


## MEMORANDUM

DATE: September 23, 2021

TO: \*\*\*\*ORIGINAL\*\*\*\*  
City Clerk

FROM: Robyn Holder, CPPB   
Procurement Management Department

SUBJECT: Record Retention

CONTRACT: #20200077

CONTRACT TITLE: Construction of Port St. Lucie Blvd. North Roadway Project

CONTRACTOR NAME: Zahlene Enterprises, Inc.

ADDRESS: 11300 NW 97<sup>th</sup> Ave,

CITY & STATE: Sebring, FL 33870

**COUNCIL APPROVED: August 23, 2021**

7g)- AWARD CONTRACT #20200077 FOR THE CONSTRUCTION OF PORT ST. LUCIE BLVD. NORTH CONSTRUCTION PROJECT TO ZAHLENE ENTERPRISES, INC. IN AN AMOUNT OF \$8,006,338.18, PUBLIC WORKS DEPARTMENT, PROCUREMENT MANAGEMENT

CONTRACT AMOUNT - \$8,006,338.18

CONTRACT TERM: 9/27/2021 through 3/21/2023, with no option to renew.

**CITY OF PORT SAINT LUCIE  
CONTRACT #20200077**

This CONTRACT, executed this 23rd day of September 2021, by and between the CITY OF PORT ST. LUCIE, FLORIDA, a municipal corporation, party of the first part, duly organized under the laws of the State of Florida, hereinafter called "City", and ZAHLENE ENTERPRISES, INC., 11300 NW 97 Avenue, Medley, Florida 33178, Telephone No. (305) 805-6858 Fax No. (305) 805-6857, party of the second part, hereinafter called "Contractor". City and Contractor may be referred to individually as a "Party" or collectively as "the Parties".

**RECITALS**

**WHEREAS**, Contractor is a licensed Company doing business in Florida; and

**WHEREAS**, the City wishes to contract for the Construction of Port St. Lucie Boulevard North Roadway Project from Gatlin Boulevard to just south of Darwin Boulevard including approximately 800-feet of Darwin Boulevard east of Gatlin Boulevard as well as other tasks (Work) more specifically described in this Contract; and

**WHEREAS**, Contractor is qualified, willing and able to provide the Work on the terms and conditions set forth herein; and

**WHEREAS**, the City desires to enter into this Contract with Contractor to perform the Work specified and, in an amount, agreed to below.

**NOW THEREFORE**, in consideration of the premises and the mutual covenants herein name, the Parties agree as follows:

The Recitals set forth above are hereby incorporated into this Contract and made a part of hereof for reference.

**SECTION I  
NOTIFICATIONS**

All notices or other communications hereunder shall be in writing and shall be deemed duly given if sent by certified mail with return receipt request, email (with proof of confirmation) and addressed as follows unless written notice of a change of address is given pursuant to the provisions of this Contract.

As used herein the Project Manager shall mean:

Heath Stocton, P.E., or his designee.  
City of Port St. Lucie Public Works Department  
121 SW Port St. Lucie Blvd.  
Port St. Lucie, Fl. 34984  
Telephone: (772) 344-4239 Fax: (772) 871-5289  
Email: [hstocton@cityofpsl.com](mailto:hstocton@cityofpsl.com)

As used herein the Contract Administrator shall mean:

Robyn Holder, CPPB  
City of Port St. Lucie Procurement Management Department  
121 SW Port St. Lucie Blvd.  
Port St. Lucie, Fl. 34984  
Telephone: (772) 344-4293 Fax: (772) 871-7337  
Email: [rholder@cityofpsl.com](mailto:rholder@cityofpsl.com)

As used herein the Contractor for this project shall mean:

Jordan M. Zahlene, Vice President  
Zahlene Enterprises, Inc.  
11300 NW 97 Avenue  
Medley, Florida 33178  
Telephone: 305-805-6858 Fax: 305-805-6857  
Email: [jordan@zahlene.com](mailto:jordan@zahlene.com)

## **SECTION II DESCRIPTION OF SERVICES TO BE PROVIDED**

The specific work that the Contractor has agreed to perform pursuant to the Bid Specifications #20200077, **Construction of Port St. Lucie Boulevard North Roadway Project from Gatlin Boulevard to Darwin Boulevard** including all Attachments, Addenda, Construction Plans, FDOT Specifications, and all other restrictions and requirements are incorporated by this reference.

### **SCOPE OF WORK**

This project is to construct approximately 0.6 miles of roadway from Gatlin Boulevard to Darwin Boulevard including approximately 800-feet of Darwin Boulevard east of Gatlin Boulevard. This project includes, but limited to, earthwork, clearing and grubbing, drainage modifications, swale relocations, sidewalk construction, roadway reconstruction, turn lane reconstruction, utility relocations, traffic signals, record drawings, and all work and materials to provide a complete project as shown and described in the contract documents, bid specifications and plan set. The Contractor shall provide all materials, supplies, labor, and equipment necessary for a complete project necessary for a complete project based on all specifications and any contract amendments that may be deemed necessary. All work shall be in accordance with the Construction Plans prepared by American Consulting Engineers of Florida, LLC. There are five (5) sets of plans associated with this project, one (1) set for is for the Roadway, one (1) set is for Signalization, one (1) set is for Signing & Pavement Markings, one (1) set is for Lighting, and one (1) set is for Utility Relocations.

It is the Contractor's responsibility to familiarize themselves with the terms and conditions set forth in this document. Some requirements typical of a City of Port St. Lucie contract have been modified, including but not limited to, liquidated damages, lane closures and weather days. Additionally, it is imperative that the Contractor make continual progress on critical items of work from contract day 1 through completion and close-out of the project.

**SECTION III  
TIME OF PERFORMANCE**

The Contract Period start date will be September 27, 2021 and will terminate five hundred forty (540) calendar days thereafter on March 21, 2023 for Final Completion. The Contractor will be required to commence work under this Contract within ten (10) calendar days after the start date identified in this Contract. In the event all work required in the bid specifications has not been completed by the specified date, the Contractor agrees to provide work as authorized by the Project Manager until all work specified in the bid specifications has been rendered and accepted by the City.

**Schedule:** At the pre-construction meeting, the Contractor shall submit a fully detailed construction schedule utilizing the critical path method (CPM) that shows completion of the project within the allowable contract time. The Contractor shall not commence any construction activities until the baseline project schedule has been approved by the City. The contract time shall start independent of schedule approval. If at any time the Contractor falls behind their approved schedule by more than two (2) weeks, a recovery plan shall be submitted for review and approval. The recovery plan will outline the Contractor's detailed plan to bring the project back on schedule. This shall include hours, personnel, equipment and subcontractors. If extraordinary means are necessary such as double shifts or weekend work, this shall be clearly outlined in the recovery plan. Any additional CEI services and/or testing costs incurred by the City as a result of the extended working hours or days (i.e. weekend or Holiday work) to meet the required contractual deadline may be reimbursed by the Contractor to the City. It is at the City's sole discretion to seek reimbursement for these costs in addition to any potential liquidated damages.

Failure of the Contractor to maintain satisfactory progress is subject to City Ordinance 20-15, Chapter 35.15 "Suspension and Debarment". Satisfactory progress shall mean daily progress on work items identified on the critical path pursuant to the approved CPM schedule.

Written requests shall be submitted to the Project Manager for consideration of extension of completion time due to strikes, unavailable materials, or other similar causes over which the Contractor feels he has no control. Requests for time extensions shall be submitted immediately but in no event more than two (2) weeks upon occurrence of conditions, which, in the opinion of the Contractor, warrant such an extension with reasons clearly stated and a detailed explanation given as to why the delays are considered to be beyond the Contractor's control. A request for a time extension due to inclement weather is requested, but not required. "Weather days" will be tracked by the construction, engineering, and inspection firm contracted by the City.

**SECTION IV  
RENWAL OPTION**

Not applicable

**SECTION V  
COMPENSATION**

The total amount to be paid by the City to the Contractor is on a per unit price basis listed on Schedule "A" for a total amount of **\$8,006,338.18**. Payments will be disbursed in the following manner:

**The Contract Sum** - Work to be paid for on the basis of per unit prices: each, lump sum, linear feet, square yards, system, etc.

**Progress Payments**- Within twenty (20) business days, the City shall pay the Contractor, the sum of money due each Progress Payment that is properly allocated to labor, materials and equipment incorporated in the work for the period covered in the application for progress payment. Retainage will be held at 5% from each progress payment.

As-builts and an updated construction schedule to reflect actual progress, weather days, and Holidays shall be provided monthly with each progress payment submittal. As-Builts will be required with each request for payment to include all items identified in the pay request. The monthly request for payment may be rejected until the revised schedule and as-builts has been reviewed and/or approved by the City.

**Acceptance and Final Payment** - Upon receipt of written notice that the work is ready for final inspection and acceptance, the City will promptly make such inspection. When City finds the work acceptable under the terms of the Contract and the Contract is fully performed the entire balance will be due the Contractor and will be paid to the Contractor within twenty (20) business days. Such final payment to the Contractor shall be subject to the covenants in the Contract's Standard Specifications and any liquidated damages will be assessed against the Contractor at that time.

Before issuance of final payment, the Contractor shall submit a written Consent of Surety that is to be attached to the final invoice. All manufacturer's warranty documents must be provided in the format requested by the City prior to final payment.

Invoices for services shall be submitted once a month, by the tenth (10th) day of each month, and payments shall be made within twenty (20) business days unless Contractor has chosen to take advantage of the Purchasing Card Program, which guarantees payment within several days. Payments shall be made within twenty (20) business days of receipt of Contractor's valid invoice, provided that the invoice is accompanied by adequate supporting documentation, including any necessary partial release of liens as described above, and is approved by the Project Manager as required under Section XV of the Contract.

All invoices and correspondence relative to this Contract must contain the City's Contract number and Purchase Order number, detail of items with prices that correspond to the Contract, a unique invoice number and partial and final release of liens.

All invoices are to be sent to: [APNOTIFICATIONS@CITYOFPSL.COM](mailto:APNOTIFICATIONS@CITYOFPSL.COM) .

The Contractor shall not be paid additional compensation for any loss or damage, arising out of the nature of the work, from the action of the elements, or from any delay or unforeseen obstruction or difficulties encountered in the performance of the work, or for any expenses incurred by or in consequence of the suspension or discontinuance of the work.

In the event the City deems it expedient to perform work which has not been done by the Contractor as required by these Specifications, or to correct work which has been improperly and/or inadequately performed by the Contractor as required in these Specifications, all expenses thus incurred by the City, at the City's option, will be invoiced to the Contractor and/or deducted from payments due to the Contractor. Deductions thus made will not excuse the Contractor from other penalties and conditions contained in the Contract.

All payments not made within the time specified by this section shall bear interest from 30 calendar days after the due date at the rate of one (1) percent per month on the unpaid balance.

## **SECTION VI WORK CHANGES**

The City reserves the right to order work changes in the nature of additions, deletions or modifications without invalidating the Contract, and agrees to make corresponding adjustments in the contract price and time for completion. All changes will be authorized by a written change order approved by the Procurement Department Director prior to being implemented. Work shall be changed, and the contract price and completion time shall be modified only as set out in the written change order. Any adjustment in the contract price resulting in a credit or a charge to the City shall be at cost. Any dispute concerning work changes which is not resolved by mutual agreement shall be decided by the City Manager who shall reduce the decision to writing. The decision of the City shall be final and conclusive.

## **SECTION VII CONFORMANCE WITH BID**

It is understood that the materials and/or work required herein are in accordance with the bid made by the Contractor pursuant to the Invitation to Bid and Specifications on file in the Procurement Management Department of the City. All documents submitted by the Contractor in relation to said bid, and all documents promulgated by the City for inviting bids are, by reference, made a part hereof as if set forth herein in full.

## **SECTION VIII INDEMNIFICATION/ HOLD HARMLESS**

Contractor agrees to indemnify, defend and hold harmless, the City and the Florida Department of Transportation, its officers, agents, and employees from, and against any and all claims, actions, liabilities, losses and expenses including, but not limited to, attorney's fees for personal, economic or bodily injury, wrongful death, loss of or damage to property, at law or in equity, which may arise or may be alleged to have arisen from the negligent acts, errors, omissions or other wrongful conduct of Contractor, agents, laborers, subcontractors or other personnel entity acting under Contractor's control in connection with the Contractor's performance of services under this Contract and to that extent Contractor shall pay such claims and losses and shall pay all such costs and judgments which may issue from any lawsuit arising from such claims and losses including wrongful termination or allegations of discrimination or harassment, and shall pay all costs and attorney's fees expended by the City in defense of such claims and losses including appeals. That the aforesaid hold-harmless Contract by Contractor shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid operations of Contractor or any agent laborers, subcontractors or employee of Contractor regardless of whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages. Contractor shall be held responsible for any violation of laws, rules, regulations or ordinances affecting in any way the conduct of all persons engaged in or the materials or methods used by Contractor on the Work. Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the Work under this Contract. Contractor shall secure all permits, fees, licenses, and inspections necessary for the execution of the Work, and upon termination of this Contract for any reason, Contractor shall transfer such permits, if any, and if allowed by law, to the City. This indemnification shall survive the termination of this Contract.

**SECTION IX  
SOVEREIGN IMMUNITY**

Nothing contained in this Contract or by law shall be deemed or otherwise interpreted as waiving the City's sovereign immunity protections existing under the laws of the State of Florida, or as increasing the limits of liability as set forth in Section 768.28, Florida Statutes, as amended.

**SECTION X  
INSURANCE**

The Contractor shall, on a primary basis and at its sole expense, agree to maintain in full force and effect at all times during the life of this Contract, insurance coverage, limits, including endorsements, as described herein. The requirements contained herein, as well as City's review or acceptance of insurance maintained by Contractor are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Contractor under the Contract.

The parties agree and recognize that it is not the intent of the City of Port St. Lucie that any insurance policy/coverage that it may obtain pursuant to any provision of this Contract will provide insurance coverage to any entity, corporation, business, person, or organization, other than the City of Port St. Lucie and the City shall not be obligated to provide any insurance coverage other than for the City of Port St. Lucie or extend its sovereign immunity pursuant to Section 768.28, Florida Statutes, under its self-insured program. Any provision contained herein to the contrary shall be considered void and unenforceable by any party. This provision does not apply to any obligation imposed on any other party to obtain insurance coverage for this project, any obligation to name the City of Port St. Lucie as an additional insured under any other insurance policy, or otherwise protect the interests of the City of Port St. Lucie as specified in this Contract.

1. Workers' Compensation Insurance & Employer's Liability: The Contractor shall agree to maintain Workers' Compensation Insurance & Employers' Liability in accordance with Section 440, Florida Statutes. Employers' Liability and must include limits of at least \$100,000.00 each accident, \$100,000.00 each disease/employee, \$500,000.00 each disease/maximum. A Waiver of Subrogation endorsement shall be provided. Coverage shall apply on a primary basis. Should scope of work performed by Contractor qualify its employee for benefits under Federal Workers' Compensation Statute (example, U.S. Longshore & Harbor Workers Act or Merchant Marine Act), proof of appropriate Federal Act coverage must be provided.
2. Commercial General Liability Insurance: The Contractor shall agree to maintain Commercial General Liability insurance issued under an Occurrence form basis, including Contractual liability, to cover the hold harmless agreement set forth herein, with limits of not less than:

Each occurrence	\$1,000,000
Personal/advertising injury	\$1,000,000
Products/completed operations aggregate	\$2,000,000
General aggregate	\$5,000,000
Fire damage	\$100,000 any 1 fire
Medical expense	\$10,000 any 1 person

3. Additional Insured: An Additional Insured endorsement **must** be attached to the certificate of insurance and must include coverage for on-going and Completed Operations (should be CG2037 & CG2010) under the General Liability policy. Products & Completed Operations coverage to be provided for a minimum of five (5) years from the date of possession by City or completion of contract. Coverage is to be written on an occurrence form basis and shall apply as primary. A per project aggregate limit endorsement should be attached. Defense costs are to be in addition to the limit of liability. A waiver of subrogation shall be provided in favor of the City. Coverage for the hazards of explosion, collapse and underground property damage (XCU) must also be included when applicable to the work performed. No exclusion for mold, silica or respirable dust or bodily injury/property damage arising out of heat, smoke, fumes, or hostile fire shall apply. Coverage shall extend to independent contractors and fellow employees. Contractual Liability is to be included. Coverage is to include a cross liability or severability of interests' provision as provided under the standard ISO form separation of insurers' clause.

