FIRST AND FINAL ADDENDUM

RFP FOR CONSTRUCTION MANAGEMENT AT RISK SERVICES FOR BANYAN CREEK ELEMENTARY CORE EXPANSION

PROJECT NO: 408000264

PLEASE NOTE

PROPOSALS DUE ON OR BEFORE SEPTEMBER 7, 2010 NO LATER THAN 2:00 P.M., at:

The School District of Palm Beach County, Florida
Construction Purchasing Department
3661 Interstate Park Road North, Suite 209
Riviera Beach, FL 33404

DATE: August 31, 2010

TO ALL PROPOSERS:

The following pages have been revised as indicated and are attached.
00510-5, 00510-33, 00700-32, 00830-1, 00830-4, 00830-5, 00830-14, 00830-15, 00830-16,
00830-17, 00830-18, 00830-20, 00830-21, 00830-26 and 00830-27
Appendix D

The following are answers to the questions received to date.


   A. Yes. Page 00830-26 has been revised as indicated and is attached.

2. Q. Form 1525 – Letter of Intent indicates that Form must be submitted to BidSync.com?

   A. No. Responses to this RFP will be submitted in hard copy and on CD delivered directly to the School District of Palm Beach County, as specified in the RFP package submittal requirements, and as specified under Category 6, Evaluation Criteria. (page 00830-27)

3. Q. Page 00830-18, 14-6 Proposal Requirements. Proposer shall submit PBSD 1526 Subconsultants Participation Services. Is this form to be included in Category 5 SBE Subcontractor Participation?

   A. No. PBSD 1526 is submitted as post proposal information as detailed in Instructions to Proposers, Page 00100-4, Paragraph 8.4.
4. Q. For the purposes of this solicitation are the terms SBE and M/WBE interchangeable? See Section 00830-16, Paragraph 14.4.15 SBE Participation: This section appears to use SBE and M/WBE interchangeably. In addition to the above the following Appendix Forms are designed for M/WBE use only:

- Appendix D Letter of Intent
- Appendix E Sub-Consultants Participation
- Appendix F Good Faith Effort
- Appendix G Service Utilization Report
- Appendix K Good Faith Effort
- Appendix T Close Out Check List
- Appendix U Compliance Plan
- Appendix V M/WBE Compliance Report

A. The established Project Goal for minority participation for this Project is a minimum of 15% certified SBE firms. There is no M/WBE participation requirement for this Project. The forms are intended to report SBE participation. Attached is a modified Appendix D-Letter of Intent- PBSD 1525, for use as part of your submittal. The remaining Appendices are being revised and will be available to the selected firm at the appropriate time.

Proposers please note:
Please acknowledge one (1) Addendum, First and Final Addendum, dated August 31, 2010.

Also please pay particular attention to the submittal requirements found in Special Conditions, Instructions to Proposers, Article 6. (especially paragraph 6.6)

Helen Stokes, Selection Committee administrator
E-mail: stokesh@palmbeach.k12.fl.us
Ph: (561) 882-1954

Attachments:
Revised Pages:
00510-5
00510-33
00700-32
00830-1
00830-4
00830-5
00830-14
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Appendix D
2.1.2 Narrative Reporting Subsystem

(1) The Construction Manager shall prepare written reports as described hereunder. No other PMIS narrative reports shall be required. All reports shall be in 8 ½" X 11" formats.

(2) The Narrative Reporting Subsystem shall include the following reports:

(a) A Monthly Executive Summary which provides an overview of current issues and pending decisions, future developments and expected achievements, and any problems of delays, including code violations found by Permitting Authority.

(b) A Monthly Cost Narrative describing the current construction cost estimate status of the Project.

(c) A Monthly Scheduling Narrative summarizing the current status of the overall project schedule. This report shall include an analysis of the various project schedules, a description of the critical path, and other analyses as necessary to compare planned performance with actual performance.

(d) A Monthly Accounting Narrative describing the current cost and payment status of the entire project. This report shall relate current encumbrances and expenditures to the budget allocations.

(e) A Monthly Construction Progress Report during the construction phase summarizing the work of the various Sub-Contractors. This report shall include information from the weekly job site meetings as applicable such as general conditions, long lead supplies, current deliveries, safety and labor relations programs permits, construction problems and recommendations, and plans for the succeeding month.

(f) A Daily Construction Diary during the construction phase describing events and conditions on the site.

