



## PROPOSAL FOR ENGINEERING SERVICES

DATE: January 4, 2024

TO: Heather Lopez  
City of Chipley  
director@visitcfla.com  
(850) 638-6013

PROJECT: The Washington County Historical Society Museum  
Chipley, FL BDB Proposal No: 24-0004

### PROJECT INFORMATION

Based on a review of RFQ No. 2024-02, and other information provided by you, we understand that the Washington County Historical Society Museum located at 685 7<sup>th</sup> Street, Chipley, Florida is a historic structure listed on the National Register for Historic Places. We also understand that an assessment is required to determine any additional structural damage from Hurricanes Michael and Sally with a plan for restoration and repair, as well as develop a plan to expand the internal square footage of the structure for additional display and storage space to address future needs of the museum. We propose to follow the general guidelines of the NPS standards but will use our report template and format for reporting.

### SCOPE OF SERVICES

Based on a review of the above project information, Baker Consulting & Engineering LLC, dba, Baker Design Build, would be pleased to perform the following requested services for the above-referenced project using a relaxed version of *The Secretary of Interior's Standards and Guidelines for Architectural and Engineering Documentation*. Preservation Brief 43 will not be used for this project. In order to meet the budget for the grant we anticipate on provide the following services:

1. Look for unrecognized structural damage such as foundation cracking, leaking within walls, settling, etc.
2. Examine the roofing to determine condition and availability to withstand future storms
3. Inspect to ensure that repairs made since the hurricanes have sealed all leaks by which water can enter the attic, walls, and foundation of the structure
4. Record photography
5. Discussion with the City of Chipley staff and Council about current and future uses for the structure
6. Develop specific work recommendations. These recommendations will include selection and rationale for the most appropriate approach to treatment (preservation, rehabilitation, restoration, or reconstruction)



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7. Prepare an existing conditions survey (including exterior and interior architectural elements and structural systems). If we observe any mechanical system that is unique and important to the function and history of the courthouse, it will be noted in the assessment; data from the system (i.e., model number, serial number, etc.) will be documented.

Baker Design Build can complete the project once the following information is provided to us:

- Signed acceptance of this proposal

### EXCLUSIONS

- Any service not included in the above SCOPE OF SERVICES is excluded. Additionally, the following are specifically excluded:
- Construction Cost Estimating & Specifications (other than those included within the drawings).
- Any site visits during construction.
- Survey & Geotechnical Investigation

### FEE

Baker Design Build can provide the above services for a **Lump Sum fee of \$50,000.00**. The price breakdown per discipline is as follows:

- Architectural Services - \$12,300
- Mechanical, Electrical and Fire Protection (MEP) - \$12,000.00
- Building Envelope, and Roofing Services - \$12,000.00
- Structural Services - \$13,700.00

Prices are valid for a period of 30 days. Should this proposal meet with your approval, please sign below, and return by fax or email at your convenience. *Design services resulting from significant changes in architectural scope after commencement of the structural design will also be charged at our additional rates listed below. BDB will notify the Client of their opinion that the changes in scope have occurred prior to continuing the work. BDB shall not be obligated to provide additional services unless it agrees to do so in writing.*

### ADDITIONAL SERVICES

The services included in this proposal, as well as any Additional Services that are requested by the owner but are not included in this proposal will be billed based on the hourly billing rate schedule shown below.

Project Director/Principal	\$275.00
Operations Manager	\$230.00
Senior Engineer	\$200.00
Engineer/Senior Designer	\$175.00
Lead Engineer	\$160.00
Jr. Engineer/Designer	\$135.00



BIM/CAD Operator  
Administrative

\$120.00  
\$90.00

#### **PROJECT DURATION**

The project deliverables shall be submitted to the City of Chipley by June 30, 2024.

#### **BILLINGS/PAYMENTS**

Invoices for the services of Baker Design Build shall be due upon receipt. Invoices that are more than 30 days past due may be subject to late fees. Reimbursable expenses are in addition to lump sum fees and shall be billed at cost plus 1.5%. Reimbursable expenses would only include cost related to the performance of the specified scope such as permit fees and printing costs or delivery costs. Prices are valid for a period of 30 days. All services during construction (construction administration), including site visits, repairs, and consulting, that is not within the scope of this proposal will be charged at an hourly rate based on the billing rates provided in this proposal.

