CONSTRUCTION CONTRACT

00500. CONTRACT FORM

CONTRACT

THIS IS A CONTRACT, made and entered into this 6th day of May, 2013 by and between The City of Hallandale Beach, hereinafter referred to as CITY and Inland Construction and Equipment, Inc. hereinafter referred to as the CONTRACTOR.

WITNESSETH, that the CONTRACTOR and the CITY, for considerations hereinafter name, agree as follows:

ARTICLE 1

SCOPE OF WORK

1.1 The CONTRACTOR hereby agrees to furnish all of the labor, materials, equipment and services necessary to perform all of the work described in the Bid Project including Drawings (Design Plans), Specifications and Addenda thereto for the project entitled:

The work to be provided is outlined and includes to Bid # FY 2012-2013-004, A1A Watermain Project, which is hereby incorporated and made part of this Agreement by reference and Proposal submitted by CONTRACTOR, which is hereby incorporated and made part of this Agreement by reference.

1.2 The CONTRACTOR and the City's Project Manager will develop a single list of items required to render complete, satisfactory, and acceptable construction services, if applicable.

The City's Project Manager will contact the CONTRACTOR with the list of required items for this project and will provide a timeline for the CONTRACTOR to respond. The delivery of the list of items for the accomplishment of the construction project will be provided by the City's Project Manager to the CONTRACTOR within five (5) days of contract execution.

a) For contracts less than $10 million dollars the parties shall, within thirty (30) days of substantial completion, develop and deliver a list

required for accomplishment of the Project. If the contract is more than $10 million dollars the parties shall accomplish same within sixty (60) days.

b) The final completion date under the Contract shall be extended at least thirty (30) days after the list is delivered in paragraph a above.

1.3 This project contains a Community Benefit Plan (CBP) requirement and the CONTRACTOR'S CBP Proposal submitted is hereby incorporated and made part of this Agreement by reference and as applicable per the solicitation.

ARTICLE 2
CONTRACT TIME

2.1 The work to be performed under this Contract shall be commenced within 15 calendar days after the Project Initiation Date specified in the Notice to Proceed. The CITY shall instruct the CONTRACTOR to commence the work by written instructions in the form of a Notice to Proceed and a Purchase Order. These will not be issued until receipt of all required documents and after execution of the Contract by both parties. The receipt of all necessary permits by the CONTRACTOR is a condition precedent to the initiation of all work under this Contract. If CONTRACTOR is not in receipt of all necessary permits by the Project Initiation Date set forth in the Notice to Proceed, CONTRACTOR shall so notify CITY in writing immediately. CITY shall then have the option of issuing a revised Notice to Proceed.

2.2 Time is of the essence in this Contract. The work shall be substantial completed within 120 calendar days from the Project Initiation Date specified in the Notice to Proceed, and completed and ready for final payment in accordance with Article 22 within 150 calendar days from the Project Initiation Date specified in the Notice to Proceed.

2.3 Upon failure of the CONTRACTOR to substantially complete said Contract within the specified period of time (plus approved extensions, if any) the CONTRACTOR shall pay to CITY the sum of Five Hundred Dollars ($500.00) for each calendar day after the time specified in paragraph 2.2 above (plus any approved extensions) for substantial completion. After substantial completion if CONTRACTOR shall neglect, refuse or fail to complete the remaining work within the Contract Time or any approved extension thereof, the CONTRACTOR shall pay to the CITY the sum of Five Hundred Dollars ($500.00) for each calendar day after the time specified in paragraph 2.2. above (plus any approved extensions) for completion and readiness for final payment. These amounts are not penalties but liquidated damages to

the CITY. Liquidated damages are hereby fixed and agreed upon between the parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by the CITY as a consequence of such delay, and both parties desiring to obviate any question of dispute concerning the amount of said damages and the cost and effect of the failure of the CONTRACTOR to complete the Contract on time.

2.4 The CITY is authorized to deduct liquidated damage amount from the monies due to CONTRACTOR for the work under this Contract, or as much thereof as the CITY may, at is own option, deem just and reasonable.

ARTICLE 3
THE CONTRACT SUM

3.1 Payments shall be made at the Contract unit prices or lump sum prices applicable to each integral part of the Contract. These prices shall be full compensation for all costs associated with completion of all work in full conformity with the requirements as stated or shown, or both, in the Bid Project.

3.2 The CITY reserves the right to add or delete work items from the project to meets its available budget.

3.3 In consideration of the work, labor, services and materials to be furnished by the CONTRACTOR, in accordance with the plans and specifications, the City agrees to pay to the CONTRACTOR, upon the completion and acceptance thereof by the City, or its duly authorized agent, the total Contract price of $(976,273.00), in words Nine hundred and seventy-six thousand, two hundred and seventy-three dollars.

3.4 Sales and Use Taxes. The CITY is exempt from paying sales and use taxes on materials and equipment purchased for, and incorporated into the A1A Watermain Project. As such, the CITY reserves the right to utilize a tax savings Direct Purchase Program (DPP) for direct purchases where possible and practical for this Project. The CITY shall make direct purchases of all materials and equipment purchased for, or to be incorporated into the Project, as requested by the Contractor and agreed upon by the CITY in the form of a change order. All direct purchases of materials and equipment shall be made by the City with funds specifically allocated for the construction of the Project. The Contractor shall notify the CITY no later than **10 calendar days** after request by City of the requested materials and equipment to be purchased by the CITY for the Project. The standard City of Hallandale Beach Terms and Conditions

applicable to this program are included as Attachment A to this section. Each equipment supplier that will supply equipment under the Direct Purchase Program shall be obligated to meet the requirements of the City of Hallandale Beach Terms and Conditions and the Technical Specifications.

The CITY's Project Manager shall manage the sales tax savings earned by the DPP. The credits for the tax savings and payments made directly to the VENDOR under the DPP shall be deducted from the total contract amount awarded, through a deductive change order. The Project Manager shall instruct the Contractor as to the direct purchase process as further described in the special conditions below.

3.4.1 The Contractor shall: (a) compile Contractor's and any Subcontractors' itemized requirement for materials and equipment, including quantities, unit costs, manufacturers' or vendors' catalogue or order numbers, delivery instructions, and other specific terms and information that is required to order the specific materials and equipment, and terms and conditions to be imposed on suppliers regarding delivery and submittal time requirements, and quantities thereof required by Contractor or Subcontractors in accordance with the applicable requirements of the Construction Contract, from time to time, during the construction of the Project, as materials and equipment need to be ordered for the Project, and submit such compilation to the CITY's Construction Project Manager; (b) prepare a requisition for such materials and equipment on the CITY's form of requisition; and (c) deliver any such requisition to the CITY's Project Manager no less than thirty (30) days prior to the date the manufacturer or vendor of the materials or equipment, as the case may be, requires orders for such materials or equipment to be placed to assure delivery of such materials or equipment to the Site in accordance with the Project Schedule (the "Order Date"). The requisition shall identify the Order Date. Upon receipt of any such requisition the CITY's Project Manager shall forward same to the CITY. The CITY shall issue a Purchase Order directly to the vendor of the materials or equipment, prior to the Order Date (a Purchase Order). The CITY shall include with any such Purchase Order, a copy of the CITY's sales and use tax exemption certificate. The CITY shall make direct payment to the vendor from the CITY's account.

3.4.2 The Contractor, upon the delivery of any such materials or equipment, shall verify the conformity of such materials or equipment with the terms of the Purchase Order and the Contract Documents. If the Contractor determines that the materials and equipment are conforming, Contractor shall submit the invoice within twenty-four hours to City's Project Manager for approval. If the delivery of such materials or equipment is approved by the City's Project Manager, the CITY shall take title and possession of such material and equipment before such materials and equipment are incorporated into the Project. If the Contractor determines that the

materials and equipment are non-conforming, the Contractor shall immediately notify the CITY in writing and the CITY shall reject such material and equipment.

3.4.3 The CITY shall assume all risk of loss on all materials and equipment purchased pursuant to its sales and use tax exemption, subject to the Provisions of Special Condition 3.4.4.

