

**MASTER LAND SURVEYING SERVICES AGREEMENT**

BETWEEN

**Wake County Board of Education**

hereinafter referred to as the Owner

AND

**(name)**

hereinafter referred to as the Land Surveyor or Surveyor

For multiple projects started between July 1, 20[ ] and June 30, 20[ ]

## MASTER LAND SURVEYING SERVICES AGREEMENT

### AGREEMENT

made this \_\_\_\_ day of \_\_\_\_\_ in the year of Two Thousand \_\_\_\_

between the Owner: **Wake County Board of Education**

and the Land Surveying Consultant: **(Name, Address)**

For Professional Services to be provided as authorized by the Owner pursuant to this Agreement and the terms and conditions of the Individual Project proposals.

### ARTICLE 1

#### TERMS AND CONDITIONS

- 1.1 **WORK:** If authorized to perform services pursuant to an Individual Project Proposal Agreement (IPPA), the Land Surveyor shall provide the services outlined in the IPPA in accordance with this Agreement and the IPPA. Any IPPA shall specify the services authorized for the particular project. The Land Surveyor shall not provide any services or any work without an IPPA. The execution of this Agreement does not guarantee that any IPPAs or work will be authorized by the Owner.
- 1.2 **TIME:** The specified land survey work shall be completed and the drawing(s) and report(s) delivered to the Owner and the Land Surveyor as stated in the IPPA. In the event that circumstances beyond the Land Surveyor's control force a delay that prohibits or may prohibit the Land Surveyor's compliance with this Paragraph, the Land Surveyor shall inform the Owner immediately. The Owner shall evaluate the circumstances presented by the Land Surveyor to the Owner and shall inform the Land Surveyor of any time extension authorized.
- 1.3 **COMPENSATION:** The Land Surveyor shall be compensated, if at all, according to the attached rate and price schedule identified as Exhibit A to this Agreement, this Paragraph and the applicable IPPA. Exhibit A shall itemize the cost of the Land Surveying services (including the furnishing of all materials, surveying equipment and computers, apparatus, labor and any required insurance) and shall include a lump sum for mobilization and demobilization services (including any travel and per diem expenses). Exhibit A shall specify the hourly rate schedule for any services that may be utilized under this Agreement. The IPPA shall specify the Land Surveying services required for the project and shall state the maximum compensation authorized for the work specified in the IPPA. The Land Surveyor shall be compensated for work performed pursuant to an IPPA in the amount of either (1) the actual value of the services authorized by the IPPA and performed by the Land Surveyor at the rate specified in Exhibit A or the maximum compensation authorized by the IPPA authorizing the work, whichever is lower, or (2) a lump sum amount the parties have agreed to in the IPPA. The execution of this Agreement does not guarantee the Land Surveyor any compensation or any work. The Land Surveyor shall not be compensated for any work or services performed without specific authorization in an IPPA.
- 1.4 **BILLING AND PAYMENT:**
  - 1.4.1 Billing for the work shall be directed to the Owner at the following address:  
Wake County Public School System  
Facilities Design & Construction Department  
111 Corning Road, Suite 190  
Cary, NC 27518