Except as to Workers' Compensation and Employers' Liability, said Certificate(s) and policies shall clearly state that coverage required by the Contract has been endorsed to include the City of Port St. Lucie, a municipality of the State of Florida, its officers, agents and employees as Additional Insured added to its Commercial General Liability policy and Business Auto policy. The name for the Additional Insured endorsement issued by the insurer shall read "**City of Port St. Lucie, a municipality of the State of Florida, the Florida Department of Transportation, its officers, employees, agents and shall include Contract #20200077 Construction of Port St. Lucie Boulevard North Roadway from Gatlin Boulevard to Darwin Boulevard shall be listed as additionally insured.**" The Policy shall be specifically endorsed to provide thirty (30) day written notice to the City prior to any adverse changes, cancellation, or non-renewal of coverage thereunder. In the event that the statutory liability of the City is amended during the term of this Contract to exceed the above limits, the Contractor shall be required, upon thirty (30) days written notice by the City, to provide coverage at least equal to the amended statutory limit of liability of the City. Copies of the Additional Insured endorsements including Completed Operations coverage shall be attached to the Certificate of Insurance. All independent contractors and subcontractors utilized in this project shall furnish a Certificate of Insurance to the City in accordance with the same requirements set forth herein.

4. Automobile Liability Insurance: The Contractor shall agree to maintain Business Automobile Liability at a limit of liability not less than \$1,000,000.00 each accident covering any auto, owned, non-owned and hired automobiles. In the event, the Contractor does not own any automobiles; the Business Auto Liability requirement shall be amended allowing Contractor to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto Coverage form. Certificate holder must be listed as additional insured. A waiver of subrogation shall be provided. Coverage shall apply on a primary basis.
5. Waiver of Subrogation: The Contractor shall agree by entering into this Contract to a Waiver of Subrogation for each required policy. When required by the insurer or should a policy condition not permit an Insured to enter into a pre-loss Contract to waive subrogation without an endorsement then Contractor shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy where a condition to the policy specifically prohibits such an endorsement, or voids coverage should Contractor enter into such a Contract on a pre-loss basis.
6. Deductibles: All deductible amounts shall be paid for and be the responsibility of the Contractor for any and all claims under this Contract. Where an SIR or deductible exceeds \$5,000, the City of Port St. Lucie reserves the right, but not obligation, to review and request a copy of the bidder's most recent annual report or audited financial statement.



It shall be the responsibility of the Contractor to ensure that all independent contractors and/or subcontractors comply with the same insurance requirements as listed herein, including Products & Completed Operations coverage for a minimum of five (5) years from the date of possession by City or completion of contract. It will be the responsibility of the Contractor to obtain Certificates of Insurance from all contractors and subcontractors listing the City as Additional Insured, without the language when required by written contract. If contractor, independent contractor or subcontractor maintain higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by contractor/independent contractor/subcontractor.

The Contractor may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, and Employers' Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for either Commercial General Liability, Business Auto Liability, or Employers' Liability. When required by the insurer, or when Umbrella or Excess Liability is written on Non-Follow Form," the City shall be endorsed as an "Additional Insured."

The City, by and through its Risk Management Department, reserves the right, but not obligation, to review, modify, reject, or accept any required policies of insurance including limits, coverages or endorsements, herein from time to time throughout the term of this contract. All insurance carriers must have an AM Best rating of at least A:VII or better.

A failure on the part of the contractor to execute the contract and/or punctually deliver the required insurance, and other documentation may be cause for annulment of the award.

**Payment & Performance Bonds:** The Contractor shall furnish an acceptable recorded Performance and Payment Bond complying with the statutory requirements set forth in Section 255.05, Florida Statutes, in the amount of one hundred (100%) percent of the Contract price. A fully authorized Surety, licensed by the State of Florida shall execute the Performance and Payment Bond. The Performance and Payment Bond shall remain in full force and effect a minimum of one (1) year after the work has been completed and final acceptance of the work is issued by the City.

Should the Surety become irresponsible during the time the Contract is in force, the City may require additional and sufficient sureties and the Contractor shall furnish same to the satisfaction of the City within ten (10) days after written notice to do so. In default thereof, the Contract may be suspended as herein provided.

The failure on the part of the Contractor to execute the Contract and/or punctually deliver the required Insurance Certificates and other documentation may be cause for the annulment of the award.

## **SECTION XI ACTS OF GOD**

The Contractor shall be responsible for all preparation of the site for Acts of God, including but not limited to; earthquake, flood, tropical storm, hurricane or other cataclysmic phenomenon of nature, rain, wind or other natural phenomenon of intensity, including extreme rainfall. No reparation shall be made to the Contractor for damages to the Work resulting from these Acts. The City is not responsible for any costs associated with pre or post preparations for any Acts of God.

**Emergencies** – In the event of emergencies affecting the safety of persons, the work, or property, at the site or adjacent thereto, the Contractor, or his designee, without special instruction or authorization from the City, is obligated to act to prevent threatened damage, injury or loss. In the event such actions are taken, the Contractor shall promptly give to the City written notice and contact immediately by phone, of any significant changes in work or deviations from the Contract documents caused thereby, and if such action is deemed appropriate by the City a written authorization signed by the City covering the approved changes and deviations will be issued.

## **SECTION XII PROHIBITION AGAINST FILING OR MAINTAINING LIENS AND SUITS**

Subject to the laws of the State of Florida and of the United States, neither Contractor nor any Subcontractor, supplier of materials, laborer or other person shall file or maintain any lien for labor or materials delivered in the performance of this Contract against the City. The right to maintain such lien for any or all of the above parties is hereby expressly waived.

## **SECTION XIII COMPLIANCE WITH LAWS**

The Contractor shall give all notices required by and shall otherwise comply with all applicable laws, ordinances, and codes and shall, at his own expense, secure and pay the fees and charges for all permits required for the performance of the Contract. All materials furnished and works done are to comply with all federal, state, and local laws and regulations. Contractor will comply with all requirements of 28 C.F.R. § 35.151. Contractors and subcontractors shall comply with § 119.0701, Fla. Stat. The Contractor and subcontractors are to allow public access to all documents, papers, letters, or other material made or received by the Contractor in conjunction with this Contract, unless the records are exempt from Art. I, § 24(a), Fla. Const. and § 119.07(1)(a), Fla. Stat. Pursuant to § 119.10(2)(a), Fla. Stat., any person who willfully and knowingly violates any of the provisions of Ch. 119, Laws of Fla., commits a misdemeanor of the first degree, punishable as provided in § 775.082 and § 775.083 Fla. Stat.

The Contractor agrees to comply with Section 20.055(5), Florida Statutes.

“It is the duty of every state officer, employee, agency, special district, board, commission, contractor, and subcontractor to cooperate with the inspector general in any investigation. Audit, inspection, review, or hearing pursuant to this section. Beginning July 1, 2015, each contract, bid, proposal, and application or solicitation for a contract shall contain a statement that the corporation, partnership, or person understands and will comply with this subsection.”

### **RECORDS:**

The City of Port St. Lucie is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida’s Public Records Law. **CONTRACTOR’S RESPONSIBILITY FOR COMPLIANCE WITH CHAPTER 119, FLORIDA STATUTES.** Pursuant to Section 119.0701, F.S.

Contractor agrees to comply with all public records laws, specifically to:

Keep and maintain public records required by the City in order to perform the service;

1. The timeframes and classifications for records retention requirements must be in accordance with the General Records Schedule GS1-SL for State and Local Government Agencies. (See <http://dos.dos.state.fl.us/library-archives/records-management/general-records-schedules/>).
2. During the term of the contract, the Contractor shall maintain all books, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this contract. The form of all records and reports shall be subject to the approval of the City.
3. Records include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business with the City. Contractor's records under this Contract include but are not limited to, supplier/subcontractor invoices and contracts, project documents, meeting notes, emails and all other documentation generated during this Agreement.
4. The Contractor agrees to make available to the City, during normal business hours all books of account, reports and records relating to this contract.
5. A Contractor who fails to provide the public records to the City within a reasonable time may also be subject to penalties under Section 119.10, Florida Statutes.

Upon request from the City's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the City.

Upon completion of the contract, transfer, at no cost to the City, all public records in possession of the Contractor, or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records in a format that is compatible with the information technology systems of the City.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**CITY CLERK  
121 SW Port St. Lucie Blvd.  
Port St. Lucie, FL 34984  
(772) 871 5157  
pr@cityofpsl.com**

**SECTION XIV  
NOTICE OF PERFORMANCE**

When required materials have been delivered and required work performed the Contractor shall submit a request for inspection in writing to the Project Manager.

**SECTION XV  
INSPECTION AND CORRECTION OF DEFECTS**

In order to determine whether the required material has been delivered or the required work performed in accordance with the terms and conditions of the Contract documents, the Project Manager shall make inspection as soon as practicable after receipt from the Contractor of a Notice of Performance or delivery ticket. If such inspection shows that the required material has been delivered and required work performed in accordance with terms and conditions of the Contract documents and that the material and work is entirely satisfactory, the Project Manager shall approve the invoice when it is received. Thereafter the Contractor shall be entitled to payment, as described in Section V. If, on such inspection the Project Manager is not satisfied, he shall as promptly as practicable inform the parties hereto of the specific respects in which his findings are not favorable. Contractor shall then be afforded an opportunity if desired by him, to correct the deficiencies so pointed out at no additional charge to the City, and otherwise on terms and conditions specified by the Project Manager. Upon failure of the Contractor to perform the work in accordance with the Contract Documents, including any requirements with respect to the Schedule of Completion, and after five (5) days written notice to the Contractor, the City may, without prejudice to any other remedy he may have, correct such deficiencies. The Contractor shall be charged all costs incurred to correct deficiencies. Such examination, inspection, or tests made by the Project Manager, at any time, shall not relieve Contractor of his responsibility to remedy any deviation, deficiency, or defect.

**Authority** - The Contractor is hereby informed that City inspectors are not authorized to alter, revoke, enlarge, or relax the provisions of these specifications. They are not authorized to approve or accept any portion of the completed work, or instructions contrary to the specifications. An inspector is placed on the project (or sent to the location of materials) to inspect materials being used in the work and to observe the manner in which the work is being performed and to report the progress of the work to the City. The inspector shall have the authority to reject defective materials or suspend any work that is being improperly done subject to the final decision of the City.

**Notification** – The Contractor shall be responsible to give twenty-four (24) hour notification to the City, when field observations are required.

**Defective Work** - All work and/or materials not meeting the requirements of these specifications shall be deemed as defective by the City, and all such work and/or material, whether in place or not, shall be removed immediately from the site of the work. All rejected materials that have been corrected shall not be used until the City has issued written approval to the Contractor. Without unnecessary delay and without any additional cost to the City, all work that has been rejected shall be remedied or removed and replaced in a manner acceptable to the City. If the Contractor fails to promptly remove and properly dispose of rejected materials and/or work then replaces same immediately after being notified to do so, the City may employ labor to remove and replace such defective work and/or materials. All charges for replacement of defective materials and/or work shall be charged to the Contractor and may be deducted from any moneys due to the Contractor or his Surety.

**Repair or Replacement** - Should any defect appear during the warranty period, the Contractor shall, at their own expense, have repaired or replaced such item upon receipt of written notice from the City of said defect. Said repair

or replacement must be accomplished within fourteen (14) calendar days after receipt of notification from the City of the defect.

**Deductions** - In the event the City deems it expedient to perform work which has not been done by the Contractor as required by these Specifications, or to correct work which has been improperly and/or inadequately performed by the Contractor as required in these Specifications, all expenses thus incurred by the City, in the City's option, will be invoiced to the Contractor and/or may be deducted from payments due to the Contractor. Deductions thus made will not excuse the Contractor from other penalties and conditions contained in the Contract.

## **SECTION XVI ADDITIONAL REQUIREMENTS**

In the event of any conflict between the terms and conditions, appearing on any purchase order issued relative to this Contract, and those contained in this Contract and the Specifications herein referenced, the terms of this Contract and Specifications herein referenced shall apply.

The City shall be listed as an original owner on all manufacturers' warranties, if any, for materials and services. The warranties shall include a load rating at the end of construction that meets or exceeds AASHTO and Department standards and requirements.

**Implied Warranty of Merchantability** - It is understood that the implied warranty of merchantability and fitness for the specified purpose are not disclaimed notwithstanding any representation to the contrary.

**Warranty and Guarantee** - All products furnished by the Contractor shall be supplied with all warranties and guarantees of the manufacturer. All products must be warranted by the Contractor to be free of defects in workmanship and material for a period of not less than three hundred sixty-five (365) calendar days; said period to commence upon the date products are accepted by the City and Contractor has received final payment.

**Miscellaneous Testing** – The Contractor must agree to reimburse the City for any expenditure incurred by the City in the process of testing products supplied by the Contractor if said products prove to be defective and/or in other manners not in compliance with the specifications. Expenditures as defined therein shall include, but not limited to, the replacement value of products destroyed in testing, the cost paid by the City to testing laboratories and other entities utilized to provide tests, and the value of labor and materials expended by the City in the process of conducting the testing. Reimbursement of charges as specified herein shall not relieve the Contractor from other remedies.

**City's Public Relations Image** – The Contractor's personnel shall at all times handle complaints and any public contact with due regard to the City's relationship with the public. Any personnel in the employ of the Contractor involved in the execution of work that is deemed to be conducting him/herself in an unacceptable manner shall be removed from the project at the request of the Project Manager, or his designee.

**Dress Code** – All personnel in the employ of the selected Contractor shall be appropriately attired. Employees engaged in the course of work shall wear company uniforms neat and clean in appearance, readily identifiable to all City employees and the public. No tee shirts with obscene pictures or writings will be allowed. Swimsuits, tank tops, shorts and sandals are also prohibited. Safety toed shoes shall be worn at all times.

**Patent Fees, Royalties, and Licenses** – If the Contractor requires or desires to use any design, trademark, device, material or process covered by letters of patent or copyright, the Contractor and his surety shall indemnify and hold harmless the City from any and all claims for infringement in connection with the work agreed to be performed. The

Contractor shall indemnify the City from any cost, expense, royalty or damage which the City may be obligated to pay by reason of any infringement at any time during the prosecution of or after completion of the work.

**Cooperative Purchasing Agreement** - This Contract may be expanded to include other governmental agencies provided a cooperative purchasing agreement exists or an inter-local agreement for joint purchasing exists between the City of Port St. Lucie and other public agencies. The Contractor may agree to allow other public agencies the same items at the same terms and conditions as this bid, during the period of time that this Contract is in effect. Each political entity will be responsible for execution of its own requirements with the Bidder.

**Discrepancies** - If, in the course of performing work resulting from an award under this specification, the Contractor finds any discrepancy between the area defined in these specifications and the actual area where work is being performed, the Contractor shall discontinue work on the subject area and inform the City of the discrepancy. The Contractor shall thereafter proceed as authorized by the City who will document any modification to these specifications that City has authorized in writing as soon as possible.

**Permission to Use** - The Contractor shall permit any portion of the new work, which is in suitable condition, to be used by the City for the purpose for which it was intended, provided such use does not hinder or make more expensive the work still to be done by the Contractor.

**Contractual Relations** - The Contractor is advised that nothing contained in the contract or specifications shall create any contractual relations between the City and subcontractors of the Contractor.

**Labor and Equipment** - The Contractor shall utilize experienced personnel who are thoroughly capable of performing the work assigned to them. The Contractor shall utilize proper equipment in good repair to perform assigned work. Failure on the part of the Contractor to furnish such labor or equipment shall be sufficient cause for annulment of any award resulting from these specifications.

**Standard Production Items** – All products offered must be standard production items that have been available to the trade for of not less than two (2) years and are expected to remain available in future years.

**Storage and Stockpiling** – All storage or stockpiling of tools or materials (i.e., lumber, pilings, etc.) shall be limited to uplands. Excess lumber, scrap wood, trash, garbage or other types of debris shall be removed from the project site upon completion of the work.