3.4.4 The Contractor shall be fully responsible for all matters relating to the receipt of materials and equipment furnished by the CITY in accordance with this Special Condition, including, but not limited to, the responsibility for verifying correct quantities, verifying documents or orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees required by the Contract Documents, inspection and acceptance of the materials and equipment at the time of delivery, and loss or damage to materials and equipment following acceptance of items due to the negligence of such Contractor or any Subcontractors. The Contractor shall coordinate delivery schedules, sequence of delivery, loading orientation, and other arrangements normally required by such Contractor for the particular materials furnished. The Contractor shall provide or arrange for all services required for the unloading, handling and storage of such materials and equipment through installation.

3.4.5 The Contractor shall visually inspect all shipments from material and equipment vendors purchased directly by the CITY in accordance with this Special Condition (the "CITY Furnished Materials") and approve the vendors' invoices for materials or equipment delivered, as CITY-Furnished Materials are furnished to the Site in accordance with this Special Condition. The Contractor shall assure that each delivery of CITY Furnished Materials is accomplished by documentation adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the vendor conforming to the Purchase Order, together with such additional information as the CITY may require. The Contractor shall deliver to the CITY's Project Manager all invoices for materials and equipment upon verification by such Contractor that the materials and equipment conform exactly to the Contract Documents and the Purchase Order. Upon receipt of any invoice for CITY Furnished Materials, the CITY's Project Manager shall verify the conformity of such City Furnished Materials and if conforming approve such City Furnished Materials. Upon approval the CITY's Project Manager shall deliver such invoice to the City for direct payment to the vendor.

3.4.6 The Contractor shall inspect all CITY Furnished Materials to determine that such CITY Furnished Materials conform to the Contract Documents, including the Drawings and the Specifications, and to determine prior to

incorporation into the Work whether any such CITY Furnished Materials are patently defective, and whether such CITY Furnished Materials are identical to the materials ordered and match the description of the bill of lading and the Purchase Order. If Contractor discovers defective or non-conforming CITY Furnished Materials upon such visual inspection, Contractor shall: (a) not recommend acceptance of such non-conforming materials and equipment, (b) not utilize such non-conforming or defective materials in the Work; (c) not allow Subcontractor to utilize such non-conforming or defective materials in the Work; and (d) **promptly** notify the CITY's Project Manager, in writing, of the defective or non-conforming condition so that repair or replacement of those CITY Furnished Materials can occur without any undue delay or interruption to the Project. In the event that such Contractor fails to perform such inspection or otherwise incorporates into the Work such defective or non-conforming CITY Furnished Materials, the Contractor shall be responsible for the repair and replacement of defective or non-conforming materials, at its sole cost and expense.

3.4.7 The Contractor shall maintain records of all CITY Furnished Materials incorporated into the Work from the stock of CITY Furnished Materials. The Contractor shall account monthly to the CITY's Project Manager and CITY for any CITY Furnished Materials delivered to the Site, indicating which CITY Furnished Materials have been incorporated into the Work.

3.4.8 The Contractor shall be responsible for obtaining and managing all warranties and guarantees for all CITY Furnished Materials. All repair, maintenance or damage-repair calls shall be forwarded by the CITY or the Contractor to the Contractor for resolution with the appropriate vendor, or Subcontractor.

3.4.9 After the CITY takes possession of the CITY Furnished Materials at the Site, possession of the CITY's Furnished Materials shall immediately and automatically transfer to the Contractor without notice. The transfer of possession of CITY Furnished Materials from the CITY to the Contractor shall constitute a bailment for the mutual benefit of the CITY and such Contractor. The CITY shall be considered the bailor and such Contractor the bailee of the CITY Furnished Materials. CITY Furnished Materials shall be considered returned to the CITY for purposes of their bailment at such time as they are incorporated into the Project or consumed in the process of completing the Project.

3.4.10 The Contractor shall purchase and maintain builder's risk insurance, naming the CITY as an additional insured, sufficient to protect against loss of or damage to CITY Furnished Materials. Such insurance shall be in the amount stated elsewhere in the Contract and shall cover the full value of any CITY Furnished Materials between the time the CITY first takes title to

and possession of any of such CITY Furnished Materials until final completion of the Work.

3.4.11 The CITY shall not be liable for any interruption or delay damages in the Project by virtue of ordering the CITY Furnished Materials, for any defects or other problems with the Project by virtue of ordering the CITY Furnished Materials, or for any extra costs resulting from any delay in the delivery of, or defects in, the CITY Furnished Materials.

3.4.12 The Contractor, on a monthly basis, shall review invoices submitted by all vendors of CITY Furnished Materials delivered to the Site during the prior month and either concur or object to the CITY's Issuance of payment to the vendors, based upon such contractor's records of materials delivered to the Site and whether any of the CITY Furnished Materials for which payment has not been made were either non-conforming or defective.

3.4.13 In order to arrange for the prompt payment to the vendor, the Contractor shall provide to the CITY's Project Manager a list of the acceptance of the goods or materials within fifteen (15) days of receipt of said goods or materials. Accompanying the list shall be a copy of the applicable Purchase Order, invoices, delivery tickets, written acceptance of the delivered items, and such other documentation as may be reasonably required by the CITY. Upon receipt of the appropriate documentation, the CITY shall prepare a check payable to the vendor based upon the receipt of data provided. This check will be released, delivered and remitted directly to the vendor. The Contractor shall assist the CITY to immediately obtain partial or final release of waivers as appropriate. The CITY shall not make any payment without the appropriate Contractor's concurrence and approval, which shall be delivered to the CITY by the CITY's Project Manager. Furthermore, the CITY shall not make any payment without the appropriate CITY's Project Manager concurrence and approval. There shall be no retention on CITY Furnished Materials against either the vendor, the Contractor(s) or the Subcontractor(s).

3.4.14 The Contractor may, in its reasonable discretion, require certain material and equipment vendors to provide a supply bond in the amount of one-hundred percent (100%) of the Purchase Order price. The supply bond, if required, shall be issued by a qualified surety company authorized to do business in the State of Florida and acceptable to the CITY. If the supply bond is required, the costs thereof will be added to the amount of the Purchase Order. The Contractor shall verify that a vendor can furnish a supply bond. All bonds will name the CITY and the Contractor as additional obliges. To the extent that materials and equipment are purchased pursuant to the CITY's sales and use tax exemption, the

Contractor shall reduce the Contract Amount for direct purchases by the CITY.

ARTICLE 4

INDEMNIFICATION

4.1 CONTRACTOR agrees to indemnify, save harmless and, at the City Attorney's option, defend or pay for an attorney selected by the City Attorney to defend CITY, their officers, agents, servants and employees against any and all claims, losses, liabilities and expenditures of any kind, including attorney's fees, court costs, and other expenses, caused by negligent act or omission of CONTRACTOR, any sub-contractors, their employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this Agreement including, without limitation, any and all claims, demands, or causes of action of any nature, whatsoever, resulting from injuries or damages sustained by any person or property. CONTRACTOR further agrees to indemnify and save harmless the CITY, their officers, agents and employees, for or on account of any injuries or damages received or sustained by any person or persons resulting from any construction defects, including latent defects. Neither the CONTRACTOR nor any of its sub-contractors will be liable under this section for damages arising out of Intentional torts of CITY or their officers, agents or employees. In the event that any action or proceeding is brought against CITY by reason of any such claim or demand, CONTRACTOR, upon written notice from CITY, shall defend such action or proceeding.

CONTRACTOR shall require all of the subcontractors working for it to provide the aforementioned indemnification in all contracts and subcontracts entered into and arising out of work performed by CONTRACTOR in connection with the Project.

4.2 To the extent considered necessary by the City Attorney, any sums due to CONTRACTOR under this Agreement may be retained by CITY until all of CITY's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

4.3 In the event that any action or proceeding is brought by CONTRACTOR against CITY, CONTRACTOR hereby waives the right to a jury trial. The provisions of this Article shall survive the expiration or early termination of this Agreement.

4.4 Contractor acknowledges that it has received adequate consideration concerning the monetary limitation on the indemnification provided to City, which, shall not be less than $1 million per occurrence.

4.5 To the fullest extent permitted by law, the CONTRACTOR agrees to indemnify and hold-harmless the City, its officers and employees from any claims, liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney fees to the extent caused, in whole or in part, by the professional negligence, error or omission of the CONTRACTOR or persons employed or utilized by the CONTRACTOR in performance of the Agreement.

4.6 To the fullest extent permitted by law, the CONTRACTOR agrees to indemnify and hold-harmless the City, its officers and employees from any claims, liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney fees to the extent caused, in whole or in part, by the recklessness or intentionally wrongful conduct, of the CONTRACTOR or persons employed or utilized by the CONTRACTOR in performance of the Agreement.