- 1.4.2 Payment shall be made within forty-five (45) days of the successful completion of the work and the receipt of an acceptable invoice from the Land Surveyor.
- 1.5 INSURANCE:
- The Land Surveyor shall purchase and maintain insurance for protection from claims under workers' or workmen's compensation acts; claims resulting from negligent acts or omissions for damages because of bodily injury, including personal injury, sickness, disease or death of any of the Land Surveyor's employees or any other person; claims for damages because of injury to or destruction of personal property including loss of use resulting therefrom; and claims arising out of the performance of this Agreement and caused by negligent acts or (2) omissions for which the Land Surveyor is legally liable. Minimum limits of coverage shall be:
- | Insurance Description             | Minimum Required Coverage      |
|-----------------------------------|--------------------------------|
| a. Workers' Compensation          | Statutory                      |
| b. Public Liability               | Combined Single Limit          |
| Bodily Injury and Property Damage | \$1,000,000.00 Each Occurrence |
| c. Automobile Liability           | Combined Single Limit          |
| Bodily Injury and Property Damage | \$1,000,000.00 Each Accident   |
| d. Professional Liability:        | \$1,000,000.00 Each Occurrence |
- 1.5.1 A certificate of insurance documenting evidence of such insurance shall be furnished to the Owner. The Land Surveyor shall also provide a policy endorsement requiring the Owner to receive thirty (30) days prior written notice of cancellation for any statutorily permitted reason other than non-payment of premium. In addition, the Land Surveyor shall provide at least five (5) business days written prior notice to the Owner's Representative at the address noted above and via email ("fdc-insure@wcpss.net") of the cancellation, non-renewal (without replacement), or the material reduction of coverage or limits of any of the policies. Upon notice of such cancellation, nonrenewal or reduction, the Land Surveyor shall procure substitute insurance so as to assure the Owner that the minimum limits of coverage are maintained continuously throughout the period of this Agreement.
- 1.5.2 The Land Surveyor shall deliver to the Owner a Certificate of Insurance for its Professional Liability coverage annually, so long as it is required to maintain such coverage under paragraph 1.5.4.
- 1.5.3 All insurance policies (with the exception of Professional Liability and Workers' Compensation) required under this agreement shall include an endorsement naming the Owner, *Wake County and the Wake County Board of Education* as additional insured for the insurance and shall contain a waiver of subrogation against the Owner.
- 1.5.4 The Land Surveyor shall maintain in force during the performance of this Agreement and for one year after final completion of the Project, the Professional Liability insurance coverage referenced above.
- 1.6 PROTECTION OF PROPERTY: The Land Surveyor shall contact the Owner for information regarding the site and shall take all reasonable precautions to prevent damage to property, visible and concealed, and shall reasonably restore the site to the condition existing prior to the Land Surveyor's entry, including, but not limited to, repair of lawns and plantings, removal of all superfluous stakes or other items which might prove dangerous to children, and removal of brush cut by the Land Surveyor.
- 1.7 QUALIFICATIONS: All work shall be performed by qualified personnel under the supervision of a North Carolina Licensed or Registered Land Surveyor, and the document(s) submitted shall bear the Land Surveyor's seal and certification.
- 1.7.1 By execution of this Agreement, the Land Surveyor warrants that (a) it is an experienced and duly licensed firm or individual having the ability and skill necessary to perform all the Services required of it under this Agreement in connection with the design and construction of a project having the scope and complexity of the Project contemplated herein; (b) it has the capabilities and resources necessary to perform its obligations hereunder; and (c) it is familiar with all

current laws, rules and regulations which are applicable to the design and construction of the Project (such laws, rules and regulations including, but not limited to, all local ordinances, requirements of building codes of city, county, state and federal authorities which are applicable to the Project, local sanitary laws and rules and regulations, and all orders and interpretations by governing public authorities of such ordinances, requirements, codes, laws, rules and regulations in effect at the time of commencement of services on the Project), and that all drawings, specifications and other documents prepared by the Land Surveyor shall be prepared in accordance with and shall accurately meet, reflect and incorporate all such laws, rules and regulations.