**Florida Produced Lumber** – The Contractor agrees to comply with the provisions of Section 255.20, Florida Statutes, and as may be amended from time to time.

**Erosion and Sediment Control** – The Contractor is responsible for all erosion and sediment control in accordance with all local, State and Federal regulatory agency guidelines.

**Water Resources** – The Contractor shall not discharge without permit into waters of lakes, rivers, canals, waterways and ditches, any fuel, oils, bitumens, garbage, sewage, or other materials which may be harmful to fish, wildlife, or vegetation, or that may be detrimental to outdoor recreation. The Contractor shall be responsible for investigating and complying with all applicable Federal, State and local laws and regulations governing pollution of waters. All work under this Contract shall be performed in such a manner that objectionable conditions will not be created in waters through or adjacent to the project areas.

**Native Vegetation** – No native vegetation shall be removed without written authorization and prior approval by the City.

**Sanitary Conditions** – The Contractor shall be responsible to provide and maintain in a neat and sanitary condition such accommodations for the use of employees as may be deemed necessary to comply with the regulations of the County Board of Health or other bodies having jurisdiction. The Contractor shall commit no public nuisance.

**Access to Work** - The Contractor shall be responsible to permit the City, its inspectors, and other authorized representatives of the City to have access to all parts of the work, and to all materials intended for use in the work, and to all factories where such materials are manufactured, at all times. The above designated City personnel shall be permitted during said access to remove materials and make such inspections, as they deem necessary. Materials submitted for approval will be inspected and passed upon as promptly as practical as will work in process. However, failure to reject defective work at the time it is done and/or failure to reject materials shall in no way prevent rejection at any time prior to final acceptance of the work authorized by the City.

**Weather Days** – The Contractor is to follow FDOT Standard Specifications for weather days. The City does not include an allowance for delays caused by the effects of inclement weather or suspension of Contractor's operations as defined in FDOT Specification 8-6.4, in establishing Contract Time. The Engineer will continually monitor the effects of weather and, when found justified, grant time extensions on either a bimonthly or monthly basis. The Engineer will not require the Contractor to submit a request for additional time due to the effects of weather. The City will grant time extensions, on a day for day basis, for delays caused by the effects of rains or other inclement weather conditions, related adverse soil conditions or suspension of operations as defined in 8-6.4 that prevents the Contractor from productively performing controlling work items of work resulting in: 1. The Contractor being unable to work at least 50% of the normal work day on pre-determined controlling work items; or 2. The Contractor must make major repairs to work damaged by weather, provided that the damage is not attributable to the Contractor's failure to perform or neglect; and provided that the Contractor was unable to work at least 50% of the normal workday on pre-determined controlling work items.

**Conflicts** – If there is a conflict between FDOT Specifications and the City's Specifications, the City Specifications will supersede.

**Foreman or Superintendent and Workmen** - The Contractor shall at all times during progress of the work, have on site a competent foreman or superintendent with authority to act for him and to cooperate with the City. The Contractor shall provide competent, careful and reliable workmen engaged on special work, or skilled work, such as concrete bases, pavements, or structures, or in any trade, with sufficient experience in such work to perform it properly and satisfactorily and to operate the equipment involved. Provide workmen that shall make do and proper effort to execute the work in the manner prescribed in the Contract Documents.

It is prohibited as a conflict of interest for a Contractor to subcontract with a consultant to perform Contractor Quality Control when the consultant is under contract with the City to perform work on any project described in the Contractor's contract with the City. Prior to approving a consultant for Contractor Quality Control, the Contractor shall submit to the City a certificate from the proposed consultant certifying that no conflict of interest exists.

**Adjustments** - The Contractor shall be responsible to arrange with utility companies for any adjustment necessary to the valve boxes, manholes, or castings so that they will conform to the new grade after placement of the sidewalk. The Contractor shall also be responsible to identify and avoid damage to all utilities (publicly and privately owned) within the area where work is being performed.

**Damages** - The Contractor shall be responsible for the charge and care of all work from damage by the elements or from any cause whatsoever until the City confirms in writing to the Contractor that said work is, "substantially

complete" and/or "accepted". The Contractor shall be responsible until said written notice is received to repair and make good at their expense any such damage.

**Damage to Property** – The Contractor shall preserve from damage all property along the line of work, or which is in the vicinity of or is in any way affected by the work, the removal, or destruction of which is not called for by the plans. This applies to public and private property, public and private utilities, trees, shrubs, crops, signs, monuments, fences, guardrail, pipe and underground structures, public highways, etc. Whenever such property is damaged due to the activities of the Contractor, it shall be immediately restored to a condition equal to or better than existing before such damage or injury was done by the Contractor, and at the Contractor's expense. The Contractor's special attention is directed to protection of any geodetic monument, horizontal, vertical or property corner, located within the limits of construction.

National Geodetic Vertical Datum 1929 (NGVD '29) or North American Vertical Datum 1988 (NAVD '88) monuments shall be protected. If in danger of damage, notify:

Geodetic Information Center  
6001 Executive Boulevard  
Rockville, MD 20852  
Attn: Maintenance Center (301) 443-8319

City of Port St. Lucie vertical or horizontal datum shall also be protected. In case of damage or if relocation is needed, notify:

City of Port St. Lucie  
Public Works Department  
121 SW Port St. Lucie Boulevard  
Port St. Lucie, FL 34984-5099 (772) 871-5175

## **SECTION XVII LICENSING**

Contractor warrants that he possesses all licenses and certificates necessary to perform required work and is not in violation of any laws. Contractor warrants that his license and certificates are current and will be maintained throughout the duration of the Contract.

## **SECTION XVIII SAFETY PRECAUTIONS**

Precaution shall be exercised at all times for the protection of persons, including employees, and property. The safety provisions of all applicable laws and building and construction codes shall be observed.

**Safety Data Sheets (SDS)** – The Contractor is required to provide a copy of the Safety Data Sheets (SDS) for all chemicals used in the execution of their work. The SDS must be maintained by the user agency.

**Personal Protective Equipment (PPE)** - All personnel are required to wear PPE in the process of the work including eye protection, hearing protection, respiratory protection as necessary, gloves, approved safety boots with steel or composite toes, reflective vests and any other PPE as necessary for the work.



**Safety Precautions** - The Contractor shall erect and maintain all necessary safeguards for the protection of the Contractor's employees and subcontractors, City personnel, and the general public; including, but not limited to, posting danger signs, coned off vehicles, arrow boards and other warnings against hazards as is prudent and/or required by law to protect the public interest. The Contractor's employees shall wear company uniforms, safety vests, safety boots and safety glasses. All damage, injury or loss to persons and/or property caused, directly or indirectly, in whole or in part, by the selected Contractor's employees, or subcontractor(s), or anyone directly or indirectly employed by said parties shall be remedied by the Contractor.

**OSHA Compliance** – The Contractor must agree that the products furnished, and application methods will comply with applicable provisions of the Williams-Steiger Occupational Safety and Health Act of 1970. These requirements shall include all primary and refresher training mandated under OSHA guidelines.

## **SECTION XIX ASSIGNMENT**

The Contractor shall not delegate, sublet or subcontract any part of the work, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof, or of his right, title of interest therein or his obligations there under, or monies due or to become due under this Contract, without prior written consent of the City. In case the Contractor assigns remaining percent or any part of any monies due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due to the Contractor shall be subject to prior liens of all persons, firms, and corporations for services rendered or materials supplied for the performance of the work called for in this Contract. Any assignment of the Contract shall in no way affect any provisions of Specifications or the Contract Documents.

## **SECTION XX TERMINATION, DELAYS AND LIQUIDATED DAMAGES**

**Liquidated Damages for Delays.** If material is not provided or work is not completed within the time stipulated in this Contract, including any extensions of time for excusable delays as herein provided, (it being impossible to determine the actual damages occasioned by the delay) the Contractor shall provide to the City three thousand seven hundred eighty-six (\$3,786.00) dollars as fixed, agreed and liquidated damages for each calendar day of delay until the work is completed. The Contractor and his sureties shall be jointly and severally liable to the City for the amount thereof.

**Termination for Cause.** The occurrence of any one or more of the following events shall constitute cause for the City to declare the Contractor in default of its obligations under the contract:

- I. The Contractor fails to deliver or has delivered nonconforming services or fails to perform, to the City's satisfaction, any material requirement of the Contract or is in violation of a material provision of the contract, including, but without limitation, the express warranties made by the Contractor;
- II. The Contractor fails to make substantial and timely progress toward performance of the contract;
- III. In the event the Contractor is required to be certified or licensed as a condition precedent to providing the Services, the revocation or loss of such license or certification may result in immediate termination of the contract effective as of the date on which the license or certification is no longer in effect;
- IV. The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor

terminates or suspends its business; or the City reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;

- V. The Contractor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of the contract;
- VI. The Contractor has engaged in conduct that has or may expose the City to liability, as determined in the City's sole discretion;
- VII. The Contractor furnished any statement, representation or certification in connection with the contract, which is materially false, deceptive, incorrect or incomplete.

**Notice of Default.** If there is a default event caused by the Contractor, the City shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in the City's written notice to the Contractor. If the breach or noncompliance is not remedied within the period of time specified in the written notice, the City may:

- I. Immediately terminate the contract without additional written notice(s); and/or
- II. Enforce the terms and conditions of the contract and seek any legal or reasonable remedies; and/or
- III. Procure substitute services from another source and charge the difference between the contract and the substitute contract to the defaulting Contractor

**Termination for Convenience.** The City, in its sole discretion, may terminate this contract at any time without cause, by providing at least sixty (60) days' prior written notice to Contractor. Any such termination shall be accomplished by delivery in writing of a notice to Contractor. Following termination without cause, the Contractor shall be entitled to compensation upon submission of invoices and proper proof of claim, for services provided under the contract to the City up to the time of termination, pursuant to Florida law.

## **SECTION XXI LAW AND VENUE**

This Contract is to be construed as though made in and to be performed in the State of Florida and is to be governed by the laws of Florida in all respects without reference to the laws of any other state or nation. The venue of any action taken to enforce this Contract shall be in St. Lucie County, Florida.

## **SECTION XXII REIMBURSEMENT FOR INSPECTION**

The Contractor agrees to reimburse the City for any expenditures incurred by the City in the process of testing materials supplied by the Contractor against the specifications under which said materials were procured, if said materials prove to be defective, improperly applied, and/or in other manners not in compliance with specifications. Expenditures as defined herein shall include, but not be limited to, the replacement value of materials destroyed in testing, the cost paid by the City to testing laboratories and other entities utilized to provide tests, and the value of labor and materials expended by the City in the process of conducting the testing. Reimbursement of charges as specified herein shall not relieve the Contractor from other remedies provided in the Contract.

**SECTION XXIII  
APPROPRIATION APPROVAL**

The Contractor acknowledges that the City of Port Saint Lucie's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. The Contractor agrees that, in the event such appropriation is not forthcoming, the City may terminate this Contract and that no charges, penalties or other costs shall be assessed.

**SECTION XXIV  
ATTORNEY'S FEES**

If this matter is placed in the hands of an attorney for collection, or in the event suit or action is instituted by the City to enforce any of the terms or conditions of the Contract, Contractor shall pay to the City, in such suit or action in both trial court and appellate court, the City's costs, and reasonable attorney's fees for the anticipated cost of collection and judgment enforcement.

**SECTION XXV  
CODE OF ETHICS**

Contractor warrants and represents that its employees will abide by any applicable provisions of the State of Florida Code of Ethics in Chapter 112.311 et seq., Florida Statutes, and Code of Ethics Ordinances in Section 9.14 of the City of Port St. Lucie Code.

**SECTION XXVI  
COMPLIANCE WITH LAW, RULES & REGULATIONS**

Contractor shall be held responsible for any violation of laws, rules, regulations or ordinances affecting in any way the conduct of all persons engaged in or the materials or methods used by it, on the Work. Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the Work under this Contract. Contractor shall secure all permits, fees, licenses, and inspections necessary for the execution of the Work, and upon termination of this Contract for any reason, Contractor shall transfer such permits, if any, and if allowed by law, to the City.

**SECTION XXVII  
POLICY OF NON-DISCRIMINATION**

Contractor shall not discriminate against any person in its operations, activities or delivery of services under this Contract. Contractor shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.

**SECTION XXVIII  
SEVERABILITY**

The Parties to this Contract expressly agree that it is not their intention to violate any public policy, statutory or common law rules, regulations, or decisions of any governmental or regulatory body.

If any provision of this Contract is judicially or administratively interpreted or construed as being in violation of any such policy, rule, regulation, or decision, the provision, sections, sentence, word, clause, or combination thereof causing such violation will be inoperative (and in lieu thereof there will be inserted such provision, section, sentence, word, clause, or combination thereof as may be valid and consistent with the intent of the Parties under this Contract) and the remainder of this Contract, as amended, will remain binding upon the Parties, unless the inoperative provision would cause enforcement of the remainder of this Contract to be inequitable under the circumstances.

**SECTION XXIX  
CLEANING UP**

Contractor shall, during the performance of this Contract, remove and properly dispose of resulting dirt and debris, and keep the work area reasonably clear. On completion of the work, Contractor shall remove all Contractors' equipment and all excess materials, and put the work area in a neat, clean, sanitary and safe condition.

**SECTION XXX  
ENTIRE CONTRACT**

The written terms and provisions of this Contract shall supersede all prior verbal statements of any official or other representative of the City. Such statements shall not be effective or be construed as entering into, or forming a part of, or altering in any manner whatsoever, this Contract or Contract documents.

*(Balance of page left intentionally blank)*

IN WITNESS WHEREOF, the parties have executed this Contract at Port St. Lucie, Florida, the day and year first above written.

CITY OF PORT ST. LUCIE FLORIDA

By: Caroline Sturgis  
City Purchasing Agent

ZAHLENE ENTERPRISES, INC.

By: [Signature]  
Authorized Representative

Jordan M. Zahlene  
Print Representative's Name

NOTARIZATION AS TO AUTHORIZED REPRESENTATIVE'S EXECUTION

State of: FL

County of: Miami-Dade

The foregoing instrument was acknowledged before me by  physical presence or  online notarization, this 11th day of August, 2021, by Jordan Zahlene who is  personally known to me, or who has  produced the following identification:



[Signature]  
Signature of Notary Public

Michael Ruiz  
Print Name of Notary Public  
Notary Public, State of Florida

My Commission expires: 12/15/2021

**SCHEDULE "A"**

<b>ROADWAY</b>						
<b>LINE NO.</b>	<b>PAY ITEM NO.</b>	<b>ITEM DESCRIPTION</b>	<b>PLAN</b>	<b>UNIT</b>	<b>UNIT PRICE</b>	<b>AMOUNT</b>
1	0101 1	MOBILIZATION	1.00	LS	\$ 800,000.00	\$ 800,000.00
2	0101 18	CONSTRUCTION VIDEO	1.00	LS	\$ 4,500.00	\$ 4,500.00
3	0101 99	SURVEY STAKING & RECORD DRAWINGS	1.00	LS	\$ 75,000.00	\$ 75,000.00
4	0102 1	MAINTENANCE OF TRAFFIC (INCL. PEDESTRAIN M.O.T.)	1.00	LS	\$ 535,000.00	\$ 535,000.00
5	0104 10 3	SEDIMENT BARRIER	8,136.00	LF	\$ 1.40	\$ 11,390.40
6	0104 11	FLOATING TURBIDITY BARRIER	144.00	LF	\$ 10.75	\$ 1,548.00
7	0104 15	SOIL TRACKING PREVENTION DEVICE	6.00	EA	\$ 3,500.00	\$ 21,000.00
8	0104 18	INLET PROTECTION SYSTEM	48.00	EA	\$ 90.00	\$ 4,320.00
9	0107 1	LITTER REMOVAL	38.33	AC	\$ 80.00	\$ 3,066.40
10	0107 2	MOWING	38.33	AC	\$ 80.00	\$ 3,066.40
11	0108 1	MONITOR EXISTING STRUCTURES-INSPECTION AND SETTLEMENT MONITORING	1.00	LS	\$ 5,000.00	\$ 5,000.00
12	0108 2	MONITOR EXISTING STRUCTURES-VIBRATION MONITORING	1.00	LS	\$ 5,000.00	\$ 5,000.00
13	0110 1 1	CLEARING AND GRUBBING	8.26	AC	\$ 49,380.00	\$ 407,878.80
14	0110 4 10	REMOVAL OF EXISTING CONCRETE PAVEMENT	4,652.00	SY	\$ 10.50	\$ 48,846.00
15	0110 7 1	MAILBOX, F&I SINGLE	6.00	EA	\$ 175.00	\$ 1,050.00
16	0120 1	REGUAR EXCAVATION	2,921.00	CY	\$ 11.50	\$ 33,591.50
17	0120 6	EMBANKMENT	3,875.00	CY	\$ 18.00	\$ 69,750.00
18	0160 4	TYPE B STABILIZATION	31,156.00	SY	\$ 15.50	\$ 482,918.00
19	0285 706	OPTIONAL BASE, BASE GROUP 06	3,361.00	SY	\$ 15.75	\$ 52,935.75
20	0285 709	OPTIONAL BASE, BASE GROUP 09	23,889.00	SY	\$ 16.00	\$ 382,224.00
21	0285 713	OPTIONAL BASE, BASE GROUP 13	353.00	SY	\$ 91.23	\$ 32,204.19
22	0327 70 1	MILLING EXIST ASPH PAVT. 1" AVG DEPTH	719.00	SY	\$ 12.15	\$ 8,735.85
23	0327 70 8	MILLING EXIST ASPH PAVT. 2 1/2" AVG DEPTH	454.00	SY	\$ 19.20	\$ 8,716.80
24	0334 1 12	SUPERPAVE ASPHALTIC CONC. TRAFFIC B	502.60	TN	\$ 138.00	\$ 69,358.80
25	0334 1 13	SUPERPAVE ASPHALTIC CONC. TRAFFIC C	2,749.10	TN	\$ 115.00	\$ 316,146.50
26	0334 1 53	SUPERPAVE ASPHALTIC CONCRETE, TRAFFIC C, PG 76-22	86.10	TN	\$ 157.00	\$ 13,517.70
27	0337 7 82	ASPHALT CONCRETE FRICTION COURSE, TRAFFIC C, FC-9.5, PG 76-22	1,370.10	TN	\$ 190.00	\$ 260,319.00
28	0339 1	MISCELLANEOUS ASPHALT PAVEMENT	10.90	TN	\$ 645.00	\$ 7,030.50
29	0400 0 11	CONCRETE CLASS NS, GRAVITY WALL (CONTINGENCY ITEM)	236.14	CY	\$ 575.00	\$ 135,780.50
30	0400 1 2	CONCRETE CLASS I, ENDWALLS	12.68	CY	\$ 1,195.46	\$ 15,158.43

31	0425 1 201	INLETS, CURB, TYPE 9, <10'	4.00	EA	\$ 3,928.29	\$ 15,713.16
32	0425 1 351	INLETS, CURB, TYPE P-5, <10'	10.00	EA	\$ 4,426.59	\$ 44,265.90
33	0425 1 361	INLETS, CURB, TYPE P-6, <10'	6.00	EA	\$ 4,638.23	\$ 27,829.38
34	0425 1 365	INLETS, CURB, TYPE P-6, PARTIAL	2.00	EA	\$ 4,041.71	\$ 8,083.42
35	0425 1 451	INLETS, CURB, TYPE J-5, <10'	10.00	EA	\$ 6,693.92	\$ 66,939.20
36	0425 1 461	INLETS, CURB, TYPE J-6, <10'	7.00	EA	\$ 7,437.42	\$ 52,061.94
37	0425 1 483	INLETS, CURB, TYPE 8, J BOT, <10'	2.00	EA	\$ 7,071.56	\$ 14,143.12
38	0425 1 541	INLETS, DT BOT, TYPE D, <10'	11.00	EA	\$ 3,778.83	\$ 41,567.13
39	0425 2 61	MANHOLES, P-8, <10'	2.00	EA	\$ 4,283.53	\$ 8,567.06
40	0425 2 91	MANHOLES, J-8, <10'	3.00	EA	\$ 5,770.65	\$ 17,311.95
41	0425 2 92	MANHOLES, J-8, >10'	2.00	EA	\$ 7,504.24	\$ 15,008.48
42	0425 10	YARD DRAIN	8.00	EA	\$ 1,690.00	\$ 13,520.00
43	0430 175 115	PIPE CULVERT, OPTIONAL MATERIAL, ROUND, 15" S/CD	187.00	LF	\$ 59.39	\$ 11,105.93
44	0430 175 118	PIPE CULVERT, OPTIONAL MATERIAL, ROUND, 18" S/CD	1,939.00	LF	\$ 70.03	\$ 135,788.17
45	0430 175 124	PIPE CULVERT, OPTIONAL MATERIAL, ROUND, 24" S/CD	301.00	LF	\$ 89.70	\$ 26,999.70
46	0430 175 136	PIPE CULVERT, OPTIONAL MATERIAL, ROUND, 36" S/CD	2,481.00	LF	\$ 137.57	\$ 341,311.17
47	0430 175 148	PIPE CULVERT, OPTIONAL MATERIAL, ROUND, 48" S/CD	715.00	LF	\$ 196.63	\$ 140,590.45
48	0515 2 311	PEDESTRIAN/ BICYCLE RAILING, ALUMINUM ONLY,42" TYPE 1	315.00	LF	\$ 110.00	\$ 34,650.00
49	0515 2 311	PEDESTRIAN/ BICYCLE RAILING, ALUMINUM ONLY,42" TYPE 1 (CONTINGENCY ITEM)	1,525.00	LF	\$ 110.00	\$ 167,750.00
50	0520 1 10	CONCRETE CURB & GUTTER, TYPE F	10,574.0 0	LF	\$ 19.00	\$ 200,906.00
51	0520 2 4	CONCRETE CURB & GUTTER, TYPE D	3,794.00	LF	\$ 16.90	\$ 64,118.60
52	0520 3	VALLEY GUTTER - CONCRETE	206.00	LF	\$ 17.95	\$ 3,697.70
53	0520 6	SHOULDER GUTTER-CONCRETE	84.00	LF	\$ 18.50	\$ 1,554.00
54	0520 70	TRAFFIC SEPARATOR, CONCRETE, SPECIAL, VARIABLE WIDTH	39.00	SY	\$ 55.00	\$ 2,145.00
55	0522 1	CONCRETE SIDEWALK, 4"	4,943.00	SY	\$ 39.00	\$ 192,777.00
56	0522 1	CONCRETE SIDEWALK, 4" (CONTINGENCY ITEM)	1.10	SY	\$ 39.00	\$ 42.90
57	0522 1	CONCRETE SIDEWALK (THICKENED SIDEWALK SECTION ONLY), 4" (CONTINGENCY ITEM)	28.08	CY	\$ 42.00	\$ 1,179.36

58	0522 2	CONCRETE SIDEWALK AND DRIVEWAY, 6"	862.00	SY	\$ 48.00	\$ 41,376.00
59	0523 2	PATTERNED PAVEMENT, NON-VEHICULAR AREAS	837.00	SY	\$ 75.00	\$ 62,775.00
60	0527 2	DETECTABLE WARNINGS	419.00	SF	\$ 25.00	\$ 10,475.00
61	0530 4 6	ARTICULATING CONCRETE BLOCK REVETMENT SYSTEM, THICKNESS 6"	40.00	SY	\$ 110.00	\$ 4,400.00
62	0536 1 0	GUARDRAIL, ROADWAY, GENERAL/LOW SPEED TL-2	475.00	LF	\$ 22.00	\$ 10,450.00
63	0536 6	PIPE RAIL	363.00	LF	\$ 21.50	\$ 7,804.50
64	0536 7 2	SPECIAL GUARDRAIL POST - SPECIAL STEEL POST FOR CONCRETE STRUCTURE MOUNT	4.00	EA	\$ 265.00	\$ 1,060.00
65	0536 73	GUARDRAIL REMOVAL	183.00	LF	\$ 1.85	\$ 338.55
66	0536 85 20	GUARDRAIL, END TREATMENT - TRAILING ANCHORAGE	2.00	EA	\$ 1,485.00	\$ 2,970.00
67	0536 85 24	GUARDRAIL, END TREATMENT - PARALLEL APPROACH TERMINAL	2.00	EA	\$ 3,055.00	\$ 6,110.00
68	0570 1 2	PERFORMANCE TURF (SOD)	11,728.00	SY	\$ 4.00	\$ 46,912.00
69	0581 1 3	RELOCATE TREES AND PALMS, MULTI-TRUCK OR CLUSTERING	5.00	EA	\$ 350.00	\$ 1,750.00
70	0581 1 4	RELOCATE TREES AND PALMS, TREES, <5" DIAMETER AT BREAST HEIGHT	2.00	EA	\$ 400.00	\$ 800.00
71	0581 1 7	RELOCATE TREES AND PALMS, PALMS, <14' OF CLEAR TRUNK, SABAL PALM ONLY	11.00	EA	\$ 275.00	\$ 3,025.00
72	2000 1	UTILITY COORDINATION	1.00	LS	\$ 10,000.00	\$ 10,000.00
					<b>SUB-TOTAL ROADWAY</b>	<b>\$ 5,674,926.29</b>
		<b>SIGNING AND PAVEMENT MARKING</b>				
<b>LINE NO.</b>	<b>PAY ITEM NO.</b>	<b>ITEM DESCRIPTION</b>	<b>PLAN</b>	<b>UNIT</b>	<b>UNIT PRICE</b>	<b>AMOUNT</b>
73	0700 1 11	SINGLE POST SIGN, F&I GROUND MOUNT, UP TO 12 SF	25.00	AS	\$ 319.00	\$ 7,975.00
74	0700 1 12	SINGLE POST SIGN, F&I GROUND MOUNT, 12-20 SF	1.00	AS	\$ 925.00	\$ 925.00
75	0700 1 13	SINGLE POST SIGN, F&I GROUND MOUNT, 21-30 SF	2.00	AS	\$ 1,412.00	\$ 2,824.00
76	0700 1 14	SINGLE POST SIGN, F&I GROUND MOUNT, 31+ SF	2.00	AS	\$ 1,810.00	\$ 3,620.00
77	0700 1 50	SINGLE POST SIGN, RELOCATE	7.00	AS	\$ 251.00	\$ 1,757.00
78	0700 1 60	SINGLE POST SIGN, REMOVE	31.00	AS	\$ 67.00	\$ 2,077.00
79	0700 2 12	MULTI- POST SIGN, F&I GROUND MOUNT, 12-20 SF	2.00	AS	\$ 3,100.00	\$ 6,200.00
80	0700 2 13	MULTI- POST SIGN, F&I GROUND MOUNT, 21-30 SF	1.00	AS	\$ 7,200.00	\$ 7,200.00
81	0705 11 3	DELINEATOR, FLEXIBLE HIGH VISABILITY MEDIAN	20.00	EA	\$ 70.00	\$ 1,400.00



82	0710 90	PAINTED PAVEMENT MARKING-FINAL SURFACE	1.00	LS	\$ 10,660.20	\$ 10,660.20
83	0711 11 102	THERMOPLASTIC, STANDARD, WHITE, SOLID, 8" FOR INTERCHANGE AND URBAN ISLAND	0.09	GM	\$ 4,900.00	\$ 441.00
84	0711 11 123	THERMOPLASTIC, STANDARD, WHITE, SOLID, 12" FOR CROSSWALK	1,702.00	LF	\$ 1.60	\$ 2,723.20
85	0711 11 124	THERMOPLASTIC, STANDARD, WHITE, SOLID, 18" FOR DIAGONALS AND CHEVRONS	284.00	LF	\$ 2.50	\$ 710.00
86	0711 11 125	THERMOPLASTIC, STANDARD, WHITE, SOLID, 24" FOR STOP LINE AND CROSSWALK	379.00	LF	\$ 3.15	\$ 1,193.85
87	0711 11 141	THERMOPLASTIC, STANDARD, WHITE, 2-4 DOTTED GUIDELINE/ 6-10 GAP EXTENSION, 6"	0.27	GM	\$ 1,350.00	\$ 364.50
88	0711 11 170	THERMOPLASTIC, STANDARD, WHITE, ARROW	52.00	EA	\$ 50.00	\$ 2,600.00
89	0711 11 224	THERMOPLASTIC, STANDRAD, YELLOW, SOLID, 18" FOR DIAGONALS AND CHEVRONS	50.00	LF	\$ 2.50	\$ 125.00
90	0711 14 125	THERMOPLASTIC, PREFORMED, WHITE, SOLID, 24" FOR CROSSWALK	914.00	LF	\$ 18.00	\$ 16,452.00
91	0711 16 101	THERMOPLASTIC, STANDARD-OTHER SURFACES, WHITE, SOLID, 6"	2.15	GM	\$ 3,100.00	\$ 6,665.00
92	0711 16 131	THERMOPLASTIC, STANDARD-OTHER SURFACES, WHITE, SKIP, 6", 10-30 SKIP/ 3-9 LANE DROP	1.16	GM	\$ 1,250.00	\$ 1,450.00
93	0711 16 201	THERMOPLASTIC, STANDARD-OTHER SURFACES, YELLOW, SOLID, 6"	1.48	GM	\$ 3,100.00	\$ 4,588.00
94	0711 16 231	THERMOPLASTIC, STANDARD-OTHER SURFACES, YELLOW, SKIP, 6"	0.08	GM	\$ 1,250.00	\$ 100.00
95	0711 17 1	THERMOPLASTIC, REMOVE EXISTING THERMO., PAVT. MARKINGS- SURFACE TO REMAIN	238.00	SF	\$ 6.50	\$ 1,547.00
					<b>SUB-TOTAL S&amp;PM</b>	<b>\$ 83,597.75</b>
		<b>LIGHTING</b>				
<b>LINE NO.</b>	<b>PAY ITEM NO.</b>	<b>ITEM DESCRIPTION</b>	<b>PLAN</b>	<b>UNIT</b>	<b>UNIT PRICE</b>	<b>AMOUNT</b>
96	0630 2 11	CONDUIT F & I, OPEN TRENCH	2540.00	LF	\$ 7.00	\$ 17,780.00
97	0630 2 12	CONDUIT F & I, DIRECTIONAL BORE	768.00	LF	\$ 24.00	\$ 18,432.00
98	0635 2 11	PULL AND SPLICE BOX, F & I, 13" X 24" COVER SIZE	28.00	EA	\$ 950.00	\$ 26,600.00
99	0639 1 122	ELECTRICAL POWER SERVICE, F & I, UNDERGROUND, METER FURNISHED BY CONTRACTOR	1.00	AS	\$ 2,000.00	\$ 2,000.00
100	0715 1 12	LIGHTING CONDUCTORS, F & I, NO. 8 TO NO. 6	12248.00	LF	\$ 2.50	\$ 30,620.00

