

MASTER LEASE AND OPERATING AGREEMENT  
BETWEEN PINELLAS COUNTY, STAR-TEC ENTERPRISES, INC. AND PINELLAS COUNTY  
INDUSTRIAL DEVELOPMENT AUTHORITY, FOR THE OPERATION OF THE TAMPA BAY  
INNOVATION CENTER BUSINESS INCUBATOR

**This Master Lease and Operating Agreement (this “Agreement”)** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023 (“Effective Date”) by and between Pinellas County a political subdivision of the State of Florida (“COUNTY”), STAR-TEC Enterprises, Inc. a Florida not-for-profit corporation (“STAR-TEC”), and Pinellas County Industrial Development Authority (d/b/a the Pinellas County Economic Development Authority), an industrial development authority created by Pinellas County, Florida (“PCEDA”) each individually referred to as “Party” and jointly referred to as “Parties”.

**WHEREAS**, in order to facilitate targeted job growth within Pinellas County a feasibility study was conducted in October 2013 which ultimately recommended that a 40,000-50,000 square-foot mixed-use business incubator facility in the City of St. Petersburg, Florida could support research, innovation and entrepreneurial activity in the technology, life sciences, marine sciences, and/or advanced manufacturing, and other business sectors (the “Incubator”); and

**WHEREAS**, following the feasibility study recommendation, a vacant parcel, having an area of 5.85 acres, more or less of land, identified as Parcel ID #30-31-17-77418-000-0010 & #30-31-17-77400-000-0010 and as more specifically described on Exhibit “A” attached hereto (the “Parcel”), was identified within St. Petersburg, Florida and the Parcel was acquired by the COUNTY from the City of St. Petersburg; and

**WHEREAS**, COUNTY has allocated funds to construct upon the Parcel a mixed use business incubator facility containing a building consisting of 46,570 square-feet of usable interior area, a parking lot, and accompanying structures, appurtenances, and improvements, all of which are itemized in Exhibit “B” attached hereto and incorporated herein (the “Incubator Facility”) to accommodate and support research, innovation and entrepreneurial activity in the technology, life sciences, marine sciences, advanced manufacturing, and other business sectors known as the Tampa Bay Innovation Center (the “Tampa Bay Innovation Center”). All plans, permits, and accompanying documents regarding construction of the Incubator Facility shall be available upon request; and

**WHEREAS**, the Incubator Facility will be completed by the COUNTY, and delivered to STAR-TEC in substantially the same condition as detailed within the construction documents provided to the EDA by the COUNTY and attached hereto in Exhibit “B”. Upon completion, STAR-TEC agrees hereunder to occupy and operate the Incubator Facility as provided herein; and

**WHEREAS**, in addition to dedicating funding to the construction of the Incubator Facility, COUNTY sought grant funding from the United States Economic Development Agency (“EDA”) to assist in the construction of the Incubator; and

**WHEREAS**, COUNTY issued a request for Letter of Interest from organizations to operate the Incubator; and

**WHEREAS**, STAR-TEC, which is a 501(c)(3) organization for federal income purposes, was selected as the most appropriate responder to the request for Letter of Interest; and

**WHEREAS**, a Memorandum of Understanding (“MOU”) between the PCEDA and STAR-TEC was formalized on October 20, 2016 to memorialize the relationship between the Parties and the future operation of the Tampa Bay Innovation Center; and

**WHEREAS**, the Parties amended the MOU on October 30, 2017 and subsequently amended on October 24, 2018 and September 9, 2021; and July 19, 2022; and

**WHEREAS**, the EDA approved COUNTY's application for the Financial Assistance Award for EDA investment in the Tampa Bay Innovation Center; and

**WHEREAS**, the Parties now desire to formally execute a Master Lease and Operations Agreement for operation and occupation of the Tampa Bay Innovation Center and Parcel; and

**WHEREAS**, the Parties intend for the business operations of the Tampa Bay Innovation Center to be self-funded following funding by the COUNTY during an initial funding period; and

**NOW, THEREFORE**, in consideration of the mutual covenants, terms and provisions contained herein, the parties agree as follows:

1. The Whereas clauses above are incorporated into and made a part of this Agreement.
2. GRANT/EDA COMPLIANCE. STAR-TEC, COUNTY and PCEDA acknowledge that the Premises, as defined in Section 3 below, were improved, in part, with federal government funds pursuant to a Financial Assistance Award (Award) from the EDA. STAR-TEC, COUNTY and PCEDA further acknowledge that the EDA's regulations at 13 C.F.R. Part 300 (the "Regulations") provide current and ongoing requirements regarding the Premises because federal funds are involved. As applicable, STAR-TEC agrees to abide by and comply with such applicable requirements; provided, however, that, as between STAR-TEC, COUNTY and PCEDA, the terms of this Agreement shall control as to the rights and responsibilities of the parties, notwithstanding the requirements of the Regulations. As to the Leased Premises, the Regulations obligate STAR-TEC, COUNTY and PCEDA to comply with and abide by the following requirements throughout and at all times during the Term of this Agreement:
  - a) STAR-TEC, COUNTY and PCEDA will comply with and abide by all federal, state and local environmental laws applicable to the Premises throughout the Term of this Agreement.
  - b) STAR-TEC, COUNTY and PCEDA will comply with and abide by all federal, state and local non-discrimination laws, ordinances and requirements specifically including the provisions of the EDA Civil Rights regulation at 13 C.F.R. §302.20 throughout the Term of this Agreement.
  - c) STAR-TEC, COUNTY and PCEDA covenant and agree that throughout the Term, the use and occupancy of the Premises will at all times be in strict compliance with all governmental regulations, be they federal, state or local, that pertain to the use and storage of hazardous materials and substances and STAR-TEC shall, in addition to the indemnifications granted in Section 30 hereof, save and hold COUNTY free, harmless and indemnified from any penalty, fine, liability, cost or charge whatsoever which COUNTY may incur by reason of STAR-TEC's failure to comply with this Paragraph. Such covenants, however, shall not apply to any condition that existed at the time STAR-TEC first took possession of any part of the Premises, or which is caused or results from acts of others, including COUNTY.
  - d) STAR-TEC, COUNTY and PCEDA acknowledge that, pursuant to the EDA Regulation at 13 C.F.R. § 314.3, the Lease must be made for "adequate consideration" as that term is defined in the Regulations. STAR-TEC, COUNTY and PCEDA agree and confirm, pending anticipated approval from the EDA, that the rent required in the Lease is for fair market value, as adjusted, in EDA's sole discretion, by any services, property exchanges, contractual commitments, acts

of forbearance or other valuable considerations that are in furtherance of the authorized purposes of the Investment Assistance which have been or will be received by COUNTY from STAR-TEC and their activities.

- e) STAR-TEC agrees to only use the Premises as expressly provided in this Agreement and for no other purpose throughout the Term of this Agreement. STAR-TEC acknowledges that the Use is permitted and authorized by the EDA Award and that COUNTY and STAR-TEC must comply with and abide by this permitted and authorized Use as to the Premises.
  - f) STAR-TEC acknowledges and agrees that at all times throughout the Term of this Agreement, STAR-TEC or a subtenant of STAR-TEC, as applicable, shall maintain in full force and effect property insurance for the full replacement value of the improvements and build-outs made directly by STAR-TEC on the Premises in addition to the insurance requirements outlined in Section 29.
  - g) COUNTY acknowledges and agrees that at all times throughout the Term of this Agreement, COUNTY shall maintain in full force and effect property insurance for the full replacement value of the Incubator Facility.
3. LEASED PREMISES. In consideration of the rent hereinafter agreed to be paid by STAR-TEC to COUNTY, and in consideration of the covenants of the respective Parties hereto, each to the other to be performed by them at the time and in the manner hereinafter provided, COUNTY does hereby lease and let unto STAR-TEC, and STAR-TEC does hereby lease from COUNTY, Parcel and the Incubator Facility (hereinafter referred to, collectively, as the "Premises" as described in Exhibit "A" and Exhibit "B").
4. TERM AND RENEWAL. Subject to, and upon the conditions set forth herein, including any exhibit or addendum hereto, the initial term (the "Initial Term", and, together with any Renewal Term, collectively, the "Term") of this Agreement shall commence on the later of the date STAR-TEC takes possession of the Premises or October 1, 2023 (the "Commencement Date") and terminate on September 30, 2033. Should STAR-TEC take possession prior to October 1, 2023, the Commencement Date shall be set forth in a rent commencement date addendum. For all subsequent renewal terms, the commencement date shall be October 1.

Subject to COUNTY approval, which will not be unreasonably withheld, STAR-TEC may request up to four (4) additional successive terms of five (5) years each, ("Renewal Term(s)") under the same terms and conditions as set forth herein. STAR-TEC may exercise the aforesaid options to renew by notifying the Director, Pinellas County Economic Development Department in writing not less than one hundred and eighty (180) days prior to the expiration date of the then current Term. COUNTY shall, in writing, approve or disapprove of any additional term within ninety (90) days.

5. RENT. STAR-TEC agrees to pay COUNTY Annual Base Rent ("Base Rent") for the Premises during the Term beginning on the Commencement Date. All other payments due under this Agreement may be deemed delinquent and subject to a late fee without further notice or demand, as provided for in Section 42a of this Agreement if payment is received after the tenth (10<sup>th</sup>) day of each year.
- a) Annual Rate. During the Term of the Lease, STAR-TEC will pay to COUNTY Base Rent in an amount equal to \$1.00 per annum.

- b) Time and Place of Payment. The Base Rent shall be due and payable, in advance, on the first (1<sup>st</sup>) day of October each calendar year during the Term. STAR-TEC will pay the Rent to the “Board of County Commissioners” at the COUNTY’s address that appears in Section 31 or to such other place as COUNTY may hereinafter designate in writing. STAR-TEC’s covenant to pay Rent will be subject to the default remedies reserved herein.
- c) If STAR-TEC is tax exempt and loses tax exempt status, STAR-TEC shall pay, together with Rent due under this Agreement, an amount equal to all sales, use, excise and other taxes now, or hereinafter, imposed by any lawful authority on all amounts due or required under this Agreement and classified as Rent by any such authority.
6. PREMISES USE AND OPERATION. STAR-TEC shall have the sole right and authority to manage, operate, negotiate, execute, enter into, and administer any and all licenses, occupancy agreements, subleases, advertising agreements, supplier agreements, direct, and supervise the Premises within the guidelines established by this Agreement, the Regulations, the Annual Management Plan as detailed in Section 11 below, and the EDA Standard Terms and Conditions for Construction Projects as set forth on Exhibit “D”.
7. ASSIGNMENT AND SUB-LETTING. STAR-TEC may not assign its entire interest in this Lease without the prior written consent of COUNTY; provided, however, that STAR-TEC may sublease or license to third parties, any portion of the Premises, in STAR-TEC’s sole discretion, for purposes of operating the Premises. STAR-TEC will provide to the COUNTY, at least quarterly, the names of all new subtenants or licensees within the Premises.
8. FUNDING FOR OPERATIONS. PCEDA agrees to provide initial funding for STAR-TEC as follows, provided STAR-TEC faithfully performs all obligations under this Agreement:

For the period beginning on October 1, 2023 through September 30, 2024, (the “First Operation Year”), COUNTY agrees to pay a total sum of One Hundred Seventy-Five Thousand Dollars (\$175,000.00), payable in equal quarterly installments of Forty-Three Thousand Seven Hundred Fifty Dollars (\$43,750.00), due payable commencing on the 1<sup>st</sup> day of October, 2023.

For the period beginning on October 1, 2024 through September 30, 2025, COUNTY agrees to pay a total sum of One Hundred Twenty-Five Thousand Dollars (\$125,000.00), payable in equal quarterly installments of Thirty-One Thousand Two Hundred Fifty Dollars (\$31,250.00), due payable commencing on the 1<sup>st</sup> day of October, 2024.

For the period beginning on October 1, 2025 through September 30, 2026, COUNTY agrees to pay a total sum of One Hundred Thousand Dollars (\$100,000.00), payable in equal quarterly installments of Twenty-Five Thousand Dollars (\$25,000.00), due payable commencing on the 1<sup>st</sup> day of October, 2025.

STAR-TEC shall provide a quarterly report of services associated with the Funding provided for in this Section. Said reporting shall be in a form substantially similar to that which is attached hereto as Exhibit “F”.

Notwithstanding any other provision of this Agreement, the parties acknowledge and agree that any lack of Pinellas County Fiscal Year funding for operations as described in this Section 8 or elsewhere in this Agreement, will not trigger any right of the COUNTY to terminate this Agreement pursuant to Section 33 (Fiscal Non-Funding), or otherwise.

9. REVENUE. STAR-TEC shall collect all rental revenue generated from the use of the Premises, including rent collected for buildings or real property constructed or improved with EDA funds, fees charged in connection with Project operations, and the use or rental of real or personal property (the "Revenue"). The disposition of said Revenue shall be as follows:
- a. Incubator Account. STAR-TEC shall promptly deposit all Revenue, including the Funding provided for in Section 8 above, in a separate, segregated account maintained by STAR-TEC. STAR-TEC shall not commingle funds on deposit in the Incubator Account with any other funds. Any interest earned on the funds on deposit in the Incubator Account shall become part of the Incubator Account. STAR-TEC shall provide to the COUNTY copies of the bank statements for the Incubator Account within 30 days of the end of each quarter.
  - b. Program Income. In accordance with EDA Standard Terms and Conditions for Construction Projects set forth in Exhibit "D", all Revenue generated during the estimated useful life of the Premises must be used in the following order of priority:
    - i. Administration, operation, maintenance, and repair of Project facilities in a manner consistent with good property management practice and in accordance with established building codes and Section 15 herein.
    - ii. Economic development activities that are authorized for support by EDA, provided such activities meet the economic development purposes of the Public Works and Economic Development Act of 1965 (PWEDA) and are located within the designated project region.
    - iii. Any program income in excess of paragraphs i. and ii. of this Subsection that is generated during the period of performance must be deducted from total allowable costs incurred under the Federal award and all required cost sharing and voluntary committed cost sharing, including third-party contributions in accordance with 2 CFR §200.307(e)(1).
  - c. EDA Revenue Reporting. COUNTY has the right to audit the financial statements of STAR-TEC, based on STAR-TEC's Fiscal Year of July 1 to June 30, at the sole expense of COUNTY.

#### 10. NAMING RIGHTS.

- a) **ARK Innovation Center.** Notwithstanding the foregoing, COUNTY acknowledges and agrees that it has approved the granting of naming rights of the Premises to ARK INVESTMENT MANAGEMENT LLC under the name "ARK Innovation Center" as the building name and "Innovation Foundation Hall" as the event center name for a thirty (30) year period commencing on October 5, 2021 (the "Approved Naming Rights").

In the event this Agreement and/or the Lease is terminated with STAR-TEC, COUNTY agrees and acknowledges that STAR-TEC may dissociate the Approved Naming Rights from the Premises and may transfer the Approved Naming Rights to another building, as determined by STAR-TEC in its sole discretion. However, if STAR-TEC does not so dissociate the Approved Naming Rights from the Premises, then the Approved Naming Rights shall remain in place on the Premises throughout the approved 30-year period.

STAR-TEC may elect, during the term of this Agreement, to enter into naming rights agreements for any portion of the Premises, other than for the building and the event center that are subject to the Approved Naming Rights, upon such terms and conditions as STAR-TEC may agree, in STAR-TEC's sole discretion. STAR-TEC agrees to provide a list of all naming rights sponsors on an annual basis or as requested by the COUNTY.

In the event this Agreement and/or the Lease is terminated with STAR-TEC, COUNTY agrees and acknowledges that STAR-TEC may dissociate such additional naming rights from the Premises and may transfer such additional naming rights to another building, as determined by STAR-TEC in its sole discretion. However, if STAR-TEC does not so dissociate such additional naming rights from the Premises, then such additional naming rights shall remain in place on the Premises throughout the approved 30-year period.

b) **Revenue from Naming Rights.** Throughout the Term of this Agreement, STAR-TEC shall retain the revenue from STAR-TEC's granting of naming rights except for an amount equal to Two Million and 00/100 Dollars (\$2,000,000.00) which will be transferred by STAR-TEC to COUNTY solely for use as funds for construction of the Premises. No approval or consent of the COUNTY or PCEDA shall be required for STAR-TEC to retain all revenue from naming rights relating to the Premises, except as expressly set forth in this Section 10(b) and Section 9. STAR-TEC may apply such revenue toward any program or capital expense for the benefit and advancement of the Tampa Bay Innovation Center, in the sole discretion of STAR-TEC.

11. **ANNUAL MANAGEMENT PLAN.** STAR-TEC shall provide to COUNTY a copy of a management plan (the "Management Plan") within 30 days following the Commencement Date and every year thereafter which Management Plan shall include the following:

- a) STAR-TEC/client selection policy that includes a description of the types of businesses sought and any established selection criteria;
- b) STAR-TEC lease or license agreement (if applicable) that enumerates the shared services to be provided by STAR-TEC and COUNTY to any subtenant or licensee; delineates STAR-TEC's business assistance policy, including the provision of management, technical, and training assistance, and the Tampa Bay Innovation Center's graduation policy;
- c) Performance plan for the Tampa Bay Innovation Center that includes how the Tampa Bay Innovation Center will track the success of subtenants/licensees/clients, specifically identifying what performance measurement data the Tampa Bay Innovation Center proposes to collect from subtenants/licensees/clients and for what period of time during and after the service period the data will be collected. This performance plan should also state which members of any oversight or policy board for the Tampa Bay Innovation Center will be responsible for setting performance goals for it, selecting or approving selections of staff, establishing and reviewing policy, and monitoring performance.

12. **ANNUAL REPORTING.** In addition to the Annual Management Plan, for the period beginning on the Commencement Date through September 30, 2024, and every fiscal year thereafter, STAR-TEC shall provide COUNTY an annual performance report that contains, at a minimum, the following information:

- a) Amount of funds received from COUNTY.

- b) Number of current clients.
  - c) Number of graduates (annually and since inception).
  - d) Graduates that have merged or been acquired.
  - e) Number of clients' full / part-time employees and annual wages paid.
  - f) Capital raised by clients.
  - g) Client grants secured.
  - h) Space occupied (square footage leased) during and after graduation.
  - i) Number of firms that left or did not formally graduate.
  - j) Any additional information that would show performance and/or economic benefit to Pinellas County.
  - k) The private investment generated, jobs created, and jobs retained at the six-year and nine-year period following the grant award date of July 29, 2019 as set forth in The Government Performance and Results Act (GRPA) Data Collection Form (ED-915) attached hereto as Exhibit "G".
13. USE AND ACCESS. STAR-TEC covenants that the Premises during the Term of the Agreement shall be used and occupied as a Business Incubator/office space/etc. and for related uses, including, but not limited to, café/cafeteria and conference center uses. STAR-TEC shall have access to the Premises at all times.
14. CONDITION OF PREMISES. Except for the COUNTY's agreement to deliver the Premises in good and fully operational condition in accordance with the plans attached hereto on Exhibit "B," no agreement to alter, remodel, decorate, clean, or improve the Premises has been made between COUNTY and STAR-TEC. Subject to COUNTY's obligations regarding the buildout and delivery of the Premises as set forth in this Agreement, including, but not limited to Exhibit "B", STAR-TEC hereby agrees to accept the Premises in its "as is" condition as of the Commencement Date.
15. MAINTENANCE AND REPAIRS. The Premises operational, repair and maintenance expenses and the responsibility to maintain the structures and appurtenances in good condition shall be assumed by COUNTY and STAR-TEC as set forth below and further delineated in Exhibit "C" attached hereto. COUNTY reserves the right to review contracts and services provided by vendors hired by STAR-TEC for services outlined in this Section.