- 1.7.2 The Land Surveyor hereby represents and agrees that the drawings, specifications and other documents prepared by it pursuant to this Agreement shall be complete and functional, except as to any deficiencies which are due to causes beyond the control of the Land Surveyor, and that the Individual Project, if constructed in accordance with the drawings, specifications and other documents, shall be structurally sound and a complete and properly functioning facility in accordance with the terms of this Agreement.
- 1.7.3 The Land Surveyor shall be responsible for any errors, inconsistencies or omissions in the drawings, specifications, and other documents. The Land Surveyor will correct at no additional cost to the Owner any and all errors and omissions in the drawings, specifications and other documents prepared by the Land Surveyor. The Land Surveyor further agrees, at no additional cost, to render assistance to the Owner in resolving problems relating to the design or specified materials.
- 1.7.4 It is the responsibility of the Land Surveyor to make certain that, at the time the Individual Project is bid, all drawings, specifications and other documents are in accordance with applicable laws, statutes, building codes and regulations and that appropriate reviews and approvals are requested and obtained from federal, state and local governments.
- 1.7.5 It shall be the responsibility of the Land Surveyor throughout the period of performance under this Agreement to exercise the abilities, skills and care customarily used by Land Surveyors of the training and background needed to perform the Services required under this Agreement who practice in the Research Triangle Park area or similar communities.
- 1.8 **USE OF DRAWINGS:** It is understood that the Owner, or his representatives and/or agents, may reproduce the drawings without modifications and distribute the prints in connection with the use or disposition of the property without incurring obligation for additional compensation to the Land Surveyor. One reproducible of all work products shall be provided to the Owner for this purpose.
- 1.9 **TERM:** This Agreement and its Exhibits shall survive and remain in effect from July 1, 2021, through June 30, 2023. As such, the rates and prices identified in Exhibit A shall remain unchanged and effective for any IPPA authorized by the Owner from July 1, 2021, through June 30, 2023.
- 1.10 **MISCELLANEOUS:** The Land Surveyor shall provide documentation acceptable to the Owner showing the amount of MBE participation (including a complete list of all sub consultants and their final subcontract amounts).
  - 1.10.1 **APPLICABLE WAKE COUNTY BOARD OF EDUCATION POLICIES.** The Design Consultant acknowledges that the Wake County Board of Education has adopted policies governing its relationship with vendors and conduct on School System property and agrees to abide by any and all relevant WCPSS policies during the term of the Agreement and while on School System property. WCPSS's Design Consultant related policies can be viewed at <https://www.wcpss.net/Page/45862> and are incorporated into this Agreement by reference.
  - 1.10.2 The Land Surveyor shall comply with the Owner's site or school building access procedures when working on any existing school campus.
- 1.11 **APPLICABLE LAWS:** This Agreement and the relationship of the parties shall be governed by

the laws of the state of North Carolina.

- 1.11.1 Land Surveyor shall comply with all applicable laws and regulations in providing services under this Agreement. Land Surveyor shall not employ any individuals to provide services to the Owner who are not authorized by federal law to work in the United States. The Land Surveyor represents that it is aware of and in compliance with the Immigration Reform and Control Act and North Carolina law (Article 2 of Chapter 64 of the North Carolina General Statutes) requiring use of the E-Verify system. The Land Surveyor further warrants that it will use the E-Verify system to verify employment eligibility of all its employees throughout the term of this Agreement, and that it will remain in compliance with all I-9 requirements throughout the term of this Agreement. The Land Surveyor shall also ensure that any subcontractors use the E-Verify system at all times while providing subcontracted services in connection with this Agreement. Contractor is responsible for providing affordable health care coverage to all of its full-time employees providing services to the school system. The definitions of "affordable coverage" and "full-time employee" are governed by the Affordable Care Act and accompanying IRS and Treasury Department regulations.
- 1.12 LUNSFORD ACT/CRIMINAL BACKGROUND CHECKS: The Land Surveyor also acknowledges that G.S. § 14-208.18 prohibits anyone required to register as a sex offender under Article 27A of Chapter 14 of the General Statutes from knowingly being on the premises of any school. The Land Surveyor shall conduct or arrange to have conducted at its own expense sexual offender registry checks on each of its employees, agents, ownership personnel, or contractors ("contractual personnel") who will engage in any service on or delivery of goods to school system property or at a school-system sponsored event, except checks shall not be required for individuals who are solely delivering or picking up equipment, materials, or supplies at: (1) the administrative office or loading dock of a school; (2) non-school sites; (3) schools closed for renovation; or (4) school construction sites. The checks shall include at a minimum checks of the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry ("the Registries"). For the Land Surveyor's convenience only, all of the required registry checks may be completed at no cost by accessing the United States Department of Justice Sex Offender Public Website at <http://www.nsopw.gov/>. The Land Surveyor shall provide certification on the Sexual Offender Registry Check Certification Form that the registry checks were conducted on each of its contractual personnel providing services or delivering goods under this Agreement prior to the commencement of such services or the delivery of such goods. The Land Surveyor shall conduct a current initial check of the registries (a check done more than 30 days prior to the date of this Agreement shall not satisfy this contractual obligation). In addition, the Land Surveyor agrees to conduct the registry checks and provide a supplemental certification form before any additional contractual personnel are used to deliver goods or provide services pursuant to this Agreement. The Land Surveyor further agrees to conduct annual registry checks of all contractual personnel and provide annual certifications at each anniversary date of this Agreement. The Land Surveyor shall not assign any individual to deliver goods or provide services pursuant to this Agreement if said individual appears on any of the listed registries. The Land Surveyor agrees that it will maintain all records and documents necessary to demonstrate that it has conducted a thorough check of the registries as to each contractual personnel, and agrees to provide such records and documents to the Owner upon request. The Land Surveyor specifically acknowledges that the Owner retains the right to audit these records to ensure compliance with this section at any time in the Owner's sole discretion. Failure to comply with the terms of this provision shall be deemed a material breach of the Agreement. In addition, the Owner may conduct additional criminal records checks at the Owner's expense. If the Owner exercises this right to conduct additional criminal records checks, the Land Surveyor agrees to provide within seven (7) days of request the full name, date of birth, state of residency for the past ten years, and any additional information requested by the Owner for all contractual personnel who may deliver goods or perform services under this Agreement. The Land Surveyor further agrees that it has an ongoing obligation to provide the Owner with the name of any new contractual personnel who may deliver goods or provide services under the Agreement. The Owner reserves the right to prohibit any contractual personnel of the Land Surveyor from delivering goods or providing services under this Agreement if the Owner determines, in its