4.7 Nothing in this Agreement is intended to serve as a waiver of sovereign immunity, or of any other immunity, defense, or privilege enjoyed by the City pursuant to Section 768.28 Florida Statutes.

ARTICLE 5

INSURANCE REQUIREMENTS

5.1 Without limiting any of the other obligations or liabilities of CONTRACTOR, CONTRACTOR shall provide, pay for, and maintain in force until all of its work to be performed under this Contract has been completed and accepted by CITY (or for such duration as is otherwise specified hereinafter), the insurance coverages set forth herein.

5.1.1. Worker's Compensation insurance to apply for all employees incompliance with the "Workers' Compensation Law" of the State of Florida and all applicable federal laws. In addition, the policy(ies) must include:

5.1.1.1. Employers' Liability with a limit of One Million Dollars ($1,000,000.00) each accident.

5.1.1.2. If any operations are to be undertaken on or about navigable waters, coverage must be included for

the U.S. Longshoremen and Harbor Workers Act and Jones Act.

5.1.2. Comprehensive General Liability with minimum limits of One Million Dollars ($1,000,000.00) per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

5.1.2.1. Premises and/or Operations.

5.1.2.2. Independent Contractors.

5.1.2.3. Products and/or Completed Operations for contracts over Fifty Thousand Dollars ($50,000.00) CONTRACTOR shall maintain in force until at least three years after completion of all work required under the Contract, coverage for products and Completed Operations, including Broad Form Property Damage.

5.1.2.4. Explosion, Collapse and Underground Coverages.

5.1.2.5. Broad Form Property Damage.

5.1.2.6. Broad Form Contractual Coverage applicable to this specific Contract, including any hold harmless and/or indemnification agreement.

5.1.2.7. Personal Injury Coverage with Employee and Contractual Exclusions removed, with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability.

5.1.2.8. CITY is to be expressly included as an "Additional Insured" in the name of "City of Hallandale Beach", with respect to liability arising out of operations performed for CITY by or on behalf of CONTRACTOR or acts or omissions of CITY in connections with general supervision of such operation.

5.1.3. Business Automobile Liability with minimum limits of One Million Dollars ($1,000,000.00) per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

5.1.3.1. Owned Vehicles.

5.1.3.2. Hired and Non-Owned Vehicles.

5.1.3.3. Employers' Non-Ownership.

5.2 If the initial insurance expires prior to the completion of the work, renewal copies of policies shall be furnished 30 days prior to the date of their expiration.

5.3 Notice of Cancellation and/or Restriction - The policy(ies) must be endorsed to provide the City of Hallandale Beach with 30 days notice of cancellation and/or restriction

5.4 The CONTRACTOR shall furnish to the CITY ENGINEER and the City's Project Manager Certificates of Insurance or endorsements evidencing the insurance coverage specified above within 15 days after notification of award. The required Certificates of Insurance shall name the types of policies provided, refer specifically to this Contract, and state that such insurance is as required by this Contract. The Certificate of Insurance shall be in form similar to and contain the information set forth.

5.5 The official title of the owner is the "City of Hallandale Beach". This official title shall be used in all insurance documentation.

ARTICLE 6
WEATHER

6.1 No extension of time shall be granted for delays resulting from normal weather conditions prevailing in the area as defined by the average of the last ten years of weather data as recorded by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration at the Fort Lauderdale Weather Station.

6.2 No more than one day of time extension shall be granted for each day the precipitation, in inches exceeds one (1) inch at the Weather Station, and only when fifty percent or more of the scheduled construction work force cannot work due occurrence of such precipitation on the day claimed.

ARTICLE 7
HURRICANE PRECAUTIONS

7.1 During such periods of time as are designated by the United States Weather Bureau as being a hurricane warning or alert, the CONTRACTOR, at no cost to the CITY, shall take all precautions necessary to secure the Project site in response to all threatened storm events, regardless of whether the CITY or CITY ENGINEER has given notice of same.

7.2 Compliance with any specific hurricane warning or alert precautions will not constitute additional work.

7.3 The contractor acknowledges that threatened tropical storm activity is normal in Broward County and the mere possibility that a warning or watch might be declared is not a basis for compensable or non-compensable extension of time. Tropical Storm Watches and Warnings will not automatically result in a compensable extension of time.

7.4 Suspension of the Work caused by a threatened or actual storm event, regardless of whether the CITY has directed such suspension, will entitle the CONTRACTOR to additional Contract Time as non-compensable, excusable delay, and shall not give rise to a claim for compensable delay.

ARTICLE 8
PERMITS, LICENSES AND IMPACT FEES

8.1 Except as otherwise provided within the Supplemental Conditions, all permits and licenses required by federal, state, local or county laws, rules and regulations necessary for the execution of the work undertaken by the CONTRACTOR pursuant to this Contract shall be secured and paid by the CONTRACTOR. It is the CONTRACTOR'S responsibility to determine that all zoning requirements have been met prior to obtaining any permits or licenses. It is the CONTRACTOR'S responsibility to have and maintain appropriate Certificate(s) of Competency, valid for the type of work to be performed and for the jurisdiction in which the work is to be completed.

8.2. Impact fees levied by any municipality shall be paid by the CONTRACTOR. CONTRACTOR shall be reimbursed only for the

actual amount of the impact fee levied by the municipality as evidenced by an invoice or other acceptable documentation issued by the municipality. Reimbursement to the CONTRACTOR in no event shall include profit or overhead of the CONTRACTOR.

8.3 Necessity of complying with permit requirements. CONTRACTOR and the City agree that the failure of the Agreement to address a particular permit, condition, fee, term or restriction, shall not relieve CONTRACTOR of the necessity of complying with the law governing said permitting requirements, conditions, fee, terms and restrictions.

ARTICLE 9
DESIGN PLANS AND WORKING DRAWINGS

9.1 The Bid Project includes drawings (design plans) and specifications. The CITY, through the CITY ENGINEER, shall have the right to modify the details of these drawings (design plans) and specifications, to supplement said design plans and additional design plans, drawings or additional information as the work proceeds, all of which shall be considered as part of the Bid Project. In case of disagreement between the written and graphic portions of the Bid Project, the written portion shall govern.

ARTICLE 10
"OR EQUAL" CLAUSE:

10.1 Whenever a material, article or piece of equipment is identified in the Bid Project including drawings (design plans) and specifications by reference to manufacturers' or vendors' names, trade names, catalog numbers, or otherwise, it is intended merely to establish a standard; and, unless it is followed by words indicating that no substitution is permitted because of form fit function and quality. Any material, article, or equipment of other manufacturers and vendors which will perform or serve the requirements of the general design will be considered equally acceptable provided the materials, article or equipment so proposed is, in the opinion of the CITY, equal in substance, quality and function.

10.2 The CITY ENGINEER will be the sole judge of acceptability, and no substitute will be ordered, installed or used without the CITY ENGINEER'S prior written acceptance which will be evidenced by either a Change Order or an approved Shop Drawing. CITY may require CONTRACTOR to furnish at CONTRACTOR'S expense a special performance bond or other Surety with respect to any substitute.

ARTICLE 11
DEFECTIVE WORK

11.1 The CITY ENGINEER shall have the authority to reject or disapprove work which he finds to be defective. The CONTRACTOR shall promptly either, as directed, correct all defective work or remove it from the site and replace it with nondefective work. CONTRACTOR shall bear all direct, indirect and consequential costs of such removal or corrections including cost of testing laboratories and personnel.

11.2 If, within one year after substantial completion or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any of the work is found to be defective or not in accordance with the Contract Documents, the CONTRACTOR shall correct it promptly without cost to the CITY, after receipt of written notice from the CITY to do so. Nothing contained herein shall be construed to establish a period of limitation with respect to any other obligation which the CONTRACTOR might have under the Contract Documents.