STAR-TEC, at its or its tenants sole cost and expense, shall at all times throughout the Term of this Agreement:

- a) Procure service contracts (including, without limitation, contracts for cleaning and trash removal, pest, and rodent control).
- b) Obtain services for water, sewer, electricity, gas, storm water, telecommunications, internet, cable, and all other utilities.

- c) Landscaping and lawn maintenance of the Premises, including regular pruning, trimming, fertilization, pest services, and replacement of dead plants and trees.
- d) Obtain electronic security alarm services.
- e) Tenant and subtenant buildouts, remodeling or non-structural improvements that are beyond the scope of the plans attached hereto on Exhibit "B". Any such remodeling or non-structural improvements are subject to COUNTY approval, which approval shall not be unreasonably withheld or conditioned, are to be constructed at the expense of STAR-TEC, including labor and material costs.
- f) Routine janitorial services in accordance with County's Service Level A-C, attached hereto as Exhibit "E".
- g) STAR-TEC FFE.
- h) Maintain, and operate sufficient lighting for the interior and exterior of the Premises.
- i) Provide routine and preventive maintenance, and repair all non-life and life safety systems, including heating, air conditioning, and ventilation systems for the comfortable use and occupancy of the Premises, electrical systems, plumbing systems, interior doors and locks, signs, breakroom and restroom fixtures and appliances.
- j) Repair, restore or replace all non-structural, non-mechanical, non-plumbing and non-electrical items and other items that are not required to be maintained, repaired or replaced by the COUNTY, as necessary to maintain the interior of the Premises above normal wear and tear for STAR-TEC's approved use.
- k) Maintain and coordinate services and inspection to life safety systems to include fire alarm/suppression systems and hood equipment (ASNL). STAR-TEC to retain and provide inspection reports to COUNTY as requested.
- l) Compliance with all laws, County ordinances, rules, and regulations of governmental and quasi-governmental agencies regarding facilities (including without limitation, state and federal ADA requirements) other than those that are the express responsibility of COUNTY.

COUNTY, at its sole cost and expense, shall at all times throughout the Term of this Agreement:

- a. Replace when needed all structural components of the Premises, including the foundation, walls, exterior doors and windows, and any structural components thereof.
- b. Replace when needed the HVAC units, roof, sidewalks, parking lots and other capital improvements required to operate the buildings and structures as outlined in Exhibit "C".
- c. Assist STAR-TEC by providing limited advisory project management services by County Staff, related only to mechanical, electrical and plumbing improvements performed prior to drywall and ceiling installation for original build-out of the Floor 1.5 (café) and Floor 2 (innovation partner space/s). Advisory project management services are limited to a



maximum of 16 hours for Floor 1.5 (café) and a maximum of 5 hours for each tenant build-out on Floor 2, for on or off-site meetings with STAR-TEC and its contractor for each tenant space. If project management services exceed the number of hours allotted herein, COUNTY reserves the right to charge STAR-TEC for costs incurred.

16. TAXES AND SPECIAL ASSESSMENTS. In the event that any ad valorem, sales or similar taxes or special assessments or fees, including but not limited to, storm water, surface water by governmental authorities which are levied upon the leased Premises due to the actions of STAR-TEC, then STAR-TEC shall pay all such taxes and special assessments so imposed.

17. ALTERATIONS & IMPROVEMENTS TO PREMISES.

- a. STAR-TEC shall make no structural change or alteration to the Premises without written consent of COUNTY, which consent shall not be unreasonably withheld or delayed, and STAR-TEC shall be responsible for any damages to the Premises caused by STAR-TEC, or its, employees, invitees, customers, clients or guests, ordinary wear and tear excepted. STAR-TEC shall pay for all charges for permitting, labor, services and materials used in connection with any improvements or repairs to the Premises undertaken by STAR-TEC. Modifications or improvements made during this Agreement Term shall become property of COUNTY upon expiration or termination of this Agreement unless STAR-TEC desires to remove said modifications or improvements which can be removed without damage or injury to the Premises. In the event the COUNTY does not desire to accept ownership of such modifications or improvements made by STAR-TEC upon the expiration or termination of this Agreement, STAR-TEC shall remove such modifications or improvement and restore the impacted areas to their original configuration at STAR-TEC'S sole cost and expense. With the written consent of the COUNTY, which consent shall not be unreasonably withheld or delayed, STAR-TEC may install fixtures relating to electricity and alternative power sources, including, not limited to, electric vehicle charging facilities, microgrids, and solar facilities.
- b. Nonstructural alterations may be made by STAR-TEC with COUNTY consent, which consent shall not be unreasonably withheld or delayed (subject to STAR-TEC complying with all codes and obtaining necessary permits) and may be removed or abandoned at STAR-TEC'S election when STAR-TEC vacates the Premises. In the event the COUNTY does not desire to accept ownership of such nonstructural alterations made by STAR-TEC, upon the expiration or termination of this Agreement, STAR-TEC shall remove such nonstructural alterations and restore the impacted areas to their original configuration at STAR-TEC'S sole cost and expense.
- c. STAR-TEC may make changes or alterations to security systems, low-voltage wiring, cabling or technology without the County's consent.
- d. Signage. COUNTY shall not participate in the cost of signage related to the Approved Naming Rights and funds provided by COUNTY may not be used for this purpose. Any signage related to naming rights of the Incubator Facility shall follow local and municipal ordinances that may govern such matters; provided, however, that all signage relating to the Approved Naming Rights has been approved by COUNTY pursuant to the signage plans set forth in the construction plans for the Incubator Facility.

18. PROPERTY OF TENANT. STAR-TEC shall, prior to the expiration of the Agreement, or any extension thereof, remove all personal property which it has placed in the Premises, provided STAR-TEC repairs all damages to the Premises caused by such removal, unless STAR-TEC

obtains the written consent of COUNTY to keep such property on the Premises after expiration or termination of the Agreement.

19. **DAMAGE OR THEFT OF PERSONAL PROPERTY.** STAR-TEC agrees that all personal property brought into the Premises shall be at the risk of STAR-TEC only, and COUNTY shall not be liable for theft thereof or any damage thereto occasioned by any acts of any tenants, other occupants of the building or any other person.

20. **NO ESTATE IN COUNTY'S OWNERSHIP INTEREST.** STAR-TEC has only a temporary leasehold interest in the Premises pursuant to the terms and conditions herein, which is not subject to levy and sale. Any security interest obtained in STAR-TEC'S leasehold shall not affect or encumber COUNTY's fee simple interest in the Premises.

21. **OBSERVANCE OF LAWS.** STAR-TEC agrees, at its own expense, to promptly comply with all requirements of any legally constituted public authority necessitated by reason of STAR-TEC'S occupancy of said Premises, including complying with all laws, regulations and ordinances concerning its operations, and obtaining and maintaining any and all permits and licenses to provide services pursuant to this Agreement; provided, however, that COUNTY shall at its sole expense, promptly cause the Premises to comply with all laws, regulations and ordinances concerning the structures upon the Premises, including, but not limited to, the Americans with Disabilities Act

22. **EMINENT DOMAIN.**

- a. In the event the whole or any substantial part of the Premises shall be taken or condemned by any competent authority for any public or quasi-public use or purpose, this Agreement shall terminate as of the date of the taking of possession or by the condemning authority, and Rent shall be apportioned as of said date.
- b. In the event less than a substantial part of the Premises shall be taken or condemned for any public or quasi-public use or purpose, or if any adjacent property or street shall be condemned or improved in such manner as to require the use of any part of the Premises or of the Building, then at the election of COUNTY expressed by delivery of written notice to STAR-TEC within ninety (90) days after said date of taking, condemnation or improvements, this Agreement shall terminate as of said date without any payment from COUNTY to STAR-TEC therefore, other than STAR-TEC'S share of damages from said taking as referenced herein.
- c. COUNTY shall be entitled to receive the entire award from any taking or condemnation without any payment to STAR-TEC, as provided for in Florida Statutes; provided, however, STAR-TEC shall be entitled to receive any award or portion of any award specifically designated to STAR-TEC pursuant to Florida Statutes.

23. **DAMAGE BY FIRE OR OTHER CASUALTY.**

- a. **Partial Destruction.** If the Premises shall be partially damaged by fire or other casualty, STAR-TEC shall provide written notice of the same to COUNTY as soon as practical thereafter (the "Casualty Notice"). If no such Casualty Notice is given, notice shall be deemed to be given on the date upon which COUNTY has actual knowledge of the fire or other casualty. Upon receipt of such notice, COUNTY shall determine, in its sole discretion, and upon consultation with third party construction experts, whether the repairs can be completed within one hundred eighty (180) days, and tender written notice of the same to STAR-TEC within thirty (30) days of the Casualty

Notice. Where such repairs can be completed within one hundred eighty (180) days, COUNTY shall commence to repair the damage and shall thereafter diligently pursue repair of the damage at the COUNTY's sole cost. Where such repairs cannot be completed within one hundred eighty (180) days, the damage shall be treated as a Substantial or Total Destruction and the terms and conditions of subparagraph B of this Paragraph 21 shall apply. COUNTY shall not be liable for any inconvenience or annoyance to STAR-TEC resulting in any way from such damage or the repair thereof, except that, subject to the provisions of the next section. COUNTY shall allow STAR-TEC a fair and reasonable diminution of Rent during the time and to the extent of, and proportionate to, the portion of the Premises rendered untenable, as reasonably determined by COUNTY.

- b. Substantial or Total Destruction. If the Premises, shall be (i) totally destroyed or damaged by casualty, or (ii) the Incubator Facility, whether the remainder of the Premises is damaged or not, should be damaged to the extent of fifty (50%) percent or more of the then monetary value thereof, or (iii) if the Premises, shall be so damaged or destroyed to such an extent that STAR-TEC is unable to conduct its business at the Premises in the ordinary course, as determined by STAR-TEC, in its sole discretion, and if the estimated time to repair or replace such damage or destruction exceeds one hundred eighty (180) days from the date of the Casualty Notice, then either party may terminate this Agreement by written notice to the other within thirty (30) days after the date of the Casualty Notice, with such termination to be effective as of the date of the Casualty Notice. If neither party terminates this Agreement as set forth above, COUNTY shall promptly repair or replace any damage or destruction to the Premises in accordance with Section 23a, above. The Rent shall abate until the Premises have been restored to their condition at the time of the occurrence of the damage: provided, however to the extent a portion of the Premises is restored, and STAR-TEC occupies the same, the abatement of Rent shall cease, and COUNTY shall allow STAR-TEC a fair and reasonable diminution of Rent during the time, and to the extent of, and proportionate to, the portion of the Premises remaining untenable.
  - c. COUNTY'S Termination Option. Notwithstanding the foregoing provisions of Subparagraph b of this Section 23, if such damage shall occur during the last twelve (12) months of the Term of this Agreement (or of any renewal Term), then in any of such events, COUNTY may, at its sole option and discretion, by written notice to STAR-TEC within thirty (30) days of the Casualty Notice, elect not to repair such damage and to cancel and terminate this Agreement effective as of a date of Casualty Notice. Upon the giving of such notice to STAR-TEC, the Term of this Agreement shall expire by lapse of time upon the third (3rd) day after such notice is given, and STAR-TEC shall vacate the Leased Premises and surrender the same to COUNTY as diligently as possible or within ninety (90) days of receipt of COUNTY'S notice of termination.
24. RIGHTS OF RECOVERY. COUNTY agrees to maintain all fire and extended coverage and material damage insurance which may be carried with respect to the Premises or to the property located therein endorsed with a clause substantially as follows: "This insurance shall not be invalidated should the insured waive in writing prior to a loss any or all rights of recovery against any Party for loss occurring to the property described herein."
25. DUTY TO MAINTAIN PREMISES. STAR-TEC shall at all times under the Agreement exercise best efforts to make repairs or notify COUNTY of the need for repairs as the COUNTY may be responsible to make under the Agreement.

From time to time during the Agreement, County may enter upon and inspect, examine, or assess the condition of the Premises, subject to the terms of Section 26 hereof.

In the event, this Agreement is terminated by either party, STAR-TEC shall be responsible to turn over the Premises to COUNTY in good condition subject to normal wear and tear. STAR-TEC may be charged back by COUNTY for any repairs or replacements not addressed as indicated herein and left in disrepair. In the alternative, COUNTY may insist repairs be made prior to STAR-TEC vacating the Premises.

26. ENTRY BY COUNTY. COUNTY may enter the Premises at reasonable hours to inspect the Premises to see that STAR-TEC is complying with all its obligations under the terms hereof. The COUNTY shall also be allowed to take and bring onto the Premises any and all needed materials and equipment that may be required to make repairs, into and through the Premises without being liable to STAR-TEC in any manner whatsoever, unless damage is caused by COUNTY'S negligence, subject to Section 768.28 Florida Statutes. Such repairs shall not unduly interfere with STAR-TEC'S business except as is naturally necessitated by the nature of the repairs being affected. During the time such work is being done in or about the Premises, the Rent provided herein shall in no way abate, and STAR-TEC waives any claim and cause of action against COUNTY for damages by reason of interruption to STAR-TEC'S business or loss of profits therefrom. COUNTY shall use its best efforts to notify STAR-TEC within 24 to 48 hours of COUNTY'S intent to enter Premises. In the event of emergency, the County may not provide prior notification.

Notwithstanding anything to the contrary in this Agreement, COUNTY shall not directly or indirectly access, attempt to access or permit any individuals to access any facilities or space within the Premises which may contain any information, data, software, technology, documents or products that are "Classified," "Confidential," "Secret," or "Top Secret," as defined under applicable federal law, rules, regulations, orders, policies and guidelines, including, without limitation, any facilities or space within the Premises designated in writing by STAR-TEC as "Secured Space." County shall maintain all such "Secured Space" designations in strict confidence and shall not disclose such designations unless such disclosure is needed in the event of an emergency or as required by law. COUNTY'S obligations under this Section 26, or any information related thereto to any individuals or entities without the prior written approval of STAR-TEC, which approval may be denied in STAR-TEC'S sole discretion. COUNTY shall comply with and not violate any applicable laws, regulations, rules, orders, policies and guidelines pertaining to classified information relating to national defense. COUNTY hereby acknowledges that the "Secured Space" represents areas of the Premises which may not be accessed, except by those persons who have certain federal government security clearances.

27. DAMAGE TO PREMISES. STAR-TEC shall be solely responsible for the cost and reimbursement to COUNTY for any damages arising from STAR-TEC's failure to maintain the Premises pursuant to the terms of Section 15 and Section 17 hereof.
28. MAINTENANCE AND REVIEW OF RECORDS. STAR-TEC shall maintain adequate records and accounts, including, but not limited to, property, personnel and financial records, and supporting documentation which shall enable ready identification of STAR-TECs cost of goods and use of funds for a period of six (6) years, hereinafter referred to as the "Audit Period", from the date of final payment to STAR-TEC under this Agreement or the termination thereof, whichever occurs later.

COUNTY and its authorized agents shall have the right, and STAR-TEC will permit COUNTY and its authorized agents, including but not limited to the County Internal Auditor,

to examine all such records, accounts and documentation and to make copies thereof, and excerpts or transcriptions therefrom, and to audit all contracts, invoices, materials, accounts and records relating to all matters covered by this Agreement, including but not limited to, personnel and employment records during the Audit Period. All such records, accounts and documentation shall be made available to COUNTY and its authorized agents for audit, examination or copying purposes at any time during normal business hours and as often as COUNTY may deem necessary during the Audit Period.

The COUNTY's right to examine, copy and audit shall pertain likewise to any audits made by any other agency, whether federal, state, or local. If STAR-TEC or COUNTY begins but fails to complete an audit during the Audit Period, then the Audit Period should be extended until audit findings are issued. This Section shall survive the expiration or termination of this Agreement.

29. INSURANCE. STAR-TEC must procure, pay for, and maintain during the term of this Agreement, insurance as set forth in Exhibit "H" "Insurance Requirements" attached hereto.
30. INDEMNIFICATION. STAR-TEC shall indemnify, hold harmless, and defend the COUNTY, PCEDA and the BOCC and the respective agents and employees of the same, all of the foregoing shall hereinafter collectively be referred to as the, "Indemnified Parties", from and against any and all liabilities, losses, claims, damages, demands, expenses or actions either at law or in equity, including court costs and attorney's fees, that may hereafter at any time be made or brought by anyone on account of personal injury, property damage, loss of monies, or other loss, allegedly caused or incurred, in whole or in part, as a result of any negligent, wrongful, or intentional act or omission, or based on any act of fraud or defalcation by STAR-TEC, its agents, subcontractors, assigns, heirs, and employees during performance under this Agreement. The extent of this indemnification shall not be limited in any way as to the amount or types of damages or compensation payable to any of the Indemnified Parties on account of any insurance limits contained in any insurance policy procured or provided in connection with this Agreement.

In any and all claims against any of the Indemnified Parties by any employee of STAR-TEC, any subcontractor, heir, assign or anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way as to the amount-or type of damages, compensation or benefits payable by or for the Agency or any subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts. Nothing herein shall be construed to extend any party's liability beyond that provided for in Section 768.28 Florida Statutes. The provisions of this Section shall survive the expiration or termination of this Agreement.

31. NOTICES. Any and all reports, notices, demands, consents, approvals, or other communication which are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given if transmitted by hand-delivery with receipt thereof by a nationally recognized overnight delivery service, or by certified mail posted prior to the expiration date for such notice, return receipt requested and first-class postage prepaid, to the following addresses:

If to COUNTY: Diana Sweeney, Deputy Director, Department of Administrative Services, 509 East Avenue South, Clearwater, FL 33756 13805 58<sup>th</sup> Ave. N., Clearwater, FL 33760

If to STAR-TEC: \_\_\_\_\_ Attention: \_\_\_\_\_

Tampa Bay Innovation Center: 501 1st Ave N, Suite 901 St. Petersburg, FL 33701

Attn: President & CEO

If to PCEDA: Executive Director, Pinellas County Economic Development Department, 13805 58<sup>th</sup> Ave. N., Clearwater, FL 33760

Or to such other address as a party may have specified in writing to the other party using the procedures contained in this Section 31. Notices sent (i) via hand delivery shall be deemed delivered when received; (ii) via overnight delivery by a nationally recognized overnight delivery service shall be deemed delivered on the next business day after deposit with such service; and (iii) via certified mail shall be deemed delivered on the date of receipt.