sole discretion, that such contractual personnel may pose a threat to the safety or well-being of students, school personnel or others.

- 1.13 **ANTI-NEPOTISM:** Land Surveyor warrants that, to the best of its knowledge and in the exercise of due diligence, none of its corporate officers, directors, or trustees and none of its employees who will directly provide services under this Agreement are immediate family members of any member of the Wake County Board of Education or of any principal or central office staff administrator employed by the Board. For purposes of this provision, "immediate family" means spouse, parent, child, brother, sister, grandparent, or grandchild, and includes step, half, and in-law relationships. Should Land Surveyor become aware of any family relationship covered by this provision or should such a family relationship arise at any time during the term of this Agreement, Land Surveyor shall immediately disclose the family relationship in writing to the Superintendent of the Schools. Unless formally waived by the Board, the existence of a family relationship covered by this Agreement is grounds for immediate termination by Owner without further financial liability to Land Surveyor.
- 1.14 **RESTRICTED COMPANIES LISTS:** Land Surveyor represents that as of the date of this Agreement, Land Surveyor is not included on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.58. Land Surveyor also represents that as of the date of this Agreement, Land Surveyor is not included on the list of restricted companies determined to be engaged in a boycott of Israel created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.81.
- 1.15 **SALES AND USE TAX:** Land Surveyor shall be responsible for complying with any applicable sales and use tax obligations imposed by Chapter 105, Article 5 of the North Carolina General Statutes.
- 1.16 **INDEMNIFICATION:**
- 1.16.1 Notwithstanding anything to the contrary contained herein, the Land Surveyor shall indemnify and hold harmless the Owner and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting solely from the Land Surveyor's performance or failure to perform its obligations under this Agreement and/or caused solely by any negligent act or omission of the Land Surveyor, anyone directly or indirectly employed by the Land Surveyor or anyone for whose acts the Land Surveyor may be liable. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Article. The parties agree that this indemnification clause is an "evidence of indebtedness" for purpose of N.C. Gen. Stat. § 6-21.2. The parties also specifically acknowledge that the Owner is a public body and it is the intent of the parties that the Owner not incur any expenses when the Land Surveyor is solely responsible for the claims.
- 1.16.2 Notwithstanding anything to the contrary contained herein, the Owner shall indemnify and hold harmless the Land Surveyor and its agents and employees from and against all claims, damages, losses and expenses arising out of or caused solely by any negligent act or omission of the Owner. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Article.
- 1.17 **OWNER DESIGNEE:** The parties acknowledge that the Owner has authorized the Superintendent or designee to enter into service contracts involving expenditures of up to \$100,000. The parties further acknowledge that the Owner may perform all or part of its obligations pursuant to this Agreement through the Superintendent or designee.