#### **ACCESS TO THE SITE**

Unless otherwise stated, Baker Design Build will have access to the site for activities necessary for the performance of the services. Baker Design Build will take precautions to minimize damage due to these activities but has not included in the fee the cost of restoration of any resulting damage.

#### **CERTIFICATIONS**

**Guarantees and Warranties:** Baker Design Build shall not be required to execute any document that would result in its certifying, guaranteeing, or warranting the existence of conditions whose existence Baker Design Build cannot ascertain.

#### **OWNERSHIP OF DOCUMENTS**

All documents produced by Baker Design Build under this agreement shall remain the property of Baker Design Build and may not be used by the Client for any other endeavor without the written consent of Baker Design Build. Acceptance of this proposal will be in accordance with the provided Terms and Conditions for Professional Services included with this proposal. If you have any questions regarding this proposal, please contact me at 904-559-2644. If this proposal is acceptable, please sign the form below. If there are any questions or areas of the proposal that need clarification or adjustment, please let Baker Design Build know at your earliest convenience.

#### **NO DISCRIMINATION CLAUSE**

The Grantee may not discriminate against any employee employed under this Agreement, or against any applicant for employment because of race, color, religion, gender, national origin, age, pregnancy, handicap or marital status.



## BILLING INFORMATION

Billing Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

\_\_\_\_\_  
Proposal Accepted  
The Washington County Historical Society Museum  
Chipley, FL BDB Proposal No: 24-0004

\_\_\_\_\_  
Date

## STANDARD TERMS AND CONDITIONS

1. **APPLICATION OF STANDARD TERMS AND CONDITIONS.** Baker Consulting & Engineering LLC dba Baker Design Build ("Engineer") and the party stated at the top of the Baker Design Build Proposal ("Client"), in consideration of the obligations expressed in the Baker Design Build Proposal (the "Agreement") for the project or jobsite described on the Agreement (the "Project"), do covenant, promise and agree to be bound by the terms and conditions in the Agreement and this Standard Terms and Conditions (collectively the "Contract"). Should Engineer commence any work described in the Agreement without Client first having signed the Agreement and Client having received a copy of this Standard Terms and Conditions, then Engineer and Client (the "Parties"), until the full execution thereof, shall be deemed to have entered into an oral agreement fully binding upon the Parties and containing the identical provisions as are contained in the Contract.
2. **SCOPE OF ENGINEER'S SERVICES.** Engineer is obligated towards Client to perform only those included services described in the Agreement as further defined and conditioned in the provisions herein (the "Work"). This Contract does not include any additional services that may be required for the Project but are not listed as included on the Agreement.
3. **CONSTRUCTION DOCUMENTS.** Unless stated otherwise in the Agreement, based on Client's approval of planning and investigation documents if applicable, Engineer shall prepare for Client's approval construction documents consisting of drawings and specification setting forth in detail the requirements for the items defined in the Work ("Construction Documents"). Engineer, within a reasonable time after approval and request, shall submit to Client up to ten (10) sets of Construction Documents. Additional sets shall be provided at additional cost to Client.
4. **EVALUATIONS OF THE WORK.** Unless stated otherwise in the Agreement, Engineer, upon written request by Client, shall visit the jobsite to become generally familiar with the progress and quality of the work completed by others, and to determine, in general, if the work observed is being performed in a manner indicating that the work, when fully completed, will be in accordance with plans and specifications produced by Engineer. Unless specifically included in the Work, Engineer shall be entitled to additional compensation for services rendered in evaluating the work of others. Engineer shall not be required, notwithstanding statements to the contrary in the Contract, to make exhaustive or continuous observations to check the quality or quantity of work performed by others. Engineer shall have no other obligations concerning evaluation of work being performed by others.
5. **CERTIFICATES FOR PAYMENT TO CONTRACTOR(S).** Only if specifically included in the Work, Engineer shall review and certify the amounts due the contractor. Engineer's certification for payment shall constitute a representation to the Client, based on Engineer's evaluation of the contractor's work, that to the best of Engineer's knowledge, information and belief, the work has progressed to the point indicated on the contractor's application for payment and that the quality of the work is in accordance with the information given and the design concept expressed in Engineer's Construction Documents. Engineer's certification for payment shall not be a representation that Engineer has (i) made exhaustive or continuous inspections to check the quality or quantity of the work, (ii) reviewed construction means, methods, techniques, sequences, or procedures, (iii) reviewed copies of requisitions received from subcontractors and suppliers and other data requested by the Client to substantiate the contractor's right to payment, or (iv) ascertained how or for what purpose the contractor has used money previously paid on account of the contractor's contract sum.