11.3 Should the CONTRACTOR fail or refuse to remove or correct any defective work performed or to make any necessary repairs in an acceptable manner, and in accordance with the requirements of the Contract with the time indicated in writing, the CITY shall have the authority to cause the unacceptable or defective work to be removed or renewed, or make such repairs as may be necessary to be made at the CONTRACTOR'S expense. Any expense incurred by the CITY in which the CONTRACTOR has failed or refused to make shall be paid for out of any monies due or which may become due to the CONTRACTOR, or may be charged against the Performance and Payment Bond. Continue failure or refusal on the part of the CONTRACTOR to make any or all necessary repairs promptly, fully, and to declare the Contract forfeited, in which case the CITY at its option, may purchase materials, tools, and equipment and employ labor or may contract with other individual, firm or corporation, or may proceed with its own forces to perform the work. All costs and expenses incurred thereby shall be charged against the defaulting CONTRACTOR and the amount thereof deducted from any monies due, or which may become due to him, or shall be charged against the Performance and Payment Bond. Any special work performed, as described herein, shall not relieve the CONTRACTOR in any way from his responsibility for the work performed by him.

11.4 Failure to reject any defective work or material shall not in any way prevent later rejection when such defect is discovered, or obligate the CITY to final acceptance.

ARTICLE 12
SUBCONTRACTS

12.1 The CONTRACTOR shall, within 15 calendar days after the signing of the Contract, notify the CITY in writing of the names of Subcontractors proposed for the work. Such Subcontractor must be in compliance with the provisions of Chapter 9 of the Broward County Code of Ordinances and/or state law as it relates to Certificates of Competency. The CONTRACTOR shall have a continuing obligation to notify the CITY of any change in Subcontractors.

12.2 CONTRACTOR shall not employ any Subcontractor against whom CITY may have a reasonable objection. CONTRACTOR shall not be required to employ any Subcontractor against whom CONTRACTOR has a reasonable objection.

12.3 The CONTRACTOR shall be fully responsible for all acts and omissions of his Subcontractors and of persons directly or indirectly employed by his Subcontractors and of persons for whose acts any of them may be liable to the same extent that he is responsible for the acts and omissions of persons directly employed by him. Nothing in the Contract Documents shall create any contractual relationship between any subcontractor and the CITY or any obligation on the part of the CITY to pay or to see the payment of any monies due any Subcontractor. The CITY may furnish to any Subcontractor evidence of amounts paid to the CONTRACTOR on account of specific work performed.

12.4 The CONTRACTOR agrees to bind specifically every Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of the CITY.

ARTICLE 13
SEPARATE CONTRACTS

13.1 The CITY reserves the right to let other Contracts in connection with this work. The CONTRACTOR shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work and shall properly connect and coordinate this work with theirs.

13.2 If any part of the CONTRACTOR'S work depends for proper execution or results upon the work of any other contractor, the CONTRACTOR

shall inspect and promptly report to the CITY ENGINEER any defects in such work that render it unsuitable for such proper execution and results. CONTRACTOR'S failure to so inspect and report shall constitute an acceptance of the other contractor's work as fit and proper for the reception of his work, except as to defects which may develop in other contractor's work after the execution of his work.

13.3 The CONTRACTOR shall conduct his operations so as to create no interference or impact on any other contractor on the site. Should such interference or impact occur, the CONTRACTOR shall be liable to the affected contractor for the cost of such interference or impact.

13.4 To insure the proper execution of his subsequent work, the CONTRACTOR shall inspect the work already in place and shall at once report to the CITY ENGINEER any discrepancy between the executed work and the requirements of the Bid Project.

ARTICLE 14
DAMAGE TO EXISTING FACILITIES, EQUIPMENT OR UTILITIES

14.1 CONTRACTOR shall have full responsibility for reviewing and checking such information and data, for locating all underground facilities shown or indicated in the Contract Documents, for coordination of the work with the owners of such underground facilities during construction, for the safety and protection thereof and for repairing any damage thereto resulting from the work, the cost of all of which will be considered as having been included in the Contract price.

14.2 During construction of buildings and/or during improvements, CONTRACTOR covenants and agrees that it shall safely maintain the site of construction activities and protect against damage to persons and property by reason of construction activities and will provide adequate security during non-construction periods. In the case of damage or loss to the building and/or improvements constructed on the property by CONTRACTOR in accordance with this Agreement, CONTRACTOR shall, as soon as possible after the occurrence of such loss or damage, repair or rebuild the buildings and/or improvements in such manner that the buildings and/or improvements after such repairing or rebuilding shall be of the same general character as set forth in this Agreement and the approved Scope of Work and at least equal in value to the buildings and improvements prior to such loss or damage. Such repairs shall begin within ninety (90) calendar days after such occurrence or if rebuilding is required, such rebuilding shall be begun within one hundred eighty (180) calendar days after such occurrence and in either case shall be completed in a reasonable time,

subject to extension for Permitted Delays; provided insurance funds are made available to CONTRACTOR for such repair or rebuilding, in which event CONTRACTOR shall commence repairs or rebuilding within one hundred eighty (180) days from the date of occurrence. CONTRACTOR shall have the reasonable right to extend the time period for rebuilding in the event of a major catastrophic event (similar in scope and widespread damage to Hurricane Andrew) which would reasonably affect the ability to secure insurance proceeds, labor, public services, and other required elements to reasonably begin said rebuilding. CONTRACTOR shall pay for all such repairing and rebuilding so that the property and the buildings and improvements shall be free and clear of all liens of mechanics and materials and similar liens arising out of such repair, rebuilding or reconstruction of the buildings and improvements.

ARTICLE 15
MONITORING REPORTS

15.1 CONTRACTOR shall provide the City, in a format reasonably acceptable to the City and CONTRACTOR, information, data and reports to be used by the City in monitoring CONTRACTOR'S performance in carrying out the Project.

ARTICLE 16
CHANGE OF CONTRACT TIME

16.1 The "Contract Time" may only be changed by a Change Order. Any claim for an extension of the "Contract Time" shall be based on written notice delivered by the party making the claim to the CITY ENGINEER and the City's Project Manager within 7 calendar days of the beginning of the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the extent of the claim with supporting data shall be delivered within 15 days after the end of such occurrence (unless the CITY allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant has reason to believe it is entitled as a result of the occurrence of said event. All claims for adjustment in the "Contract Time" shall be determined by the CITY ENGINEER in accordance with paragraph 16.2, if CITY and CONTRACTOR cannot otherwise agree. No claim for an adjustment in the "Contract Time" will be valid if not submitted in accordance with the requirements of this paragraph.

16.2 The CITY ENGINEER and/or City's Project Manager must submit the request of an extension of the "Contract Time" with the written

information provided by the CONTRACTOR and with a written explanation as to why the extension shall be allowed to the City Manager for approval.

If the City Manager approves the request, the "Contract Time" will be extended in an amount equal to time lost due to delays beyond the control of and through no fault or negligence of the CONTRACTOR. Such delays shall include, but not limited to, acts or neglect by CITY or the CITY ENGINEER, or by any employee of either, or any separate contractor employed by the CITY, fires, floods, labor disputes, epidemics, abnormal weather conditions or acts of God.

16.3 No Damages for Delay:

Except as provided in Article 1.2(a) and (b) NO CLAIM FOR DAMAGES OR ANY CLAIM OTHER THAN FOR AN EXTENSION OF TIME SHALL BE MADE OR ASSERTED AGAINST THE CITY BY REASON OF ANY DELAYS. The CONTRACTOR shall not be entitled to an increase in the Contract Sum or payment or compensation of any kind from the CITY for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference or unforeseeable, or avoidable or unavoidable; provided, however, that this provision shall not preclude recovery of damages by the CONTRACTOR for hindrances or delays due solely to fraud, bad faith or active interference on the part of the CITY or its agents. Otherwise, the CONTRACTOR shall be entitled only to extensions of the Contract Time as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above.

16.4 Changes in the Work or Terms of Contract Documents:

16.4.1 Without invalidating the Contract and without notice to any surety, CITY reserves and shall have the right, from time to time to make such increases, decreases or other changes in the character or quantity of the Work as may be considered necessary or desirable to complete fully and acceptably the proposed construction in a satisfactory manner. Any extra or additional work within the scope of this Project must be accomplished by means of appropriate Field Orders and Supplemental Instructions or Change Orders. Surety waives its right to notice of changes in the Contract Terms and/or Contract Price.

16.4.2 Any changes to the terms of the Contract Documents must be contained in a written document, executed by the parties hereto, with the same formality and of equal dignity prior to the initiation of any work reflecting such change, except as provided for in Subparagraph 16.4.1,

above. This section shall not prohibit the issuance of Change Orders executed only by the City Manager as hereinafter provided.