## **ARTICLE 2**

### **GENERAL INSTRUCTIONS**

- 2.1 **ACCURACY STANDARDS:**

- 2.1.1 All surveys shall conform to G.S. 4730 and G.S. 89C, which are constituted as minimum guidelines for surveying and mapping practices.
- 2.1.2 Horizontal controls for the project will have a traverse error of closure no greater than one part of 10,000. Vertical control will be based upon mean sea level datum. The vertical control shall be established at third or higher order accuracy to U.S.G.S Standards.
- 2.2 DESCRIPTION PROVIDED BY OWNER OF PROPERTY TO BE SURVEYED:  
To be provided, if at all, on a per project basis in an Individual Project request for proposal.
- 2.3 MEANS OF ACCESS:  
To be provided, if at all, on a per project basis in an Individual Project request for proposal.
- 2.4 DRAWING REQUIREMENTS:
  - 2.4.1 Drawing sheets shall be trim size 24 x 36 with left binding edge and borders.
  - 2.4.2 Use scale 1 inch = 40 feet unless otherwise authorized by the Owner. Include graphic scale.
  - 2.4.3 Show NORTH arrow and locate North at the top of the sheet, or locate the front of the campus at the bottom of the sheet, to be determined on a per project basis.
  - 2.4.4 Include legend of symbols and abbreviations used on the drawings(s).
  - 2.4.5 Spot elevations on paving or other hard surfaces shall be to the nearest .05' (or 1/2"), on other surfaces to the nearest .10' (or 1").
  - 2.4.6 Boundary and topographic information, where both are required, shall be on the same drawing unless otherwise requested by the Owner.
  - 2.4.7 State elevation datum on each drawing. Give location of benchmark used.
  - 2.4.8 Furnish to the Owner one reproducible transparency and prints of each drawing. The Licensed Land Surveyor shall sign and seal each drawing and shall certify that to the best of the Land Surveyor's knowledge, information and belief all information thereon is true and accurately shown.
  - 2.4.9 Furnish to the owner's representative an electronic data file for all drawing files and information in .DWG file format. All information shown on the sealed drawing submitted to owner shall be included on electronic file.

### **ARTICLE 3**

#### **TYPICAL LAND (BOUNDARY) SURVEY REQUIREMENTS**

- 3.1 Show boundary lines, giving length and bearing (including reference or basis) on each straight line, interior angles; radius, point of tangency and length of curved lines. Where no monument exists, set permanent iron pin (monument) or other suitable permanent monument at property corners; drive pin into ground adequately to prevent movement, mark with wood stake; state on the drawing(s) whether corners were found or set and describe each.
- 3.2 Confirm or furnish a legal description which conforms to the Record Title Boundaries. Prior to making this survey, the Land Surveyor shall, insofar as possible, acquire data including, but not limited to, deeds, maps, certificates or abstracts of title, section line and other boundary line locations in the vicinity.
- 3.3 Give area in square feet if less than one acre, in acres (to .001 acre) if over one acre.
- 3.4 Note identity, jurisdiction and width of adjoining streets and highways, width and type of pavement. Identify landmarks.
- 3.5 Plot location of structures on the property and on adjacent property within 100 feet. Dimension perimeters in feet and inches to the nearest 1/2 inch, decimals to .05'. State the characters and

number of stories. Dimension to property lines and other buildings. Vacant parcels shall be noted VACANT.

- 3.6 Show encroachments, including cornices, belt courses, etc., either way across property lines.
- 3.7 Describe fences and walls. Identify party walls and locate them with respect to property lines.
- 3.8 Show recorded or otherwise known easements and rights-of-way; state the owner of right of each.
- 3.9 Note possibilities of prescriptive rights-of-way and the nature of each.
- 3.10 Note anticipated street widenings.
- 3.11 Show individual lot lines and lot block numbers; show street numbers of buildings if available.
- 3.12 Show zoning of property; if more than one zone, show the extent of each. Show zoning of adjacent property and property across the street(s) or highway(s).
- 3.13 Show building line and setback requirements, if any.
- 3.14 Give names of owners of adjacent property.
- 3.15 Reconcile or explain any discrepancies between the survey and the recorded legal description.
- 3.16 Provide list of reference documents, maps, deeds, etc., discovered.

#### **ARTICLE 4**

##### **TYPICAL TOPOGRAPHICAL SURVEY REQUIREMENTS**

All lines of levels shall be checked by separate check level lines or on previous turning point or benchmarks.

