council (WBENC)
   - National Women Business Owners Corporation (NWBOC)
   - State of Florida – Office of Supplier Diversity (OSD)
   - School Board of Broward County – Supplier Diversity & Outreach
   - Broward County Government – Office of Small Business Development
   - Miami Dade County Government – Office of Business Development
   - Miami Dade County Public Schools - Office of Economic Opportunity
   - Palm Beach County Government – Office of Small Business Assistance
   - School District of Palm Beach County – Office of Diversity in Business Practices
   - City Governmental Agencies -Tri-County Area (Miami-Dade, Broward & Palm Beach)
   - Florida State-wide Governmental Agencies – (i.e. City of Tampa, Leon County...)
   - SBA - 8A Business Development
   - SBA - HUBZone Small Business
   - SBA - Women-Owned Small Business
   - SBA - Service-Disabled Veteran-Owned Small Business
   - SDVOSB/VOSB –US Dept of VA –Service Disabled/Veteran-owned Small Business*
   - DBE - US Department of Transportation – Disadvantage Business Enterprise Unified Certification Program*

   (*Complies with SBA size standards)

**NOTE:** You will need your firm’s Tax ID & a completed W-9 when registering...

To do business with BROWARD HEALTH, All vendors MUST register in VRS!!

*If Not Certified, as a MBE/WBE/SBE with one of our partners - go to https://vendor.browardhealth.org to link to a partner & also, get information about registering as a Verified Diverse Vendor (VDV) with BH.*

Additional inquiries and for an updated list of BH’s Approved Certification Partners, call 954-473-7289

“...Equal Access Procurer of goods and services”