6. **SUBMITTALS.** Only if specifically included in the Work, Engineer shall review and approve or take other appropriate action upon submittals such as shop drawings, product data, and samples, but only for the limited purpose of checking for conformance with the information given and the design concept expressed in Engineer's Construction Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems. Review and approval shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures.
7. **REQUESTS FOR INFORMATION.** Only if specifically included in the Work, Engineer shall review and respond to written requests for information about Engineer's Construction Documents. Response shall be made with reasonable promptness.
8. **PROJECT COMPLETION.** Only if specifically included in the Work, Engineer shall conduct inspections, upon written request by Client, to determine the date of substantial completion and the date of final completion; and receive from the contractor and forward to the Client, for the Client's review and records, written warranties and related documents required by the plans and specifications produced by Engineer, in the form assembled by the contractor.
9. **CHANGES BY ENGINEER.** Engineer may, but is not required to, authorize changes in the work being performed by others that are consistent with the information given and the design concept expressed in Engineer's Construction Documents.
10. **AGENTS AND AUTHORIZATION.** Engineer shall be entitled to assume that orders given, and documents or receipts executed by representatives, employees, or agents of Client shall have been validly authorized by Client, and that Client shall be responsible for these orders, unless Engineer is otherwise notified in advance by writing.
11. **SUB-CONSULTANTS.** Engineer may employ such consultants or sub-consultants ("Consultants") as Engineer deems necessary to assist in the performance of the Contract. Client shall provide Engineer and its Consultants with access to the work site at all times relevant to performance under this Contract.
12. **RELIANCE ON CLIENT SUPPLIED INFORMATION.** Client shall be responsible for, and Engineer and its Consultants may use and rely upon in all respects, any requirements, programs, instructions, approvals, reports, data, and other information furnished by Client. Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards. Engineer may request additional information from Client that is necessary for Engineer's performance; Client shall furnish requested information in a timely fashion, but in any event not later than 15 days after receipt of written request. Client shall promptly communicate to Engineer about matters relevant to Engineer's performance.
13. **LAND RESTRICTIONS.** Client, prior to Engineer commencing performance, must provide sufficient information to Engineer regarding any and all encumbrances, easements, covenants, growth management regulations, or other land use controls or restrictions (collectively "Land Restrictions"). If Client fails to provide such information prior to Engineer commencing performance, as required in this provision, Client, and not Engineer, shall be responsible for all costs arising from any issue related to Land Restrictions, including but not limited to additional engineering services, revisions to completed engineering services, changes or additional costs of demolition of construction, fines, losses, and damages.
14. **COMPLIANCE.** Engineer and Client shall comply with applicable laws, regulations, and Client-mandated standards that Client has provided to Engineer in writing, that are in effect as of the date stated on the Agreement. Changes to these requirements after such date may be the basis for modification of the Contract.
15. **PERMITTING AND APPROVALS.** Unless specifically included in the Work, Client shall be responsible for filing documents required for, and achieving the, approval of governmental authorities having jurisdiction over the work. Client shall furnish tests, inspections, and reports required by law.
16. **COORDINATION OF CLIENT'S OTHER CONSULTANTS.** Client shall coordinate the services of its own consultants with those services provided by Engineer. Upon Engineer's request, Client shall furnish copies of the scope of services in the contracts between Client and its other consultants. Client shall require that its other consultants maintain professional liability insurance as appropriate to the services provided.
17. **TIME FOR COMPLETION.** Unless the Agreement states a specific limited time or date for completion, Engineer shall complete its obligations within a reasonable time, as determined in the sole discretion of Engineer, and any delivery or performance date stated by Engineer is an estimate only and is not a guarantee.
18. **DELAYS IN COMPLETION.** Client shall make decisions and carry out its other responsibilities in a timely manner so as not to delay Engineer's performance of its services. If, through no fault of Engineer, a stated period of time or date for completion are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably. If Engineer fails, through its own fault, to complete its performance required by the Contract within the time set forth, as duly adjusted, then Client shall be entitled to the recovery of direct, but only direct, damages proximately caused by such failure.
19. **CHANGES IN THE SCOPE.** Notwithstanding the merger and integration provision hereinbelow, if Client authorizes or directs, orally or in writing, changes in the scope, extent, or character of the work, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, may be adjusted equitably.
20. **LEGISLATIVE ACTION.** If any governmental entity imposes any taxes, fees, or charges on Engineer's services or compensation under the Contract or imposes requirements that cause Engineer to perform additional work or incur costs, then Engineer may invoice Client, in addition to the compensation to which Engineer is entitled under the Contract, for such taxes, fees, charges, work, or costs.
21. **COPYRIGHTS AND LICENSES.** Engineer shall be deemed the author and Client of all data collected by Engineer and all documents, plans, notes, drawings, tracings, specifications, reports and files collected or prepared by Engineer in connection with the Contract (collectively, "Engineer's Instruments of Service"). Engineer's Instruments of Service shall remain the property of Engineer and Engineer shall retain all common law, statutory and other reserved rights, including copyrights thereto. Upon entering this contract, Engineer grants to Client a nonexclusive license to use Engineer's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the project, provided that Client substantially performs its obligations, including but not limited to prompt payment when due. This nonexclusive license automatically terminates upon termination of the Contract by either party, or upon Client's default as determined in the sole discretion of Engineer. Client warrants that in transmitting any information to Engineer, Client is the copyright Client of such information or has permission from the copyright Client to transmit such information for its use in the performance of the Contract.
22. **INVOICING AND PAYMENT TERMS.** Unless stated otherwise in the Agreement, invoices may be submitted anytime and are NET DUE UPON RECEIPT, but Engineer has discretion to allow a grace period up to thirty (30) days. Such grace period, if allowed, will be stated on the invoice. Any disputed invoice, in whole or in part, must be brought to the attention of Engineer in writing within five (5) days of the receipt of the invoice, or the invoice is deemed correct and undisputed. If Client disputes any portion of an invoice, Client may withhold only that disputed portion, and must pay the undisputed portion. Payment is only contingent upon those terms stated in the Agreement; no other conditions precedent to payment exist.
23. **FINANCE CHARGES AND LATE FEE.** Client agrees to pay any finance charges that are imposed on Client's account. Subject to the grace period, a finance charge at the highest rate allowable by law, will be imposed from the date of the invoice. Engineer may charge Client a monthly late fee, in addition to a finance charge, equal to 5% of any outstanding balance that remains due, to help defray Engineer's administrative costs associated with handling and collecting





