

**AGREEMENT  
REGARDING IMPROVEMENTS TO CROQUET COURTS**

This Agreement Regarding Improvements to Croquet Courts (hereinafter referred to as the “Agreement”) is made on this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between the **CITY OF VENICE**, Florida, a Florida municipal corporation, whose mailing address is 401 West Venice Avenue, Venice, FL 34285 (hereinafter referred to as the “City”), and the **SARASOTA COUNTY CROQUET CLUB, Inc.**, a Florida no-for-profit corporation, whose mailing address is PMB 166, 1435 East Venice Avenue, Venice, FL 34292 (hereinafter referred to as the “Club”):

**WHEREAS**, Venice Wellfield Park is a recreational property located at 1251 Pinebrook Road, Venice, FL 34292, which is owned by the City, which is operated and maintained by Sarasota County (the “County”) pursuant to an Interlocal Agreement between the City and the County; and

**WHEREAS**, the Club currently utilizes five croquet courts in Venice Wellfield Park pursuant to a Recreation Facility Use Agreement between the Club and the County, dated August 23, 2016, and amended on August 19, 2021; and

**WHEREAS**, the Club and the City mutually desire to have certain improvements made to the croquet courts including, but not limited to, constructing an expansion of the croquet courts, installing lighting for the courts, fencing, landscaping, shade structures, and stormwater system improvements, as depicted in the plans attached hereto as Exhibit “A” (hereinafter, the “Improvements”); and

**WHEREAS**, the Club and the City both wish to participate in the funding of the Improvements; and

**WHEREAS**, the County has no objection to the Improvements, as proposed, and intends to enter into a Locally Funded Agreement with the City to provide the City with funds to be contributed towards the Improvements; and

**WHEREAS**, the Club and the City wish to enter into this Agreement in order to set forth their respective duties and responsibilities regarding the Improvements.

**NOW THEREFORE**, in consideration of the mutual covenants and obligations contained herein, the Parties hereby agree as follows:

**Section 1 - Recitals**

The above recitals are true and correct and are hereby incorporated fully by reference.

**Section 2 - Club’s Responsibilities**

The Club shall be responsible for the following:

- Acquiring and paying, in full, for all professional design services associated with the Improvements.
- Obtaining and paying for, in full, any and all necessary permits and approvals associated with the Improvements.
- Entering into agreements with contractors, subcontractors, agents, or assigns (“Contractors”) to provide all services and for acquiring all materials in order to complete the Improvements. It is agreed that the Club has and will enter into agreements for the Improvements prior to the Effective Date.
  - Ensure that any and all agreements with Contractors providing services related to the Improvements specify that the Contractors will indemnify and hold harmless both the City and the County, and their respective Elected Officials, Officers, Agents, and Employees, from and against any and all claims, losses, actions, damages, fees, fines, penalties, defense costs (including attorneys’ fees and court costs, whether such fees and costs are incurred in negotiations, collection of attorneys’ fees at the trial level or on appeal), suits, or liabilities, which may arise out of any act, neglect, omission, or default of the respective Contractors arising out of or in any way connected with the respective Contractors’ (or their officers, employees, agents, volunteers, and subcontractors, if any) performance or failure to perform services related to the Improvements.
  - After the Effective Date, the Club shall further require that all Contractors performing any services related to the Improvements maintain insurance in at least the amounts and coverage required as shown in Exhibit “B.” The Club shall require all Contractors to name both the City and the County, and their respective Elected Officials, Officers, Agents, and Employees, as additional insureds on any required general liability insurance.
  - All payments to Contractors providing services and/or materials for the Improvements shall be made, in full, by the Club.
  - Providing copies to the City of all invoices related to the Improvements, along with proof of payment and release of liens (if any) to the respective Contractors (collectively, the “Reimbursement Documents”).
- Installation of a mobile restroom facility, at the Club’s discretion, which if chosen to be installed by the Club shall be considered as part of the Improvements for all purposes under this Agreement except for reimbursement. The City acknowledges that it has no objection to the placement of a mobile restroom facility on the premises provided that the City and County both approve the location, design, and condition of the facility. The mobile restroom facility shall be ADA-accessible in accordance with local, state, and federal regulations. It will be the responsibility of the Club, at its sole cost and expense, and with no reimbursement from the City or the County, to purchase, install, and maintain at all times the safe operation and sanitary condition of the mobile restroom facility. When use of the mobile restroom facility is discontinued by the Club or it is deemed no longer acceptable by either the City or County, the Club shall remove the mobile restroom from the premises within thirty (30) days of receipt of written notice from either the City or the County.