16.5 Field Orders and Supplemental Instructions:
The CITY ENGINEER and the City's Project Manager, shall have the right to approve and issue Field Orders setting forth written interpretations of the intent of the Contract Documents and ordering minor changes in Work execution, providing the Field Order involves no change in the Contract Price or the Contract Time. CITY ENGINEER shall have the right to approve and issue Supplemental Instructions setting forth written orders, instructions, or interpretations concerning the Contract Documents or its performance, provided such Supplemental Instructions involve no change in the Contract Price or the Contract Time.

ARTICLE 17
CHANGE ORDERS

17.1 Changes in the quantity or character of the Work within the scope of the Project which are not properly the subject of Field Orders or Supplemental Instructions, including all changes resulting in changes in the Contract Price, or the Contract Time, shall be authorized only by Change Orders approved in advance by the City Manager.

17.2 CONTRACTOR shall not start work on any changes requiring an increase in the Contract Price or the Contract Time until a Change Order setting forth the adjustments is approved by the City Manager. Upon receipt of a Change Order, CONTRACTOR shall promptly proceed with the work set forth within the document.

17.3 In the event satisfactory adjustment cannot be reached for any item requiring a change in the Contract Price or Contract Time, and a Change Order has not been issued, CITY reserves the right at its sole option to either terminate the Contract as it applies to the items in question and make such arrangements as may be deemed necessary to complete the disputed work; to remove the disputed work from the scope of work and to process a unilateral change order reducing the contract price; or submit the matter in dispute to CITY ENGINEER. During the pendency of the dispute, and upon receipt of a Change Order approved by the City Manager, CONTRACTOR shall promptly proceed with the change in the Work involved and advise the CITY ENGINEER and City's Project Manager in writing within seven (7) calendar days of CONTRACTOR's agreement or disagreement with the method, if any, provided in the Change Order for determining the proposed adjustment in the Contract Price or Contract Time.

17.4 Under circumstances determined necessary by CITY, Change Orders may be issued unilaterally by the City Manager without consent of Surety.

ARTICLE 18
VALUE OF CHANGE ORDER WORK

18.1 The value of any work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:

18.1.1. By mutual acceptance of a lump sum which CONTRACTOR and the City Manager acknowledge contains a component for overhead and profit.

18.1.2. On the basis of the "cost of work," determined as provided in Sections 18.2 and 18.3, plus a CONTRACTOR's fee for overhead and profit that is determined as provided in Section 18.4.

18.2 The term "cost of work" means the sum of all direct costs necessarily incurred and paid by CONTRACTOR in the proper performance of the Work described in the Change Order. Except as otherwise may be agreed to in writing and approved by the City Manager, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items and shall not include any of the costs itemized in Section 18.3.

18.2.1. Payroll costs for employees in the direct employ of CONTRACTOR in the performance of the work described in the Change Order under schedules of job classifications agreed upon by CITY and approved by the City Manager and CONTRACTOR. Payroll costs for employees not employed full time on the work covered by the Change Order shall be apportioned on the basis of their time spent on the work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workers' or workmen's compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay application thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing the work after regular working hours, on Sunday or legal holidays shall be included in the above to the extent authorized by the City Manager.

18.2.2. Cost of all materials and equipment furnished and incorporated in the work, including costs of transportation and storage thereof, and manufacturers' field services required in connection therewith. All cash discounts shall accrue to CONTRACTOR unless CITY deposits funds with CONTRACTOR with which to make payments, in which case the cash

discounts shall accrue to CITY. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment shall accrue to CITY and CONTRACTOR shall make provisions so that they may be obtained. Rentals of all construction equipment and machinery and the parts thereof whether rented from CONTRACTOR or others in accordance with rental agreements approved by CITY ENGINEER and the costs of transportation, loading, unloading, installation, dismantling and removal thereof, all in accordance with the terms of said agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the work.

18.2.3. Payments made by CONTRACTOR to Subcontractors for work performed by Subcontractors. If required by CITY, CONTRACTOR shall obtain competitive bids from Subcontractors acceptable to CONTRACTOR and shall deliver such bids to CITY ENGINEER who will then determine which bids will be accepted. If the Subcontract provides that the Subcontractor is to be paid on the basis of cost of the work plus a fee, the Subcontractor's cost of the work shall be determined in the same manner as CONTRACTOR'S cost of the work. All Subcontractors shall be subject to the other provisions of the Contract Documents insofar as applicable, including but not limited to the CITY'S False Claims Ordinance.

18.2.4. Cost of special engineers, including, but not limited to, engineers, architects, testing laboratories, and surveyors employed for services specifically related to the performance of the work described in the Change Order.

18.2.5. Supplemental costs including the following:

8.2.5.1 The proportion of necessary transportation, travel and subsistence expenses of CONTRACTOR's employees incurred in discharge of duties connected with the work except for local travel to and from the site of the work or to Contractor's home office or branch office.

18.2.5.2 Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workmen, which are consumed in the performance of the work, and cost less market value of such items used but not consumed which remains the property of CONTRACTOR.

18.2.5.3. Sales, use, or similar taxes related to the work, and for which CONTRACTOR is liable, imposed by any governmental authority, provided however, that the Contractor shall not be paid or, or reimbursed, the cost of fines and penalties levied by entities other than the City of Hallandale Beach.

18.2.5.4. Deposits lost for causes other than CONTRACTOR's negligence; royalty payments and fees for permits and licenses.

18.2.5.5. The cost of utilities, fuel and sanitary facilities at the site.

18.2.5.6. Receipted minor expenses such as telegrams, long distance telephone calls (except to Contractor's home office or branch offices), telephone service at the site, expressage and similar petty cash items in connection with the work.

18.2.5.7. Cost of premiums for additional bonds and insurance required because of changes in the work or default by the Contractor.

18.3 The term "cost of the work" shall not include any of the following:

18.3.1. Payroll costs and other compensation of CONTRACTOR's officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, lawyers, scheduling consultants, auditors, accountants, purchasing and contracting agents, expediters, timekeepers, clerks and other personnel employed or retained by CONTRACTOR or surety, whether at the site or in its principal or a branch office for general administration of the work and not specifically included in the agreed-upon schedule of job classifications referred to in Section 18.2.1., all of which are to be considered administrative costs covered by CONTRACTOR's fee.

18.3.2. Expenses of CONTRACTOR's principal and branch offices other than CONTRACTOR's office at the site.

18.3.3. Any part of CONTRACTOR's capital expenses, including interest on CONTRACTOR's capital employed for the work and charges against CONTRACTOR for delinquent payments.

18.3.4. Cost of premiums for all Bonds and for all insurance whether or not CONTRACTOR is required by the Contract Documents to purchase and maintain the same, except for additional bonds and insurance required because of cardinal changes in the work.

18.3.5. Costs due to the negligence or neglect of CONTRACTOR, any Subcontractors, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective work, disposal of materials or equipment wrongly supplied and making good any damage to property.

18.3.6. Other overhead or general expense costs of any kind and the cost of any item not specifically and expressly included in Section 18.2.

18.4 CONTRACTOR's fee allowed to CONTRACTOR for overhead and profit shall be determined as follows:

18.4.1. A mutually acceptable fixed fee or,

18.4.2. If none can be agreed upon, a fee based on the following percentages of the various portions of the cost of the work:

18.4.2.1. For costs incurred under Sections 18.2.1 and 18.2.2, CONTRACTOR's fee shall not exceed ten percent (10%).

18.4.2.2. For costs incurred under Section 18.2.3, CONTRACTOR's fee shall not exceed seven and one half percent (7.5%); and if a subcontract is on the basis of cost of the work plus a fee, the maximum allowable to the Subcontractor as a fee for overhead and profit shall not exceed ten percent (10%); and

18.4.2.3. No fee shall be payable on the basis of costs itemized under Sections 18.2.4 and 18.2.5, (except Section 18.2.5.3), and Section 18.3.

18.5 The amount of credit to be allowed by CONTRACTOR to CITY for any such change, which results in a net decrease in cost, will be the amount of the actual net decrease. When both additions and credits are involved in any one change, the combined overhead and profit, if otherwise allowed, shall be figured on the basis of the net increase or decrease, if any, however, CONTRACTOR shall not be entitled to claim lost profits for any Work not performed.

18.6 Whenever the cost of any work is to be determined pursuant to Sections 18.2 and 18.3, CONTRACTOR will submit in a form acceptable to CITY ENGINEER an itemized cost breakdown together with the supporting data.