32. COMPLIANCE WITH APPLICABLE LAWS. STAR-TEC hereby covenants and agrees to comply with all applicable federal, state, and local laws, ordinances, rules, and regulations promulgated thereunder, relating to STAR-TEC's operations or activities upon the Premises.
33. FISCAL NON-FUNDING. Notwithstanding anything to the contrary contained in this Agreement, the Term of this Agreement is contingent upon the appropriation of funds by COUNTY to fulfill its requirements under this Agreement. In the event COUNTY terminates this Agreement based on fiscal non-funding, then such termination shall be without penalty or expense to COUNTY, except for obligations that have arisen prior to the termination date.
34. NONWAIVER. The provisions, terms and conditions of this Agreement shall not be construed as a waiver by the Board of County Commissioners of Pinellas County, Florida, of any rights provided for by any provision of law, including but not limited to Section 768.28, Florida Statutes.
35. EQUAL EMPLOYMENT OPPORTUNITY; NON-DISCRIMINATION. STAR-TEC shall comply with Pinellas County, Florida - Code of Ordinances and Laws, Part A, Chapter 30, Article II (Pinellas County Human Rights Ordinance) as amended, which prohibits illegal discrimination on the basis of actual or perceived race, color, sex, age, religion, national origin, disability, marital status, sexual orientation, or gender identity or expression, inemployment, public accommodations.

STAR-TEC shall also comply with the requirements of all applicable federal, state, and local laws, rules, regulations, ordinances, and executive orders prohibiting and/or relating to discrimination, as amended and supplemented. All of the aforementioned laws, rules, regulations, ordinances, and executive orders are incorporated herein by reference.

36. ADDITIONAL RIGHTS AND REMEDIES. Nothing contained herein shall be construed as a limitation on such other rights and remedies available to the parties under law or in equity which may now or in the future be applicable.
37. PUBLIC ENTITY CRIMES. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. STAR-TEC hereby represents and

warrants that it has not been convicted of a public entity crime, that it is not on the State of Florida's convicted vendor list, and that it is not prohibited from entering into this Agreement by Section 287.133, Florida Statutes. STAR-TEC further represents and warrants that it will not hire any professional, contractor, or supplier that is on the State of Florida's convicted vendor list.

38. ACCESS TO RECORDS; PUBLIC RECORDS ACT.

- a) The parties acknowledge and agree that the statement and provisions below are required by Florida Statute to be included in this Agreement. The inclusion of this statement and provisions below shall not be construed to imply that STAR-TEC has been delegated any governmental decision-making authority, governmental responsibility, or governmental function or that STAR-TEC is acting on behalf of County as provided under Section 119.011(2), Florida Statutes, or that the statement or provisions are otherwise applicable to STAR-TEC. As stated below, STAR-TEC may contact County's Custodian of Public Records with questions regarding the application of the Public Records Law; however, STAR-TEC is advised to seek independent legal counsel as to its legal obligations. County cannot provide STAR-TEC advice regarding its legal rights or obligations.
- b) If under this Agreement, STAR-TEC is providing services and is acting on behalf of County as provided under Section 119.011(2), Florida Statutes, STAR-TEC will comply with public records law, and agrees to:
  - i. Keep and maintain public records required by County to perform the services.
  - ii. Upon request from County's custodian of public records, provide County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided Chapter 119, Florida Statutes, or as otherwise provided by law.
  - iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if STAR-TEC does not transfer the records to County.
  - iv. Upon completion of the Agreement, transfer at no cost to County, all public records in possession of STAR-TEC or keep and maintain public records required by County to perform the service. If STAR-TEC transfers all public records to County upon completion of the Agreement, STAR-TEC shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If STAR-TEC keeps and maintains public records upon completion of the Agreement, STAR-TEC shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to County, upon request from County's custodian of public records, in a format that is compatible with the information technology system of County.

**IF STAR-TEC HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO COUNTY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**Phone: (727) 464-4485**

**Email: [jpeters@pinellascounty.org](mailto:jpeters@pinellascounty.org)**

**Mail or hand delivery:**

**Attn: Records Manager**

**509 East Avenue South**

**Clearwater, FL 33756**

Failure of STAR-TEC to comply with Chapter 119, Florida Statutes, and/or the provisions set forth above, where applicable, shall be grounds for immediate unilateral termination of this Agreement by County.

39. SURRENDER OF PREMISES. Upon termination of this Agreement, whether by lapse of time or otherwise, STAR-TEC shall surrender and vacate the Premises immediately and deliver possession thereof to COUNTY in a clean and good condition, ordinary wear excepted. Upon any termination which occurs other than by reason of STAR-TEC'S default, STAR-TEC shall remove from the Premises all furnishings, equipment, and records within one hundred twenty (120) days after such termination, provided that STAR-TEC shall repair all damage resulting from such removal and shall restore the Premises to a good condition, unless otherwise agreed by COUNTY. All other additions, decorations, fixtures, hardware, and all permanent improvements remaining, in or about the Premises upon termination remain COUNTY'S property and shall remain upon the Premises without compensation, allowance, or credit to STAR-TEC, whether placed there by STAR-TEC or by COUNTY, unless COUNTY directs their removal. Any and all property which may be removed from the Premises by COUNTY pursuant to the above or pursuant to law shall be conclusively presumed to have been abandoned by STAR-TEC and title thereto shall pass to COUNTY without any cost by setoff, credit or otherwise, and COUNTY may, at its option:

- a) accept title to such property in which event STAR-TEC shall be conclusively presumed to have conveyed such property to COUNTY under this Agreement as a bill of sale; or
- b) at STAR-TEC'S expense, dispose of such property in any manner that COUNTY shall choose.

In no event, however, shall COUNTY be responsible for the value, preservation, or safekeeping of such property. If COUNTY terminates this Agreement other than as a result of an event of default by STAR-TEC, then STAR-TEC and its subtenants will have 90 days to remove their trade fixtures, equipment, furniture and other personal property from the Premises.

40. ESTOPPEL CERTIFICATE. COUNTY shall, from time to time, upon not less than twenty (20) days prior written request by STAR-TEC, deliver to STAR-TEC a statement in writing certifying that:

- a. This Agreement is unmodified and in full force and effect, or, if there have been modifications, that the Agreement is modified and is in full force and effect; and
- b. The dates to which Rent and other charges have been paid and the amount of any Security Deposit; and
- c. STAR-TEC is not in default under any provision of this Agreement, or, if in default, a detailed description thereof.



41. COUNTY DEFAULT. COUNTY shall be in default under this Agreement if COUNTY has not commenced and pursued with reasonable diligence the cure of any failure of COUNTY to meet its obligations under this Agreement within thirty (30) days of the receipt of written notice from STAR-TEC. This grace period shall be extended if the default is of a nature that it cannot be completely cured within the thirty (30) day period solely as a result of non-financial circumstances outside of COUNTY'S control, provided that COUNTY has promptly commenced all appropriate actions to cure the default within the thirty (30) day period and such actions are thereafter diligently and continuously pursued by COUNTY in good faith. Upon the occurrence of an event of Default by COUNTY, which Default is not cured after notice as outlined herein, to the extent provided for or required herein, STAR-TEC reserves the right to Terminate this Agreement by providing 90 days' written notice or to seek monetary damages.
42. STAR-TEC EVENTS OF DEFAULT. The following monetary and non-monetary events shall constitute an event of default under this Agreement:
- a. MONETARY EVENT OF DEFAULT. The parties covenant and agree that if STAR-TEC fails to pay any installment of Rent or any other amount payable when due in accordance with the terms hereof prior to expiration of any applicable cure periods ("Monetary Default"), then STAR-TEC shall be in default of this Agreement; provided however, that COUNTY shall provide written notice to STAR-TEC of such failure and STAR-TEC will have ten (10) days from receipt of notice to cure such failure prior to a Monetary Default.
  - b. NON-MONETARY EVENTS OF DEFAULT. If STAR-TEC shall fail to materially comply with any other term, covenant or condition of this Agreement or fail, by omission to act when required hereunder, STAR-TEC, following all applicable cure periods shall be in default under this Agreement ("Non-Monetary Default") (Monetary Default and Non-Monetary Default may hereafter be collectively be referred to as "Default"); provided however that STAR-TEC shall be afforded an opportunity to cure such failure within thirty (30) days of written notice from COUNTY. This grace period shall be extended if the default is of a nature that it cannot be completely cured within the thirty (30) day period solely as a result of non-financial circumstances outside of STAR-TEC'S control, provided that STAR-TEC has promptly commenced all appropriate actions to cure the default within the thirty (30) day period and such actions are thereafter diligently and continuously pursued by STAR-TEC in good faith.
  - c. Prohibited Transfer. If STAR-TEC assigns, transfers, mortgages, encumbers, or sublets the Premises or its interest under this Agreement without prior written consent from COUNTY and the EDA, subject to the rights of STAR-TEC under Section 7 of this Agreement.
  - d. Compliance with Law. If STAR-TEC materially violates any federal, state, or local law pertaining to this Agreement and if such material violation is incurable, or if curable, not cured within thirty (30) days after STAR-TEC is notified or is made aware of such violation. This grace period shall be extended if the default is of a nature that it cannot be completely cured within the thirty (30) day period solely as a result of non-financial circumstances outside of STAR-TEC'S control, provided that STAR-TEC has promptly commenced all appropriate actions to cure the default within the thirty (30) day period and such actions are thereafter diligently and continuously pursued by STAR-TEC in good faith.

- e. Bankruptcy or Assignment to Creditors. STAR-TEC shall not make any general assignment for the benefit of creditors, and it is agreed between the Parties hereto that if STAR-TEC shall become a debtor, or seek the entry of an order for relief under the Federal Bankruptcy Code, or become insolvent, or materially unable to pay its debts as they mature, or take the benefit of any insolvency law, or if STAR-TEC'S leasehold interest under this Agreement shall be sold under any execution or process of law, or if a trustee in bankruptcy or a receiver be appointed or elected or had for STAR-TEC (whether under federal or state laws), or if said Premises shall be abandoned or deserted while the Rent is in arrears, or in the event STAR-TEC is in default of any material obligations beyond all applicable cure periods hereunder, then and in any such event, at COUNTY'S option and ten (10) days after COUNTY has given tenant written notice of such act, conditions or default, the said COUNTY may terminate this Agreement. Nothing contained hereinabove shall impair or affect COUNTY'S right to maintain summary proceedings provided for by law. If this Agreement shall be deemed terminated pursuant to such proceedings, COUNTY may immediately or at any time thereafter re-enter or repossess the Premises and remove all persons and property in a commercially reasonable manner therefrom in accordance with such proceedings and all applicable laws. COUNTY may elect to accept Rent from such receiver, trustee, or other judicial officer during the term of their occupancy in their fiduciary capacity without affecting COUNTY'S rights as contained in this Agreement, but no receiver, trustee, or other judicial officer shall ever have any right, title, or interest in or to the above-described property by virtue of this Agreement.
- f. Insurance. If STAR-TEC materially fails to maintain the insurance required by this Agreement or as may be required from time to time and such failure continues for a period of thirty (30) days after notification from the insurer and/or COUNTY.
- g. Corporate Status. If STAR-TEC materially fails to maintain itself as a not-for-profit STAR-TEC under the laws of the State of Florida or the equivalent of the same.
- h. Tax Exemption. If STAR-TEC fails to maintain itself as a tax-exempt charitable organization under Section 501(c)(3) of the Internal Revenue Code, or the equivalent of the same.
- i. Condition of Facility. STAR-TEC shall materially fail to maintain, under the terms of this Agreement, the Premises on a regular basis for the intended use unless STAR-TEC's use is disturbed by reason of war, strikes, riots, civil unrest, hurricanes, or other natural disasters or events typically described as "Acts of God".

#### 43. REMEDIES UPON DEFAULT OF STAR-TEC.

- a. Termination. If at any time an Event of Default, as set forth above, shall occur and such Event of Default has not been cured within any applicable cure period set forth herein, it shall be lawful for COUNTY, upon election, to declare the Agreement terminated and to re-enter the Premises and the improvements situated thereon, or any part thereof or thereon, either with or without process of law, STAR-TEC hereby waiving any demand for possession of such Premises and any and all improvements then situated thereon, or COUNTY may have such other remedy as the law or this Agreement may afford.
- b. Possession of Premises. Upon the termination of this Agreement, at such election of COUNTY, or in any other way, STAR-TEC shall immediately surrender and deliver up the Premises and improvements peaceably to COUNTY. If STAR-TEC shall hold such

- Premises, or any part thereof, for any period (including a day) after the termination date, it shall be subject to eviction or removal in accordance with the law. Any damage which may occur to the Premises due to STAR-TEC's removal of its equipment and/or personal property, shall be repaired by STAR-TEC at its expense and to COUNTY's reasonable satisfaction. Furthermore, the entirety of the Premises shall be delivered in good condition subject to normal wear and tear and STAR-TEC shall make repairs as required under the Agreement and shall at no point in time neglect their duty to maintain the Premises.
- c. Preservation of Rights. Nothing contained herein shall be construed as precluding COUNTY from having such remedy as may be and become necessary in order to preserve its rights in the Premises and in this Agreement, even before the expiration of the grace or notice periods provided for in this Agreement if under particular circumstances then existing, the allowance of such grace or the giving of such notice would prejudice or endanger the rights and estate of COUNTY in this Agreement and to the Premises.
  - d. Limitation of Liability. Under no circumstances shall STAR-TEC be entitled to compensation from COUNTY for any permanent improvements made by STAR-TEC to the Premises.
  - e. Other Remedies. COUNTY shall have all other rights and remedies available at law or in equity.
44. AUTHORITY TO EXECUTE. The person(s) executing this Agreement warrant they have the authority to so execute this Agreement and the party on whose behalf they are signing. STAR-TEC is a Florida not-for-profit corporation, and STAR-TEC, represents and warrants that STAR-TEC is duly organized and validly existing, that STAR-TEC's execution of this Agreement has been authorized by all necessary parties and is validly executed by an authorized officer or agent of STAR-TEC, and that this Agreement is binding upon and enforceable against STAR-TEC in accordance with its terms.
45. SUCCESSORS IN INTEREST, SUBORDINATION AND ATTORNMENT. Each and all of the covenants, agreements, promises, obligations, conditions, and provisions of this Agreement shall inure to the benefit of and shall bind the assigns of STAR-TEC should COUNTY permit same.
46. RELATIONSHIP OF PARTIES. Nothing herein contained shall be deemed to constitute either of the parties hereto as a joint venture, partner, or agent of the other, and neither party shall claim any status which is contrary to the terms of this Agreement. STAR-TEC is not acting on behalf of COUNTY when carrying out its activities under this Agreement, and STAR-TEC shall not hold itself out as a County Department nor STAR-TEC's employees as COUNTY employees. Further, STAR-TEC acknowledges that it has not been delegated any statutorily authorized function from COUNTY.
47. MULTIPLE COUNTERPARTS. This Agreement may be executed in more than one counterpart, all of which taken together shall constitute one and the same original, and the execution of separate counterparts by the parties shall bind the parties as if they had each executed the same counterpart.
48. WAIVER. One or more waivers of any covenant or condition by either Party shall not be construed as a waiver of a subsequent breach of the same covenant or condition by the other Party, and the

consent or approval by either Party to or of any act by the other Party requiring consent or approval shall not be construed as a consent or approval to or of any subsequent similar act by the other Party.

49. CAPTIONS. The headings or captions of Sections are for convenience only, are not part of this Agreement, and shall not affect the interpretation of this Agreement.
50. TIME. Time is of the essence as to this Contract. Any reference herein to time periods shall refer to calendar days, and any time period provided for herein which shall end on a Saturday, Sunday or County or legal holiday shall extend to 5:00 p.m. of the next full business day.
51. EXHIBITS. All exhibits attached to this Agreement at the time of execution are made a part hereof and are incorporated herein by reference.
52. SMOKING. This building is smoke free. Any smoking must be done outside of the building. If STAR-TEC, its agents, employees, or servants wish to smoke outside of a building, they will be required to do so away from all building entrances.
53. AMERICANS WITH DISABILITIES ACT (ADA). COUNTY warrants that the Premises are in and shall be maintained in compliance with the Federal Americans with Disabilities Act (ADA) and any similar Act adopted by the State of Florida at COUNTY'S expense, at the commencement of this Agreement.
54. ASBESTOS. COUNTY warrants that to the best of its knowledge, there is no friable asbestos in the Building or the Premises at the commencement of this Agreement and that if any friable asbestos is discovered in the Building or the Premise during this Lease Term, the COUNTY shall, at its sole cost and expense, remove or encapsulate said asbestos within a reasonable period of time.
55. RADON GAS. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed Federal and State guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your County Public Health Department.
56. HAZARDOUS SUBSTANCES. STAR-TEC shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in Premises other than those Hazardous Substances that are used in the ordinary course of any parties or subtenants operating within the Premises or in amounts customarily used in the ordinary course of office work, research, development, or "clean room" research, in reasonable quantities. STAR-TEC shall not knowingly do, nor authorize anyone else to do, anything affecting Premises that is in material violation of any Environmental Law. The preceding sentences shall not apply to the presence, use, or storage on Premises of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal maintenance use.

COUNTY shall promptly give STAR-TEC written notice of any investigation, claim, demand, lawsuit, or other action by any governmental or regulatory agency or private party involving Premises, and any Hazardous Substance or Environmental Law of which COUNTY has actual knowledge thereof. If COUNTY learns or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting Premises is necessary, COUNTY shall promptly take all necessary remedial actions in accordance with Environmental Law.

COUNTY shall indemnify and hold STAR-TEC fully harmless for any liabilities and remedial actions of Hazardous Substances for which COUNTY is responsible under this Section, except if such liabilities and remedial actions were caused by STAR-TEC or its officers, employees, or guests. COUNTY'S indemnification obligations under this Section shall survive the expiration or soon termination of the Lease Term.

As used in this Paragraph, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law, as well as the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde and radioactive materials. As used in this Paragraph, "Environmental Law" means Federal laws and laws of the jurisdiction where Premises is located that relate to health, safety, or environmental protection.