Further, the Club shall be responsible for all costs to remove the mobile restroom facility from the premises and to restore the property to the same or better condition as at the time of installation.

- Ensuring that the Improvements are completed as expeditiously as possible, but under no circumstances any later than September 30, 2027.
- Pursuant to applicable Florida law, the Club's records associated with this Agreement may be subject to Florida's public records laws, Chapter 119, Florida Statutes, as amended from time to time. The Club shall comply with all public records obligations set forth in such laws, including those obligations to keep, maintain, provide access to, and maintain any applicable exemptions to public records, and transfer all such public records to the City at the conclusion of the Agreement.

### **Section 3 – City's Responsibilities**

- Subject to the City's review, acceptance, and approval of the Reimbursement Documents provided by the Club, the City shall reimburse the Club for its costs associated with the Improvements as set forth in the Reimbursement Documents. It is agreed that the Improvements contracted by the Club prior to the Effective Date, but no earlier than February 1, 2023, shall be eligible for reimbursement. Reimbursement payments shall be made by the City to the Club within thirty (30) days of the City's acceptance and approval of the respective Reimbursement Documents. Under no circumstances will the City make a reimbursement payment to the Club until such time that the City has received funding for the Improvements from County pursuant to the Locally Funded Agreement between the City and the County.
- The City and the Club hereby acknowledge that the City's total budget for its contribution to the Improvements is for the not-to-exceed amount of three hundred fifty thousand and 00/100 dollars (\$350,000.00). Any costs exceeding the total budget as set forth herein or otherwise deemed ineligible for reimbursement by either the City or the County will not be reimbursed. Funding of the Improvements by the City is contingent upon the availability of funds pursuant to the Locally Funded Agreement between the City and the County, and the approval of the Venice City Council.

### **Section 4 – Insurance**

- It is agreed that the contracts executed by the Club for the Improvements, both prior to and after the Effective Date, shall comply with Exhibit B in the Recreational Facility Use Agreement
- The Club shall procure and maintain, during the life of this Agreement, the insurance listed below. The policies of insurance shall be primary and written on forms acceptable to the City, placed with insurance carriers approved and licensed by the Florida Office of Insurance Regulation, and meet a minimum financial AM Best and Company rating of no less than A:VII. No changes are to be made to these specifications without the prior written approval of the City.

Commercial General Liability insurance providing coverage for premises and operations including, but not limited to, bodily injury, property damage, contractual, products and completed operations, collapse, underground and explosion, owner's and contractor's

protection, contractual and personal injury with limits of not less than \$1,000,000 per occurrence, \$1,000,000 aggregate.

- All policies required by this Agreement are to be written on an occurrence basis and shall name both the City and the County, and their respective Elected Officials, Officers, Agents, and Employees as additional insureds as their interest may appear under this Agreement. Insurer shall agree to waive all rights of subrogation against the City of Venice, its Elected Officials, Officers, Agents, and Employees.
- Each insurance policy required by this Agreement shall:
  - Apply separately to each insured against whom claim is made and suit is brought, except with respect to limits of the insurer's liability; and
  - Be endorsed to state that coverage shall not be suspended, voided, or cancelled except after thirty (30) calendar days prior written notice by certified mail, return receipt requested, has been given to the City of Venice Risk Manager.
- The City shall retain the right to review, at any time, coverage form/policy, and amount of insurance.
- The procuring of required policies of insurance shall not be construed to limit the Club's liability nor to fulfill the indemnification provisions and requirements of this Agreement.
- The Club shall be solely responsible for payment of all premiums for insurance contributing to the satisfaction of this Agreement and shall be solely responsible for the payment of any deductible and/or retention to which such policies are subject, whether or not the City is an insured under the policy. Deductible levels should be acceptable to the City.
- Certificates of Insurance evidencing Occurrence form coverage and conditions to this Agreement shall be furnished to the City's Risk Manager at 401 West Venice Avenue, Venice, FL 34285, upon execution of this Agreement and a minimum of thirty (30) calendar days prior to the expiration of any insurance policy.
- The City's standard requirement for property insurance for improvements and contents is waived in light of the fact that the buildings and contents under the Club's ownership are deemed by the Club to be of too low a value to insure.
- Notices of Claims associated with this Agreement shall be provided to the Club's insurance company and the City's Risk Manager as soon as practicable after notice is received by the Club.