18.7 Where the quantity of any item of the Work that is covered by a unit price is increased or decreased by more than twenty percent (20%) from the quantity of such work indicated in the Contract Documents, an appropriate Change Order shall be issued to adjust the unit price, if warranted.

18.8 Whenever a change in the Work is to be based on mutual acceptance of a lump sum, whether the amount is an addition, credit or no change-in-cost, CONTRACTOR shall submit an initial cost estimate acceptable to CITY ENGINEER and the City's Project Manager.

18.8.1. Breakdown shall list the quantities and unit prices for materials, labor, equipment and other items of cost.

18.8.2. Whenever a change involves CONTRACTOR and one or more Subcontractors and the change is an increase in the Contract Price, overhead and profit percentage for CONTRACTOR and each Subcontractor shall be itemized separately.

18.9 Each Change Order must state within the body of the Change Order whether it is based upon unit price, negotiated lump sum, or "cost of the work."

ARTICLE 19
TERMINATION FOR CONVENIENCE

19.1 The CITY may terminate the Contract for its convenience, at any time, with or without cause, upon thirty (30) days written notice to CONTRACTOR.

19.2 Upon such notice of termination, CONTRACTOR will immediately terminate its performance and turn over all of its work product (e.g. plans to the CITY).

19.3 CONTRACTOR will then submit a final statement to the CITY for all services performed (based on percentage of project completion) ten days after the date on the notice of termination for convenience.

19.4 The CONTRACTOR is precluded from recovering damages for loss of anticipated, but unearned profit on the Contract, as well as consequential damages.

ARTICLE 20
SHOP DRAWINGS

20.1 The CONTRACTOR shall submit Shop Drawings for all equipment, apparatus, machinery, fixtures, piping, wiring, fabricated structures and manufactured articles. The purpose of the Shop Drawings is to show the suitability, efficiency, technique of manufacture, installation requirements, details of the item and evidence of its compliance or noncompliance with the Bid Project.

20.2 The CONTRACTOR shall thoroughly review and check the Shop Drawings and each and every copy shall show this approval thereon.

20.3 If the Shop Drawings show or indicate departures from the Contract requirements, the CONTRACTOR shall make specific mention thereof in his letter of transmittal. Failure to point out such departures shall not relieve the CONTRACTOR from his responsibility to comply with the Bid Project.

20.4 The CITY ENGINEER'S approval of the Shop Drawings will be general and shall not relieve the CONTRACTOR of responsibility for the accuracy of such Drawings, nor for the proper fitting and construction of the work, nor for the furnishing of materials or work required by the Contract and not indicated on the Drawings. No work called for by Shop Drawings shall be performed until the said Drawings have been approved by the CITY ENGINEER. Approval shall not relieve the CONTRACTOR from responsibility for errors or omissions of any sort on the Shop Drawings.

20.5 The CONTRACTOR shall keep one set of Shop Drawings marked with the CITY ENGINEER'S approval at the job site at all times.

ARTICLE 21
PROGRESS PAYMENTS

All invoices and/or bills and/or requests for payments and/or application for payment are to be sent to the City Engineer and the City's Project Manager.

21.1 The CONTRACTOR may request payments for work completed at intervals of not more than once a month. The CONTRACTOR'S requisition shall show a complete breakdown of the project components, the quantities completed and the amount due, together with such supporting evidence as may be required by the CITY ENGINEER. Each requisition shall be submitted in triplicate to the CITY ENGINEER for approval. CITY shall make payment to the CONTRACTOR within 25 days after approval by the CITY ENGINEER of CONTRACTOR'S requisition for payment.

a) Overdue notice. The CONTRACTOR may send the City an overdue notice if the invoice is not paid or rejected within the time frame in Section 21.1, and four (4) business days following the delivery of overdue notice the payment required by the City shall be accepted, rejected or rejected in part.

21.2 Retainage: The CONTRACTOR agrees that ten percent (10%) of monies earned by CONTRACTOR shall be retained by CITY until fifty percent (50%) completion of the project. After 50% completion of the

project and prior to Final Payment, the Contractor may request a reduction of retainage to five percent (5%) of monies earned by CONTRACTOR. The CITY may retain amounts greater than those set forth above that are the subject of a good faith dispute pursuant to Federal Statute 255.078 (6), the subject of a claim brought pursuant to Section 255.05, Florida Statutes, or otherwise the subject of a claim or demand by the CITY or CONTRACOR.

21.3 The CITY may withhold in whole or in part, payment to such extent as may be necessary to protect itself from loss on account of:

21.3.1. Defective work not remedied.

21.3.2. Claims filed or reasonable evidence indicating probable filing of claims by other parties against the CONTRACTOR.

21.3.3. Failure of the CONTRACTOR to make payments properly to Subcontractors or for material or labor.

21.3.4 Damage to another Contractor not remedied.

When the above grounds are removed or resolved or the CONTRACTOR provides a surety bond or a consent of Surety, satisfactory to the CITY which will protect the CITY in the amount withheld, payment may be made in whole or in part.

ARTICLE 22
ACCEPTANCE AND FINAL PAYMENT

22.1 Upon receipt of written notice from the CONTRACTOR that the work is ready for final inspection and acceptance, the CITY shall within ten days make an inspection thereof. If the CITY finds the work acceptable under the Contract and the Contract work has been fully performed, payment shall be issued by the CITY, stating that the work required by the Contract has been completed and is accepted under the terms and conditions thereof.

22.2 Before issuance of the Final Certificate for Payment, the CONTRACTOR shall deliver to the CITY a complete release of all liens arising out of this Contract, or receipts in full in lieu thereof, and an Affidavit certifying that all suppliers and Subcontractors have been paid in full and that all other indebtedness connected with the work has been paid, and a consent of the Surety of Final Payment. The CITY may

withhold final payment under the same terms and conditions as set forth in Section 21.3 above.

22.3 If, after the work has been substantially completed, full completion thereof is materially delayed through no fault of the CONTRACTOR, the CITY shall, without terminating the Contract, make payment of the balance due for that portion of the work fully completed and accepted. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute waiver of claims.

22.4 The making and acceptance of the final payment shall constitute a waiver of all claims by the CITY, other than those arising from faulty or defective work, failure of the work to comply with requirements of the Contract Documents or terms of any special warranties required by the Contract Documents. It shall also constitute a waiver of all claims by the CONTRACTOR, except those previously made in writing and identified by the CONTRACTOR as unsettled at the time of the application for final payment.

ARTICLE 23
CITY'S RIGHT TO TERMINATE CONTRACT

23.1 If CONTRACTOR fails to begin the Work within fifteen (15) calendar days after the Project Initiation Date, or fails to perform the Work with sufficient workers and equipment or with sufficient materials to insure the prompt completion of the Work, or shall perform the Work unsuitably, or cause it to be rejected as defective and unsuitable, or shall discontinue the prosecution of the Work pursuant to the accepted schedule or if CONTRACTOR shall fail to perform any material term set forth in the Contract Documents or if CONTRACTOR shall become insolvent or be declared bankrupt, or commit any act of bankruptcy or insolvency, or shall make an assignment for the benefit of creditors, or for any other cause whatsoever shall not carry on the Work in an acceptable manner, CITY may give notice in writing to CONTRACTOR and its Surety of such delay, neglect or default, specifying the same. Nevertheless, Surety waives its right to notice pursuant to this paragraph. If CONTRACTOR, within a period of ten (10) calendar days after such notice, shall not proceed in accordance therewith, then CITY may neglect or default the CONTRACTOR and CONTRACTOR's failure to comply with such notice, terminate the services of CONTRACTOR, exclude CONTRACTOR from the Project site and take the prosecution of the Work out of the hands of CONTRACTOR, and appropriate or use any or all materials and equipment on the Project site as may be suitable and acceptable. In such case, CONTRACTOR shall not be entitled to receive any further payment until the Project is completed. In addition CITY may enter into an agreement for the completion of the Project according to the

terms and provisions of the Contract Documents, or use such other methods as in City's sole opinion shall be required for the completion of the Project according to the terms and provisions of the Contract Documents, or use such other methods as in City's sole opinion shall be required for the completion of the Project in an acceptable manner. All damages, costs and charges incurred by CITY, together with the costs of completing the Project and any fines or levies that may be assessed against the City by any governmental entity or by Broward County as a result of late completion of the Project, shall be deducted from any monies due or which may become due to CONTRACTOR. In case the damages and expenses so incurred by CITY shall exceed the unpaid balance, then CONTRACTOR shall be liable and shall pay to CITY the amount of said excess.