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Client's delinquent account. It is understood and agreed that in no event shall Client be required to pay late fees, a finance charge or interest in excess of rates allowed by applicable laws.

24. **POST JUDGMENT INTEREST.** The Parties have conferred and are in agreement that, should a judgment be rendered pursuant to any default of the Contract, the post judgment contractual interest rate shall be eighteen percent (18%) per annum. It is the intent of the Parties to deviate from the statutory interest rate set forth in Section 55.03, Florida Statutes. It is understood and agreed that in no event shall either party be required to pay interest in excess of rates allowed by applicable usury laws.

25. **TERMINATION BY ENGINEER.** In the event that Client fails to make payment in full on any invoice when due, or if Engineer in its sole discretion believes that Client currently is or will in the future be in default of any provision of the Contract or any other agreement between Client and Engineer, Engineer may at its option exercise any one or more of the following rights or remedies: (i) refuse to accept additional orders from Client; (ii) suspend or terminate the Contract; (iii) declare immediately due and payable all outstanding invoices to Client whether or not such invoices are due and payable; (iv) reclaim Engineer's Instruments of Service, and/or (v) exercise any other rights or remedies that Engineer may have at law or equity.

26. **TERMINATION BY CLIENT.** Client may terminate the Contract for cause, upon fifteen (15) days written notice and opportunity to cure, if Engineer: (i) repeatedly refuses or fails to comply with its obligations under the Contract; (ii) repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or (iii) otherwise is guilty of substantial breach of a provision of the Contract.

27. **CANCELLATION.** Client is entitled to cancel the Contract in whole or in part upon ten (10) days written notice without cause and at the convenience of the Client. Ten (10) days after receipt of such notice, Engineer shall discontinue all of its performance and obligations under the Contract, shall incur no further costs of performance, and shall terminate all Consultants and other related orders. Client shall be liable to Engineer for all costs or liabilities incurred by Engineer prior to termination or cancellation.