#### **Section 5 - Understanding**

- The Club is, and shall be, in the performance of all activities and work under this Agreement, an independent contractor, and not an employee or agent of the City. The Club has no authority or power to bind the City in any other agreement, promise, or representation.

- The City's Director of Public Works shall be the City's representative, and the President of the Club shall be the Club's representative regarding administration of this Agreement.
- In the event this Agreement does not provide for which party shall be responsible for a particular aspect of the Improvements, the parties' respective representatives shall work together in order to fulfill the intent of this Agreement.

#### **Section 6 - Liability and Indemnification**

The Club shall be responsible for any and all damages to public property, including any improvements, caused by any activities performed by the Club, its agents, contractors, employees, volunteers, licensees, or invitees related to any work performed under this Agreement. The Club further agrees to indemnify and hold harmless both the City and the County, and their respective Elected Officials, Officers, Agents, and Employees, from all claims, losses, damages, and expenses arising from any act or omission of the Club, its agents, contractors, employees, volunteers, licensees, or invitees related to any work performed under this Agreement.

#### **Section 7 - Term and Termination**

- The term of this Agreement shall commence upon the Effective Date, as defined herein, and shall remain in effect unless terminated as provided for herein.
- In the event either party defaults or otherwise violates any of the terms of this Agreement, the non-defaulting party shall give the defaulting party written notice of the default and indicate that such default shall be corrected within ten (10) business days of the date of the written notice. In the event the defaulting party fails to correct the conditions of the default within the aforementioned timeframe, the non-defaulting party shall have all legal remedies available to it including, but not limited to, termination of this Agreement for cause.

#### **Section 8 - Notice**

Any notice or communication required or permitted under this Agreement shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the address set forth in the opening paragraph or to such other address as one party may have furnished to the other in writing. When designating such notice or communication, if to the City, notice should be directed to the City Manager; if to the Club, notice should be directed to the President of the Club.

#### **Section 9 - Governing Law; Venue**

This Agreement shall be construed in accordance with the laws of the State of Florida. The sole and exclusive forum, venue and jurisdiction for any action arising from this Agreement shall be in the 12<sup>th</sup> Judicial Circuit in and for Sarasota County, Florida.

#### **Section 10 - Assignment**

Neither party may assign or transfer the responsibilities or agreements made herein without the prior written consent of both parties.

**Section 11 - Agreement**

- This Agreement represents the entire understanding of the respective parties hereto and there is no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof.
- A waiver of any breach of any provision of this Agreement shall not constitute or operate as a waiver of any other breach of such provision or of any other provision, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or any other provisions.
- Any provision or part of this Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the parties, who agree that this Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

**Section 12 - Amendment**

This Agreement may not be amended, modified, or supplemented except if agreed to in writing by the parties with the same degree of formality with which this Agreement is executed.

**Section 13 - Severability**

If any provision of this Agreement may be found to be invalid or unenforceable for any reason, such invalidity shall not affect the other remaining provisions of this Agreement which can be given effect without the invalid provisions.

**Section 14 - Effective Date**

This Agreement shall become effective upon the execution by the last party hereto.

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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement Regarding Improvements to Croquet Courts on the dates indicated below.

**CITY OF VENICE, FLORIDA**

By: \_\_\_\_\_  
Nick Pachota, Mayor

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

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form and correctness:

\_\_\_\_\_  
City Attorney

**SARASOTA COUNTY CROQUET CLUB, INC.**

By: John Goldener, MD  
John Goldener, MD, President

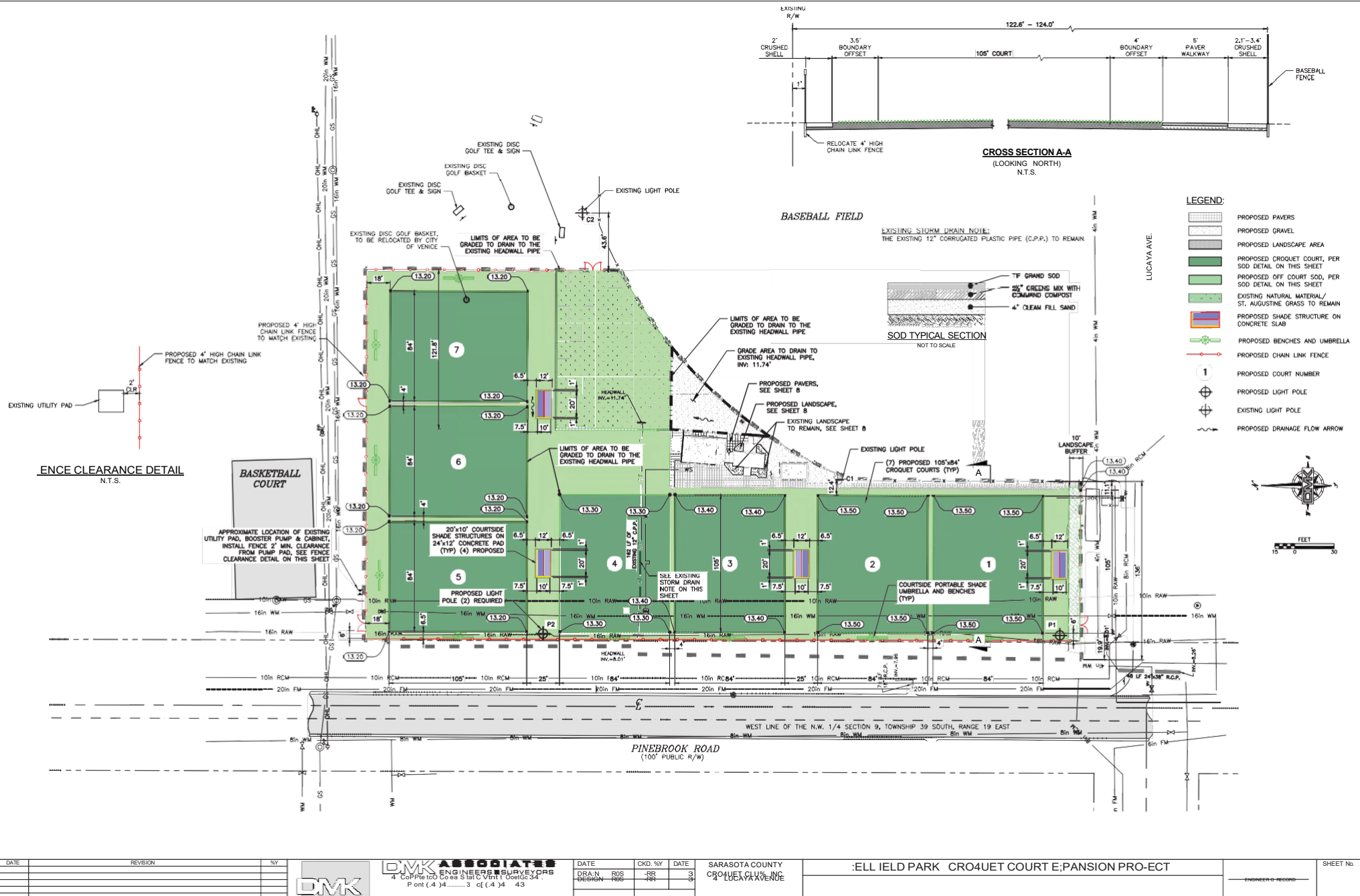
Date: April 17, 2023



**EXHIBIT "A"**

**SITE PLAN FOR IMPROVEMENTS**

EXHIBIT A



Date Printed: Tue, 17 Jan 2023 - 12:00pm

DATE	REVISION	BY

**DMK ASSOCIATES**  
ENGINEERS & SURVEYORS  
4 Coppitts Circle, Suite 200, Venice, FL 33596  
Phone: (404) 433-3400 Fax: (404) 433-3401

DATE	CHKD. BY	DATE

SARASOTA COUNTY  
CROQUET COURT EXPANSION PROJECT

PROPOSED SITE IMPROVEMENT PLAN			ENGINEER'S RECORD	SHEET NO.

## EXHIBIT “B”

### INSURANCE REQUIREMENTS

Before performing any work, the Contractor shall procure and maintain, during the life of the Agreement, insurance listed below. The policies of insurance shall be primary and written on forms acceptable to the City and placed with insurance carriers approved and licensed by the Insurance Department in the State of Florida and meet a minimum financial AM Best and Company rating of no less than A:VII. No changes are to be made to these specifications without prior written specific approval by the City.

