

**SECTION 00400**

**OWNER - CONTRACTOR AGREEMENT**

Made as of the 3<sup>rd</sup> day of June in the year Two Thousand and Ten.

**BETWEEN THE OWNER: THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA,  
3300 Forest Hill Boulevard, Suite A-323  
West Palm Beach, FL 33406-5869**

**AND THE CONTRACTOR: West Construction, Inc.  
318 South Dixie Highway, Suite 4-5  
Lake Worth, FL 33460**

**PROJECT NAME: GENERAL CONTRACTOR SERVICES FOR DISASTER RECOVERY ASSISTANCE**

The Owner and the Contractor agree as set forth below.

**ARTICLE 1**

**THE CONTRACT DOCUMENTS**

The Contract Documents consist of the Request For Proposal (RFP), Owner-Contractor Agreement, the Performance and Payment Bonds, Project Specific Scope of Work, Project Specific Short Form Agreement, the Educational Specifications, District Master Design Specification and Criteria, all Addenda issued prior to Proposal submission deadline and all Modifications issued after. These form the Contract, and all are as fully a part of the Contract as if attached to this Owner-Contractor Agreement or repeated herein.

**ARTICLE 2**

**SCOPE OF WORK**

In the event of a disaster, a specific scope of work for Contractor services shall be provided on a project specific basis as defined by the Owner in a project specific Short Form Agreement, which is hereby incorporated herein. Work will be assigned on a project by project basis as delineated by District Emergency Response Personnel.

Multiple awards will be made to create a pool of sixteen (16) qualified Contractors to provide services described in the Scope Of Work. Whenever services are required awarded contractors will be requested to submit a proposal. All proposals must provide cost for labor, materials, installation and equipment necessary to deliver a 100% completed project and be delivered to the requesting department. There will be no additional charge for consultation on any particular project.

Work will be assigned to the awarded Proposer who provides the lowest price proposal within the timeframe needed by the District. Exceptions to the requirement for receiving proposals from the awarded vendors will be made when the projects are small (under \$10,000) or when an emergency exists. In these situations, work will be rotated among all the awarded vendors who are ready, able and willing to work.

RS Means is the only pricing acceptable to the Owner and auditable by the Federal Emergency Management Agency (FEMA) personnel. Project specific Proposals will be submitted utilizing the current RS Means pricing in effect at the time services are rendered.

Construction shall incorporate all of the requirements set forth in the Board approved Educational Specifications, Florida Building Code, Florida Accessibility Codes, District Master Specifications, Design Criteria and all other applicable specifications.

### **ARTICLE 3**

#### **TERM OF CONTRACT**

The term of this contract shall be for three (3) years from date of award, and may, at the sole discretion of the School Board, be renewable for two (2) additional one year periods.

### **ARTICLE 4**

#### **SERVICES**

The Contractor shall provide General Contractor Services per specifications in the Request for Proposal for General Contractor Services for Disaster Recovery Assistance. All addenda issued to the Request for Proposal for General Contractor Services for Disaster Recovery Assistance, and delineated on a Project Specific Short Form Agreement, which is hereby incorporated herein, if any, are also made a part of this contract.

### **ARTICLE 5**

#### **COST OF SERVICES**

The Owner shall pay the Contractor for the completion of the Work in accordance with all requirements of the Contract Documents subject to additions and deductions by Change Order as provided by the Contract documents, the Contract sum of:

**\$TBD on a per project basis utilizing  
RS Means pricing in effect at the time services are rendered.**

This amount represents the lump sum amount that the owner will pay the Contractor to complete the Scope of Work.

### **ARTICLE 6**

#### **TERMS AND CONDITIONS**

The Contractor shall have the option to terminate the contract upon written notice to the authorized representative of the School District. Such notice must be received at least 90 days prior to the effective date of the terminations. The School District shall have the option to terminate the contract without cause upon written notice to the authorized representative of the Contractor. Such notice must be received at least 30 days prior to the effective date of termination and the Contractor shall only be entitled to compensation up to the date of termination. The Contractor shall not be entitled to lost profits.

Early termination of the contract by the Contractor may prohibit the Contractor from submitting Proposals and Bids for a period of three years from; the date of completion of the contract. The School District shall establish the expiration date of the contract.

There shall be no assignment of the contract of compensation to be derived therefrom by the Contractor.

Included in this Agreement are the terms and conditions as described the Request for Proposal for General Contractor Services for Disaster Recovery Assistance, which are incorporated by reference herein and is made a part thereof.