28. **PRICES SUBJECT TO CHANGE.** Quoted prices for labor, materials, or miscellaneous costs are subject to change without notice. Price in effect on date of service or delivery shall control.

29. **SHIPPING TERMS.** All Engineer's Instruments of Service, if shipped to or upon request by Client, are shipped FOB origin.

30. **STANDARDS OF PERFORMANCE.** The standard of care for all services performed by Engineer under the Contract will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality.

31. **WARRANTIES.** Unless otherwise agreed to in a signed writing by Engineer and Client, Engineer makes no express or implied warranty. ENGINEER DISCLAIMS THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

32. **CORRECTIONS.** Generally, Engineer shall only make corrections or changes to the Work for additional compensation. However, Engineer shall correct deficiencies in technical accuracy without additional compensation except to the extent such corrective action is directly or indirectly attributable to: (i) deficiencies in Client-furnished information; (ii) actions or requests by Client; (iii) actions or requests by other parties; or (iv) unforeseen conditions; (v) new information.

33. **CONSTRUCTION COSTS.** Engineer's statements of probable construction costs are opinions only, and Engineer does not guarantee that proposals, bids, or actual construction costs will not vary from such statements. Engineer has no control over, and no liability arising from, estimates of or actual cost of construction.

34. **NOT RESPONSIBLE FOR CONSTRUCTION OR CONTRACTOR.** Engineer neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to perform. Engineer shall not be responsible for any acts or omissions by any contractor, its agents or employees, or any other person or entity at the jobsite. Engineer shall not at any time supervise, direct, or have control over a contractor's work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selection or used by any contractor, for security or safety of the jobsite, for safety precautions and programs incident to the contractor's work in progress, nor for any failure of the contractor to comply with laws and regulations applicable to the contractor's work. "Contractor" includes, but is not limited to, contractors, subcontractors of any tier, laborers, or suppliers.

35. **CONTRACTUAL LIMITATION ON PERSONAL LIABILITY.** THE INDIVIDUAL EMPLOYEE OR AGENT WHO WILL PERFORM THE PROFESSIONAL SERVICES UNDER THIS CONTRACT IS NOT A PARTY TO THE CONTRACT. PURSUANT TO SECTION 558.0035, FLORIDA STATUTES (JULY 1, 2013), AN INDIVIDUAL EMPLOYEE OR AGENT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE.

36. **RELEASE OF LIABILITY.** In consideration of and as an inducement to the performance by Engineer, to the fullest extent permitted by law, Client voluntarily releases and forever discharges Engineer and its Consultants of any and all liabilities, claims, actions, causes of action, proceedings, suits in equity, damages, costs or expenses which Client may have against Engineer and its Consultants arising out of or in any way connected to any services or materials provided by Engineer or its Consultants or with any transaction between Engineer and Client, for any and all risks, whether now known or not known, including but not limited to claims based solely on the negligence of Engineer or its Consultants, except for liability arising from intentional torts or recklessness of Engineer.

37. **LIMITS OF LIABILITY.** If there shall, notwithstanding the other provisions herein, at any time be or arise any liability on the part of Engineer by virtue of the Contract or because of the relation hereby established, whether due to the negligence of Engineer or otherwise, Client's exclusive remedy and Engineer's liability shall be limited to a sum equal to the purchase price paid to Engineer for the particular service or materials with respect to which liability arose, which sum shall be paid and received as liquidated damages. Such liability as herein set forth is fixed as liquidated damages and not as a penalty and this liability shall be complete and exclusive. In the event Client desires Engineer to assume greater liability for the performance hereunder, a choice is hereby given of obtaining full or limited liability by paying an additional amount under an additional rider, which shall be attached and incorporated to the Contract setting forth the additional liability of Engineer and additional charge.

38. **LIMITED LIABILITY AND NO LIABILITY FOR DELAY.** Notwithstanding the above provisions, Engineer shall not be liable for any damage due to delay of any type or for indirect, incidental, consequential, special, exemplary or punitive damages, including lost profits, whether such claim is based on express or implied warranty, contract, or otherwise, even if Engineer has been advised of such damages.