57. AIR QUALITY. STAR-TEC shall maintain the building and building air handling systems to provide a healthy indoor air environment. STAR-TEC shall maintain the building and air handling systems sufficiently to prevent the amplification of biological agents (mold, mildew, fungi, and bacteria) and dust above proximate outdoor levels. STAR-TEC shall be informed prior to any maintenance activities utilizing chemicals including pesticide applications that may impact indoor air quality (and reserve the right to require these activities to occur when Building is unoccupied). Prior to and during occupancy, the STAR-TEC reserves the right to conduct indoor air quality testing. Testing may include volatile organics, biological agents, humidity, temperature, or other compounds.
58. PUBLIC ENTITY CRIME ACT. STAR-TEC is directed to the Florida Public Entity Crime Act, Section 287.133, Florida Statutes, as amended from time to time, and COUNTY'S requirement that STAR-TEC comply with it in all respects prior to and during this Lease Term.
59. PETS. Pets shall not be allowed in or on the Property without prior written consent of COUNTY with the exception of service animals.
60. ENTIRE AGREEMENT. This Agreement and all exhibits incorporate all covenants, promises, agreements, conditions, and understandings between the Parties. No covenant, promise, agreement, condition or understanding, either written or oral, not specifically set forth herein, shall be effective to alter the performance or the rights of the Parties as stated herein. No modification, waiver, or amendment of the provisions of this Agreement shall be binding upon COUNTY, PCEDA or STAR-TEC unless in writing and signed by COUNTY, PCEDA and STAR-TEC or by their duly authorized agents.
61. QUIET ENJOYMENT. So long as STAR-TEC is not in default hereunder, STAR-TEC shall have quiet and peaceful possession thereof as against any adverse claim of COUNTY or any third parties.
62. GOVERNING LAW. VENUE. This Agreement shall be governed by the laws of the State of Florida, without regard to any rules of conflict or choice of laws which require the application of laws of another jurisdiction, and venue for any action shall be in Pinellas County, Florida.

REMAINDER OF THIS PAGE INTENTIONALLY BLANK; SIGNATURE PAGES TO FOLLOW

IN WITNESS WHEREOF, COUNTY and STAR-TEC have caused this Agreement to be executed as of the date first above written, by their respective officers or parties thereunto duly authorized.


PINELLAS COUNTY INDUSTRIAL  
DEVELOPMENT AUTHORITY d/b/a PINELLAS  
COUNTY ECONOMIC DEVELOPMENT  
AUTHORITY, by and through the PINELLAS  
COUNTY BOARD OF COUNTY  
COMMISSIONERS

By: \_\_\_\_\_  
Chair

PINELLAS COUNTY

By: \_\_\_\_\_

STAR-TEC ENTERPRISES, INC.

By:  \_\_\_\_\_  
Tonya Elmore, President & CEO

**APPROVED AS TO FORM**

By: Michael A. Zas  
Office of the County Attorney

**EXHIBIT "A"**

GEORGE F. YOUNG, INC.  
 299 DR. MARTIN LUTHER KING JR. STREET N  
 ST. PETERSBURG, FL 33701



**SECTION(S)** 30, TOWNSHIP 31 SOUTH, RANGE 17 EAST  
**DESCRIPTION**

Parcel 1:

Lots 1, 2, 3, 4, 5 and 6, ROYAL POINCIANA SUBDIVISION, according to the plat thereof as recorded at Plat Book 7, Page 8, of the Public Records of Hillsborough County, Florida, of which Pinellas County was formerly a part.

Parcel 2:

Lot 1, ROYAL POINCIANA SUBDIVISION – KAMMAN PARTIAL REPLAT, according to the plat thereof as recorded at Plat Book 61, Page 91, in the Public Records of Pinellas County, Florida.

St. Petersburg, Florida

**ABBREVIATIONS**

LB LICENSED BUSINESS  
 LS LICENSED SURVEYOR  
 (P) PER PLAT  
 PLS PROFESSIONAL LAND SURVEYOR  
 PSM PROFESSIONAL SURVEYOR AND MAPPER

Additions or deletions by other than the Professional Land Surveyor in responsible charge is prohibited. Land Description is invalid without signature and/or embossed seal of the Professional Land Surveyor

CALCULATED BY: GMK	The above Sketch and/or Land description was prepared under my supervision and is true and correct to the best of my knowledge and belief.	
CHECKED BY: NMC	<i>Nicholas M. Cirgello</i>	
S.F.N.:	DATE	09/12/19
SFN 02170	NICHOLAS M. CIRGELLO, PROFESSIONAL SURVEYOR AND MAPPER LICENSE NUMBER: 4898 SEAL STATE OF FLORIDA, PHONE # (727) 822-4317	



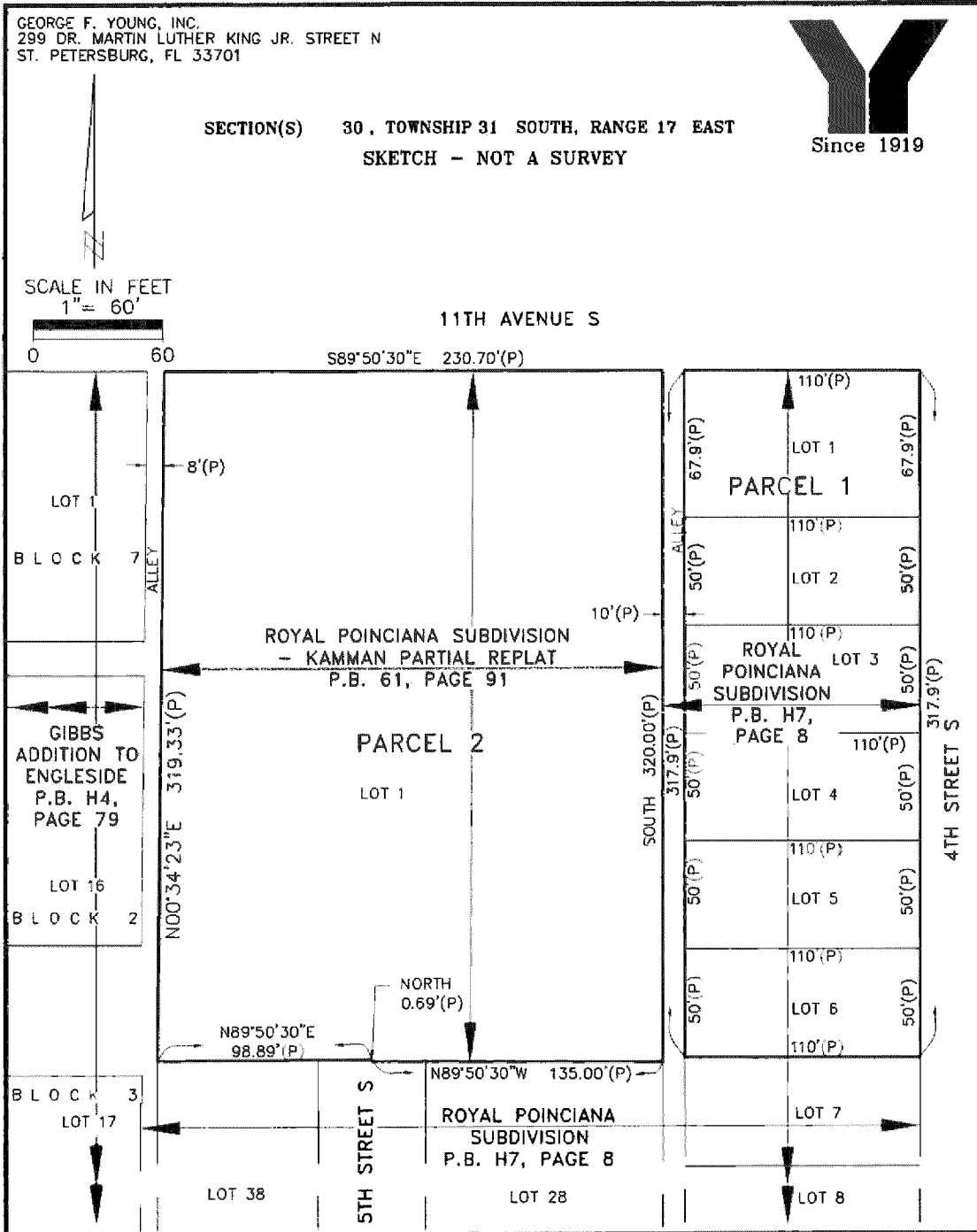
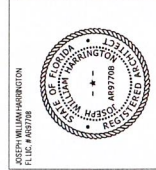


Exhibit A  
SHEET 2 OF 2





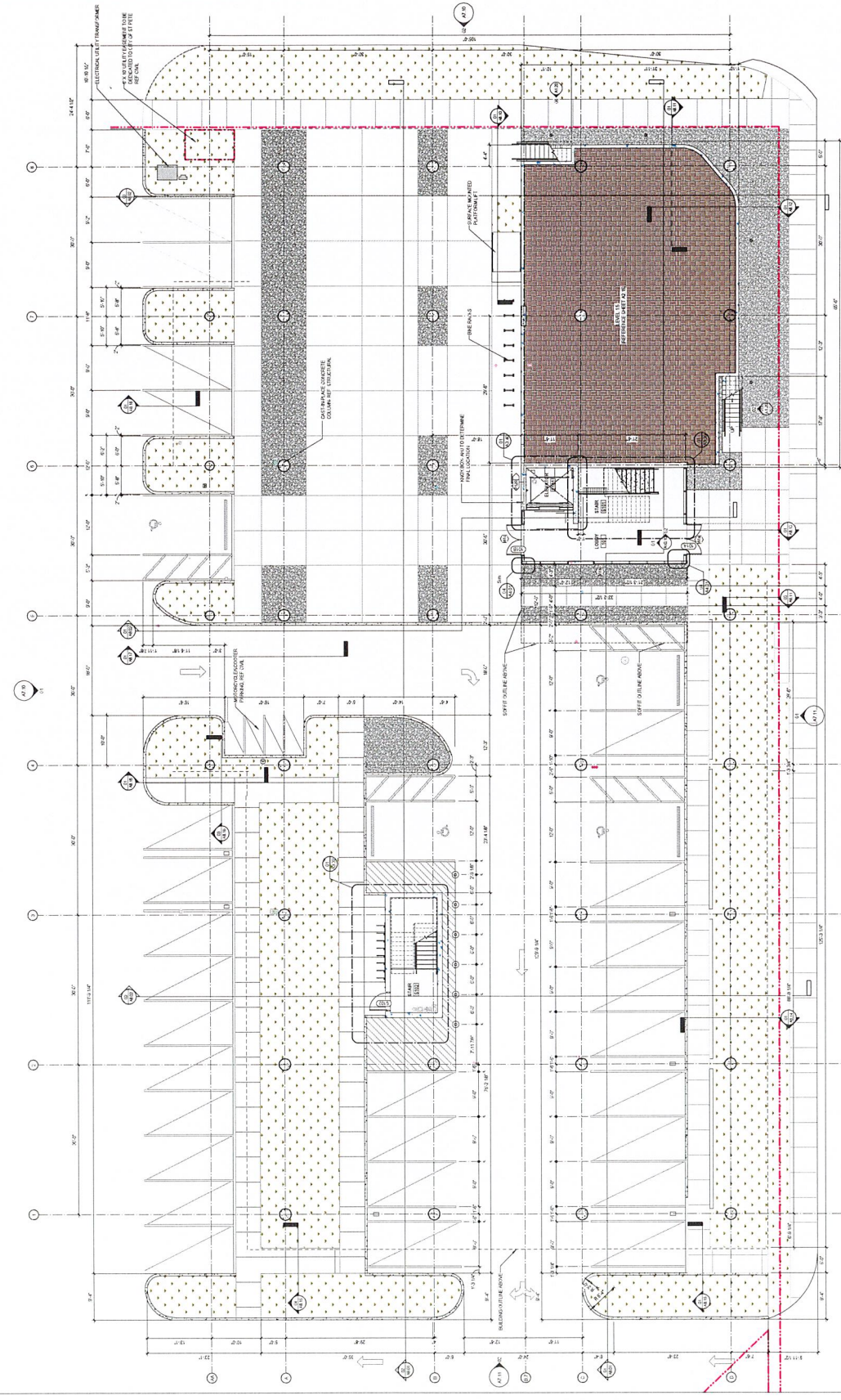
CURRENT SUBMISSION	ISSUE FOR BID AND PERMIT
# DATE	DATE
1 10/27/2021	DESIGN DEVELOPMENT
2 09/16/2021	ISSUE FOR BID AND PERMIT

TAMPA BAY  
INNOVATION CENTER

FLOOR PLAN-LEVEL 1-  
GROUND

172189.50  
A2.10  
SHEET

- SHEET NOTES:**
1. SEE EXISTING CONDITIONS FOR DIMENSIONS AND LOCATIONS OF ALL EXISTING UTILITIES.
  2. ALL DIMENSIONS ARE UNLESS OTHERWISE NOTED.
  3. ALL DIMENSIONS ARE UNLESS OTHERWISE NOTED.
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  19. ALL DIMENSIONS ARE UNLESS OTHERWISE NOTED.
  20. ALL DIMENSIONS ARE UNLESS OTHERWISE NOTED.



18" = 1'-0"

01 FLOOR PLAN LEVEL 1

- SHEET NOTES:**
1. REFER TO ALL DRAWINGS - ELEVATION, SECTION, AND MECHANICAL DRAWINGS.
  2. REFER TO ALL NOTES AND DIMENSIONS ON ALL SHEETS AND ALL DRAWINGS.
  3. REFER TO ALL DIMENSIONS AND DIMENSION LINES ON ALL SHEETS AND ALL DRAWINGS.
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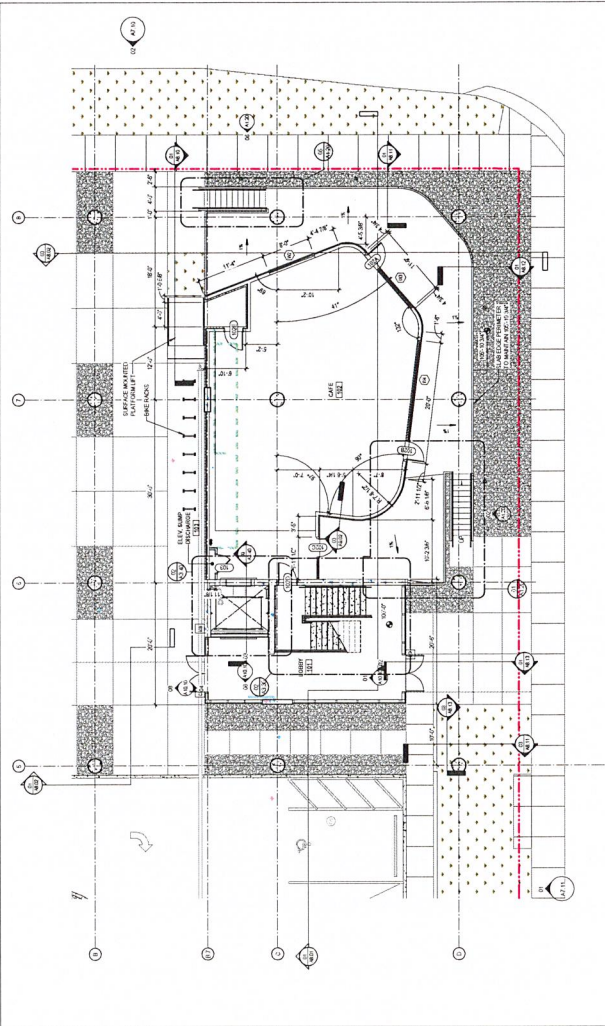
ARCHITECT SEAL

DATE	SUBMISSION
A 02/20/2021	DESIGN DEVELOPMENT
1/19/2021	ISSUE FOR BID AND PERMIT

TAMPA BAY  
INNOVATION CENTER

FLOOR PLAN- LEVEL  
1.5 CAFE

1/27/2020  
A2.15  
SHEET



01 FLOOR PLAN LEVEL 1.5  
1/8" = 1'-0"













EXHIBIT "C"

**Maintenance & Repairs**

AREA OF RESPONSIBILITY	COUNTY	STAR-TEC
Alterations/Renovations (Interior/Exterior)		X
Carpet Cleaning		X
Carpet Replacement		X
Doors/knobs/locks (Interior/Exterior)		X
Security Systems		X
Appliances		X
Electrical Wiring		X
Fire/Smoke Detection & Extinguishers		X
Life & Safety Equipment		X
Elevator/Vertical Transportation		X
Flooring		X
Interior Ceilings, Walls, Doors		X
Grounds Maintenance		X
HVAC Maintenance/Repair		X
Light Bulbs (Interior/Exterior)		X
Painting (Interior)		X
Roof Maintenance and Repairs		X
Window Cleaning (Interior/Exterior)		X
Plumbing Maintenance/Repair		X
Pest Control (Interior)		X
Pest Control (Exterior)		X

**Capital Improvements**

AREA OF RESPONSIBILITY	COUNTY	STAR-TEC
HVAC Replacement	X	
Roof Replacement	X	
Elevator Replacement	X	
Window Replacement	X	
Exterior Painting/Waterproofing	X	

**U.S. DEPARTMENT OF COMMERCE  
ECONOMIC DEVELOPMENT ADMINISTRATION**

**STANDARD TERMS AND CONDITIONS FOR CONSTRUCTION PROJECTS**

Title II of the Public Works and Economic Development Act of 1965

Public Works and Economic Development Facilities  
and  
Economic Adjustment Assistance Construction Components



March 22, 2021

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**PART I:  
GENERAL PROVISIONS**

**A. Construction Award Purpose**

This financial assistance award (the Award), executed by the Economic Development Administration (EDA) and the recipient (Recipient or non-Federal entity), is awarded for the purpose of carrying out the design, engineering, or construction of certain physical infrastructure as specifically set forth in the Award's scope of work.

**B. Authorities**

**1. In General**

Recipient must administer this Award in conformance with the terms of the Award, including any properly executed amendment thereto, the EDA-approved budget and scope of work, these EDA Standard Terms and Conditions for Construction Projects (EDA Construction STCs) and the Department of Commerce (DOC) Financial Assistance Standard Terms and Conditions (DOC Standard Terms and Conditions), as well as any specific award conditions; relevant policies issued by EDA; applicable Federal statutes, regulations, and Executive Orders; and the provisions of the Office of Management and Budget (OMB) *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* codified at 2 CFR part 200 (OMB Uniform Guidance).

**2. PWEDA**

The Public Works and Economic Development program is authorized under section 201 and the Economic Adjustment Assistance program is authorized under section 209 of PWEDA (42 U.S.C. §§ 3141 and 3149, respectively).

**3. EDA Regulations**

The regulations implementing PWEDA are contained in chapter III of title 13 of the Code of Federal Regulations (CFR), and apply in full to this Award. The regulations specific to EDA construction projects can be found at 13 CFR parts 305 and 314, and subpart A to part 307.

**4. Conflicts Among Authorities**

Any inconsistency or conflict among the authorities governing the Recipient's administration of this Award will be resolved in the following order of precedence: Federal laws and regulations (including the OMB Uniform Guidance), applicable notices published in the *Federal Register*, Executive Orders, OMB circulars, these EDA Construction STCs, specific award conditions, and any written policy guidance issued by EDA. However, a specific award condition may amend or take precedence over a provision of these EDA Construction STCs on a case-by-case basis, when warranted by the specific circumstances of the Award. In the event of a conflict between Parts I or II of these EDA Construction STCs and Part III, which incorporates the DOC Standard Terms and Conditions, Parts I and II will control.