101	0715 1 60	LIGHTING CONDUCTORS, REMOVE DISPOSE, CONTRACTOR OWNS	3287.00	LF	\$ 0.40	\$ 1,314.80
102	0715 4 11	LIGHT POLE COMPLETE, F & I, STANDARD POLE, STD. FOUNDATION. 30' MOUNTING HEIGHT	20.00	EA	\$ 6,100.00	\$ 122,000.00
103	0715 4 70	LIGHT POLE COMPLETE, REMOVE	14.00	EA	\$ 700.00	\$ 9,800.00
104	0715 7 11	LOAD CENTER F & I, SECONDARY VOLTAGE	1.00	EA	\$ 14,500.00	\$ 14,500.00
105	0715 500 1	POLE CABLE DISTRIBUTION SYSTEM CONVENTIONAL	20.00	EA	\$ 720.00	\$ 14,400.00
					<b>SUB-TOTAL LIGHTING</b>	<b>\$ 257,446.80</b>
		<b>SIGNALIZATION</b>				
<b>LINE NO.</b>	<b>PAY ITEM NO.</b>	<b>ITEM DESCRIPTION</b>	<b>PLAN</b>	<b>UNIT</b>	<b>UNIT PRICE</b>	<b>AMOUNT</b>
106	630-2-11	CONDUIT, FURNISH & INSTALL, OPEN TRENCH	276.00	LF	\$ 16.00	\$ 4,416.00
107	630-2-12	CONDUIT, FURNISH & INSTALL, DIRECTIONAL BORE	607.00	LF	\$ 28.00	\$ 16,996.00
108	632-7-1	SIGNAL CABLE- NEW OR RECONSTRUCTED INTERSECTION, FURNISH & INSTALL	2.00	PI	\$ 8,000.00	\$ 16,000.00
109	632-7-6	SIGNAL CABLE, REMOVE- INTERSECTION	1.00	PI	\$ 3,500.00	\$ 3,500.00
110	634-4-600	SPAN WIRE ASSEMBLY, REMOVE- POLES REMAIN	1.00	PI	\$ 350.00	\$ 350.00
111	635-2-11	PULL & SPLICE BOX, F&I, 13" x 24" COVER SIZE	46.00	EA	\$ 900.00	\$ 41,400.00
112	639-2-1	ELECTRICAL SERVICE WIRE, FURNISH & INSTALL	25.00	LF	\$ 4.00	\$ 100.00
113	646-1-11	ALUMINUM SIGNALS POLE, PEDESTAL	13.00	EA	\$ 1,400.00	\$ 18,200.00
114	646-1-60	ALUMINUM SIGNALS POLE, REMOVE	12.00	EA	\$ 300.00	\$ 3,600.00
115	649-21-1	STEEL MAST ARM ASSEMBLY, FURNISH AND INSTALL, SINGLE ARM 30'	1.00	EA	\$ 34,000.00	\$ 34,000.00
116	649-21-6	STEEL MAST ARM ASSEMBLY, FURNISH AND INSTALL, SINGLE ARM 50'	2.00	EA	\$ 45,000.00	\$ 90,000.00
117	649-21-15	STEEL MAST ARM ASSEMBLY, FURNISH AND INSTALL, SINGLE ARM 70'	1.00	EA	\$ 57,000.00	\$ 57,000.00
118	650-1-14	TRAFFIC SIGNAL, FURNISH & INSTALL ALUMINUM, 3 SECTION, 1 WAY	12.00	AS	\$ 1,154.00	\$ 13,848.00
119	650-1-16	TRAFFIC SIGNAL, FURNISH & INSTALL ALUMINUM, 4 SECTION, 1 WAY	1.00	AS	\$ 1,650.00	\$ 1,650.00
120	653-1-11	PEDESTRIAN SIGNAL, FURNISH & INSTALL LED COUNTDOWN, 1 WAY	16.00	AS	\$ 629.00	\$ 10,064.00
121	653-1-60	PEDESTRIAN SIGNAL, REMOVE PED SIGNAL- POLE/PEDESTAL TO REMAIN	1.00	AS	\$ 110.00	\$ 110.00
122	660-4-11	VEHICLE DETECTION SYSTEM- VIDEO, FURNISH & INSTALL CABINET EQUIPMENT	1.00	EA	\$ 16,500.00	\$ 16,500.00

123	660-4-12	VEHICLE DETECTION SYSTEM- VIDEO, FURNISH & INSTALL ABOVE GROUND EQUIPMENT	4.00	EA	\$ 2,500.00	\$ 10,000.00
124	665-1-11	PEDESTRIAN DETECTOR, FURNISH & INSTALL, STANDARD	16.00	EA	\$ 170.00	\$ 2,720.00
125	670-5-400	TRAFFIC CONTROLLER ASSEMBLY, MODIFY	3.00	AS	\$ 1,850.00	\$ 5,550.00
126	680-1-112	SYSTEM CONTROL EQUIPMENT, FURNISH & INSTALL, ADAPTIVE SIGNAL CONTROL SYSTEM- NEMA, CABINET EQUIPMENT	3.00	EA	\$ 38,500.00	\$ 115,500.00
127	680-1-113	SYSTEM CONTROL EQUIPMENT, FURNISH & INSTALL, ADAPTIVE SIGNAL CONTROL SYSTEM- NEMA, ABOVE GROUND EQUIPMENT	12.00	EA	\$ 5,300.00	\$ 63,600.00
128	682-1-113	ITS CCTV CAMERA, F&I, DOME PTZ ENCLOSURE - PRESSURIZED, IP, HIGH DEFINITION	1.00	EA	\$ 6,000.00	\$ 6,000.00
129	684-1-1	MANAGED FIELD ETHERNET SWITCH, FURNISH & INSTALL	1.00	EA	\$ 2,500.00	\$ 2,500.00
130	685-1-11	UNINTERRUPTIBLE POWER SUPPLY, FURNISH AND INSTALL, LINE INTERACTIVE	1.00	EA	\$ 6,000.00	\$ 6,000.00
131	700-3-101	SIGN PANEL, FURNISH & INSTALL OVERHEAD MOUNT, UP TO 12 SF	1.00	EA	\$ 700.00	\$ 700.00
132	700-3-602	SIGN PANEL, REMOVE, 12-20 SF	2.00	EA	\$ 250.00	\$ 500.00
133	700-5-22	INTERNALLY ILLUMINATED SIGN, FURNISH & INSTALL, OVERHEAD MOUNT, 12-18 SF	4.00	EA	\$ 2,650.00	\$ 10,600.00
					<b>SUB-TOTAL SIGNALIZATION</b>	<b>\$ 551,404.00</b>
		<b>UTILITY</b>				
<b>LINE NO.</b>	<b>PAY ITEM NO.</b>	<b>ITEM DESCRIPTION</b>	<b>PLAN</b>	<b>UNIT</b>	<b>UNIT PRICE</b>	<b>AMOUNT</b>
134	U-1	DI FITTINGS FORCE MAIN	3.00	TN	\$ 27,825.43	\$ 83,476.29
135	U-2	DI FITTINGS WATER MAIN	7.50	TN	\$ 12,385.44	\$ 92,890.80
136	U-3	16" LINE STOP	12.00	EA	\$ 16,903.49	\$ 202,841.88
137	U-4	16" PVC INSTALL	2400.00	LF	\$ 122.60	\$ 294,240.00
138	U-5	DEMO EXIST 16" PVC	2220.00	LF	\$ 12.27	\$ 27,239.40
139	U-6	16" DI MJ GATE VALVE	5.00	EA	\$ 6,991.27	\$ 34,956.35
140	U-7	16" X 16" TAPPING SLEEVE AND VALVE	3.00	EA	\$ 5,089.39	\$ 15,268.17
141	U-7A	16" X 6" TAPPING SLEEVE AND VALVE	1.00	EA	\$ 6,656.22	\$ 6,656.22
142	U-8	16" MJ RESTRAINTS	148.00	EA	\$ 802.64	\$ 118,790.72
143	U-9	CONSTRUCT TEMPORARY JUMPER CONNECTION	2.00	EA	\$ 3,338.83	\$ 6,677.66
144	U-10	SAMPLE POINT	15.00	EA	\$ 1,060.14	\$ 15,902.10
145	U-11	FIRE HYDRANT ASSEMBLY (INCLUDING TEE & 6" GATE VALVE)	2.00	EA	\$ 7,513.43	\$ 15,026.86

146	U-12	RELOCATE EX. FIRE HYDRANT	4.00	EA	\$ 4,270.80	\$ 17,083.20
147	U-13	12" LINE STOP	1.00	EA	\$ 11,335.47	\$ 11,335.47
148	U-14	12" PVC INSTALL	103.00	EA	\$ 394.56	\$ 40,639.68
149	U-15	12" DI MJ GATE VALVE	1.00	EA	\$ 5,266.43	\$ 5,266.43
150	U-16	12" MJ RESTRAINTS	29.00	EA	\$ 557.45	\$ 16,166.05
151	U-17	DEMO EXIST 12" PVC WATER MAIN	95.00	LF	\$ 20.30	\$ 1,928.50
152	U-18	10" PVC INSTALL	40.00	LF	\$ 70.29	\$ 2,811.60
153	U-19	10" DI MJ GATE VALVE	1.00	EA	\$ 3,616.88	\$ 3,616.88
154	U-20	10" LINE STOP	1.00	EA	\$ 10,821.87	\$ 10,821.87
155	U-21	10" MJ RESTRAINTS	11.00	EA	\$ 668.74	\$ 7,356.14
156	U-22	DEMO EXIST 10" PVC WATER MAIN	47.00	LF	\$ 21.88	\$ 1,028.36
157	U-23	8" LINE STOP	12.00	EA	\$ 8,883.84	\$ 106,606.08
158	U-24	8" PVC INSTALL	1325.00	LF	\$ 51.71	\$ 68,515.75
159	U-25	8" DI MJ GATE VALVE	4.00	EA	\$ 3,178.39	\$ 12,713.56
160	U-26	8" MJ RESTRAINTS	125.00	EA	\$ 494.11	\$ 61,763.75
161	U-27	8" DI MJ CAP	2.00	EA	\$ 428.00	\$ 856.00
162	U-28	DEMO EXIST 8" PVC	1168.00	LF	\$ 15.72	\$ 18,360.96
163	U-29	6" LINE STOP	1.00	EA	\$ 8,141.52	\$ 8,141.52
164	U-30	6" PVC INSTALL	139.00	LF	\$ 42.78	\$ 5,946.42
165	U-31	6" DI MJ GATE VALVE	3.00	EA	\$ 1,817.90	\$ 5,453.70
166	U-32	6"X6" TAPPING SLEEVE AND VALVE	1.00	EA	\$ 5,448.19	\$ 5,448.19
167	U-33	6" MJ RESTRAINTS	34.00	EA	\$ 351.04	\$ 11,935.36
168	U-34	6" MJ CAP	1.00	EA	\$ 640.46	\$ 640.46
169	U-35	DEMO EXIST 6" FORCE MAIN	20.00	LF	\$ 85.21	\$ 1,704.20
170	U-36	2.5" PVC 45° BEND	14.00	EA	\$ 205.07	\$ 2,870.98
171	U-37	2.5" LINE STOP	1.00	EA	\$ 6,001.52	\$ 6,001.52
172	U-38	2.5" PVC INSTALL	673.00	LF	\$ 24.12	\$ 16,232.76
173	U-39	DEMO EXIST 2.5" PVC	640.00	LF	\$ 14.75	\$ 9,440.00
174	U-40	2" PVC 45° BEND	4.00	EA	\$ 28.51	\$ 114.04
175	U-41	2" PVC INSTALL	20.00	LF	\$ 29.34	\$ 586.80
176	U-42	DEMO EXIST 2" PVC	10.00	LF	\$ 28.22	\$ 282.20
177	U-43	AIR RELEASE VALVES	5.00	EA	\$ 7,333.76	\$ 36,668.80
178	U-44	CONNECT TO EXISTING MAIN (PLUG REMOVAL AND CONNECT)	38.00	EA	\$ 701.57	\$ 26,659.66
					<b>SUB-TOTAL UTILITY</b>	<b>\$ 1,438,963.34</b>
					<b>TOTAL PROJECT COST</b>	<b>\$ 8,006,338.18</b>

Bond No. 0239502

# Document A312™ – 2010

Conforms with The American Institute of Architects AIA Document 312

## Performance Bond

### CONTRACTOR:

(Name, legal status and address)

Zahlene Enterprises, Inc.  
11300 NW 97th Avenue  
Medley, FL 33178

### OWNER:

(Name, legal status and address)

City of Port St. Lucie  
121 SW Port St. Lucie Blvd.  
Port St. Lucie, FL 34984

### CONSTRUCTION CONTRACT

Date:

Amount: \$ 8,006,448.18      Eight Million Six Thousand Four Hundred Forty Eight Dollars and 18/100

### Description:

(Name and location)

Construction of Port St. Lucie Boulevard North Roadway Project, Contract No. 20200077

### SURETY:

(Name, legal status and principal place of business)

Berkley Insurance Company  
475 Steamboat Road  
Greenwich, CT 06830  
**Mailing Address for Notices**

475 Steamboat Road  
Greenwich, CT 06830

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

### BOND

Date:

(Not earlier than Construction Contract Date)

Amount: \$ 8,006,448.18      Eight Million Six Thousand Four Hundred Forty Eight Dollars and 18/100

Modifications to this Bond:

None

Sec Section 16

### CONTRACTOR AS PRINCIPAL

Company:

(Corporate Seal)

Zahlene Enterprises, Inc.

### SURETY

Company:

(Corporate Seal)

Berkley Insurance Company

Signature: \_\_\_\_\_

Name Jordan M. Zahlene  
and Title: Vice President

Signature: \_\_\_\_\_

Name Brett Rosenhaus  
and Title: Attorney-in-Fact & FL Licensed Agent

(Any additional signatures appear on the last page of this Performance Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

### AGENT or BROKER:

Nielson, Rosenhaus & Associates  
220 Congress Park Drive, Suite 100  
Delray Beach, FL 33445

561-454-8210

### OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)



**§ 1** The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

**§ 2** If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

**§ 3** If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- .1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

**§ 4** Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

**§ 5** When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

**§ 5.1** Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

**§ 5.2** Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

**§ 5.3** Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

**§ 5.4** Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

**§ 6** If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

**§ 7** If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

**§ 8** If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

**§ 9** The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

**§ 10** The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

**§ 11** Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

**§ 12** Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

**§ 13** When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

#### **§ 14 Definitions**

**§ 14.1 Balance of the Contract Price.** The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

**§ 14.2 Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

**§ 14.3 Contractor Default.** Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

**§ 14.4 Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

**§ 14.5 Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

**§ 15** If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

*(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)*

**CONTRACTOR AS PRINCIPAL**

Company: \_\_\_\_\_  
*(Corporate Seal)*

**SURETY**

Company: \_\_\_\_\_  
*(Corporate Seal)*

Signature: \_\_\_\_\_  
Name and Title:  
Address

Signature: \_\_\_\_\_  
Name and Title:  
Address



THE PROVISIONS AND LIMITATIONS OF SECTION 255.05 FLORIDA STATUTES, INCLUDING BUT NOT LIMITED TO THE NOTICE AND TIME LIMITATIONS IN SECTIONS 255.05(2) AND 255.05(10), ARE INCORPORATED IN THIS BOND BY REFERENCE.

Bond No. 0239502

# Document A312™ – 2010

Conforms with The American Institute of Architects AIA Document 312

## Payment Bond

**CONTRACTOR:**

(Name, legal status and address)

Zahlene Enterprises, Inc.  
11300 NW 97th Avenue  
Medley, FL 33178

**OWNER:**

(Name, legal status and address)

City of Port St. Lucie  
121 SW Port St. Lucie Blvd.  
Port St. Lucie, FL 34984

**SURETY:**

(Name, legal status and principal place of business)

Berkley Insurance Company  
475 Steamboat Road  
Greenwich, CT 06830  
**Mailing Address for Notices**  
475 Steamboat Road  
Greenwich, CT 06830

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

**CONSTRUCTION CONTRACT**

Date:

Amount: \$ 8,006,448.18      Eight Million Six Thousand Four Hundred Forty Eight Dollars and 18/100

Description:

(Name and location)

Construction of Port St. Lucie Boulevard North Roadway Project, Contract No. 20200077

**BOND**

Date:

(Not earlier than Construction Contract Date)

Amount: \$ 8,006,448.18      Eight Million Six Thousand Four Hundred Forty Eight Dollars and 18/100

Modifications to this Bond:

None

See Section 18

**CONTRACTOR AS PRINCIPAL**

Company:

(Corporate Seal)

Zahlene Enterprises, Inc.

**SURETY**

Company:

(Corporate Seal)

Berkley Insurance Company

Signature: \_\_\_\_\_

Name Jordan M. Zahlene  
and Title: Vice President

Signature: \_\_\_\_\_

Name Brett Rosenhaus  
and Title: Attorney-in-Fact & FL Licensed Agent

(Any additional signatures appear on the last page of this Payment Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

**AGENT or BROKER:**

Nielson, Rosenhaus & Associates  
220 Congress Park Drive, Suite 100  
Delray Beach, FL 33445

561-454-8210

**OWNER'S REPRESENTATIVE:**

(Architect, Engineer or other party:)



**§ 1** The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

**§ 2** If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

**§ 3** If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

**§ 4** When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

**§ 5** The Surety's obligations to a Claimant under this Bond shall arise after the following:

**§ 5.1** Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

**§ 5.2** Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

**§ 6** If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

**§ 7** When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

**§ 7.1** Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

**§ 7.2** Pay or arrange for payment of any undisputed amounts.

**§ 7.3** The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

**§ 8** The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

**§ 9** Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work. .

**§ 10** The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

**§ 11** The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

**§ 12** No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

**§ 13** Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

**§ 14** When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

**§ 15** Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

#### **§ 16 Definitions**

**§ 16.1 Claim.** A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

**§ 16.2 Claimant.** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

**§ 16.3 Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

**§ 16.4 Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

**§ 16.5 Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

**§ 17** If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

**§ 18** Modifications to this bond are as follows:

THE PROVISIONS AND LIMITATIONS OF SECTION 255.05 FLORIDA STATUTES, INCLUDING BUT NOT LIMITED TO THE NOTICE AND TIME LIMITATIONS IN SECTIONS 255.05(2) AND 255.05(10), ARE INCORPORATED IN THIS BOND BY REFERENCE.