1. The City of Venice is to be specifically included as an **ADDITIONAL INSURED** for **Commercial General Liability** and **Business Auto Policy**.
2. The City of Venice shall be named as Certificate Holder. *Please Note that the Certificate Holder should read as follows:*

*The City of Venice  
401 W. Venice Avenue  
Venice, FL 34285*

No City Division, Department, or individual name should appear on the certificate. **NO OTHER FORMAT WILL BE ACCEPTABLE.**

3. The “Acord” certification of insurance form shall be used.
4. Required Coverage
  - a) **Commercial General Liability:** including but not limited to bodily injury, property damage, contractual liability, products and completed operations, and personal injury with limits of not less than \$ 1,000,000 per occurrence, \$1,000,000 aggregate covering all work performed under this Agreement. Include broad form property damage (provide insurance for damage to property under the care custody and control of the Contractor)
  - b) **Business Auto Policy:** including bodily injury and property damage for all vehicles owned, leased, hired and non-owned vehicles with limits of not less than \$1,000,000 combined single limit covering all work performed under this Agreement.
  - c) **Workers Compensation:** Contractor will provide Workers Compensation Insurance on behalf of all employees, including sub-contractors, who are to provide a service under this Agreement, as required under Florida Law, Chapter 440, and Employers Liability with limits of not less than \$100,000 per employee per accident; \$500,000 disease aggregate; and \$100,000 per employee per disease.

## 5. Policy Form:

- a) All policies required by this Agreement, with the exception of Workers Compensation, or unless specific approval is given by the City, are to be written on an occurrence basis, shall name the City of Venice, its Elected Officials, Officers, Agents, Employees as additional insured as their interest may appear under this Agreement. Insurer(s), with the exception of Workers Compensation, shall agree to waive all rights of subrogation against the City of Venice, its Elected Officials, Officers, Agents, and Employees.
- b) Insurance requirements itemized in this Agreement, and required of the Contractor, shall be provided on behalf of all subcontractors to cover their operations performed under this Agreement. The Contractor shall be held responsible for any modifications, deviations, or omissions in these insurance requirements as they apply to subcontractors.
- c) Each insurance policy required by this Agreement shall:
  - (1) apply separately to each insured against whom claim is made and suit is brought, except with respect to limits of the insurer's liability;
  - (2) be endorsed to state that coverage shall not be suspended, voided or canceled by either party except after thirty (30) calendar days prior written notice by certified mail, return receipt requested, has been given to the City of Venice's Director of Administrative Services.
- d) The City shall retain the right to review, at any time, coverage form, and amount of insurance.
- e) The procuring of required policies of insurance shall not be construed to limit Contractor's liability nor to fulfill the indemnification provisions and requirements of this Agreement.
- f) The Contractor shall be solely responsible for payment of all premiums for insurance contributing to the satisfaction of this Agreement and shall be solely responsible for the payment of any deductible and/or retention to which such policies are subject, whether or not the City is an insured under the policy. In the event that claims in excess of the insured amounts provided herein are filed by reason of operations under the Agreement, the amount excess of such claims, or any portion thereof, may be withheld from any payment due or to become due to the Contractor until such time the Contractor shall furnish additional security covering such claims as may be determined by the City.
- g) Claims Made Policies will be accepted for professional and hazardous materials and such other risks as are authorized by the City. All Claims Made Policies contributing to the satisfaction of the insurance requirements herein shall have an extended reporting period option or automatic coverage of not less than two years. If provided as an option, the Contractor agrees to purchase the extended reporting period on cancellation or termination unless a new policy is affected with a retroactive date, including at least the last policy year.

- h) Certificates of Insurance evidencing Claims Made or Occurrence form coverage and conditions to this Agreement are to be furnished to the City's Director of Administrative Services, 401 West Venice Avenue, Venice, FL 34285, ten (10) business days prior to commencement of work and a minimum of thirty (30) calendar days prior to expiration of the insurance policy.
- i) Notices of Accidents and Notices of Claims associated with work being performed under this Contract, shall be provided to the Contractor's insurance company and the City's Director of Administrative Services, as soon as practicable after notice to the insured.
- j) All property losses shall be payable to, and adjusted with, the City.