**C. Updates to Authorities**

**1. Updates to Regulations and Requirements**

The DOC, EDA, or OMB may issue changes from time to time to the regulations and other policies and requirements that apply to this Award. Such changes may upon occasion increase

administrative or programmatic flexibility in administering this Award in a manner that is mutually beneficial to EDA and the Recipient. In addition, if required by law, these changes may impose new requirements. The implementation of any such regulatory, administrative, or programmatic change in administering this Award requires EDA's prior written approval.

## **2. Applicability to the Award**

These EDA Construction STCs apply to the Award as of the Federal award date, as defined at 2 CFR § 200.1, or, if attached to the Award by amendment, as of the effective date of such amendment.

## **D. Variances**

EDA's policy is to administer all awards uniformly; however, there may be special circumstances that warrant a variance. To accommodate these circumstances and to encourage innovative and creative ways to address economic development problems, EDA will consider requests for variances to the procedures set out in these EDA Construction STCs if they do not conflict with applicable Federal statutory and regulatory requirements, are consistent with the goals of EDA's programs, and make sound economic and financial sense. Any approved variance will be implemented through a specific award condition incorporated under the Award.

## **E. Recipient as Trustee**

The Recipient holds grant funds and any property acquired or improved with EDA assistance in trust for the public purposes of an Award. The Recipient's obligation to the Federal Government continues for the estimated useful life of the Project, as determined by EDA, during which EDA retains an undivided equitable reversionary interest (the Federal Interest) in property acquired or improved, in whole or in part, with EDA investment assistance. *See* 13 CFR § 314.2 ("Federal Interest").

If EDA determines that the Recipient fails or has failed to meet this obligation, EDA may exercise any rights or remedies with respect to its Federal Interest in the Project. However, EDA's forbearance in exercising any right or remedy in connection with the Federal Interest does not constitute a waiver thereof.

## **F. Additional Funding**

EDA has no obligation to provide any additional funding in connection with the Award. Any change to the Award to increase funding or to extend the period of performance is at the discretion of EDA, subject to the availability of funds, via an amendment executed by the Grants Officer.

## **G. Definitions**

Capitalized terms and acronyms used but not otherwise defined in these EDA Construction STCs have the meaning ascribed to them at 13 CFR §§ 300.3, 302.20, 307.8, and 314.1, and subpart A to 2 CFR part 200.

## **H. Reaffirmation of Application and Award Acceptance**

By accepting this Award, the Recipient's authorized representative hereby reaffirms and states that:

1. All data in the Application were true and correct when the Application was submitted and remain

- true and correct as of the date of this Award;
2. The Application was, as of the date of submission and the date of this Award, duly authorized as required by local law by the governing body of the Recipient; and
  3. The Recipient has read, understood, and will comply with all terms of this Award, including the assurances and certifications submitted as part of the Application (including assurances submitted through the System for Award Management (SAM.gov)).

Acceptance of the Award is established by any action on the part of the Recipient indicating an intent to accept the Award, including by signing the Financial Assistance Award (Form CD-450) (either via a “wet” signature or electronically) or by requesting any disbursement of Award funds. “Application” means all forms, documentation, and any information submitted to EDA as part and in furtherance of a request for an Award and includes submissions made in response to any request by EDA after submission of the initial Application.



**PART II:  
SPECIAL REQUIREMENTS FOR EDA CONSTRUCTION PROJECTS**

**A. Financial Requirements**

**1. Financial Reports**

- a. During the period of performance, the Recipient must submit financial reports as follows, unless otherwise specified in a specific award condition.
  - i. *Reports on Award reimbursements.* In accordance with 2 CFR § 200.328 (“Financial reporting”), the Recipient must submit a “Federal Financial Report” (Form SF-425 or any successor form) on a semi-annual basis for the periods ending March 31 and September 30, or any portion thereof, unless otherwise specified in a specific award condition. Reports are due no later than 30 calendar days following the end of each reporting period, and instructions for completing and submitting Form SF-425 will be discussed during the Project kick-off meeting. Recipients may contact their EDA Project Officer with questions on how to complete or submit the report, if necessary, but they must submit reports on time and are encouraged to pose such questions sufficiently before the deadline to allow for complete, accurate, and timely submission of required reports.
  - ii. *Reports on Award advances.* While EDA generally does not advance funds, when the agency does so, the Recipient must submit Form SF-425 within 15 business days following the end of each quarter for an award where the Federal share of costs is under \$1 million. In accordance with 2 CFR § 200.328, because of increased risk and the need to ensure the appropriate use of Federal funds, where EDA advances funds under an award where the Federal share of costs is \$1 million or more the Recipient must submit Form SF-425 within 15 business days following the end of each month, or as otherwise specified in a specific award condition.
- b. The Recipient must submit a final Form SF-425 no later than 120 calendar days after the end date of the period of performance. *See also* Part II, section B.16.c “Final reporting deadline” of these EDA Construction STCs.
- c. Noncompliance with the financial reporting requirements may result in appropriate enforcement action under this Award, including but not limited to suspension of Award payments, disallowance of costs or termination of an award. A Recipient’s non-compliance with financial reporting requirements will also be taken into account in EDA’s consideration of any future applications for EDA financial assistance (*see* 2 CFR § 200.206(b)(2)(iii) and section A.06 (Unsatisfactory Performance or Non-Compliance with Award Provisions) of the DOC Standard Terms and Conditions, which are incorporated in Part III of these EDA Construction STCs).
- d. Financial reports should be submitted to the Project Officer in electronic format, unless otherwise specified in the specific award conditions.

**2. Disbursements**

- a. *Method of payment.* The Grants Officer determines the appropriate method of payment.

Unless otherwise specified in a specific award condition, the method of payment under this Award will be reimbursement. Payments will be made through electronic funds transfers directly to the Recipient's bank account and in accordance with the requirements of the Debt Collection Improvement Act of 1996 (31 U.S.C. § 3720B *et seq.*). The Award number must be included on all payment-related correspondence, information, and forms.

- b. *Disbursement requests.* The Recipient must use Form SF-271, "Outlay Report and Request for Reimbursement for Construction Programs," to request reimbursement under the Award. Substantiating invoices and/or vouchers also must be provided. Each request for the disbursement of funds must be made to the Project Officer. Form SF-271 can be downloaded from the Grants.gov post-award reporting forms website at <https://www.grants.gov/web/grants/forms/post-award-reporting-forms.html>.
  - i. *Initial disbursement request.* For the initial disbursement only, the Recipient must complete and submit Form SF-3881, "ACH Vendor/Miscellaneous Payment Enrollment Form," along with Form SF-271, to the Project Officer.
  - ii. *Interim disbursement requests.* All requests for interim disbursement must be submitted using Form SF-271 and include substantiating invoices and/or vouchers.
  - iii. *Final disbursement request.* See Part II, section B.16 "Project Closeout Procedures" of these EDA Construction STCs.

### 3. **Federal and Non-Federal Cost Sharing**

- a. For purposes of this Award, the Federal share is the amount of EDA funds invested under the Award, while the non-Federal share, or "Matching Share," means non-EDA funds and any in-kind contributions that are approved by EDA and provided by the Recipient or by third parties as a condition of the Award.
- b. By accepting the Award, the Recipient certifies that the Matching Share of Project costs is committed to the Project, available as needed, and not conditioned or encumbered in any way that precludes its use consistent with the requirements of the Award. See 13 CFR § 301.5 ("Matching share requirements").
- c. In the case of an overrun at the construction bid opening, the Recipient may augment the Matching Share by an amount sufficient to cover the excess cost. The Recipient must furnish a letter to EDA identifying the source of the additional funds and confirming that all Matching Share meets the requirements of 13 CFR § 301.5. See 13 CFR § 305.10 ("Bid underrun and overrun").

### 4. **Budget Revisions and Transfer of Funds**

- a. *Approved budget plan; notification of deviations.* The EDA-approved budget set forth in the specific award conditions or otherwise incorporated under the Award is the budget plan for the Project. The Recipient must notify EDA of deviations from the budget in accordance with 2 CFR § 200.308 ("Revision of budget and program plans"). If prior written approval is not required under 2 CFR § 200.308, the Recipient may request the Grants Officer's review of

and guidance on proposed revisions to the budget.

- b. *Requesting budget revisions.* Requests for budget revisions to the EDA-approved budget must be submitted through the Project Officer to the Grants Officer, who will make the final determination on such requests and notify the Recipient in writing.
- c. *Budget revisions that require an amendment.* In accordance with 2 CFR § 200.308(f) and (h), an amendment executed by the Grants Officer are required for budget revisions when:
  - i. The revision results from changes in the scope or the objective of the Project;
  - ii. The need arises for additional EDA funds to complete the Project;
  - iii. The Federal share exceeds the simplified acquisition threshold (currently set at \$250,000) and the cumulative amount of transfers among direct cost categories exceeds or is expected to exceed 10 percent of the total budget as last approved by EDA; and
  - iv. A revision is desired that involves specific costs for which prior written approval requirements may be imposed consistent with applicable cost principles listed in subpart E of 2 CFR part 200 (“Cost Principles”).
- d. *Prior approval for transfers between construction and non-construction items.* When an Award supports both construction and non-construction work, the Recipient must obtain prior written approval from the Grants Officer before making any fund or budget transfer from non-construction to construction or vice versa. *See* 2 CFR § 200.308(h)(5).
- e. *Project underrun amounts.* Underrun amounts will be transferred to the contingencies line item. Contingency funds are to be used to address situations resulting from unknown conditions and changes required for the fulfillment of authorized activities under this Award. EDA may approve the use of underrun funds to increase the Federal share of the Project or further improve the Project, as long as EDA determines that the use is consistent with the original purpose of the Award. *See* 13 CFR § 308.1 (“Use of funds in projects constructed under projected cost”).
- f. *Additional EDA funding in case of Project overrun amounts.* In accepting this Award, the Recipient agrees to fund any overrun amounts from non-Federal sources, or if the Recipient is unable or unwilling to do so, to request termination of the Award. Additional EDA assistance for the Project is at the discretion of EDA and may not be approved.

##### **5. Indirect Costs and Facilities and Administrative Costs**

- a. Indirect costs, or facilities and administrative (F&A) costs for educational institutions, are generally not applicable under this Award. See the definition of “indirect (facilities and administrative) (F&A) costs” at 2 CFR § 200.1.
- b. When indirect costs are applicable, they will not be allowable charges against the Award unless approved under the Award and specifically included as a line item in the Award’s approved budget. *See* section B.06 of the DOC Standard Terms and Conditions (“Indirect or Facilities and Administrative Costs”), which are incorporated into these EDA Construction STCs in Part III.

## 6. **Incurring Costs Prior to Award**

Project activities, including the procurement of good and services, which may include construction activities, carried out prior to EDA's approval of this Award are done at the sole risk of the Recipient and at the risk of not being reimbursed by EDA. Such activity may result in the rejection of the Application, the disallowance of costs, or other adverse consequences as a result of noncompliance with EDA or Federal requirements, including but not limited to procurement requirements, civil rights requirements, Federal labor standards, or environmental and historic preservation requirements. The Grants Officer must authorize pre-award costs and activities in writing, and such costs must also be allowable under relevant Federal cost principles and the specific Award terms and be included in the EDA-approved budget. Pre-award costs not included in the authorized budget are not allowable and will not be reimbursed. *See* 13 CFR § 302.8 ("Pre-approval Investment Assistance costs").

## 7. **Program Income**

For Projects that generate revenue (*e.g.*, rent for buildings or real property constructed or improved with EDA funds, rent or fees charged for use of equipment purchased with EDA funds, fees charged by the Recipient or a third party in connection with Project operations, etc.), the Recipient agrees, for the estimated useful life of the EDA-assisted facility or equipment, to use income generated from the facility or equipment, in the following order of priority unless modified by a specific award condition:

- a. Administration, operation, maintenance, and repair of Project facilities in a manner consistent with good property management practice and in accordance with established building codes. This includes, where applicable, repayment of indebtedness resulting from any EDA-approved encumbrance (*e.g.*, approved mortgage) on the EDA-assisted facility. In the case of equipment, administration, operation, maintenance, and repair of the equipment, or the facility in which the equipment is located as required to maintain and operate the equipment, for the equipment's estimated useful life.
- b. Economic development activities that are authorized for support by EDA, provided such activities meet the economic development purposes of PWEDA and are located within the designated Project region.
- c. Any program income in excess of paragraphs a. and b. of this section that is generated during the period of performance must be deducted from total allowable Project costs in accordance with 2 CFR § 200.307(e)(1). *See also* 2 CFR § 200.307 ("Program income").

8. **Information on Recipient integrity.** The Recipient agrees to provide EDA with information and documentation necessary for EDA to conduct due diligence to ensure the financial integrity and responsibility of the Recipient and key individuals associated with the Recipient in the management or administration of this Award.

## B. **Programmatic Requirements**

### 1. **Project Progress and Performance Reporting**

- a. Project progress reports must be submitted in accordance with the procedures set out in 2 CFR § 200.329 ("Monitoring and reporting program performance"), as applicable, and as

indicated below. Failure to submit required reports in a complete, accurate, and timely manner may result in the withholding of payments under this Award; deferral of processing of new awards, amendments, or supplemental funding; or other appropriate enforcement action. *See* 13 CFR § 302.18 (“Post-approval requirements”) and section A.06 (Unsatisfactory Performance or Non-Compliance with Award Provisions) of the DOC Standard Terms and Conditions, which are incorporated in Part III of these EDA Construction STCs.

- b. Unless otherwise specified in a specific award condition, the Project progress report must contain the following information for each Project program, function, or activity:
  - i. A comparison of planned and actual accomplishments according to the timetable or list of Project objectives in this Award;
  - ii. An explanation of any delays or failures to meet the Project timetable or Project goals; and
  - iii. Any other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

Project progress reports must be submitted for each calendar quarter to the Project Officer. Each Project progress report must be submitted in accordance with the deadlines outlined in the specific award conditions, or, when not otherwise specified, Project progress reports will be due on a quarterly basis not later than January 31, April 30, July 31, and October 31 for the immediately previous quarter. The final Project progress report must be submitted to EDA no later than 120 calendar days after the end date of the period of performance. *See* Part II, section B.16.c “Project Closeout Procedures” of these EDA Construction STCs for more information on Project Closeout.

- c. The Recipient must submit quarterly Project progress reports to the EDA Project Officer electronically unless otherwise specified in the specific award conditions.

## 2. **Time Extensions**

- a. Unless otherwise authorized by a specific award condition, any extension of the period of performance can only be authorized by the Grants Officer in writing.
- b. The Recipient is responsible for implementing the Project in accordance with the development time schedule contained in this Award. As soon as the Recipient becomes aware that it may not be possible to meet the development time schedule, the Recipient must notify the Grants Officer. The Recipient’s notice to EDA must contain the following:
  - i. An explanation of the Recipient’s inability to complete work by the specified date (*e.g.*, a lengthy period of unusual weather delayed the contractor’s ability to excavate the site, major re-engineering required in order to obtain State or Federal approvals, unplanned environmental mitigation required);
  - ii. A statement describing any other contemplated changes to the Project;
  - iii. Documentation that demonstrates there is still a bona fide need for the Project; and
  - iv. A statement that no further delay is anticipated and that the Project can be completed within the revised time schedule.

EDA reserves the right to withhold disbursements while the Recipient is not in compliance with the time schedule and to suspend or terminate this Award if the Recipient fails to proceed with reasonable diligence to accomplish the Project as intended.

**3. Interim Reporting of Significant Project Developments**

The Recipient must promptly report any event that may have a significant impact upon the Project, including delays or adverse conditions that may materially affect the ability of the Recipient to attain Project objectives within established time periods or meet the development time schedule without waiting for the next quarterly progress report. The Recipient should report such events to the Project Officer in the most time-expedient way possible and then, if the initial report was not in writing, report the event to the Project Officer in writing. Such a report must include a statement of the event or issue, a statement of the course of action taken or contemplated to resolve the matter, and any Federal assistance needed to resolve the situation. If budget changes are required, the Recipient must submit a written budget revision request. *See* 2 CFR § 200.329(e) (“Monitoring and reporting program performance”) and Part II, section A.4. “Budget Revisions and Transfers of Funds” of these EDA Construction STCs.

**4. Programmatic Changes**

- a. In accordance with 2 CFR § 200.308 (“Revision of budget and program plans”), the Recipient must submit a written request for any proposed programmatic changes, including all changes to the scope of the Award, to the Project Officer. *See* Part II, section A.4 “Budget Revisions and Transfers of Funds” of these EDA Construction STCs for budget revisions that may require the prior written approval of EDA. In these cases, the Project Officer will forward the request to the Grants Officer, who makes the final decision on approving the request. In addition, the Recipient must request prior written approvals for certain items of cost in accordance with 2 CFR § 200.407 (“Prior written approval (prior approval)”).
- b. Any changes made to the Project without EDA’s approval are made at the Recipient’s own risk, and may result in disallowance of costs, suspension, termination, or other EDA action with respect to the Award. *See* 13 CFR § 302.7(b) (“Amendments and changes”).
- c. *Contract Change Orders.* After construction contracts for the Project have been executed, it may become necessary to alter them through a formal contract change order that must be issued by the Recipient and accepted by the contractor. All contract change orders must be reviewed by EDA, even if EDA is not participating in the cost of the change order or the contract price is to be reduced. Work on the Project may continue pending EDA review and approval of the change order, but all such work will be at the Recipient’s risk as to whether the cost of the work is eligible for EDA reimbursement. *See* 13 CFR § 305.13 (“Contract change orders”).

**5. Government Performance and Results Act**

In addition to quarterly Project progress reports, EDA may require the Recipient to report on Project performance beyond the end date of the period of performance for Government Performance and Results Act (GPRA) or other purposes. In no case will the Recipient be required to submit any GPRA report more than ten years after the date of Award closeout. Data used by the Recipient in preparing reports must be accurate and, whenever possible, from independent sources. *See* 13 CFR § 302.16 (“Accountability”).

**6. Beneficiary Compliance**

In the event a beneficiary of the Project fails to comply in any manner with certifications, assurances, or agreements that such beneficiary has entered into in accordance with EDA's requirements, the Recipient will reimburse EDA the Award amount or an amount to be determined by the EDA pursuant to 13 CFR §§ 314.4 ("Unauthorized use of property") and 314.5 ("Federal share"). When EDA determines that the failure of a beneficiary to comply with EDA requirements affects a portion of the property benefited by the Award, the Recipient will reimburse EDA proportionately.

**7. Hold Harmless**

To the maximum extent permitted by law, the Recipient agrees to indemnify and hold the United States harmless from and against all liabilities that the United States may incur due to the actions or omissions of the Recipient, including to the extent that such liabilities are incurred because of toxic or hazardous contamination or groundwater, surface water, soil, or other conditions caused by actions of the Recipient or any of its predecessors (other than the United States or its agents) on the property. *See* 13 CFR § 302.19 ("Indemnification").