*(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)*

**CONTRACTOR AS PRINCIPAL**

Company: \_\_\_\_\_  
*(Corporate Seal)*

**SURETY**

Company: \_\_\_\_\_  
*(Corporate Seal)*

Signature: \_\_\_\_\_

Name and Title:

Address

Signature: \_\_\_\_\_

Name and Title:

Address

POWER OF ATTORNEY  
BERKLEY INSURANCE COMPANY  
WILMINGTON, DELAWARE

NOTICE: The warning found elsewhere in this Power of Attorney affects the validity thereof. Please review carefully.

KNOW ALL MEN BY THESE PRESENTS, that BERKLEY INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Delaware, having its principal office in Greenwich, CT, has made, constituted and appointed, and does by these presents make, constitute and appoint: **Brett Rosenhaus or Dale A. Belis of Acrisure, LLC dba Nielson, Rosenhaus & Associates of Delray Beach, FL** its true and lawful Attorney-in-Fact, to sign its name as surety only as delineated below and to execute, seal, acknowledge and deliver any and all bonds and undertakings, with the exception of Financial Guaranty Insurance, providing that no single obligation shall exceed **One Hundred Million and 00/100 U.S. Dollars (U.S.\$100,000,000.00)**, to the same extent as if such bonds had been duly executed and acknowledged by the regularly elected officers of the Company at its principal office in their own proper persons.

This Power of Attorney shall be construed and enforced in accordance with, and governed by, the laws of the State of Delaware, without giving effect to the principles of conflicts of laws thereof. This Power of Attorney is granted pursuant to the following resolutions which were duly and validly adopted at a meeting of the Board of Directors of the Company held on January 25, 2010:

**RESOLVED**, that, with respect to the Surety business written by Berkley Surety, the Chairman of the Board, Chief Executive Officer, President or any Vice President of the Company, in conjunction with the Secretary or any Assistant Secretary are hereby authorized to execute powers of attorney authorizing and qualifying the attorney-in-fact named therein to execute bonds, undertakings, recognizances, or other suretyship obligations on behalf of the Company, and to affix the corporate seal of the Company to powers of attorney executed pursuant hereto; and said officers may remove any such attorney-in-fact and revoke any power of attorney previously granted; and further

**RESOLVED**, that such power of attorney limits the acts of those named therein to the bonds, undertakings, recognizances, or other suretyship obligations specifically named therein, and they have no authority to bind the Company except in the manner and to the extent therein stated; and further

**RESOLVED**, that such power of attorney revokes all previous powers issued on behalf of the attorney-in-fact named; and further

**RESOLVED**, that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any power of attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligation of the Company; and such signature and seal when so used shall have the same force and effect as though manually affixed. The Company may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Company, notwithstanding the fact that they may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, the Company has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 14<sup>th</sup> day of November, 2019.

Attest:

Berkley Insurance Company

(Seal)

By Ira S. Lederman  
Executive Vice President & Secretary

By Jeffrey M. Hafter  
Senior Vice President

**WARNING: THIS POWER INVALID IF NOT PRINTED ON BLUE "BERKLEY" SECURITY PAPER.**

STATE OF CONNECTICUT )  
 ) ss:  
COUNTY OF FAIRFIELD )

Sworn to before me, a Notary Public in the State of Connecticut, this 14<sup>th</sup> day of November, 2019, by Ira S. Lederman and Jeffrey M. Hafter who are sworn to me to be the Executive Vice President and Secretary, and the Senior Vice President, respectively, of Berkley Insurance Company.

MARIA C RUNDBAKEN  
NOTARY PUBLIC  
CONNECTICUT  
MY COMMISSION EXPIRES  
APRIL 30, 2024

Maria C Rundbaken  
Notary Public, State of Connecticut

**CERTIFICATE**

I, the undersigned, Assistant Secretary of BERKLEY INSURANCE COMPANY, DO HEREBY CERTIFY that the foregoing is a true, correct and complete copy of the original Power of Attorney; that said Power of Attorney has not been revoked or rescinded and that the authority of the Attorney-in-Fact set forth therein, who executed the bond or undertaking to which this Power of Attorney is attached, is in full force and effect as of this date.

Given under my hand and seal of the Company, this \_\_\_\_\_ day of \_\_\_\_\_,

(Seal)

Vincent P. Forte  
Vincent P. Forte

WARNING - Any unauthorized reproduction or alteration of this document is prohibited. This power of attorney is void unless seals are readable and the certification seal at the bottom is embossed. The background imprint, warning and verification instructions (on reverse) must be in blue ink.



**NHC**

**NIELSON, ROSENHAUS & ASSOCIATES**

A NIELSON HOOVER GROUP COMPANY

SMART. UNCOMPROMISING. TIMELY. EFFECTIVE. NIELSON, HOOVER & COMPANY, INC. SURETY SOLUTIONS THAT MAKE A DIFFERENCE.

September 2, 2021

Zahlene Enterprises, Inc.  
11300 NW 97th Avenue  
Medley, FL 33178

RE: City of Port St. Lucie, as Obligee  
Construction of Port St. Lucie Boulevard North Roadway Project, as Project  
Bond No. 0239502

Dear Ladies and Gentlemen:

Please supply us with the following information for the above captioned final bond:

Executed Contract with Date: X \_\_\_\_\_

This letter is also giving Zahlene Enterprises, Inc., as Principal and/or City of Port St. Lucie, as Obligee, the authority to complete these bonds by filling in the contract date, bond execution date and Power of Attorney date. The contract date MAY BE THE SAME date as the execution of the bond or PRIOR to the execution date of the bonds.

We will forward this information onto your surety company upon our receipt. Please return as soon as possible.

Thank you for your cooperation.

Sincerely,

Brett Rosenhaus  
Florida Licensed Agent

**FRONT PAGE OF  
PUBLIC PAYMENT BOND**

Florida Statute 255.05

**BOND NO. 0239502**

**CONTRACTOR:** Zahlene Enterprises, Inc.  
11300 NW 97<sup>th</sup> Avenue  
Medley, FL 33178  
(305) 805-6858

**SURETY:** Berkley Insurance Company  
475 Steamboat Road  
Greenwich, CT 06830  
(203) 542-3800

**AGENT:** Nielson, Rosenhaus & Associates  
220 Congress Park, Suite 100  
Delray Beach, FL 33445  
(561) 454-8210

**OBLIGEE:** City of Port St. Lucie  
121 SW Port St. Lucie Blvd.  
Port St. Lucie, FL 34984  
(772) 871-5223

**PROJECT:** Construction of Port St. Lucie Boulevard North Roadway Project  
Contract No. 20200077

**LOCATION:** Port St. Lucie Boulevard North from Gatlin Boulevard to just south of Darwin  
Boulevard including approximately 800-feet of Darwin Boulevard east of  
Gatlin Boulevard  
Port St. Lucie, St. Lucie County, Florida



ZAHEENT-01

RFOWLER

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

9/22/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Collinsworth, Alter, Fowler & French, LLC 15050 NW 79th Court Suite 200 Miami Lakes, FL 33016	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): (305) 822-7800      FAX (A/C, No): (305) 362-2443 E-MAIL ADDRESS:														
<b>INSURED</b>  Zahlene Enterprises, Inc 11300 NW 97th Avenue Medley, FL 33178	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A : Continental Casualty Co</td> <td style="text-align: center;">20443</td> </tr> <tr> <td>INSURER B : Continental Insurance Company</td> <td style="text-align: center;">35289</td> </tr> <tr> <td>INSURER C : Valley Forge Insurance Company</td> <td style="text-align: center;">20508</td> </tr> <tr> <td>INSURER D : Federal Insurance Company</td> <td style="text-align: center;">20281</td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Continental Casualty Co	20443	INSURER B : Continental Insurance Company	35289	INSURER C : Valley Forge Insurance Company	20508	INSURER D : Federal Insurance Company	20281	INSURER E :		INSURER F :	
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## COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X	X	7011978097	3/26/2021	3/26/2022	EACH OCCURRENCE \$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
							MED EXP (Any one person) \$ 15,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
							EBL \$ 2,000,000
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	X	X	7011978102	3/26/2021	3/26/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
							BODILY INJURY (Per person) \$
							BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							\$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE	X	X	7011978133	3/26/2021	3/26/2022	EACH OCCURRENCE \$ 5,000,000
							AGGREGATE \$ 5,000,000
							\$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	X	WC711978116	3/26/2021	3/26/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER
							E.L. EACH ACCIDENT \$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Equipment Floater			6712251	3/26/2021	3/26/2022	Leased/Rented 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 Project: Construction of Port St. Lucie Blvd. North Roadway Project - Contract #20200077

The City of Port St. Lucie a municipality of the State of Florida, the Florida Department of Transportation, its officers, employees, agents, concerning Contract #20200077 Construction of Port St. Lucie Boulevard North Roadway from Gatlin Boulevard to Darwin Boulevard is included as an additional insured with respects to General Liability, Auto Liability, & Excess/Umbrella Liability on a primary and non-contributory basis. Waiver of Subrogation applies in favor of the additional insureds with respects to to General Liability, Auto Liability, Excess/Umbrella Liability & Worker's Compensation. Umbrella/Excess is follow form. 30 days notice of cancellation will be delivered in accordance with the provisions of the policy.

## CERTIFICATE HOLDER

## CANCELLATION

City of Port St. Lucie 121 S.W. Port St. Lucie Blvd, Port Saint Lucie, FL 34984	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
---	---





**Blanket Additional Insured - Owners, Lessees or Contractors - with Products-Completed Operations Coverage Endorsement**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

It is understood and agreed as follows:

- I. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **coverage part**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** caused in whole or in part by your acts or omissions, or the acts or omissions of those acting on your behalf:
  - A. in the performance of your ongoing operations subject to such **written contract**; or
  - B. in the performance of **your work** subject to such **written contract**, but only with respect to **bodily injury or property damage** included in the **products-completed operations hazard**, and only if:
    - 1. the **written contract** requires you to provide the additional insured such coverage; and
    - 2. this **coverage part** provides such coverage.
- II. But if the **written contract** requires:
  - A. additional insured coverage under the 11-85 edition, 10-93 edition, or 10-01 edition of CG2010, or under the 10-01 edition of CG2037; or
  - B. additional insured coverage with "arising out of" language; or
  - C. additional insured coverage to the greatest extent permissible by law;then paragraph I. above is deleted in its entirety and replaced by the following:

**WHO IS AN INSURED** is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **coverage part**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of **your work** that is subject to such **written contract**.
- III. Subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:
  - A. coverage broader than required by the **written contract**; or
  - B. a higher limit of insurance than required by the **written contract**.
- IV. The insurance granted by this endorsement to the additional insured does not apply to **bodily injury, property damage, or personal and advertising injury** arising out of:
  - A. the rendering of, or the failure to render, any professional architectural, engineering, or surveying services, including:
    - 1. the preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
    - 2. supervisory, inspection, architectural or engineering activities; or
  - B. any premises or work for which the additional insured is specifically listed as an additional insured on another endorsement attached to this **coverage part**.
- V. Under **COMMERCIAL GENERAL LIABILITY CONDITIONS**, the Condition entitled **Other Insurance** is amended to add the following, which supersedes any provision to the contrary in this Condition or elsewhere in this **coverage part**:

50020009770119780976249



**Blanket Additional Insured - Owners, Lessees or Contractors - with Products-Completed Operations Coverage Endorsement****Primary and Noncontributory Insurance**

With respect to other insurance available to the additional insured under which the additional insured is a named insured, this insurance is primary to and will not seek contribution from such other insurance, provided that a **written contract** requires the insurance provided by this policy to be:

1. primary and non-contributing with other insurance available to the additional insured; or
2. primary and to not seek contribution from any other insurance available to the additional insured.

But except as specified above, this insurance will be excess of all other insurance available to the additional insured.

**VI. Solely with respect to the insurance granted by this endorsement, the section entitled COMMERCIAL GENERAL LIABILITY CONDITIONS is amended as follows:**

The Condition entitled **Duties In The Event of Occurrence, Offense, Claim or Suit** is amended with the addition of the following:

Any additional insured pursuant to this endorsement will as soon as practicable:

1. give the Insurer written notice of any **claim**, or any **occurrence** or offense which may result in a **claim**;
2. send the Insurer copies of all legal papers received, and otherwise cooperate with the Insurer in the investigation, defense, or settlement of the **claim**; and
3. make available any other insurance, and tender the defense and indemnity of any **claim** to any other insurer or self-insurer, whose policy or program applies to a loss that the Insurer covers under this **coverage part**. However, if the **written contract** requires this insurance to be primary and non-contributory, this paragraph 3. does not apply to insurance on which the additional insured is a named insured.

The Insurer has no duty to defend or indemnify an additional insured under this endorsement until the Insurer receives written notice of a **claim** from the additional insured.

**VII. Solely with respect to the insurance granted by this endorsement, the section entitled DEFINITIONS is amended to add the following definition:**

**Written contract** means a written contract or written agreement that requires you to make a person or organization an additional insured on this **coverage part**, provided the contract or agreement:

- A. is currently in effect or becomes effective during the term of this policy; and
- B. was executed prior to:
  1. the **bodily injury or property damage**; or
  2. the offense that caused the **personal and advertising injury**;for which the additional insured seeks coverage.

Any coverage granted by this endorsement shall apply solely to the extent permissible by law.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.



**Contractors' General Liability Extension Endorsement**

It is understood and agreed that this endorsement amends the **COMMERCIAL GENERAL LIABILITY COVERAGE PART** as follows. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement with respect to such provision do not apply.

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**Contractors' General Liability Extension Endorsement****1. ADDITIONAL INSUREDS**

- a. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization described in paragraphs A. through H. below whom a **Named Insured** is required to add as an additional insured on this **Coverage Part** under a written contract or written agreement, provided such contract or agreement:

(1) is currently in effect or becomes effective during the term of this **Coverage Part**; and

(2) was executed prior to:

(a) the **bodily injury** or **property damage**; or

(b) the offense that caused the **personal and advertising injury**,

for which such additional insured seeks coverage.

- b. However, subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

(1) a higher limit of insurance than required by such contract or agreement; or

(2) coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph A. through H. below.

Any coverage granted by this endorsement shall apply only to the extent permissible by law.

**A. Controlling Interest**

Any person or organization with a controlling interest in a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of:

1. such person or organization's financial control of a **Named Insured**; or

2. premises such person or organization owns, maintains or controls while a **Named Insured** leases or occupies such premises;

provided that the coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**B. Co-owner of Insured Premises**

A co-owner of a premises co-owned by a **Named Insured** and covered under this insurance but only with respect to such co-owner's liability for **bodily injury**, **property damage** or **personal and advertising injury** as co-owner of such premises.

**C. Lessor of Equipment**

Any person or organization from whom a **Named Insured** leases equipment, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** caused, in whole or in part, by the **Named Insured's** maintenance, operation or use of such equipment, provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease.

**D. Lessor of Land**

Any person or organization from whom a **Named Insured** leases land but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the ownership, maintenance or use of such land, provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease. The

**Contractors' General Liability Extension Endorsement**

coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**E. Lessor of Premises**

An owner or lessor of premises leased to the **Named Insured**, or such owner or lessor's real estate manager, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of the ownership, maintenance or use of such part of the premises leased to the **Named Insured**, and provided that the **occurrence** giving rise to such **bodily injury or property damage**, or the offense giving rise to such **personal and advertising injury**, takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**F. Mortgagee, Assignee or Receiver**

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee or receiver's liability for **bodily injury, property damage or personal and advertising injury** arising out of the **Named Insured's** ownership, maintenance, or use of a premises by a **Named Insured**.