- 4.1 Minimum of one permanent benchmark on site for each ten acres; description and elevation to nearest .01'.
- 4.2 Contours at two (2) foot intervals; error shall not exceed one half contour interval.
- 4.3 Spot elevation at each intersection of an 80 foot square grid covering the property.
- 4.4 Spot elevations at street intersections and at 40 feet on center on curb, sidewalk and edge of paving including far side of paving. If elevations vary from established grade, state established grades also.
- 4.5 Plotted location of structures, above and below ground, man-made (e.g., paved areas) and natural features; all floor elevations and elevations at each entrance of building in the property.
- 4.6 Location, size, depth and pressure of water and gas mains, central steam and other utilities including, but not limited to, buried tanks and septic fields serving, or on, the property.
- 4.7 Location of fire hydrants available to the property and the size of the main serving each.
- 4.8 Location and characteristics of power and communications systems above and below grade.
- 4.9 Location, size, depth and direction of flow of sanitary sewers, combination sewers, storm drains and culverts serving, or on, the property; location of catch basins and manholes, and inverts of pipe at each.
- 4.10 Name of the operating authority of each utility.
- 4.11 Mean elevation of water in any excavation, well or nearby body of water.
- 4.12 Flood plain, flood level of streams or adjacent bodies of water and analysis of site for potential flooding.
- 4.13 Extent of watershed onto the property.



- 4.14 Locations of test borings if ascertainable and the elevation of the top of holes.
- 4.15 Hardwood trees of 18" and over and pine trees of 24" and over (caliper 3' above ground); located within 1' tolerance and give species in English and botanical terms.
- 4.16 Specimen trees flagged by the Owner or his representative; locate to the center within 6" tolerance; give species in English and botanical terms, give caliper and ground elevation on upper slope side.
- 4.17 Perimeter outline only of thickly wooded areas unless otherwise directed.

## **ARTICLE 5**

### **ADDITIONAL REQUIREMENTS**

- 5.1 This Agreement and its Exhibits, Attachments and any IPPAs represent the entire and integrated agreement between the Owner and the Land Surveyor and supersede all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Land Surveyor.
- 5.2 This Agreement shall be governed by the laws of the State of North Carolina.
- 5.3 If any one or more of the provisions contained in this Agreement, for any reason, are held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions thereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
- 5.4 Except where specifically stated otherwise, all periods of time stated in terms of days shall be considered periods calculated in calendar days.
- 5.5 The headings or captions within this Agreement shall be deemed set forth in the manner presented for the purposes of reference only and shall not control or otherwise affect the information set forth therein or interpretation thereof.
- 5.6 For the purpose of this Agreement unless the context clearly indicates otherwise, the singular includes the plural, and the plural includes the singular.
- 5.7 This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together will constitute one and the same agreement. The Parties agree that for contract sums not exceeding \$10,000,000, scanned, faxed, and/or electronically transmitted copies of this Agreement will have the same validity and force as an original, and that scanned, faxed, or electronic signatures shall be deemed original signatures for this Agreement and given the same legal effect as original signatures, each of which shall be deemed an original, and the counterparts shall constitute one and the same instrument, which shall be sufficient evidence by any one thereof.
- 5.8 This Agreement shall inure to the benefit of and be binding on the heirs, successors, assigns, trustees and personal representatives of the Owner, as well as the permitted assigns and trustees of the Land Surveyor.
- 5.9 The Land Surveyor shall not assign, subcontract, sublet or transfer its interest in this Agreement without the written consent of the Owner, except that the Land Surveyor may assign accounts receivable to a commercial bank or financial institution for securing loans, without prior approval of the Owner.
- 5.10 If (1), the Owner abandons an IPPA that has been incorporated into this Agreement or an IPPA is stopped for more than six (6) months due to actions taken by the Owner, or under an order of any court of other public authority having jurisdiction, or as a result of an act of government, such as a declaration of a national emergency making materials unavailable through no act or fault of the Land Surveyor or its agents or employees, or (2), the Owner has failed to substantially perform in accordance with the provisions of this Agreement due to no fault of the Land Surveyor and such non-performance continues without cure for a period of thirty (30)

days after the Owner receives from the Land Surveyor a written notice of such non-performance (including a detailed explanation of the actions of the Owner required for cure), the Land Surveyor may, upon fifteen (15) days additional written notice to the Owner, terminate the IPPA, without prejudice to any right or remedy otherwise available to the Owner and without terminating or otherwise affecting any other portion of this Agreement, and recover from the Owner payment for all services performed to the date of the notice terminating that Project.