**8. Prohibition on Use of Third Parties to Secure Award**

Unless otherwise specified in the application materials supporting this Award, the Recipient warrants that no person or selling agency has been employed or retained to solicit or secure this Award upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by the Recipient for the purpose of securing business. For breach or violation of this warranty, EDA has the right to terminate this Award for material noncompliance, or at its discretion, to deduct from the Award amount, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

**9. Payment of Attorneys' or Consultants' Fees**

No Award funds may be used, directly or indirectly, to reimburse attorneys' or consultants' fees incurred in connection with obtaining an award under PWEDA, such as, for example, preparing an application for EDA assistance. However, ordinary and reasonable attorneys' and consultants' fees incurred for meeting Award requirements (*e.g.*, conducting a title search or preparing plans and specifications) may be eligible Project costs and may be paid out of Award funds, provided such costs are otherwise eligible. *See* 13 CFR § 302.10 ("Attorneys' and consultants' fees, employment of expeditors, and post-employment restriction").

**10. Recipient's Duty to Refrain from Employing Certain Government Employees**

- a. Pursuant to section 606(2) of PWEDA (42 U.S.C. § 3216), for the two-year period beginning on the date EDA executes this Award, any Recipient that is a nonprofit organization, District Organization, or for-profit entity agrees that it will not employ, offer any office or employment to, or retain for professional services any person who:
  - i. On the date EDA executes this Award or within the one-year period ending on that date, served as an officer, attorney, agent, or employee of the Department, and
  - ii. Occupied a position or engaged in activities that the Assistant Secretary determines

involved discretion with respect to the funding of an Award.

- b. In addition to the types of Recipients noted in paragraph a. above, EDA may require another Eligible Applicant to execute an agreement to abide by the above-described post-employment restriction on a case-by-case basis—for example, when an institution of higher education implements activities under or related to the Award through a separate nonprofit organization or association.
- c. The two-year period and associated restrictions referenced above also will apply beginning on the date that EDA executes any cost amendment to this Award that provides additional funds to the Recipient.

*See also* 13 CFR § 302.10 (“Attorneys’ and consultants’ fees, employment of expeditors, and post-employment restriction”).

#### **11. Commencement of Construction**

- a. *Delayed construction starts.* If significant construction (as determined by EDA) is not commenced within two years of the Award date or by the date estimated for start of construction in this Award (or the expiration of any extension granted in writing by EDA), whichever is later, this Award will be automatically suspended by a written notification issued by the Grants Officer and may be terminated if EDA determines, after consultation with the Recipient, that construction to completion cannot reasonably be expected to proceed promptly and expeditiously.
- b. *Early construction starts.* The Recipient must make a written request to EDA for early construction start permission (that is, after the date of Award, but before EDA gives formal approval for construction to commence). Costs incurred under a contract are only allowable after EDA determines that the award of the contract is in compliance with all terms and conditions of the Award. If construction commences prior to EDA’s determination, the Recipient proceeds at its own risk until EDA’s review and concurrence. *See* 13 CFR § 305.11 (“Contract awards; early construction start”).

#### **12. Project Sign and Use of EDA Logo**

- a. *Project sign.* The Recipient is responsible for constructing, erecting, and maintaining in good condition throughout the construction period a sign (or signs) in a conspicuous place at the Project site indicating that the Federal Government is participating in the Project. EDA will provide specifications for the sign and may require more than one sign if site conditions so warrant. If the EDA-recommended sign specifications conflict with State or local law, the Recipient may modify such recommended specifications so as to comply with State or local law. *See* 13 CFR § 305.12 (“Project sign”).
- b. *Use of EDA logo.* With EDA’s prior written permission, the Recipient may use the EDA logo to publicize the Award as well as to amplify the impact of the Award. In such cases, the EDA logo may be displayed on Award-related materials that discuss or advertise the purpose or use of the Project (e.g. websites, social media, fliers, pamphlets, brochures). To seek permission to use the EDA logo, the Recipient must contact the EDA Project Officer and provide a written description of how the Recipient proposes to use the EDA logo. In general,



the EDA logo may be used either alone or next to Recipient's logo. The EDA logo may not be used to endorse a third party as interpreted at EDA's sole discretion. The Recipient must not use the EDA logo in a negative or defamatory manner, and the Recipient must not use the U.S. Department of Commerce (DOC) logo. EDA may rescind such permission at any time.

### **13. Efficient Administration of Project**

The Recipient agrees to properly and efficiently administer, operate, and maintain the Project for its estimated useful life, as required by section 504 of PWEDA (42 U.S.C. § 3194). If EDA determines at any time during the estimated useful life of the facility that the Project is not being properly and efficiently administered, operated, and maintained, EDA may terminate this Award (if it is still active) and/or may take appropriate enforcement action to protect the Federal Interest in the Project, including requiring the Recipient to repay the Federal Share. *See* 13 CFR §§ 302.12 ("Project administration, operation and maintenance"), 302.18 ("Post-approval requirements"), and 314.2 ("Federal Interest") through 314.5 ("Federal Share").

### **14. Conflicts-of-Interest Rules**

- a. An "Interested Party" is defined in 13 CFR § 300.3 ("Definitions") as "any officer, employee, or member of the board of directors or other governing board of the Recipient, including any other parties that advise, approve, recommend, or otherwise participate in the business decisions of the Recipient, such as agents, advisors, consultants, attorneys, accountants, or shareholders." An Interested Party includes the Interested Party's Immediate Family and other persons directly connected to the Interested Party by law or through a business organization. "Immediate Family" is defined in 13 CFR § 300.3 as "a person's spouse (or domestic partner or significant other), parents, grandparents, siblings, children and grandchildren, but does not include distant relatives, such as cousins, unless the distant relative lives in the same household as the person."
- b. The Recipient must disclose in writing any potential conflicts of interest to EDA or the pass-through entity as soon as practicable after the identification of such potential conflict. In addition, the Recipient must maintain written standards of conduct to establish safeguards to prohibit an Interested Party from using its position for a purpose that constitutes or presents the appearance of personal or organizational conflicts-of-interest or of personal gain in the administration of an award. *See* 13 CFR § 302.17(a) and (b) ("Conflicts of interest"), 2 CFR § 200.112 ("Conflict of interest"), as applicable, and assurances submitted as part of the Application, including assurances submitted through SAM.gov or via Form SF-424D ("Assurances – Construction Projects").
- c. An Interested Party must not receive any direct or indirect financial or personal benefit in connection with this Award or its use for payment or reimbursement of costs by or to the Recipient. A conflict of interest generally exists when an Interested Party participates in a matter that has a direct and predictable effect on the Interested Party's personal or financial interests. A conflict also may exist where there is an appearance that an Interested Party's objectivity in performing his or her responsibilities under the Project is impaired. For example, an appearance of impairment of objectivity may result from an organizational conflict where, because of other activities or relationships with other persons or entities, an Interested Party is unable to render impartial assistance, services or advice to the Recipient, a participant in the Project or to the Federal government. Additionally, a conflict of interest

may result from non-financial gain to an Interested Party, such as benefit to reputation or prestige in a professional field. *See* 13 CFR § 302.17(a) and (b).

- d. Section F.01.c of the DOC Standard Terms and Conditions, which are incorporated as Part III of these EDA Construction STCs, specifies procurement-related conflicts of interest requirements. *See also* 2 CFR §§ 200.317-200.327 (“Procurement Standards”).

#### **15. Records-Keeping Requirements**

- a. *Records.* The Recipient must maintain records that document compliance with the terms and conditions of this Award. At a minimum, the Recipient’s records must fully disclose:
  - i. The amount and disposition of all EDA funding under the Award;
  - ii. All Project expenditures and procurement actions;
  - iii. The total cost of the Project that the Award funds;
  - iv. Copies of all reports and disbursement requests submitted to EDA;
  - v. The benefits/impacts of the Project, as reported through GPRA and other reports to EDA;
  - vi. The amount and nature of the portion of Project costs provided by non-EDA sources;
  - vii. Contractor compliance with applicable Federal requirements; and
  - viii. Such other records as EDA requires the Recipient to maintain, including such records as will facilitate an effective audit.
- b. *Records retention.* In general, and in accordance with 2 CFR § 200.334 (“Retention requirements for records”), all records pertinent to this Award must be retained for a period of three years from the date of submission of the final Project expenditure report (the final Form SF-271 for disbursement). The only exceptions are the following:
  - i. If any litigation, claim, or audit is started before the expiration of the three-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final actions taken.
  - ii. When the Recipient is notified in writing by EDA, its cognizant agency for either audit or indirect costs, its oversight agency for audit, or the relevant pass-through entity to extend the retention period, it must retain the records as directed.
  - iii. Records for real property and equipment acquired with Federal funds must be retained for three years after final disposition of the relevant real property or equipment.
  - iv. When records are transferred to or maintained by EDA or pass-through entity, the three-year retention requirement is not applicable to the Recipient.
  - v. *Records for program income transactions after the period of performance.* In some cases, Recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the Recipient’s fiscal year in which the program income is earned. *See also* Part II, section A.7 “Program Income” of these EDA Construction STCs.

- vi. *Indirect cost rate proposals and cost allocation plans.* This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).
  - (1) *If submitted for negotiation.* If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the pass-through entity) to form the basis for negotiation of the rate, then the three-year retention period for its supporting records starts from the date of such submission.
  - (2) *If not submitted for negotiation.* If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the pass-through entity) for negotiation purposes, then the three-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.
- c. **Monitoring and reporting obligations.** The Recipient is responsible for monitoring any subrecipients and contractors to ensure their compliance with the records retention requirements. The Recipient must immediately notify the Project Officer if records are lost. *See* 2 CFR §§ 200.331 – 200.333 (“Subrecipient Monitoring and Management”).

## 16. Termination Actions

- a. In accordance with 2 CFR § 200.340 (“Termination”), this Award may be terminated in whole or in part as follows:
  - i. *Termination by EDA for the Recipient’s failure to comply with the terms and conditions of the Award.* EDA may terminate this Award, in whole or in part, if the Recipient fails to comply with the Terms and Conditions of the Award, including but not limited to:
    - (1) Any representation made by the Recipient to the Federal awarding agency in connection with the Application for Federal assistance is incorrect or incomplete in any material respect;
    - (2) The Project has changed substantially, without EDA prior approval, so as to affect significantly the accomplishment of the Project as intended (including an unauthorized use of property as provided in 13 CFR § 314.4 (“Unauthorized use of property”));
    - (3) The Recipient has violated commitments it made in its Application and supporting documents or has violated any of the Terms and Conditions of the Award;
    - (4) The conflicts-of-interest rules at 13 CFR § 302.17 (“Conflicts of interest”) are violated; or
    - (5) The Recipient fails to report immediately to EDA any change of authorized representative acting in lieu of or on behalf of the Recipient.

*See also* section A.06 (Unsatisfactory Performance or Non-Compliance with Award Provisions) of the DOC Standard Terms and Conditions, which are incorporated in Part III of these EDA Construction STCs.

- ii. *Termination by EDA when the Award no longer effectuates program goals or agency priorities.* To the greatest extent authorized by law, EDA may terminate this Award if it no longer effectuates program goals or agency priorities.
  - iii. *Termination by the Recipient.* The Recipient may terminate this Award in whole or in part upon by sending the EDA Grants Officer written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if EDA determines in the case of partial termination that the reduced or modified portion of the EDA Award will not accomplish the purposes for which the EDA Award was made, EDA may terminate the Award in its entirety.
  - iv. *Termination pursuant to Award termination provisions.* EDA or the pass-through entity may terminate this Award pursuant to termination provisions included in the Award. Any Award-specific termination provision will be included as a specific award condition.
  - v. *Termination upon mutual agreement.* EDA and the Recipient may mutually agree to terminate this Award in whole or in part. In such cases, EDA and the Recipient must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.
- b. If the Award is wholly or partially terminated, the Recipient remains responsible for compliance with the requirements in 2 CFR §§ 200.344 (“Closeout”) and 200.345 (“Post-closeout adjustments and continuing responsibilities”).

## **17. Project Closeout Procedures**

- a. *Project Closeout.* As defined at 2 CFR § 200.1, Project Closeout means the process by which EDA determines that all applicable administrative actions and all required work of the Award have been completed and takes actions as described at 2 CFR § 200.344 (“Closeout”). In the context of an EDA construction award, Project Closeout generally begins with the Recipient’s acceptance of the Project from the contractor(s).
- b. *Final disbursement.* When Project construction and final inspection have been completed, or substantially completed as determined by EDA, and the Recipient has accepted the Project from the contractor(s), the Recipient can begin the Closeout process by submitting the following documentation to EDA:
  - i. A request for final disbursement on an executed Form SF-271;
  - ii. A written certification that all costs charged against this Award (Federal and non-Federal shares) are for eligible activities and represent allowable costs, for which there is documentation in the Recipient’s records;
  - iii. An executed certificate of final acceptance signed by the Recipient and the Recipient’s architect/engineer;
  - iv. The Recipient’s certification that its current audit (in accordance with subpart F of 2 CFR part 200), if applicable, has been submitted to the Federal Audit Clearinghouse;

- v. The Recipient's certification that its currently valid single or program-specific audit in accordance with subpart F of 2 CFR part 200 ("Audit Requirements"), if applicable, does not contain any material findings (if the Recipient's currently valid audit does contain material findings, the Recipient must submit the applicable audit preferably via e-mail to the Project Officer, who will review with the Grants Officer); and
- vi. Other documentation as may be required by EDA.

EDA will advise the Recipient of costs determined to be allowable and unallowable. If a balance of this Award is due to the Recipient, the balance will be paid by EDA. If the Recipient has received an amount in excess of the amount due the Recipient, the Recipient must refund the excess to EDA. The Recipient must contact the Project Officer for refund instructions.

As noted above, if the Recipient's most recent audit completed pursuant to subpart F of 2 CFR part 200 contains material findings, the Recipient must submit the audit, preferably via e-mail, to the Project Officer, who will review with the Grants Officer before final disbursement. If e-mail is unavailable, the Recipient may submit a hardcopy version of the audit to the Project Officer.

- c. *Final reporting deadline.* The Recipient must submit, no later than 120 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the Terms and Conditions of this Award. The Grants Officer may extend the 120 calendar day submission period upon a written request from the Recipient.
- d. *Deadline to liquidate obligations.* Unless EDA authorizes an extension, the Recipient must liquidate all financial obligations incurred under this Award no later than 120 calendar days after the end date of the period of performance.
- e. *Post-Closeout requirements.* As noted above in section B.12 "Efficient Administration of Project" of these EDA Construction STCs, after construction is completed and the Project is closed out financially, the Recipient has an ongoing responsibility to properly administer, operate, and maintain the Project for its estimated useful life (as determined by EDA) in accordance with Award purposes. *See* 13 CFR § 302.12 ("Project administration, operation and maintenance"). The Recipient must comply with all Award requirements and maintain records to document such compliance, which must be made available for inspection by EDA or other Government officials as required.

In addition, in accordance with 2 CFR § 200.345 "Post-closeout adjustments and continuing responsibilities," the Closeout of this Award does not affect any of the following:

- i. The right of EDA to disallow costs and recover funds on the basis of a later audit or other Project review;
- ii. The Recipient's obligation to return any funds due as a result of later corrections or other transactions;
- iii. Audit requirements per subpart F of 2 CFR part 200; and
- iv. Requirements for property management and disposition, records retention, and

performance measurement reports. *See* subpart D of 2 CFR part 200 (“Post Federal Award Requirements”), as applicable.

- f. *GPRA reporting.* As required under GPRA and in accordance with a schedule that will be provided by EDA, the Recipient must submit additional Performance Measurement Reports, generally three, six, and nine years after the date of the Award to accurately and completely report the impacts of the Project, especially in terms of job creation and private investment leveraging.

## 18. Freedom of Information Act

EDA is responsible for meeting its Freedom of Information Act (“FOIA”) (5 U.S.C. § 552) responsibilities for its records. DOC regulations at 15 CFR part 4 set forth the requirements and procedures that EDA must follow in order to make the requested material, information, and records publicly available. Unless prohibited by law and to the extent required under the FOIA, contents of Applications and other information submitted by applicants and Recipients may be released in response to a FOIA request. The Recipient should be aware that EDA may make certain Application and other submitted information publicly available. Accordingly, as set forth in 15 CFR § 4.9 (“Confidential commercial information”), the Recipient should identify in its Application any “business information” it believes to be protected from disclosure pursuant to 5 U.S.C. § 552(b)(4).

## C. Additional Requirements Related to Construction Projects

The Recipient and any subrecipients, must, in addition to other statutory and regulatory requirements detailed in these EDA Construction STCs and the assurances made to EDA in connection with the Award, comply and require each of its contractors and subcontractors employed in the completion of the Project to comply with all applicable Federal, State, territorial, and local laws, and in particular, the following Federal laws (and the regulations issued thereunder), executive orders, OMB circulars, OMB Uniform Guidance, and local law requirements.

1. **The Davis-Bacon Act, as amended (40 U.S.C. §§ 3141–3144, 3146, 3147; 42 U.S.C. § 3212)**, which requires minimum wages for mechanics and laborers employed on Federal Government public works projects to be based on the wages that the Secretary of Labor determines to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State in which the Project is to be performed, or in the District of Columbia if the Project is to be performed there.
2. **The Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. §§ 3701-3708)**, which provides work hour standards for every laborer and mechanic employed by any contractor or subcontractor in the performance of a Federal public works project.
3. **The National Historic Preservation Act of 1966, as amended (54 U.S.C. § 300101 *et seq.*), and the Advisory Council on Historic Preservation Guidelines (36 CFR part 800)**, which require stewardship of historic properties in projects involving Federal funds.
4. **Preservation of Historical and Archeological Data (54 U.S.C. § 312502)**, which requires appropriate surveys and preservation efforts if a Federally licensed project may cause

irreparable loss or destruction of significant scientific, prehistorical, historical, or archeological data.

5. **The Architectural Barriers Act of 1968, as amended (42 U.S.C. § 4151 *et seq.*)**, and the regulations issued thereunder, which prescribe standards for the design and construction of any building or facility intended to be accessible to the public or that may house handicapped employees.
6. **The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. § 4601 *et seq.*)**, and implementing regulations issued at 49 CFR part 24 (“Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs”), which establish uniform policies for the fair and equitable treatment of persons, businesses, or farm operations affected by the acquisition, rehabilitation, or demolition of real property acquired for a project financed wholly or in part with Federal financial assistance.
7. **The Energy Conservation and Production Act (42 U.S.C. § 6834 *et seq.*)**, which establishes energy efficiency performance standards for the construction of new residential and commercial structures undertaken with Federal financial assistance.
8. **Executive Order 13717, “Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction”**, which requires that new buildings constructed with Federal assistance comply with the earthquake-resistant design provisions of the 2015 editions of the International Building Code (IBC) or the International Residential Code (IRC), nationally recognized building codes promulgated by the International Code Council (ICC), or equivalent codes, consistent with the provisions of and to the extent required by 40 U.S.C. § 3312.
9. **Compliance with Local Construction Requirements.** The Recipient will comply with current local building codes, standards, and other requirements applicable to the Project.