39. **INDEMNIFY, HOLD HARMLESS, AND DEFEND.** To the fullest extent permitted by law, Client, at its own cost and expense, shall assume liability, indemnify, hold harmless, and defend Engineer and its Consultants, from and against any liability and all loss, costs, damages, expense, including court costs, reasonable legal and attorney's fees, and disbursements paid or incurred by Engineer, whether or not suit shall be commenced, on account of claims for but not limited to damages to persons or property, arising out of or resulting before, after or in connection with the goods or services provided under the Contract, caused



in whole or in part by any act, omission, or default of the indemnitor, or any of the indemnitor's contractors, subcontractors, sub-subcontractors, materialmen, or agents of any tier or their respective employees. Client's duty to defend under this provision is a separate obligation from its indemnity.

40. **INDEMNIFY, HOLD HARMLESS, AND DEFEND - ACTS BY INDEMNITEE.** The Client shall indemnify, hold harmless, and defend Engineer and its Consultants for liability for damages to persons or property caused in whole or in part by any act, omission, or default of Engineer or its Consultants arising from the contract or its performance, but only up to the monetary limit of \$1 million per occurrence or an amount that bears a reasonable commercial relationship to the contract. Client's duty to defend under this provision is a separate obligation from its indemnity.

41. **OTHER LIMITATIONS ON INDEMNIFICATION.** The indemnifications provided hereinabove (but not hereinbelow) exclude claims of, or damages resulting from, gross negligence, or willful, wanton or intentional misconduct of the indemnitee or its officers, directors, agents, or employees, or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused by or result from acts or omissions of the indemnitor or any of the indemnitor's contractors, subcontractors, sub-subcontractors, materialmen, or agents of any tier or their respective employees.

42. **INDEMNIFY AND HOLD HARMLESS - INDEMNITOR IS PUBLIC AGENCY.** If Client is a public agency, or if the work is in connection with a public agency's project, Client shall indemnify and hold harmless Engineer, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Client and persons employed or utilized by the Client in the performance of the Contract.

43. **INSURANCE.** Upon commencement of the work, Engineer shall obtain insurance coverage as required by Florida Law and including professional liability insurance. Engineer will deliver to the Client upon execution of the Contract evidence of such insurance coverage on the standard certificate form indicating the name of firm, name of insurance company, policy number, term of coverage, and limits of coverage.

44. **AGREEMENT ENFORCEMENT.** Client agrees to pay all expenses and costs incurred by Engineer to enforce the terms of the Contract, or to collect any amounts due, including reasonable attorney's fees, court costs, and other miscellaneous related costs, whether suit be brought or not, and whether incurred before or at trial, on appeal, during any insolvency or bankruptcy proceedings, during any post-judgment collection proceedings, or otherwise.

45. **CONFIDENTIALITY.** The Client must not disclose to any person, without the prior approval of the Engineer: (a) the contents of the Contract; or (b) any information regarding the Engineer, its systems, procedures, staff or activities; except as required by law. The obligations imposed by this clause will survive the expiration or termination of the Agreement.

46. **DISPUTE RESOLUTION.** In an effort to resolve any disputes, differences, claims or counterclaims that arise with respect to the Contract, the Client and Engineer agree that all disputes between them shall first be submitted to non-binding mediation, unless the parties mutually agree otherwise, and shall constitute an express condition precedent to litigation. Mediation shall be conducted within sixty (60) days of the dispute first arising. The Client and Engineer further agree to use good-faith best efforts to include a mediation provision similar to the above provision in all of their agreements with independent contractors and Clients retained for the Project and also to require all independent contractors and Clients also to include a similar mediation provision in all agreements with subcontractors, Engineers, suppliers or fabricators so retained, thereby providing for mediation as the primary method for dispute resolution between the parties to those agreements.

47. **WAIVER OF JURY TRIAL.** CLIENT KNOWINGLY, VOLUNTARILY, INTENTIONALLY, AND IRREVOCABLY WAIVES TRIAL BY JURY WITH RESPECT TO ANY ACTION OR CLAIM BROUGHT IN CONNECTION WITH THIS CONTRACT OR THE RELATIONSHIP BETWEEN ENGINEER AND CLIENT.

48. **JURISDICTION AND VENUE.** This Contract shall be governed by, and construed in accordance with, the laws of the State of Florida and venue for any disputes shall be in Duval County, Florida.