The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**G. State or Governmental Agency or Subdivision or Political Subdivisions – Permits**

A state or governmental agency or subdivision or political subdivision that has issued a permit or authorization but only with respect to such state or governmental agency or subdivision or political subdivision's liability for **bodily injury, property damage or personal and advertising injury** arising out of:

1. the following hazards in connection with premises a **Named Insured** owns, rents, or controls and to which this insurance applies:
  - a. the existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
  - b. the construction, erection, or removal of elevators; or
  - c. the ownership, maintenance or use of any elevators covered by this insurance; or
2. the permitted or authorized operations performed by a **Named Insured** or on a **Named Insured's** behalf.

The coverage granted by this paragraph does not apply to:

- a. **Bodily injury, property damage or personal and advertising injury** arising out of operations performed for the state or governmental agency or subdivision or political subdivision; or
- b. **Bodily injury or property damage** included within the **products-completed operations hazard**.

With respect to this provision's requirement that additional insured status must be requested under a written contract or agreement, the Insurer will treat as a written contract any governmental permit that requires the **Named Insured** to add the governmental entity as an additional insured.

**H. Trade Show Event Lessor**

1. With respect to a **Named Insured's** participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom the **Named Insured** is required to include as an additional insured, but only with respect to such person or organization's liability for **bodily injury, property damage or personal and advertising injury** caused by:



**Contractors' General Liability Extension Endorsement**

- a. the **Named Insured's** acts or omissions; or
  - b. the acts or omissions of those acting on the **Named Insured's** behalf,  
in the performance of the **Named Insured's** ongoing operations at the trade show event premises during the trade show event.
2. The coverage granted by this paragraph does not apply to **bodily injury** or **property damage** included within the **products-completed operations hazard**.

**2. ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY TO ADDITIONAL INSURED'S INSURANCE**

The **Other Insurance** Condition in the **COMMERCIAL GENERAL LIABILITY CONDITIONS** Section is amended to add the following paragraph:

If the **Named Insured** has agreed in writing in a contract or agreement that this insurance is primary and non-contributory relative to an additional insured's own insurance, then this insurance is primary, and the Insurer will not seek contribution from that other insurance. For the purpose of this Provision 2., the additional insured's own insurance means insurance on which the additional insured is a named insured. Otherwise, and notwithstanding anything to the contrary elsewhere in this Condition, the insurance provided to such person or organization is excess of any other insurance available to such person or organization.

**3. BODILY INJURY – EXPANDED DEFINITION**

Under **DEFINITIONS**, the definition of **bodily injury** is deleted and replaced by the following:

**Bodily injury** means physical injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury sustained by that person at any time which results as a consequence of the physical injury, sickness or disease.

**4. BROAD KNOWLEDGE OF OCCURRENCE/ NOTICE OF OCCURRENCE**

Under **CONDITIONS**, the condition entitled **Duties in The Event of Occurrence, Offense, Claim or Suit** is amended to add the following provisions:

**A. BROAD KNOWLEDGE OF OCCURRENCE**

The **Named Insured** must give the Insurer or the Insurer's authorized representative notice of an **occurrence**, offense or **claim** only when the **occurrence**, offense or **claim** is known to a natural person **Named Insured**, to a partner, executive officer, manager or member of a **Named Insured**, or an **employee** designated by any of the above to give such notice.

**B. NOTICE OF OCCURRENCE**

The **Named Insured's** rights under this **Coverage Part** will not be prejudiced if the **Named Insured** fails to give the Insurer notice of an **occurrence**, offense or **claim** and that failure is solely due to the **Named Insured's** reasonable belief that the **bodily injury** or **property damage** is not covered under this **Coverage Part**. However, the **Named Insured** shall give written notice of such **occurrence**, offense or **claim** to the Insurer as soon as the **Named Insured** is aware that this insurance may apply to such **occurrence**, offense or **claim**.

**5. BROAD NAMED INSURED**

**WHO IS AN INSURED** is amended to delete its Paragraph 3. in its entirety and replace it with the following:

3. Pursuant to the limitations described in Paragraph 4. below, any organization in which a **Named Insured** has management control:
  - a. on the effective date of this **Coverage Part**; or



**Contractors' General Liability Extension Endorsement**

b. by reason of a **Named Insured** creating or acquiring the organization during the **policy period**,

qualifies as a **Named Insured**, provided that there is no other similar liability insurance, whether primary, contributory, excess, contingent or otherwise, which provides coverage to such organization, or which would have provided coverage but for the exhaustion of its limit, and without regard to whether its coverage is broader or narrower than that provided by this insurance.

But this **BROAD NAMED INSURED** provision does not apply to:

- (a) any partnership, limited liability company or joint venture; or
- (b) any organization for which coverage is excluded by another endorsement attached to this **Coverage Part**.

For the purpose of this provision, management control means:

- A. owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of the Board of Directors of a corporation; or
- B. having the right, pursuant to a written trust agreement, to protect, control the use of, encumber or transfer or sell property held by a trust.

- 4. With respect to organizations which qualify as **Named Insureds** by virtue of Paragraph 3. above, this insurance does not apply to:
  - a. **bodily injury or property damage** that first occurred prior to the date of management control, or that first occurs after management control ceases; nor
  - b. **personal or advertising injury** caused by an offense that first occurred prior to the date of management control or that first occurs after management control ceases.
- 5. The insurance provided by this **Coverage Part** applies to **Named Insureds** when trading under their own names or under such other trading names or doing-business-as names (dba) as any **Named Insured** should choose to employ.

**6. BROADENED LIABILITY COVERAGE FOR DAMAGE TO YOUR PRODUCT AND YOUR WORK**

- A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete exclusions k. and l. and replace them with the following:

This insurance does not apply to:

**k. Damage to Your Product**

**Property damage to your product** arising out of it, or any part of it except when caused by or resulting from:

- (1) fire;
- (2) smoke;
- (3) collapse; or
- (4) explosion.

**l. Damage to Your Work**

**Property damage to your work** arising out of it, or any part of it and included in the **products-completed operations hazard**.

This exclusion does not apply:

- (1) If the damaged work, or the work out of which the damage arises, was performed on the **Named Insured's** behalf by a subcontractor; or

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(2) If the cause of loss to the damaged work arises as a result of:

- (a) fire;
- (b) smoke;
- (c) collapse; or
- (d) explosion.

B. The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to 5. above, \$100,000 is the most the Insurer will pay under **Coverage A** for the sum of **damages** arising out of any one **occurrence** because of **property damage to your product and your work** that is caused by fire, smoke, collapse or explosion and is included within the **product-completed operations hazard**. This sublimit does not apply to **property damage to your work** if the damaged work, or the work out of which the damage arises, was performed on the **Named Insured's** behalf by a subcontractor.

C. This **Broadened Liability Coverage For Damage To Your Product And Your Work** Provision does not apply if an endorsement of the same name is attached to this policy.

## 7. CONTRACTUAL LIABILITY – RAILROADS

With respect to operations performed within 50 feet of railroad property, the definition of **insured contract** is replaced by the following:

**Insured Contract** means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner is not an **insured contract**;
- b. A sidetrack agreement;
- c. Any easement or license agreement;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to the **Named Insured's** business (including an indemnification of a municipality in connection with work performed for a municipality) under which the **Named Insured** assumes the tort liability of another party to pay for **bodily injury** or **property damage** to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

(1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

- (a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;

(2) Under which the **Insured**, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

## 8. ELECTRONIC DATA LIABILITY

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CONTINENTAL CASUALTY COMPANY

Insured Name: ZAHLENE ENTERPRISES INC

Policy No: 7011978097

Endorsement No: 1

Effective Date: 03/26/2021





Contractors' General Liability Extension Endorsement

A. Under COVERAGES, Coverage A – Bodily Injury and Property Damage Liability, the paragraph entitled Exclusions is amended to delete exclusion p. Electronic Data and replace it with the following:

This insurance does not apply to:

p. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability

Damages arising out of:

- (1) any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
(2) the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data that does not result from physical injury to tangible property.

However, unless Paragraph (1) above applies, this exclusion does not apply to damages because of bodily injury.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relation expenses or any other loss, cost or expense incurred by the Named Insured or others arising out of that which is described in Paragraph (1) or (2) above.

B. The following paragraph is added to LIMITS OF INSURANCE:

Subject to 5. above, \$100,000 is the most the Insurer will pay under Coverage A for all damages arising out of any one occurrence because of property damage that results from physical injury to tangible property and arises out of electronic data.

C. The following definition is added to DEFINITIONS:

Electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

D. For the purpose of the coverage provided by this ELECTRONIC DATA LIABILITY Provision, the definition of property damage in DEFINITIONS is replaced by the following:

Property damage means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it;
b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the occurrence that caused it; or
c. Loss of, loss of use of, damage to, corruption of, inability to access, or inability to properly manipulate electronic data, resulting from physical injury to tangible property. All such loss of electronic data shall be deemed to occur at the time of the occurrence that caused it.

For the purposes of this insurance, electronic data is not tangible property.

E. If Electronic Data Liability is provided at a higher limit by another endorsement attached to this policy, then the \$100,000 limit provided by this ELECTRONIC DATA LIABILITY Provision is part of, and not in addition to, that higher limit.

9. ESTATES, LEGAL REPRESENTATIVES, AND SPOUSES

The estates, heirs, legal representatives and spouses of any natural person Insured shall also be insured under this policy; provided, however, coverage is afforded to such estates, heirs, legal representatives, and spouses only for

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**Contractors' General Liability Extension Endorsement**

**claims** arising solely out of their capacity or status as such and, in the case of a **spouse**, where such **claim** seeks **damages** from marital community property, jointly held property or property transferred from such natural person **Insured** to such **spouse**. No coverage is provided for any act, error or omission of an estate, heir, legal representative, or **spouse** outside the scope of such person's capacity or status as such, provided however that the **spouse** of a natural person **Named Insured** and the **spouses** of members or partners of joint venture or partnership **Named Insureds** are **Insureds** with respect to such **spouses'** acts, errors or omissions in the conduct of the **Named Insured's** business.

**10. EXPECTED OR INTENDED INJURY – EXCEPTION FOR REASONABLE FORCE**

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Expected or Intended Injury** and replace it with the following:

This insurance does not apply to:

**Expected or Intended Injury**

**Bodily injury or property damage** expected or intended from the standpoint of the **Insured**. This exclusion does not apply to **bodily injury or property damage** resulting from the use of reasonable force to protect persons or property.

**11. GENERAL AGGREGATE LIMITS OF INSURANCE - PER PROJECT**

A. For each construction project away from premises the **Named Insured** owns or rents, a separate Construction Project General Aggregate Limit, equal to the amount of the General Aggregate Limit shown in the Declarations, is the most the Insurer will pay for the sum of:

1. All **damages** under **Coverage A**, except **damages** because of **bodily injury or property damage** included in the **products-completed operations hazard**; and
2. All medical expenses under **Coverage C**,

that arise from **occurrences** or accidents which can be attributed solely to ongoing operations at that construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations, nor the Construction Project General Aggregate Limit of any other construction project.

B. All:

1. **Damages** under **Coverage B**, regardless of the number of locations or construction projects involved;
2. **Damages** under **Coverage A**, caused by **occurrences** which cannot be attributed solely to ongoing operations at a single construction project, except **damages** because of **bodily injury or property damage** included in the **products-completed operations hazard**; and
3. Medical expenses under **Coverage C** caused by accidents which cannot be attributed solely to ongoing operations at a single construction project,

will reduce the General Aggregate Limit shown in the Declarations.

C. The limits shown in the Declarations for Each Occurrence, for Damage To Premises Rented To You and for Medical Expense continue to apply, but will be subject to either the Construction Project General Aggregate Limit or the General Aggregate Limit shown in the Declarations, depending on whether the **occurrence** can be attributed solely to ongoing operations at a particular construction project.

D. When coverage for liability arising out of the **products-completed operations hazard** is provided, any payments for **damages** because of **bodily injury or property damage** included in the **products-completed operations hazard** will reduce the Products-Completed Operations Aggregate Limit shown in the Declarations, regardless of the number of projects involved.



**Contractors' General Liability Extension Endorsement**

- E. If a single construction project away from premises owned by or rented to the **Insured** has been abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
- F. The provisions of **LIMITS OF INSURANCE** not otherwise modified by this endorsement shall continue to apply as stipulated.

**12. IN REM ACTIONS**

A quasi in rem action against any vessel owned or operated by or for the **Named Insured**, or chartered by or for the **Named Insured**, will be treated in the same manner as though the action were in personam against the **Named Insured**.

**13. INCIDENTAL HEALTH CARE MALPRACTICE COVERAGE**

Solely with respect to **bodily injury** that arises out of a **health care incident**:

A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Insuring Agreement** is amended to replace Paragraphs 1.b.(1) and 1.b.(2) with the following:

b. This insurance applies to **bodily injury** provided that the professional health care services are incidental to the **Named Insured's** primary business purpose, and only if:

- (1) such **bodily injury** is caused by an **occurrence** that takes place in the **coverage territory**.
- (2) the **bodily injury** first occurs during the **policy period**. All **bodily injury** arising from an **occurrence** will be deemed to have occurred at the time of the first act, error, or omission that is part of the **occurrence**; and

B. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to:

i. add the following to the **Employers Liability** exclusion:

This exclusion applies only if the **bodily injury** arising from a **health care incident** is covered by other liability insurance available to the **Insured** (or which would have been available but for exhaustion of its limits).

ii. delete the exclusion entitled **Contractual Liability** and replace it with the following:

This insurance does not apply to:

**Contractual Liability**

the **Insured's** actual or alleged liability under any oral or written contract or agreement, including but not limited to express warranties or guarantees.

iii. add the following additional exclusions:

This insurance does not apply to:

**Discrimination**

any actual or alleged discrimination, humiliation or harassment, including but not limited to **claims** based on an individual's race, creed, color, age, gender, national origin, religion, disability, marital status or sexual orientation.

**Dishonesty or Crime**

Any actual or alleged dishonest, criminal or malicious act, error or omission.

**Medicare/Medicaid Fraud**

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**Contractors' General Liability Extension Endorsement**

any actual or alleged violation of law with respect to Medicare, Medicaid, Tricare or any similar federal, state or local governmental program.

**Services Excluded by Endorsement**

Any health care incident for which coverage is excluded by endorsement.

**C. DEFINITIONS** is amended to:

## i. add the following definitions:

**Health care incident** means an act, error or omission by the **Named Insured's employees or volunteer workers** in the rendering of:

- a. **professional health care services** on behalf of the **Named Insured** or
- b. Good Samaritan services rendered in an emergency and for which no payment is demanded or received.

**Professional health care services** means any health care services or the related furnishing of food, beverages, medical supplies or appliances by the following providers in their capacity as such but solely to the extent they are duly licensed as required:

- a. Physician;
- b. Nurse;
- c. Nurse practitioner;
- d. Emergency medical technician;
- e. Paramedic;
- f. Dentist;
- g. Physical therapist;
- h. Psychologist;
- i. Speech therapist;
- j. Other allied health professional; or

**Professional health care services** does not include any services rendered in connection with human clinical trials or product testing.

ii. delete the definition of **occurrence** and replace it with the following:

**Occurrence** means a **health care incident**. All acts, errors or omissions that are logically connected by any common fact, circumstance, situation, transaction, event, advice or decision will be considered to constitute a single **occurrence**;

iii. amend the definition of **Insured** to:

## a. add the following:

the **Named Insured's employees** are **Insureds** with respect to:

- (1) **bodily injury** to a **co-employee** while in the course of the **co-employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business; and



**Contractors' General Liability Extension Endorsement**

(2) **bodily injury to a volunteer worker** while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

the **Named Insured's** volunteer workers are **Insureds** with respect to:

(1) **bodily injury to a co-volunteer worker** while performing duties related to the conduct of the **Named Insured's** business; and

(2) **bodily injury to an employee** while in the course of the **employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

b. delete Subparagraphs (a), (b), (c) and (d) of Paragraph 2.a.(1) of **WHO IS AN INSURED**.