#### D. **Non-Discrimination Requirements**

No person in the United States shall, on the ground of race, color, national origin, handicap, age, religion, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. In addition to the non-discrimination requirements set forth in section G.02 “Non-Discrimination Requirements” of the DOC Standard Terms and Conditions, which are incorporated in Part III of these Construction STCs, the Recipient agrees to comply with Pub. L. No. 92-65, 42 U.S.C. § 3123, which proscribes discrimination on the basis of sex in assistance provided under PWEDA.

#### E. **Audits**

##### 1. **General**

- a. Recipients must comply with the audit requirements set out as subpart F to 2 CFR part 200 (“Audit Requirements”). Generally, if the Recipient expends \$750,000 or more in Federal awards during the Recipient’s fiscal year, the Recipient must have a single or program-specific audit conducted for that fiscal year. The cost of preparing the audit may be

included in the Project budget.

- b. For program specific audits, EDA’s Public Works and Economic Adjustment Assistance programs generally have specific audit guidelines that will be incorporated into the Award and may be found in the annual Compliance Supplement, which is Appendix XI to 2 CFR part 200 and available on OMB’s website. When DOC does not have a program-specific audit guide available for the program, the auditor will follow the requirements for a program-specific audit as described in 2 CFR § 200.507 (“Program-specific audits”).

## 2. Requirement to Submit a Copy of the Audit to EDA

If the Recipient’s current audit required under subpart F of 2 CFR part 200 (“Audit Requirements”) contains material findings, the Recipient must submit a copy of the audit to the Project Officer, who will review it with the Grants Officer. *See also* Part II, section B.16 “Project Closeout Procedures” of these EDA Construction STCs.

*See* section D “Audits” of the DOC Standard Terms and Conditions, which are incorporated in Part III of these EDA Construction STCs, for additional information related to audit requirements.

## F. Tribal Employment Rights Ordinances

As set out in 31 U.S.C. § 1352, special provisions are applicable to Indian Tribes, Tribal organizations, and other Indian organizations eligible to receive Federal contracts, grants, loans, or cooperative agreements. In accordance with DOC policy, EDA recognizes Tribal Employment Rights Ordinances (“TEROs”), which may provide for preferences in contracting and employment, in connection with its financial assistance awards. Federal awards granted to American Indian and Alaska Native Tribal governments generally may provide for preference to qualified Indians in all aspects of employment, contracting, and other business activities, as well as the payment of a TERO fee. The payment of the TERO fee, which supports the Tribal employment rights office to administer the preferences, should generally be allowable as an expense that is “necessary and reasonable for the performance of the Federal award,” as provided under 2 CFR § 200.403 (“Factors affecting allowability of costs”).

## G. EDA Contracting Provisions for Construction Projects

The Recipient must use the “*EDA Contracting Provisions for Construction Projects*” as guidance in developing all construction contracts. The “*EDA Contracting Provisions for Construction Projects*” lists applicable EDA and other Federal requirements for construction contracts.

## H. Property

### 1. Standards

With respect to any property acquired or improved in whole or in part with Award funds, the Recipient must comply with the Property Standards set forth at 2 CFR §§ 200.310 (“Insurance coverage”) through 200.316 (“Property trust relationship”), and EDA’s regulations at 13 CFR part 314. Property acquired or improved in whole or in part by the Recipient under this Award may consist of real property; personal property, including equipment and supplies; and intangible property, such as money, notes, contractual rights, and security interests. Any property reports required under 2 CFR §§ 200.310 through 200.316, such as periodic inventories and requests for disposition instructions, must be submitted to the Grants Officer through the Project Officer on



Form SF-428 and/or SF-429, as applicable. *See also* section A.01.d “Real Property, Tangible Property and Intangible Property Reports and Requests for Dispositions” of the DOC Standard Terms and Conditions, which are incorporated in Part III of these EDA Construction STCs.

## 2. Title

- a. Title to equipment, supplies, and intangible property acquired in whole or in part under this Award generally vests upon acquisition in the Recipient. The use, management and disposition of equipment, supplies, and intangible property acquired in whole or in part under this Award must be in accordance with 2 CFR §§ 200.313 (“Equipment”), 200.314 (“Supplies”), and 200.315 (“Intangible property”), as applicable, and EDA regulations at 13 CFR part 314. *See also* section C.03 “Intellectual Property Rights” of the DOC Standard Terms and Conditions, which are incorporated in Part III of these EDA Construction STCs.
- b. Title to real property acquired in whole or in part under this Award generally vests upon acquisition in the Recipient, subject to the condition that the Recipient uses the real property for the authorized purpose of the Project. *See* 2 CFR § 200.311 (“Real property”) and EDA regulations at 13 CFR part 314.

## 3. EDA’s Interest in Award Property

- a. *General - evidence of title.* As stated in Part I, section E, of these EDA Construction STCs “Recipient as Trustee”, real property, equipment, and intangible property acquired or improved under this Award must be held in trust by the Recipient as trustee for the public purposes of an Award. This trust relationship exists throughout the duration of the property’s estimated useful life, as determined by EDA, during which time EDA retains an undivided, equitable reversionary interest in the property (“Federal Interest”). *See* 13 CFR § 314.2.

Before advertising for construction bids or at such other time as EDA requires, the Recipient must furnish evidence, satisfactory in form and substance to EDA, that title to real property required for the Project (other than property of the United States and as provided in 13 CFR § 314.7(c) (“Title”)) is vested in the Recipient and that such easements, rights-of-way, State or local government occupancy or use permits, long-term leases, or other property interests or access rights required for the Project have been or will be obtained by the Recipient within an acceptable time, as determined by EDA. All liens, mortgages, other encumbrances, reservations, reversionary interests, or other restrictions on title or the Recipient’s interest in the property must be disclosed to EDA. *See* 13 CFR § 314.7 (“Title”). With limited exceptions set forth at 13 CFR §§ 314.6(a) and (b) (“Encumbrances”) or as otherwise authorized by EDA, Recipient-owned property acquired or improved in whole or in part with Award funds must not be used to secure a mortgage or deed of trust or in any way otherwise encumbered. *See* 13 CFR § 314.6.

### b. *Recording EDA’s Interest in Real Property.*

- i. For all Projects involving the acquisition, construction, or improvement of a building, infrastructure, or other real property, as determined by EDA, the Recipient must execute and furnish to EDA, prior to initial Award disbursement or at such other time as EDA requires, a lien, covenant, or other statement, satisfactory to EDA in form and substance, of EDA’s interest in the property acquired or improved in whole or in part with the funds made available under this Award. EDA may permit such statement to be recorded after

- initial Award disbursement in the event that grant funds are being used to acquire such property or for authorized costs, such as design and engineering services. The statement must specify the estimated useful life of the Project and must include the disposition, encumbrance, and the Federal Share compensation requirements, as well as any other requirements specified by EDA in its reasonable discretion. *See* 13 CFR §§ 314.1 (“Definitions”) and 314.8(a) (“Recorded statement for real property”). *See also* 2 CFR § 200.316 (“Property trust relationship”).
- ii. This lien, covenant, or other statement of the Federal interest must be perfected and placed of record in the real property records of the jurisdiction in which the property is located, all in accordance with applicable law. EDA may require an opinion of counsel for the Recipient to substantiate that the document was validly executed and properly recorded. *See* 13 CFR § 314.8(b).
  - iii. Facilities in which the EDA assistance is only a small part of a larger project, as determined by EDA, may be exempted from the requirements listed in paragraphs H.3.b.i and ii above. *See* 13 CFR § 314.8(c).
  - iv. In extraordinary circumstances and at EDA’s discretion, EDA may choose to accept another instrument to protect EDA’s interest in the Project property, such as an escrow agreement or letter of credit, provided that EDA determines such instrument is adequate and a recorded statement in accord with section H.3.b.i above is not reasonably available. The terms and provisions of the relevant instrument must be satisfactory to EDA. The costs and fees for escrow services or letters of credit must be paid by the Recipient. *See* 13 CFR § 314.8(d).
- c. *Recording EDA’s Interest in Personal Property.* For all Projects involving the acquisition or improvement of significant items of equipment or other tangible personal property, including but not limited to watercraft, motor vehicles, machinery, equipment, removable fixtures, or structural components of buildings, the Recipient must execute a security interest, covenant, or other statement of EDA’s reversionary interest in the personal property acceptable in form and substance to EDA, which statement must be perfected and placed of record in accordance with applicable law (usually accomplished by filing a Uniform Commercial Code Financing Statement (Form UCC-1), as provided by State law), with continuances re-filed as appropriate. EDA may require an opinion of counsel for the Recipient to substantiate that the Form UCC-1 or other filing was validly executed and properly recorded. *See* 13 CFR § 314.9 (“Recorded statement for Project personal property”).
  - d. *EDA’s Interest and the estimated useful life.* The Recipient acknowledges that EDA retains an undivided equitable reversionary interest in property acquired or improved in whole or in part with grant funds made available through this Award throughout the estimated useful life (as determined by EDA) of the Project, except in applicable instances set forth at 13 CFR § 314.7(c) (“Title”). *See* 13 CFR § 314.2(a) (“Federal interest”).
  - e. *Unauthorized Use of Award Property.* The Recipient agrees that if any interest in property acquired or improved in whole or in part with Award funds is disposed of, encumbered, or alienated in any manner, or no longer used for the authorized purposes of the Award during the Project’s estimated useful life without EDA’s written approval, EDA will be entitled to recover the Federal Share, as defined at 13 CFR § 314.5 (“Federal share”). Examples of

alienation of Award property include sale or other conveyance of the Recipient's interest, leasing or mortgaging the property, or granting an option for any of the foregoing.

If, during the Project's estimated useful life, the property is no longer needed for the purposes of the Award, as determined by EDA, EDA may permit its use for other acceptable purposes consistent with those authorized by PWEDA and 13 CFR Chapter III. *See* 13 CFR § 314.3(b) ("Authorized use of property") or may direct the Recipient to sell the property and remit the Federal Share of the sales proceeds to EDA. *See* 2 C.F.R. §§ 200.311, 200.313.

- f. *Calculating the Federal Share.* For purposes of any lien or security interest, the amount of the Federal Share is the portion of the current fair market value of any property (after deducting any actual and reasonable selling and repair expenses incurred to put the property into marketable condition) attributable to EDA's participation in the Project. *See* 13 CFR § 314.5 ("Federal share").

#### 4. **Insurance and Bonding**

- a. *Insurance.* The Recipient must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided for property owned by the Recipient. Federally owned property need not be otherwise insured unless required by the Terms and Conditions of the Award. *See* 2 CFR § 200.310 ("Insurance coverage").
- b. *Bonding.* If the Award exceeds the simplified acquisition threshold as defined at 2 CFR § 200.1, EDA may accept the Recipient's or subrecipient's bonding policy and requirements if EDA or the pass-through entity determines that the Federal Interest is adequately protected. If not, the following minimum requirements will apply:
  - i. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
  - ii. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
  - iii. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to ensure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract. *See* 2 CFR § 200.326 ("Bonding requirements").

#### 5. **Leasing Restrictions.**

Leasing or renting of facilities or property is prohibited unless specifically authorized by EDA. The Recipient agrees that any leasing or renting of any facilities or property involved in this Project will be subject to the following:

- a. That said lease arrangement is consistent with the authorized general and special purpose of

the Award;

- b. That said lease arrangement is for adequate consideration;
- c. That said lease arrangement is consistent with applicable EDA requirements concerning but not limited to nondiscrimination and environmental compliance; and
- d. That all revenue derived from said leasing arrangement shall be subject to Part II, section A.7 “Program Income” of these EDA Construction STCs.

#### **6. Eminent Domain**

The Recipient will use funds solely for the authorized purpose of the Project. Pursuant to Executive Order 13406, “Protecting the Property Rights of the American People,” the Recipient agrees:

- a. Not to exercise any power of eminent domain available to the Recipient (including the commencement of eminent domain proceedings) for use in connection with the Project for the purpose of advancing the economic interests of private parties; and
- b. Not to accept title to land, easements, or other interests in land acquired by the exercise of any power of eminent domain for use in connection with the Project for such purposes. The Recipient agrees that any use of the power of eminent domain to acquire land, easements, or interests in land, whether by the Recipient or any other entity that has the power of eminent domain, in connection with the Project without the prior written consent of EDA is an unauthorized use of the Project. If the Recipient puts the Project to an unauthorized use, the Recipient must compensate EDA for the Federal Share in accordance with 13 CFR §§ 314.4 (“Unauthorized use of property”) and 314.5 (“Federal share”), as the same may be amended from time to time.

#### **7. Disposal of Real Property**

- a. During the estimated useful life of the Project, if EDA and the Recipient determine that property acquired or improved in whole or in part with Award funds is no longer needed for the original purposes of this Award, EDA may, in its discretion, approve use of the property in other Federal grant programs or in programs that have purposes consistent with those authorized by PWEDA and 13 CFR chapter III. *See* 13 CFR § 314.3(b) (“Authorized use of property”).
- b. When property is not authorized for other uses as provided in section H.7.a above, EDA will provide disposition instructions to the Recipient, which may include directing the Recipient to sell the property and remit the Federal Share of the sales proceeds to EDA.

#### **8. Reporting on Property.**

- a. *Real Property status reports and requests for disposition.* In accordance with 2 CFR § 200.330 “Reporting on real property”, the Recipient must submit reports using Form SF-429 (Real Property Status Report), including appropriate attachments, at least annually on the status of real property in which EDA retains an interest, which generally includes real property acquired or improved under the award, unless such interest extends 15 years or longer. If EDA’s interest is for a period of 15 years or longer, unless otherwise specified in a specific award condition, the Recipient must submit an annual report for the

first three years of the award and thereafter submit a real property status report every five years. If the Recipient wishes to dispose of real property acquired or improved under an EDA award, the Recipient must request disposition instructions, including the submission of Form SF-429, with appropriate attachments, from the Grants Officer in accordance with 2 CFR 200.311(c).

- b. *Tangible Personal Property status reports and requests for dispositions.* The Recipient must submit periodic reports as specified in the terms of the Award using Form SF-428 (Tangible Personal Property Report), including appropriate attachments thereto, concerning tangible personal property that is Federally owned or tangible personal property in which EDA retains an interest. In addition, if the Recipient wishes to dispose of tangible personal property acquired or improved under an EDA award, the Recipient must request disposition instructions, including the submission of Form SF-428, with appropriate attachments, from the Grants Officer in accordance with 2 CFR 200.313(e).

*See also* section A.01.d of the DOC Standard Terms and Conditions, which are incorporated in Part III of these EDA Construction STCs.

## I. **Environmental Requirements**

1. **General.** In addition to the environmental statutes, executive orders, and requirements set forth in section G.04 of the DOC Standard Terms and Conditions “Environmental Requirements,” which are incorporated in Part III of these EDA Construction STCs, the Recipient must comply with the following:
  - a. **Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. §§ 4371-4375).** Federally supported public works facilities and activities that affect the environment must be implemented in compliance with policies established under existing law.
  - b. **The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. § 4821 *et seq.*).** Use of lead-based paint in residential structures improved with Federal assistance is prohibited.
  - c. **The Farmland Protection Policy Act (7 U.S.C. §§ 4201–4209).** Projects are subject to review under this Act if they may irreversibly directly or indirectly convert farmland, including forest land, pastureland, cropland, or other land, to nonagricultural use.
  - d. **The Noise Control Act of 1972 (42 U.S.C. § 4901 *et seq.*).** Federally supported facilities and activities must comply with Federal, State, interstate, and local requirements respecting control and abatement of environmental noise to the same extent that any person is subject to such requirements.
  - e. **The Native American Graves Protection and Repatriation Act (25 U.S.C. § 3001 *et seq.*).** This Act provides a process for returning certain Native American cultural items to lineal descendants, culturally affiliated Indian tribes, and Native Hawaiian organizations.
2. **Compliance with Other Applicable Environmental Requirements**

The Recipient agrees to promptly notify the Grants Officer in writing of any environmental requirement or restriction, regulatory or otherwise, with which it must comply. Before Project Closeout and final disbursement of Award funds, the Recipient further agrees to provide evidence

satisfactory to the Grants Officer that any required environmental remediation has been completed: (1) in compliance with all applicable Federal, State and local regulations; and (2) in accordance with any legally enforceable restrictions related to environmental restriction on the property such as environmental easements, deed restrictions, no further action determinations, or voluntary cleanup certifications. Compliance with said laws or restrictions must be included in any contract documents for Project construction. The Recipient must certify compliance before final disbursement of grant funds.

**J. American-Made Equipment and Products**

Recipients are hereby notified that they are encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this Award.

*See also* section G.05.a (Buy-American Preferences) of the DOC Standard Terms and Conditions, which are incorporated in Part III of these EDA Construction STCs.

**PART III:  
DEPARTMENT OF COMMERCE  
STANDARD TERMS & CONDITIONS**

The DOC Standard Terms and Conditions dated November 12, 2020, which can be found at <https://www.commerce.gov/oam/policy/financial-assistance-policy>, are incorporated by reference herein as Part III of these Construction STCs.

In the event of a conflict between Parts I or II of these Construction STCs and Part III, which incorporates the DOC Standard Terms and Conditions, Parts I and II will control.