49. **ANY CLAIMS FOR CONSTRUCTION DEFECTS ARE SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES.**

50. **NONWAIVER AND WAIVER.** Engineer's failure to insist in any one or more cases upon the strict performance by the Client of any of the terms or conditions of the Contract or to exercise any of its rights shall not be construed as a waiver or a relinquishment for the past or future of any such term, condition, or right, and shall not affect Engineer's right to enforce strict compliance with such terms and conditions. Payment by Client to Engineer shall constitute an acceptance by Client of the performance of all or a part of the Contract by Engineer and waiver of claims for nonperformance.

51. **SEVERABILITY.** Each provision, and any portion thereof, of the Contract, is severable from every other provision, and severable from the remaining portion of the provision, and if any provision, or part thereof, is unenforceable, the remainder of the provision and the remainder of the Contract shall remain valid and enforceable.

52. **MERGER AND INTEGRATION.** Subject to the limited exceptions provided in this Standard Terms and Conditions, the Contract contains the entire contract between the parties and may not be modified or amended except by a writing signed by Engineer and Client that expressly states it is modifying and/or amending this Contract. Any use or reference to Client's or another's contract, purchase order or purchase order number is for Client's convenience only and does not incorporate the referenced document into the contract. Client acknowledges that Client has not relied on any representations, advertisements, warranties, understanding, conditions, statements, or estimates, of any nature whatsoever, except as set forth in the Contract.

53. **SUCCESSORS AND ASSIGNEES.** The Contract shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective heirs, personal representatives, successors, executors, administrators, and assigns. The Contract may not be assigned by Client without the prior written consent of Engineer.

54. **INDEPENDENT CONTRACTOR.** Nothing contained in the Contract shall be construed or considered as rendering Engineer as an agent or employee of Client and Engineer shall at all times be considered an independent contractor.

55. **NOTICE.** All notices shall be deemed proper and valid for all purposes hereunder if sent by regular mail, certified mail, electronic facsimile transmission, or electronic mail transmission, addressed to Engineer at the address(es) stated on the Agreement or addressed to Client in care of his/her representative anywhere or at the address(es) stated on the Agreement.

56. **JOINT PRODUCT.** The parties stipulate that the Contract is the joint product of both parties, and, therefore, shall not be construed against either party.

**ACCORDING TO FLORIDA'S CONSTRUCTION LIEN LAW (SECTIONS 713.001-713.37, FLORIDA STATUTES), THOSE WHO WORK ON YOUR PROPERTY OR PROVIDE MATERIALS AND SERVICES AND ARE NOT PAID IN FULL HAVE A RIGHT TO ENFORCE THEIR CLAIM FOR PAYMENT AGAINST YOUR PROPERTY. THIS CLAIM IS KNOWN AS A**



**CONSTRUCTION LIEN. IF YOUR CONTRACTOR OR A SUBCONTRACTOR FAILS TO PAY SUBCONTRACTORS, SUB-SUBCONTRACTORS, OR MATERIAL SUPPLIERS, THOSE PEOPLE WHO ARE OWED MONEY MAY LOOK TO YOUR PROPERTY FOR PAYMENT, EVEN IF YOU HAVE ALREADY PAID YOUR CONTRACTOR IN FULL. IF YOU FAIL TO PAY YOUR CONTRACTOR, YOUR CONTRACTOR MAY ALSO HAVE A LIEN ON YOUR PROPERTY. THIS MEANS IF A LIEN IS FILED YOUR PROPERTY COULD BE SOLD AGAINST YOUR WILL TO PAY FOR LABOR, MATERIALS, OR OTHER SERVICES THAT YOUR CONTRACTOR OR A SUBCONTRACTOR MAY HAVE FAILED TO PAY. TO PROTECT YOURSELF, YOU SHOULD STIPULATE IN THIS CONTRACT THAT BEFORE ANY PAYMENT IS MADE, YOUR CONTRACTOR IS REQUIRED TO PROVIDE YOU WITH A WRITTEN RELEASE OF LIEN FROM ANY PERSON OR COMPANY THAT HAS PROVIDED TO YOU A "NOTICE TO OWNER." FLORIDA'S CONSTRUCTION LIEN LAW IS COMPLEX, AND IT IS RECOMMENDED THAT YOU CONSULT AN ATTORNEY.**