### **ARTICLE 7**

#### **INDEMNIFICATION**

The Contractor agrees to protect, defend, reimburse, indemnify and hold the School District, its agents, employees and elected officials, and each of them free and harmless at all times from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorney's fees, costs and expenses of whatever kind or nature whether arising during or after completion of the work hereunder and in any manner directly or indirectly caused, occasioned or contributed to in whole or in part, by reason of any act, omission, fault or negligence whether active or passive of the Contractor or anyone acting under its direction or control, or on its behalf in connection with or incident to the performance of this contract. The Contractor's aforesaid indemnity and hold harmless obligations, or portions of applications thereof, shall apply to the fullest extent permitted by law but in no event shall they apply to liability caused by the sole negligence or willful misconduct of the School District, its elected officials, employees and authorized agents. The Contractor represents that they have received adequate consideration from the District for the indemnification herein provided by Florida Statute Chapter 725.06(2). This representation shall survive the contract or payment to the Contractor.

**ARTICLE 8**

**INSURANCE**

Insurance will be required as stated in the Request for Proposal for General Contractor Services for Disaster Recovery Assistance. The School District of Palm Beach County shall be named as additional Insured.

**ARTICLE 9**

**AMENDMENT**

This contract shall only be amended or modified in writing executed by both parties.

**ARTICLE 10**

**STRICT PERFORMANCE**

The failure of either party to insist on strict performance of any covenant or conditions herein shall not be construed as a waiver of such covenants or conditions for any instance.

This contract shall be construed in accordance with the laws of the State of Florida.

If any litigation shall result from this agreement, venue shall lie in Palm Beach County, Florida, and the prevailing party shall be entitled to attorneys' fees and court costs.

This agreement shall not be construed against the party who drafted the same as both parties have had experts of their choosing review the same.

This agreement is binding on the parties hereto, their heirs, successor and/or assigns.

**SECTION 11**

**BREACH OF AGREEMENT**

Should either party breach this agreement, the non-breaching party shall be entitled to all remedies as provided by law and equity.

In witness whereof, this contract has been executed on the day and year first above written.

**PROJECT NAME: GENERAL CONTRACTOR SERVICES FOR DISASTER RECOVERY ASSISTANCE**

**THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA**

**West Construction, Inc.**

Name of Corporation

Minise Bernum MS  
Chairperson

By: Martha A. Morgan, President

Name (print) Title

Martha A. Morgan  
Signature Date 7/22/10

8/4/10  
Date

Attest: Matthew F. West, Secretary

Name (print) Title

[Signature]  
Signature Date 7/22/10

[Signature]  
Superintendent

8/4/10  
Date

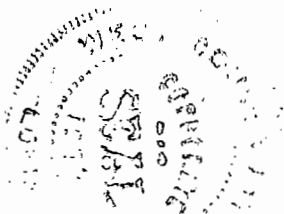
Approved As To Legal Form And Sufficiency:

Kathelyn Jacques-Adams

Kathelyn Jacques-Adams  
cn=Kathelyn Jacques-Adams, o=US, ou=SDPBC, ou=Office of the Chief Counsel, email=jacquesadamsk@palmbeach.k12.fl.us  
General Contractor Services for Disaster Recovery Assistance, West Construction, Inc., Project No. N/A  
2010.05.21 20:12:43 -0400

Attorney to the Board

\_\_\_\_\_  
Date



(Corporate Seal)

**END OF SECTION**

## SHORT FORM AGREEMENT

This Short Form Agreement further delineates the Scope of Work, terms and conditions for services referenced in the Owner-Contractor Agreement for Disaster Recovery and the School Board of Palm Beach County, Florida, and hereby incorporates all terms and conditions of that Agreement.

**THE SHORT FORM AGREEMENT WILL NOT BE APPROVED UNLESS ALL INFORMATION IS PROVIDED.**

<b>Project Name:</b> <b>Project Location:</b>			
<b>School District Project Number:</b>			
<b>Description of Project and Scope of Work:</b>			
<b>General Contractor Services – Lump Sum Fee Amount: \$ _____</b>			
<b>Owner’s Contingency: \$N/A</b>			
<b>M/WBE Sub-consultant Participation: If M/WBE Participation is not available or attainable for this project, provide a detailed explanation.</b>			
<b>FIRM(S)</b>	<b>CONTRACT SERVICE</b>	<b>EST. FEE</b>	<b>% OF TOTAL</b>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
<b>Project Schedule (<i>Specify milestone tasks and completion dates</i>)</b>			
<b><u>TASK(S)</u></b>	<b><u>TASK COMPLETION DATE(S)</u></b>		
_____	_____		
_____	_____		
_____	_____		

**Reviewed and Approved by:**

\_\_\_\_\_  
**Project Field Representative/Projects Coordinator**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Senior Projects Administrator**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Department Director/Representative**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Director of Purchasing Department**

\_\_\_\_\_  
**Date**

**General Contractor:** \_\_\_\_\_

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

**City, State, Zip:** \_\_\_\_\_

**Phone:** \_\_\_\_\_ **Email Address:** \_\_\_\_\_

**Authorized Signature:** \_\_\_\_\_ **Title** \_\_\_\_\_ **Date** \_\_\_\_\_

**COMPANY SEAL**