Daily = will initially be 3 times  
and then M-F as demand proves  
higher service levels up to 7  
days/week

**SERVICE LEVEL MATRIX:**

<b><u>SERVICE</u></b>	<b>SERVICE LEVEL</b>			
	A			
	High Traffic			
<b>1. GENERAL OFFICE AREAS</b>				
a. Vacuum carpeted floors	3 days/week			
b. Empty office trash, replace all liners and return receptacles to original location	3 days/week			
c. Empty recycling bins	3 days/week			
d. Wet mop and remove scuff marks from all non-carpeted floors	Daily			
e. Clean and thoroughly polish drinking fountains	Daily			
f. Clean and disinfect all public counters	Daily			
g. Remove fingerprints from entrance glass	Daily			
h. Clean and disinfect doorknobs and light switches	Daily			
i. Spray buff all tile / terrazzo floor areas according to industry standards.	Weekly			
j. Clean vertical and/or mini blinds	Bi-Weekly			
k. Dust tops of desk areas in offices.	Weekly			
l. Clean and polish stainless steel, chrome, and brass surfaces, ensuring the polish does not stain or mark area around push plates or other fixtures.	Monthly			
m. Wipe down doors with non-abrasive cleaner	Monthly			
n. Wipe clean all vents and diffusers	Weekly			
o. Dust horizontal & vertical surfaces	Weekly			
p. Spot clean carpets	As Needed			
q. Vacuum with hand tool around copy machines and other equipment	Daily			
<b>2. CONFERENCE ROOMS:</b>				
a. Vacuum carpeted floors	Daily			
b. Empty trash, replace all liners and return receptacles to original location	Daily			
c. Damp mop and remove scuff marks from all non-carpeted floors	Daily			
d. Clean and disinfect conference tables	Daily			
e. Dust all ledges	Weekly			
f. Wipe clean all vents and diffusers	Weekly			
g. Clean glass cases	N/A			
h. Dust horizontal & vertical surfaces	Weekly			
i. Spot clean carpets	As Needed			
		<b><u>SERVICE LEVEL</u></b>		



<b>SERVICE</b>	A				
	High Traffic				
<b>3. REST ROOMS:</b>					
a. Wet mop floors using a germicidal detergent solution	Daily				
b. Empty receptacle trash, replace liner	Daily				
c. Empty and clean sanitary napkin disposal units and wrap for separate disposal. Replace liners	Daily				
d. Clean and polish mirrors	Daily				
e. Clean and disinfect toilets and urinals, inside and out and install urinal deodorizer blocks as designated. Polish bright work. Clean toilet seats on both sides. Remove any rust, discoloration, and calcium build-up on/around bathroom fixtures with a non-acidic product. No chemicals are to be left in toilets or urinals or on fixture surfaces. <b>Waterless urinals require special spray cleaning and maintenance.</b>	Daily				
f. Wipe towel cabinets	Daily				
g. Check and refill all toilet paper, towel dispensers, hand soap dispensers, etc. Replacement soap cartridges shall be of the type designated for the dispenser.	Daily				
<b>4. FITNESS CENTERS:</b>					
h. Scrub shower walls and remove soap build-up using a disinfectant fungicide product <b>REF: FITNESS CENTER SECTION (p. 31, Section B.8)</b>	N/A				
i. Clean and disinfect sinks and countertops. Polish bright work.	N/A				
j. Wash entrance doors and walls with a disinfectant.	N/A				
k. Pour a solution of germicidal detergent, previously approved by Facility Representative, down the floor drain to fill the drain trap.	N/A				
l. Vacuum and wipe clean all vents and diffusers	N/A				
m. Wipe clean partition tops, partition sides, ledges, vents, louvers in doors, tops of mirrors and lights.	N/A				
n. Clean and polish stainless steel, chrome, and brass surfaces, insuring the polish does not stain or mark area around push plates or other fixtures.	N/A				
o. Dust horizontal & vertical surfaces	N/A				
p. Clean and disinfect trash receptacles	N/A				
q. Machine scrub floors	N/A				
r. Clean floor grout (see section 3 for detail)	N/A				

SERVICE	SERVICE LEVEL				
	A High Traffic				
<b>5. KITCHENS AND BREAK ROOMS:</b>					
a. Empty kitchen trash and replace liners	Daily				
b. Wet mop non-carpeted floors	Daily				
c. Clean and disinfect sinks and counters	Daily				
d. Vacuum carpeted floors	Daily				
e. Wipe down outside of cabinetry	Weekly				
f. Clean vertical and/or mini blinds	Monthly				
g. Wipe clean all vents, diffusers, and exhaust hoods	Weekly				
h. Clean and polish stainless steel, chrome and brass surfaces, ensuring the polish does not stain or mark area around push plates or other fixtures.	Monthly				
i. Dust horizontal & vertical surfaces	Weekly				
j. Machine scrub floors	Monthly				
k. Clean floor grout (see section 3 for detail)	Semi-Annually				
<b>6. LOBBIES, ENTRANCES &amp; VESTIBULES:</b>					
a. Vacuum carpeted floors	Daily				
b. Wet mop all non-carpeted floors	Daily				
c. Clean entrance glass doors and revolving glass doors. Clean framework, including transoms and sidelights- interior and exterior	Daily				
d. Clean ledges and moldings, inside and exterior of entry way doors	Daily				
e. Empty, replace liner, and clean outside of trash cans	Daily				
f. Clean, disinfect and polish all public telephones	Daily				
g. Clean all door brass and/or stainless brushed steel	Daily				
h. Empty all exterior ashtrays, recycling and trash receptacles of cigarette butts and debris	Daily				
i. Continuously dry mop non-carpeted lobby floor on rainy days, during normal business hours	N/A				
j. Wipe clean and polish all glass and mirrored surfaces	Daily				
k. Remove unsightly soil, grass, leaves, cans, litter, etc. from the building exterior, patios, and surrounding areas. Maintain areas around all dumpsters free of litter, trash, etc. parking areas, sidewalks (adjacent to buildings out to the curbing of the sidewalks), exterior exit landings, and exterior stairs.	Weekly				
l. Dust and wipe clean all flat surfaces, walls, windowsills, pillars and other flat areas	Weekly				

SERVICE	SERVICE LEVEL				
	A High Traffic				
<b>7. LOBBIES, ENTRANCES &amp; VESTIBULES(Con't)</b>					
m. Machine scrub non-carpeted floors	Weekly				
n. Clean vertical and/or mini blinds	Weekly				
o. Wipe clean all vents and diffusers	Weekly				
p. Clean and polish stainless steel, chrome, and brass surfaces, ensuring the polish does not stain or mark area around push plates or other fixtures	Monthly				
q. Dust horizontal & vertical surfaces	Weekly				
r. Wash all public waste receptacles	Quarterly				
s. Spot clean carpets	As Needed				
t. Clean floor grout (see section C3 for detail)					
u. Sweep NW laundry room area concrete floor (Building 16 only)					
<b>8. CORRIDORS:</b>					
a. Vacuum carpeted floor	Daily				
b. Damp mop and/or spray buff all non-carpeted floors	Daily				
c. Empty, replace liner and wipe trash receptacles	Daily				
d. Wipe clean all vents and diffusers	Weekly				
e. Clean and polish stainless steel, chrome, and brass surfaces, ensuring the polish does not stain or mark area around push plates or other fixtures.	Monthly				
f. Dust horizontal & vertical surfaces	Weekly				
g. Spot clean carpets	As Needed				
h. Clean vertical and/or mini blinds	Weekly				
i. Wax and strip non-carpeted floors per the Floor Care Section, (see section C3 for detail)					
<b>9. STAIRWAYS:</b>					
a. Sweep or vacuum steps and landings	3 days/week				
b. Wipe banisters and ledges	3 days/week				
c. Wet mop non-carpeted stairs and landings	Weekly				
d. Wipe and clean all railings and doors	Weekly				
e. Wipe clean all vents and diffusers	Weekly				
f. Clean and polish stainless steel, chrome, and brass surfaces, ensuring the polish does not stain or mark area around push plates or other fixtures.	Monthly				
g. Dust horizontal & vertical surfaces	Weekly				
h. Spot clean carpets	As Needed				

SERVICE	SERVICE LEVEL				
	A High Traffic				
<b>10. ELEVATORS:</b>					
a. Wipe elevator cab walls to keep high sheen and to remove fingerprints	3 times/week				
b. Clean and disinfect control button panel	3 times/week				
c. Vacuum carpeted floor, wet mop non-carpeted floors	3 times/week				
d. Clean and vacuum all door tracks and polish all door interior and exterior surfaces	3 times/week				
e. Wipe mirrored surfaces in the elevator cabs	3 times/week				
f. Wipe clean all ledges, vents and diffusers	Weekly				
g. Clean and polish stainless steel, chrome, and brass surfaces, insuring the polish does not stain or mark area around push plates or other fixtures.	Monthly				
h. Dust horizontal & vertical surfaces	Weekly				
i. Spot clean carpets	As Needed				
<b>11. GENERAL WAREHOUSE AREA:</b>					
a. Empty trash, replace all liners and return receptacles to original location.	N/A				
b. Clean and thoroughly polish drinking fountains	N/A				
c. Sweep, wet mop and remove scuff marks from all non-carpeted floors	N/A				
d. Wipe clean all vents and diffusers	N/A				

Exhibit "F"

**Quarterly Report of Service and Invoice**

Quarter: \_\_\_\_\_

PERFORMANCE MEASURE	TOTAL
Number of Clients	
Number of Client Employees	
Number of Coworkers	
Occupancy rate	
Program Graduates Stage 1 - Idea to startup Stage 2 - Startup to Revenue Stage 3 - Revenue to Stability Stage 4 - Independent	
Number of Direct Inquiries	
Startup Studio Participants - Costarters	
Startup xChange Assistance	
Any additional information that would show performance and/or an economic benefit to Pinellas County	
<b>TOTAL INVOICE FOR QUARTER</b>	

\*Note: Invoice paid in advance. Services reflect previous quarter activity.



Exhibit "G"

Economic Development Administration  
GPRA Data Collection Form

**Public Works, Economic Adjustment Infrastructure and Revolving Loan Fund Investments**

Date \_\_\_\_\_

Recipient Name \_\_\_\_\_

Full Address \_\_\_\_\_

Authorized Contact \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_

Email (not optional) \_\_\_\_\_

Investment Program Public Works \_\_\_\_ Economic Adjustment \_\_\_\_ Revolving Loan Fund \_\_\_\_

Project Number \_\_\_\_\_

Award Date \_\_\_\_\_ Close-out Date \_\_\_\_\_  
*(if applicable)*

Investment awarded during federal fiscal year: FY 20 \_\_\_\_

Data in this report:

\_\_\_\_ 3 years after investment award \_\_\_\_ 6 years after investment award \_\_\_\_ 9 years after investment award

**CONSTRUCTION OR LOAN FUNDING**

Total Investment	EDA Investment	Applicant Investment <sup>1</sup>	Private Investment <sup>2</sup>	Other Federal Investment
\$	\$	\$	\$	\$

(Note: Total Project should be the total of the other values in this section)

**GRANT RECIPIENT COMPLETE THIS SECTION**

**RESULT OF EDA INVESTMENT**

	3 Years After Award <sup>3</sup>	6 Years After Award <sup>3</sup>	9 Years After Award <sup>3</sup>
Private Investment Generated			
Jobs Created			
Jobs Retained			
Total Jobs Created/Retained			

<sup>1</sup> (includes Local and State)

<sup>2</sup> private investment associated with project construction, e.g. foundation grants

<sup>3</sup> at the time of this report (see instructions)

**GPRA Data Collection Instructions**  
**Public Works, and Economic Adjustment Infrastructure and Revolving Loan Fund Investments**

*EDA regional personnel will complete the following information prior to sending the form to the Investment Recipient.* If there is not sufficient space on the data collection form, you may use additional pages with the EDA project number, date of award, and reporting period at the top of each page.

**Recipient Name:** Legal name of the Recipient.

**Full Address:** Physical address of the Recipient including city, state and zip. Include mailing address if different.

**Authorized Contact:** Person to contact regarding this report. Include the telephone number, if different from Recipient.

**Telephone:** Telephone number, including area code. **Fax:** Facsimile number, including area code.

**E-mail Address:** Internet address of authorized contact using the following format, (name@organization.com).

**Investment Program:** Check to indicate appropriate EDA investment program.

**Project Number:** as reflected on the CD-450 and/or CD-451 Notification of Grant Award

**Award Date:** DEC as reflected on the CD-450 and/or CD-451 Notification of Grant Award

**Investment awarded:** Identify federal fiscal year of award.

**Data for this report:** Check to identify the reporting period: three, six, or nine years after investment award date (DEC date in OPCS).

**Construction or Loan Funding:**

**Total Project dollars:** Total of EDA investment, applicant (local and state) dollars, private dollars, other federal dollars used in project construction or loan fund capitalization.

**EDA Investment:** At time of award for this project number or most current value.

**Applicant dollars:** Include local and state funds. Local public sources such as city or county appropriations, general obligation/ revenue bond issues, and economic development sales taxes. CDBG funds to entitlement cities are authorized for use as local shares. State sources are state appropriations or CDBG funds to the state.

**Private dollars:** Private sector dollars invested in project construction or loan fund capitalization, including donations, foundation grants, contributions from local financial institutions, and private donors.

**Other Federal dollars:** Federal sources, such as HUD, Agriculture, or Transportation funds not reported in Applicant dollars section.

**Recipient Section Instructions**

**Private Investment Generated as a result of the EDA investment.**

The total private sector investment made because of the EDA investment, including investments in new plant and equipment. Do not report private sector contributions to project construction or loan fund capitalization reported above in this section.

**Direct Project Jobs:**

**Total Jobs:** Total of jobs created and retained at the time of this report.

**Jobs Generally:** Only *permanent* and *direct* jobs may be counted. Part-time jobs should be converted to full-time equivalents (sum the total part-time hours worked per week and divide by the hourly work week for full-time employees, normally 35-40 hours).

**Jobs Created:** Private sector jobs created by businesses and other project beneficiaries as a result of the EDA project.

**Jobs Retained:** Private sector jobs retained as a result of the EDA project.

**Direct Jobs:** Include those created or retained by employers located at the project site or by firms that require services of the EDA-funded facility in order to locate, expand or operate in the project area. Recipients should report other direct or *directly-related* jobs, including subsequent employers that locate or expand in the project area as a result of the project. For some projects (e.g., roads, water and sewer lines), direct jobs may include those created by firms that were not originally anticipated as part of the project; however the firms required the facility or service provided by the EDA project in order to locate or expand in the area.

**Record retention:** Recipients must retain supporting performance documentation for a minimum of three years.

**For RLF reporting:** **Actual Created Jobs** are the result of and attributable to the RLF loan, and have been verified by the borrower. Created jobs may be credited if the jobs were created within five years of loan disbursement or, if construction is involved, within five years after construction completion regardless of the status of the loan. A created job must be removed if the job fails to last 18 months. For loans paid in full, borrowers may use the job data on file provided there is confidence in the reliability of the data. If there is a question on reliability, the data should be verified by the next annual reporting period. **Retained Jobs** are existing jobs where it can be documented that without the RLF assistance, the jobs would have been lost.

**Special Provision for RLF Recapitalization:** For GPRA purposes, private investment and jobs reported in years three, six and nine (3, 6 and 9) following award of an RLF recapitalization should be reported from the date of the recap, not from the date of the initial RLF award. For example, if the RLF was initially awarded in 1995 and received a recapitalization award in 1999, only those jobs and private sector investments dollars generated from 1999 to the end of the appropriate reporting period should be reported.

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**Burden Statement:** Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number 0610-0098 Expires 11/30/2017. The public reporting burden for this collection is estimated to average 8 hours per response including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Economic Development Administration, Herbert C. Hoover Building, Washington, DC, 20230, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

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OMB Approved ED-915

## EXHIBIT "H" INSURANCE REQUIREMENTS

The following insurance requirements are included in this agreement:

### 1. **INSURANCE**

The STAR-TEC shall obtain and maintain, at all times during its performance of the Agreement, insurance of the types and in the amounts set forth. All insurance policies shall be from responsible companies duly authorized to do business in the State of Florida and have an AM Best rating of A- VIII or better.

The STAR-TEC shall email certificate that is compliant with the insurance requirements. If the certificate received is compliant, no further action may be necessary. The Certificate(s) of Insurance shall be signed by authorized representatives of the insurance companies shown on the Certificate(s). **The Certificate holder section shall indicate Pinellas County, a Subdivision of the State of Florida, 400 S Fort Harrison Ave, Clearwater, FL 33756. Pinellas County shall be named as an Additional Insured for General Liability.**

- A. Approval by the County of any Certificate(s) of Insurance does not constitute verification by the County that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate(s) of Insurance is in compliance with the requirements of the Agreement. The County reserves the right to require a certified copy of the entire insurance policy, including endorsement(s), at any time during the contract period.

If any insurance provided pursuant to the Agreement expires or cancels prior to the expiration, you will be notified by CTrax, the authorized STAR-TEC of Pinellas County. Upon notification, renewal certificate(s) of Insurance and

endorsement(s) should be furnished to Pinellas County Risk Management at [InsuranceCerts@pinellascounty.org](mailto:InsuranceCerts@pinellascounty.org) and to CTrax c/o JDi Data at [PinellasSupport@jdidata.com](mailto:PinellasSupport@jdidata.com) by the STAR-TEC or their agent prior to the expiration date.

- 1) The STAR-TEC shall also notify the County within twenty-four (72) hours after receipt, of any notices of expiration, cancellation, nonrenewal or adverse material change in coverage received by said STAR-TEC from its insurer. Notice shall be given by email to Pinellas County Risk Management at [InsuranceCerts@pinellascounty.org](mailto:InsuranceCerts@pinellascounty.org). Nothing contained herein shall absolve STAR-TEC of this requirement to provide notice.
- 2) Should the STAR-TEC, at any time, not maintain the insurance coverages required herein, the County may terminate the Agreement.

B. Each insurance policy and/or certificate shall include the following terms and/or conditions:

- 1) The Named Insured on the Certificate of Insurance and insurance policy must match the entity's name that responded to the solicitation and/or is signing the agreement with the County.
- 2) Companies issuing the insurance policy, or policies, shall have no recourse against County for payment of premiums or assessments for any deductibles which all are at the sole responsibility and risk of STAR-TEC.
- 3) The term "County" or "Pinellas County" shall include all Authorities, Boards, Bureaus, Commissions, Divisions, Departments and Constitutional offices of County and individual members, employees thereof in their official capacities, and/or while acting on behalf of Pinellas County.
- 4) All policies shall be written on a primary, non-contributory basis.

The minimum insurance requirements and limits for this Agreement, which shall remain in effect throughout its duration, are as follows:

- 1) **Workers' Compensation Insurance** Worker's Compensation Insurance is required if required pursuant to Florida law. If, pursuant to Florida law, Worker's Compensation Insurance is required, employer's liability, also known as Worker's Compensation Part B, is also required in the amounts set forth herein.



**EXHIBIT "H" INSURANCE REQUIREMENTS**

## Limits

Employers' Liability Limits	Florida Statutory
Per Employee	\$ 500,000
Per Employee Disease	\$ 500,000
Policy Limit Disease	\$ 500,000

If STAR-TEC is not required by Florida law, to carry Workers Compensation Insurance in order to perform the requirements of this Agreement, County Waiver Form for workers compensation must be executed, submitted, and accepted by Risk Management. Failure to obtain required Worker's Compensation Insurance without submitting and receiving a waiver from Risk Management constitutes a material breach of this Agreement.

- 2) **Commercial General Liability Insurance** including, but not limited to, Contractual Liability, Premises/Operations, Products/Completed Operations, and Personal Injury.

## Limits

Combined Single Limit Per Occurrence	\$ 1,000,000
Products/Completed Operations Aggregate	\$ 2,000,000
Personal Injury and Advertising Injury	\$ 1,000,000
General Aggregate	\$ 2,000,000

- 3) **Crime/Fidelity/Financial Institution Insurance** coverage shall include Clients' Property endorsement similar or equivalent to ISO form CR 04 01, with at least minimum limits as follows:

## Limits

Each Occurrence or Claim	\$ 100,000
General Aggregate	\$ 100,000

- 4) **Property Insurance** STAR-TEC will be responsible for all damage to its own property, including improvements and alterations, contents, equipment, and/or materials.