D. The **Other Insurance** condition is amended to delete Paragraph b.(1) in its entirety and replace it with the following:

**Other Insurance**

b. **Excess Insurance**

(1) To the extent this insurance applies, it is excess over any other insurance, self insurance or risk transfer instrument, whether primary, excess, contingent or on any other basis, except for insurance purchased specifically by the **Named Insured** to be excess of this coverage.

**14. JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANIES**

**WHO IS AN INSURED** is amended to delete its last paragraph and replace it with the following:

No person or organization is an **Insured** with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a **Named Insured** in the Declarations, except that if the **Named Insured** was a joint venturer, partner, or member of a limited liability company and such joint venture, partnership or limited liability company terminated prior to or during the **policy period**, such **Named Insured** is an **Insured** with respect to its interest in such joint venture, partnership or limited liability company but only to the extent that:

- a. any offense giving rise to **personal and advertising injury** occurred prior to such termination date, and the **personal and advertising injury** arising out of such offense first occurred after such termination date;
- b. the **bodily injury or property damage** first occurred after such termination date; and
- c. there is no other valid and collectible insurance purchased specifically to insure the partnership, joint venture or limited liability company; and

If the joint venture, partnership or limited liability company is or was insured under a **consolidated (wrap-up) insurance program**, then such insurance will always be considered valid and collectible for the purpose of paragraph c. above. But this provision will not serve to exclude **bodily injury, property damage or personal and advertising injury** that would otherwise be covered under the **Contractors General Liability Extension Endorsement** provision entitled **WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS**. Please see that provision for the definition of **consolidated (wrap-up) insurance program**.

**15. LEGAL LIABILITY – DAMAGE TO PREMISES / ALIENATED PREMISES / PROPERTY IN THE NAMED INSURED'S CARE, CUSTODY OR CONTROL**

A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete exclusion j. **Damage to Property** in its entirety and replace it with the following:

This insurance does not apply to:

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**Contractors' General Liability Extension Endorsement****j. Damage to Property****Property damage to:**

- (1) Property the **Named Insured** owns, rents, or occupies, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises the **Named Insured** sells, gives away or abandons, if the **property damage** arises out of any part of those premises;
- (3) Property loaned to the **Named Insured**;
- (4) Personal property in the care, custody or control of the **Insured**;
- (5) That particular part of real property on which the **Named Insured** or any contractors or subcontractors working directly or indirectly on the **Named Insured's** behalf are performing operations, if the **property damage** arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because **your work** was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to **property damage** (other than damage by fire) to premises rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, nor to the contents of premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **LIMITS OF INSURANCE**.

Paragraph (2) of this exclusion does not apply if the premises are **your work**.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to **property damage** included in the **products-completed operations hazard**.

Paragraphs (3) and (4) of this exclusion do not apply to **property damage** to:

- i. tools, or equipment the **Named Insured** borrows from others, nor
- ii. other personal property of others in the **Named Insured's** care, custody or control while being used in the **Named Insured's** operations away from any **Named Insured's** premises.

However, the coverage granted by this exception to Paragraphs (3) and (4) does not apply to:

- a. property at a job site awaiting or during such property's installation, fabrication, or erection;
- b. property that is **mobile equipment** leased by an **Insured**;
- c. property that is an **auto**, aircraft or watercraft;
- d. property in transit; or
- e. any portion of **property damage** for which the **Insured** has available other valid and collectible insurance, or would have such insurance but for exhaustion of its limits, or but for application of one of its exclusions.

A separate limit of insurance and deductible apply to such property of others. See **LIMITS OF INSURANCE** as amended below.



Contractors' General Liability Extension Endorsement

- B. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete its last paragraph and replace it with the following:

Exclusions c. through n. do not apply to damage by fire to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner, nor to damage to the contents of premises rented to a **Named Insured** for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in **LIMITS OF INSURANCE**.

- C. The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to 5. above, \$25,000 is the most the Insurer will pay under **Coverage A** for damages arising out of any one **occurrence** because of the sum of all **property damage** to borrowed tools or equipment, and to other personal property of others in the **Named Insured's** care, custody or control, while being used in the **Named Insured's** operations away from any **Named Insured's** premises. The Insurer's obligation to pay such **property damage** does not apply until the amount of such **property damage** exceeds \$1,000. The Insurer has the right but not the duty to pay any portion of this \$1,000 in order to effect settlement. If the Insurer exercises that right, the **Named Insured** will promptly reimburse the Insurer for any such amount.

- D. Paragraph 6., **Damage To Premises Rented To You Limit**, of **LIMITS OF INSURANCE** is deleted and replaced by the following:

6. Subject to Paragraph 5. above, (the Each Occurrence Limit), the **Damage To Premises Rented To You Limit** is the most the Insurer will pay under **Coverage A** for damages because of **property damage** to any one premises while rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, including contents of such premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. The **Damage To Premises Rented To You Limit** is the greater of:

- a. \$500,000; or
- b. The **Damage To Premises Rented To You Limit** shown in the Declarations.

- E. Paragraph 4.b.(1)(a)(ii) of the **Other Insurance** Condition is deleted and replaced by the following:

(ii) That is property insurance for premises rented to the **Named Insured**, for premises temporarily occupied by the **Named Insured** with the permission of the owner; or for personal property of others in the **Named Insured's** care, custody or control;

16. LIQUOR LIABILITY

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Liquor Liability**.

This **LIQUOR LIABILITY** provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

17. MEDICAL PAYMENTS

- A. **LIMITS OF INSURANCE** is amended to delete Paragraph 7. (the Medical Expense Limit) and replace it with the following:

7. Subject to Paragraph 5. above (the Each Occurrence Limit), the **Medical Expense Limit** is the most the Insurer will pay under **Coverage C – Medical Payments** for all medical expenses because of **bodily injury** sustained by any one person. The **Medical Expense Limit** is the greater of:

- (1) \$15,000 unless a different amount is shown here: \$N,NNN,NNN,NNN; or
- (2) the amount shown in the Declarations for **Medical Expense Limit**.

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**Contractors' General Liability Extension Endorsement**

B. Under **COVERAGES**, the **Insuring Agreement of Coverage C – Medical Payments** is amended to replace Paragraph 1.a.(3)(b) with the following:

(b) The expenses are incurred and reported to the Insurer within three years of the date of the accident; and

**18. NON-OWNED AIRCRAFT**

Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended as follows:

The exclusion entitled **Aircraft, Auto or Watercraft** is amended to add the following:

This exclusion does not apply to an aircraft not owned by any **Named Insured**, provided that:

1. the pilot in command holds a currently effective certificate issued by the duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;
2. the aircraft is rented with a trained, paid crew to the **Named Insured**; and
3. the aircraft is not being used to carry persons or property for a charge.

**19. NON-OWNED WATERCRAFT**

Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete subparagraph (2) of the exclusion entitled **Aircraft, Auto or Watercraft**, and replace it with the following.

This exclusion does not apply to:

- (2) a watercraft that is not owned by any **Named Insured**, provided the watercraft is:
  - (a) less than 75 feet long; and
  - (b) not being used to carry persons or property for a charge.

**20. PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION**

A. Under **DEFINITIONS**, the definition of **personal and advertising injury** is amended to add the following tort:

Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

B. Under **COVERAGES**, **Coverage B – Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to:

1. delete the Exclusion entitled **Knowing Violation Of Rights Of Another** and replace it with the following:

This insurance does not apply to:

**Knowing Violation of Rights of Another**

**Personal and advertising injury** caused by or at the direction of the **Insured** with the knowledge that the act would violate the rights of another and would inflict **personal and advertising injury**. This exclusion shall not apply to discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is not done intentionally by or at the direction of:

- (a) the **Named Insured**; or
- (b) any **executive officer**, director, stockholder, partner, member or manager (if the **Named Insured** is a limited liability company) of the **Named Insured**.

2. add the following exclusions:





Contractors' General Liability Extension Endorsement

This insurance does not apply to:

Employment Related Discrimination

Discrimination or humiliation directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person by any Insured.

Premises Related Discrimination

discrimination or humiliation arising out of the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any Insured.

Notwithstanding the above, there is no coverage for fines or penalties levied or imposed by a governmental entity because of discrimination.

The coverage provided by this PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION Provision does not apply to any person or organization whose status as an Insured derives solely from

- Provision 1. ADDITIONAL INSURED of this endorsement; or
attachment of an additional insured endorsement to this Coverage Part.

This PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this Coverage Part.

21. PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY

- A. Under COVERAGES, Coverage B –Personal and Advertising Injury Liability, the paragraph entitled Exclusions is amended to delete the exclusion entitled Contractual Liability.
B. Solely for the purpose of the coverage provided by this PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY provision, the following changes are made to the section entitled SUPPLEMENTARY PAYMENTS – COVERAGES A AND B:
1. Paragraph 2.d. is replaced by the following:
d. The allegations in the suit and the information the Insurer knows about the offense alleged in such suit are such that no conflict appears to exist between the interests of the Insured and the interests of the indemnitee;
2. The first unnumbered paragraph beneath Paragraph 2.f.(2)(b) is deleted and replaced by the following:
So long as the above conditions are met, attorneys fees incurred by the Insurer in the defense of that indemnitee, necessary litigation expenses incurred by the Insurer, and necessary litigation expenses incurred by the indemnitee at the Insurer's request will be paid as defense costs. Such payments will not be deemed to be damages for personal and advertising injury and will not reduce the limits of insurance.
C. This PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY Provision does not apply if Coverage B –Personal and Advertising Injury Liability is excluded by another endorsement attached to this Coverage Part.

This PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this Coverage Part.

22. PROPERTY DAMAGE – ELEVATORS

- A. Under COVERAGES, Coverage A – Bodily Injury and Property Damage Liability, the paragraph entitled Exclusions is amended such that the Damage to Your Product Exclusion and subparagraphs (3), (4) and (6) of the Damage to Property Exclusion do not apply to property damage that results from the use of elevators.

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**Contractors' General Liability Extension Endorsement**

- B. Solely for the purpose of the coverage provided by this **PROPERTY DAMAGE – ELEVATORS** Provision, the **Other Insurance** conditions is amended to add the following paragraph:

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is Property insurance covering property of others damaged from the use of elevators.

**23. SUPPLEMENTARY PAYMENTS**

The section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** is amended as follows:

- A. Paragraph 1.b. is amended to delete the \$250 limit shown for the cost of bail bonds and replace it with a \$5,000. limit; and
- B. Paragraph 1.d. is amended to delete the limit of \$250 shown for daily loss of earnings and replace it with a \$1,000. limit.

**24. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS**

If the **Named Insured** unintentionally fails to disclose all existing hazards at the inception date of the **Named Insured's Coverage Part**, the Insurer will not deny coverage under this **Coverage Part** because of such failure.

**25. WAIVER OF SUBROGATION - BLANKET**

Under **CONDITIONS**, the condition entitled **Transfer Of Rights Of Recovery Against Others To Us** is amended to add the following:

The Insurer waives any right of recovery the Insurer may have against any person or organization because of payments the Insurer makes for injury or damage arising out of:

1. the **Named Insured's** ongoing operations; or
2. **your work** included in the **products-completed operations hazard**.

However, this waiver applies only when the **Named Insured** has agreed in writing to waive such rights of recovery in a written contract or written agreement, and only if such contract or agreement:

1. is in effect or becomes effective during the term of this **Coverage Part**; and
2. was executed prior to the **bodily injury, property damage or personal and advertising injury** giving rise to the claim.

**26. WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS**

**Note:** The following provision does not apply to any public construction project in the state of Oklahoma, nor to any construction project in the state of Alaska, that is not permitted to be insured under a **consolidated (wrap-up) insurance program** by applicable state statute or regulation.

If the endorsement **EXCLUSION – CONSTRUCTION WRAP-UP** is attached to this policy, or another exclusionary endorsement pertaining to Owner Controlled Insurance Programs (O.C.I.P.) or Contractor Controlled Insurance Programs (C.C.I.P.) is attached, then the following changes apply:

- A. The following wording is added to the above-referenced endorsement:

With respect to a **consolidated (wrap-up) insurance program** project in which the **Named Insured** is or was involved, this exclusion does not apply to those sums the **Named Insured** become legally obligated to pay as **damages** because of:

1. **Bodily injury, property damage, or personal or advertising injury** that occurs during the **Named Insured's** ongoing operations at the project, or during such operations of anyone acting on the **Named Insured's** behalf; nor



**Contractors' General Liability Extension Endorsement**

2. **Bodily injury or property damage** included within the **products-completed operations hazard** that arises out of those portions of the project that are not **residential structures**.

B. Condition 4. **Other Insurance** is amended to add the following subparagraph 4.b.(1)(c):

This insurance is excess over:

(c) Any of the other insurance whether primary, excess, contingent or any other basis that is insurance available to the **Named Insured** as a result of the **Named Insured** being a participant in a **consolidated (wrap-up) insurance program**, but only as respects the **Named Insured's** involvement in that **consolidated (wrap-up) insurance program**.

C. **DEFINITIONS** is amended to add the following definitions:

**Consolidated (wrap-up) insurance program** means a construction, erection or demolition project for which the prime contractor/project manager or owner of the construction project has secured general liability insurance covering some or all of the contractors or subcontractors involved in the project, such as an Owner Controlled Insurance Program (O.C.I.P.) or Contractor Controlled Insurance Program (C.C.I.P.).

**Residential structure** means any structure where 30% or more of the square foot area is used or is intended to be used for human residency, including but not limited to:

1. single or multifamily housing, apartments, condominiums, townhouses, co-operatives or planned unit developments; and
2. the common areas and structures appurtenant to the structures in paragraph 1. (including pools, hot tubs, detached garages, guest houses or any similar structures).

However, when there is no individual ownership of units, **residential structure** does not include military housing, college/university housing or dormitories, long term care facilities, hotels or motels. **Residential structure** also does not include hospitals or prisons.

This **WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

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**Blanket Additional Insured - Owners, Lessees or Contractors - with Products-Completed Operations Coverage Endorsement**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

It is understood and agreed as follows:

- I. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **coverage part**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** caused in whole or in part by your acts or omissions, or the acts or omissions of those acting on your behalf:
  - A. in the performance of your ongoing operations subject to such **written contract**; or
  - B. in the performance of **your work** subject to such **written contract**, but only with respect to **bodily injury or property damage** included in the **products-completed operations hazard**, and only if:
    - 1. the **written contract** requires you to provide the additional insured such coverage; and
    - 2. this **coverage part** provides such coverage.
- II. But if the **written contract** requires:
  - A. additional insured coverage under the 11-85 edition, 10-93 edition, or 10-01 edition of CG2010, or under the 10-01 edition of CG2037; or
  - B. additional insured coverage with "arising out of" language; or
  - C. additional insured coverage to the greatest extent permissible by law;then paragraph I. above is deleted in its entirety and replaced by the following:

**WHO IS AN INSURED** is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **coverage part**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of **your work** that is subject to such **written contract**.
- III. Subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:
  - A. coverage broader than required by the **written contract**; or
  - B. a higher limit of insurance than required by the **written contract**.
- IV. The insurance granted by this endorsement to the additional insured does not apply to **bodily injury, property damage, or personal and advertising injury** arising out of:
  - A. the rendering of, or the failure to render, any professional architectural, engineering, or surveying services, including:
    - 1. the preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
    - 2. supervisory, inspection, architectural or engineering activities; or
  - B. any premises or work for which the additional insured is specifically listed as an additional insured on another endorsement attached to this **coverage part**.
- V. Under **COMMERCIAL GENERAL LIABILITY CONDITIONS**, the Condition entitled **Other Insurance** is amended to add the following, which supersedes any provision to the contrary in this Condition or elsewhere in this **coverage part**:

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**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

**Schedule**

Any Person or Organization on whose behalf you are required to obtain this waiver of our right to recover from under a written contract or agreement.

The premium charge for the endorsement is reflected in the Schedule of Operations.

All other terms and conditions of the policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective Date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy unless another expiration date is shown below.

Form No: WC 00 03 13 (04-1984)

Endorsement Effective Date:

Endorsement Expiration Date:

Endorsement No: 2; Page: 1 of 1

Underwriting Company: Valley Forge Insurance Company, 151 N Franklin St, Chicago, IL 60606

Policy No: WC 7 11978116

Policy Effective Date: 03/26/2021

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