23.2 If after notice of termination of CONTRACTOR's right to proceed, it is determined for any reason that CONTRACTOR was not in default, the rights and obligations of CITY and CONTRACTOR shall be the same as if the notice of termination had been issued pursuant to the Termination for Convenience clause as set forth in Article 19.

ARTICLE 24
CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE CONTRACT

If CITY ENGINEER received CONTRACTOR's proper invoice and/or bill and/or request for payment and/or application for payment, and should CITY ENGINEER fail to review and approve or state in writing reasons for not approving, or for rejecting, of the Application for Payment within twenty-five (25) business days after it is presented, then CONTRACTOR shall provide CITY with written notice of same, and if CITY fails either to pay CONTRACTOR within four (4) business days after CITY receives CONTRACTOR's notice, CITY shall notify CONTRACTOR in writing of any objection to the Application for Payment, then CONTRACTOR shall, give a second written notice to CITY of such delay, neglect or default, specifying the same and if CITY, within a period of ten (10) calendar days after such second notice shall not remedy the delay, neglect, or default upon which the notice is based, then CONTRACTOR may stop work or terminate this Contract and recover from CITY payment for all work executed and reasonable expenses sustained therein plus reasonable termination expenses. In such event, the contract shall be deemed terminated for convenience, and CONTRACTOR shall be paid for all work executed and expenses incurred prior to termination in addition to termination settlement costs reasonably incurred by CONTRACTOR relating to commitments, which had become firm prior to the termination. Payment shall include reasonable profit for work/services performed. No payment shall be made for profit for work or services that have not been performed or for consequential damages.

ARTICLE 25
DIFFERING SITE CONDITIONS

In the event that during the course of the Work CONTRACTOR encounters subsurface or concealed conditions at the Project site which differ materially from those shown on the Contract Documents and from those ordinarily encountered and generally recognized as inherent in work of the character called for in the Contract Documents and Supplementary Conditions; or unknown physical conditions of the Project site, of an unusual nature, which differ materially from that ordinarily encountered and generally recognized as inherent in work of the character called for in the Contract Documents in the locales such as that where the work is to be done, CONTRACTOR shall, within twenty-four (24) hours of their discovery, notify CITY in writing of the existence of the aforesaid conditions. CITY shall, within two (2) business days after receipt of CONTRACTOR's written notice, investigate the site conditions identified by CONTRACTOR. If, in the sole opinion of CITY ENGINEER with the consent of City's Project Manager, the conditions do materially so differ and cause an increase or decrease in CONTRACTOR's cost of, or the time required for, the performance of any part of the Work, CITY ENGINEER shall recommend an equitable adjustment to the Contract Price, or the Contract Time, or both. If CITY and CONTRACTOR cannot agree on an adjustment in the Contract Price or Contract Time, the adjustment shall be referred to CITY ENGINEER for determination in accordance with the provision for resolving disputes. Should CITY ENGINEER determine that the conditions of the Project site are not so materially different to justify a change in the terms of the Contract, CITY ENGINEER shall so notify CONTRACTOR in writing, stating the reasons, and such determination shall be final and binding upon the parties hereto.

No request for an equitable adjustment or change to the Contract Price or Contract Time for differing site conditions shall be allowed if made after the date certified by CITY ENGINEER as the date of substantial completion.

ARTICLE 26
RESOLUTION OF DISPUTES

26.1 To prevent all disputes and litigation, it is agreed by the parties hereto that the CITY ENGINEER shall decide all questions, claims, difficulties and disputes of whatever nature which may arise relative to the technical interpretation of the Contract Documents and fulfillment of this Contract as to the character, quality, amount and value of any work done and materials furnished, or proposed to be done or furnished under or, by reason of, the Contract Documents and CITY ENGINEER's estimates and decisions upon all claims, questions, difficulties and disputes shall be final and binding to the extent provided in Section 26.2. Any claim, question, difficulty or dispute which cannot be resolved by mutual agreement of CITY and CONTRACTOR

shall be submitted to CITY ENGINEER in writing within twenty-one (21) calendar days. Unless a different period of time is set forth herein, CITY ENGINEER shall notify CONTRACTOR in writing of CITY ENGINEER's decision within twenty-one (21) calendar days from the date of the submission of the claim, question, difficulty or dispute, unless CITY ENGINEER requires additional time to gather information or allow the parties to provide additional information. All non-technical administrative disputes shall be determined by the CITY ENGINEER and the City's Contract Manager pursuant to the time periods provided herein. During the pendency of any dispute and after a determination thereof, CONTRACTOR and CITY shall act in good faith to mitigate any potential damages including utilization of construction schedule changes and alternate means of construction.

26.2 In the event the determination of a dispute under this Article is unacceptable to either party hereto, the party objecting to the determination must notify the other party in writing within ten (10) days of receipt of the written determination. The notice must state the basis of the objection and must be accompanied by a statement that any Contract Price adjustment claimed is the entire adjustment to which the objecting party has reason to believe it is entitled to as a result of the determination. Within sixty (60) days after a disputed invoice or during Final Completion of the Work, the parties shall participate in settlement discussions to address all objections to any determinations hereunder and to attempt to prevent litigation. Should any objection not be resolved, the parties retain all their legal rights and remedies provided under State law. This article shall not limit the CITY'S rights under the CITY'S False Claims Ordinance.

ARTICLE 27
APPLICABLE LAW AND VENUE

The parties expressly agree that this Contract shall be construed and interpreted in accordance with the laws of the State of Florida. Venue for adjudication of disputes and litigation concerning this CONTRACT shall be in Broward County, Florida.

BY ENTERING INTO THIS AGREEMENT, CONTRACTOR AND CITY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

Nothing in this Agreement is intended to serve as a waiver of sovereign immunity, or of any other immunity, defense, or privilege enjoyed by the City pursuant to Section 768.28 Florida Statutes.

ARTICLE 28
CONTRACT DOCUMENTS

28.1 This Contract incorporates by reference the following documents: the Bid Project including drawings (design plans) and specifications, the Notice for Bids, the Addenda to the Bid Project, the Bid Tender Form, the record of Contract awarded by the City of Hallandale Beach, the Contract, the Performance and Payment Bond, any additional documents the submission of which is required by this Bid Project, the Notice of Award, the Notice to Proceed, and the Purchase Order.

28.2 Where there is a conflict between any provision set forth within the General Conditions and a more stringent state or federal provision which is applicable to this Project, the more stringent state or federal provision shall prevail.

28.3 This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are not commitments, agreements, or understandings concerning the subject matter of these Contract Documents that are not contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.

28.4 By execution of this Agreement, CONTRACTOR does certify that CONTRACTOR has been duly authorized by delivery of this Agreement and all other documents, certificates, agreements, consents and receipts, and to take any and all other actions of any kind whatsoever in order to accomplish the purposes and undertakings of this Agreement

ARTICLE 29
NONDISCRIMINATION, EQUAL OPPORTUNITY AND AMERICANS WITH DISABILITIES ACT

CONTRACTOR shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded in whole or in part by CITY, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines and standards.

CONTRACTOR's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation (Broward County Code, Chapter 16 ½), gender identity, gender expression, national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully or appropriately used as a basis for service delivery.

CONTRACTOR shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, gender identity, gender expression, national origin, marital status, political affiliation, or physical or mental disability. In addition, CONTRACTOR shall take affirmative steps to ensure nondiscrimination in employment against disabled persons. Such actions shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions or employment, training (including apprenticeship, and accessibility).

CONTRACTOR shall take affirmative action to ensure that applicants are employed and employees are treated without regard to race, age, religion, color, gender, sexual orientation (Broward County Code, Chapter 16 ½), gender identity, gender expression, national origin, marital status, political affiliation, or physical or mental disability during employment. Such actions shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff; termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

CONTRACTOR shall not engage in or commit any discriminatory practice in violation of the Broward County Human Rights Act (Broward County Code, Chapter 16 ½) in performing any services pursuant to this Agreement.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: CITY OF HALLANDALE BEACH through its authorization to execute same by COMMISSION action on the 6th day of May, 2013, signing by and through its City Manager, duly authorized to execute same, and Inland Construction & Equip., signing by and
(name of contractor)
through its Vice President duly authorized to execute same.
(title of authorized officer)

CITY

ATTEST:

City Clerk

CITY OF HALLANDALE BEACH

By
Renee C. Miller, City Manager

6 day of May, 2013.