- 5.11 Upon the appointment of a receiver for the Land Surveyor, or if the Land Surveyor makes a general assignment for the benefit of creditors, the Owner may terminate this Agreement, without prejudice to any right or remedy otherwise available to the Owner, upon giving three (3) days written notice to the Land Surveyor. If an order for relief is entered under the bankruptcy code with respect to the Land Surveyor, the Owner may terminate this Agreement by giving three working days written notice to the Land Surveyor unless the Land Surveyor or the trustee: (1), promptly cures all breaches; (2), provides adequate assurances of future performance; (3), compensates the Owner for actual pecuniary loss resulting from such breaches; and (4), assumes the obligations of the Land Surveyor within the statutory time limits.
- 5.12 If the Land Surveyor refuses or fails, except in cases for which extension of time is provided, to supply sufficient properly skilled staff or proper materials, or disregards laws, ordinances, rules, regulations or orders of any public authority jurisdiction, or otherwise violates or breaches any term or provision of this Agreement, then the Owner may, without prejudice to any right or remedy otherwise available to the Owner, and after giving the Land Surveyor written notice, terminate any or all Projects under this Agreement.
- 5.13 Upon termination of this Agreement by the Owner under paragraph 5.11 or 5.12 it shall be entitled to furnish or have furnished the Services to be performed hereunder by the Land Surveyor by whatever method the Owner may deem expedient. Also, in such cases, the Land Surveyor shall not be entitled to receive any further payment until completion of the Work; and the total compensation to the Land Surveyor under this Agreement shall be the amount which is equitable under the circumstances. If the Owner and the Land Surveyor are unable to agree on the amount to be paid under the foregoing sentence, the Owner shall fix an amount, if any, which it deems appropriate in consideration of all of the circumstances surrounding such termination, and shall make payment accordingly.
- 5.14 The Owner may, upon thirty days' written notice to the Land Surveyor terminate this Agreement, in whole or in part, at any time for the convenience of the Owner, without prejudice to any right or remedy otherwise available to the Owner. Upon receipt of such notice, the Land Surveyor shall immediately discontinue all services affected unless such notice directs otherwise. In the event of a termination for convenience of the Owner, the Land Surveyor's sole and exclusive right and remedy is to be paid for all work performed and to receive equitable adjustment for all work performed through the date of termination. The Land Surveyor shall not be entitled to be paid any amount as profit for unperformed services or consideration for the termination of convenience by the Owner.
- 5.15 Should the Owner terminate this agreement as provided for by 5.11, 5.12, or 5.14, the Owner will acquire such drawings, including the ownership and use of all drawings, specifications, documents and materials relating to the Project prepared by or in the possession of the Land Surveyor. The Land Surveyor will turn over to the Owner in a timely manner and in good unaltered condition all original drawings, specifications, documents and materials.
- 5.16 The payment of any sums by the Owner shall not constitute a waiver of any claims for damages by the Owner for any breach of the Agreement by the Land Surveyor.
- 5.19 Except as otherwise set forth in this Agreement, the Land Surveyor and the Owner shall not be liable to each other for any delays in the performance of their respective obligations and responsibilities under this Agreement which arise from causes beyond their control and without their fault or negligence, including but not limited to, any of the following events or occurrences: fire, flood, earthquake, epidemic, atmospheric condition of unusual severity, war, state or local government acting in its sovereign capacity, and strikes. Owner shall not be liable to the Land Surveyor for acts or failures to act by the Contractor or the Owner's consultants.

## ATTACHMENTS TO MASTER

- ## DELIVERY OF AGREEMENT

\_\_\_\_\_ being authorized to execute contracts on behalf  
(corporate title)  
of and to otherwise bind \_\_\_\_\_ to the obligations  
(name of corporation)  
and responsibilities in the foregoing instrument, executed the foregoing  
on behalf of the corporation.

Date: \_\_\_\_\_

**(Official Seal)**

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_