Approved as to form by
City Attorney

By
V. Lynn Whitfield, City Attorney

CONTRACTOR MUST EXECUTE THIS CONTRACT AS INDICATED BELOW. USE CORPORATION OR NONCORPORATION FORMAT, AS APPLICABLE.

(If incorporated sign below).

CONTRACTOR

ATTEST:

Inland Construction & Equipment, Inc.
(Name of Corporation)

Linda A Shawver
(Secretary)

By Vice President
(Signature and Title)

(Corporate Seal)

Chad Bruckschen, Vice President
(Type Name and Title Signed Above)

2nd day of May, 2013.

(If not incorporated sign below).

CONTRACTOR

WITNESSES:

_____ _____
(Name)

_____ By _____
(Signature)

_____
(Typed Name Signed Above)

_____ day of _____, 20____.

CITY REQUIRES THREE (3) FULLY-EXECUTED CONTRACTS.

FORM CERTIFICATE OF INSURANCE

A form Certificate of Insurance will be provided as specified in the bid and/or RFP.

ACORD

CERTIFICATE OF LIABILITY INSURANCE

OP ID: JC

DATE (MM/DD/YYYY) 05/02/2013

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 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).

PRODUCER
Brown Insurance Services
1418 W. 23rd Street Suite 200
Panama City, FL 32405
Mike W. Brown

Phone: 850-215-5331
Fax: 850215-5360

CONTACT NAME: Janis Laycock
PHONE (A/C, No, Ext): 850-215-5347 FAX (A/C, No): 850-215-5360
E-MAIL ADDRESS: jlaycock@browninsuranceservices.net
PRODUCER CUSTOMER ID #: INLAN-1

INSURED
Inland Construction
& Equipment Inc.
309 East 11th Street
Panama City, FL 32401

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Travelers P & C Co of America	25674
INSURER B : Travelers Ind Co of America	25666
INSURER C : Commerce and Industry Ins Co	19410
INSURER D : Navigators Management Co Inc	
INSURER E :	
INSURER F :	

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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR X X GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY [ ] PRO-JECT [ ] LOC	X		OL06800937 MARINE GENERAL LIABILITY MARINE CONTRACTORS LEGAL	09/16/2012	09/16/2013	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG Ded.	$ 1,000,000 $ 100,000 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $ 2,500
B	AUTOMOBILE LIABILITY X ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS X HIRED AUTOS X NON-OWNED AUTOS			BA3C202714	09/16/2012	09/16/2013	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
D	UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DEDUCTIBLE X RETENTION $ 25,000			12-L5850-02	09/13/2012	09/16/2013	EACH OCCURRENCE AGGREGATE	$ 4,000,000 $ 4,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N [Y] If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		WC 005865831	04/15/2013	04/15/2014	X WC STATU-TORY LIMITS [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,000 $ 1,000,000 $ 1,000,000
A	Equipment Floater Leased/Rented-ACV			660-9937LA137 $2500/CRANES $10,000 DED	09/16/2012	09/16/2013	Aggregate Per Item	500,000 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

A1A Watermain Project
FY2012-2013-004: A1A Watermain Project
Certificate holder included as additional insured to the General Liability policy.

CERTIFICATE HOLDER

CITYHAL

City of Hallandale
City Clerk's Dept - Exec Offic
400 S Federal Highway 2nd Fl
Hallandale Beach, FL 33009

CANCELLATION

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

© 1988-2009 ACORD CORPORATION. All rights reserved.

The ACORD name and logo are registered marks of ACORD

FORM OF PERFORMANCE AND PAYMENT BOND

KNOWN ALL MEN BY THESE PRESENTS:

That we Inland Construction and Equipment, Inc., as Principal, hereinafter called CONTRACTOR, and The Ohio Casualty Insurance Company Surety, are bound to the City of Hallandale Beach, Florida, as Obligee, hereinafter called CITY in the amount of Nine Hundred Seventy-Six Thousand Two Hundred Seventy-Three & No/100-- Dollars ($ 976,273.00) for the payment whereof CONTRACTOR and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, CONTRACTOR has by written agreement entered into a Contract, Bid/Contract No.: FY2012-2013-004, awarded the 1st day of May, 20 13, with CITY for Hallandale for which Contract is by reference made a part hereof, and is hereafter referred to as the Contract;

THE CONDITION OF THIS BOND is that if the CONTRACTOR:

1. Performs the Contract between the CONTRACTOR and the CITY for Public Work Improvements for the A1A Watermain Project, the Contract being made a part of this Bond by reference, at the times and in the manner prescribed in the Contract; and

2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying CONTRACTOR with labor, materials, or supplies, used directly or indirectly by CONTRACTOR in the prosecution of the work provided for in the Contract; and

3. Pays CITY all losses, damages, expenses, costs and attorneys fees including appellate proceedings, that CITY sustains because of default by CONTRACTOR under the Contract: and

4. Performs the guarantee of all work and materials furnished under the Contract for the time specified in the Contract, then this Bond is void; otherwise it remains in full force.

This Bond shall continue in effect for one year after completion and acceptance of the work. The Surety hereby waives notice of and agrees that any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the Contract or the changes does not affect Surety's obligation under this Bond.

Whenever CONTRACTOR shall be, and declared by CITY to be, in default under the Contract, the CITY having performed CITY'S obligations thereunder, the surety may promptly remedy the default, or shall promptly:

4.1. Complete the Contract in accordance with its terms and conditions; or

4.2. Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible Bidder, or if the CITY elects, upon determination by the CITY and Surety jointly of the lowest responsible Bidder, arrange for a Contract between such Bidder and CITY, and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Contract price", as used in this paragraph, shall mean the total amount payable by CITY to CONTRACTOR under the Contract and any amendments thereto, less the amount properly paid by CITY to CONTRACTOR.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the CITY named herein and those persons or corporations provided for in Section 255.05, Florida Statutes, or their heirs, executors, administrators or successors.

Any action under this Bond must be instituted in accordance with the Notice and Time Limitations provisions prescribed in Section 255.05(2), Florida Statutes.

Signed and sealed this 1st day of May, 2013.

ATTEST:

(Secretary)

Inland Construction and Equipment, Inc.
(Name of Corporation)

By
President (Signature and Title)

(Corporate Seal)

Michael Hobbs, Jr., President
(Type Name and Title Signed Above)

IN THE PRESENCE OF:

INSURANCE COMPANY:

By
Agent and Attorney-in-Fact

Address: 1418 W. 23rd St Suite 200
(Street)
Panama City, FL 32405
(City/State/Zip Code)

Telephone No.: 850-215-5335

THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS PRINTED ON RED BACKGROUND.
This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Certificate No. 5701388

American Fire and Casualty Company
The Ohio Casualty Insurance Company
Liberty Mutual Insurance Company
West American Insurance Company

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That American Fire & Casualty Company and The Ohio Casualty Insurance Company are corporations duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Jo M. Chonko; Michael William Brown

all of the city of Panama City, state of FL each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, including but not limited to consents of surety for the release of retained percentages and/or final estimates on construction contracts or similar authority requested by the Department of Transportation, State of Florida, and the execution of such undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 14th day of December, 2012.

American Fire and Casualty Company
The Ohio Casualty Insurance Company
Liberty Mutual Insurance Company
West American Insurance Company

By: Gregory W. Davenport
Gregory W. Davenport, Assistant Secretary

STATE OF WASHINGTON ss
COUNTY OF KING

On this 14th day of December, 2012, before me personally appeared Gregory W. Davenport, who acknowledged himself to be the Assistant Secretary of American Fire and Casualty Company, Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at Seattle, Washington, on the day and year first above written.

By: KD Riley
KD Riley, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of American Fire and Casualty Company, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV – OFFICERS – Section 12. Power of Attorney. Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII – Execution of Contracts – SECTION 5. Surety Bonds and Undertakings. Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes Gregory W. Davenport, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization – By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, David M. Carey, the undersigned, Assistant Secretary, of American Fire and Casualty Company, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 1st day of May, 2013.

By: David M. Carey
David M. Carey, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, bank deposit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.