(g) A monthly Small Business Enterprise report during the construction phase summarizing the participation of certified minority SBE Sub-Contractors /material suppliers for the current month, and project to date. The report shall include the names, addresses, and dollar amount of each certified SBE participant.

(h) Construction Manager shall submit, for Owner approval, a direct tax savings purchase plan that, upon acceptance, will be part of the Construction Manager’s services.

(3) The reports outlined in subsection (2) (a) through (g) above shall be bound with applicable computer reports and submitted monthly during design and construction phases and shall be current through the end of the preceding month. Copies shall be transmitted to the Owner and the Architect-Engineer and others designated by the Project Manager with the monthly pay requisition.

Additional copies of the report outlined in subsection (2)(a) shall be bound separately and distributed monthly as directed by the Project Manager. A disk copy of the reports, in a compatible format, will also be provided with the pay request.

(4) The report outlined in subsection (2)(f) above shall be maintained at the site available to the Owner and Architect-Engineer. A copy, bound, of the complete diary shall be submitted to the Owner at the conclusion of the project.

2.1.3 Scheduled Control Subsystem:

Master Project Schedule - Upon award of this Agreement, the Construction Team, shall submit a master project schedule covering the entire project, from planning and design approvals, to construction, Owner occupancy and final completion of the Project. This schedule will serve as the framework for the subsequently development of all detailed schedules. The master project schedule shall be produced and updated monthly throughout the project.
16.4 Invoices Submitted Under Article 9

Invoices submitted under Article 9 of this Agreement shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof. Invoices for any travel expenses shall be submitted in accordance with procedures specified in Section 112.061 of the Florida Statutes governing payments by the State for travel expenses.

16.5 Construction Manager’s Project Records

The Construction Managers Project Records shall be maintained as prescribed hereinabove for the minimum period required by Federal Law, and shall be made available to the Owner or his authorized representative at mutually convenient times.

16.6 Minority SBE Participation

The Construction Manager shall diligently attempt to award at least fifteen percent (15%) of his material contracts and subcontracts to firms having a letter of certification as a minority Small business.

16.7 Construction Manager’s Payment Rights

Construction Managers providing goods and services to the Owner should be aware of the following time frames. Upon receipt of an approvable invoice the Owner has thirty (30) days to inspect, approve and make payment for the goods and services.

16.8 Public Entity Crime Information Statement

"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 Construction Manager, supplier, Sub-Contractor, 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, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list."

16.9 Unauthorized Aliens

The School District shall consider the employment by any Construction Manager of unauthorized aliens a violation of section 274A(e) of the Immigration and Nationalization Act. Such violation shall be cause for unilateral cancellation of this contract.

16.10 Possession of Firearms

Possession of firearms will not be tolerated on School District property.

“Firearm” means any weapon (including a starter gun or antique firearm) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any destructive device; or any machine gun.

No person who has a firearm in their vehicle may park their vehicle on School District property. Furthermore, no person may possess or bring a firearm on School District property.

If any employee of an independent contractor or sub-contractor is found to have brought a firearm on School District property, said employee will be terminated from the School Board project by the independent contractor or sub-contractor. If the sub-contractor fails to terminate said employee, the sub-contractor’s agreement with the independent contractor for the School Board project shall be terminated. If the independent contractor fails to terminate said employee or fails to terminate the agreement with the sub-contractor who fails to terminate said employee, the independent contractor’s agreement with the School Board shall be terminated.

16.11 Criminal Acts

Employment by any Construction Manager of any employees or Trade Contractors hired by the Construction Manager with multiple felonies and / or crimes against children will not be tolerated. The Construction Manager must provide documented proof of efforts to comply with this requirement.
ARTICLE 9
PAYMENT AND COMPLETION

9.1 GUARANTEED MAXIMUM PRICE

9.1.1 The Guaranteed Maximum Price is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Construction Manager for performance of the Work under the Contract Documents.

9.2 SCHEDULE OF VALUES

9.2.1 Before the first “Application and Certificate for Payment,” the Construction Manager shall submit to the Owner for approval a “Schedule of Values” in such a form, Schedule of Values SD 703 (PBSD 2349) as the Owner may require. The “Schedule of Values” document shall be arranged in accordance with the Construction Specification Institute (CSI) format as outlined by Divisions 1-16 of the completed Exhibit B of the GMP.

The data within the Schedule of Values must be supported by actual data from all subcontracts, Divisional surplus data (each identified and then re-routed to Contingency and included in Contingency log), brief descriptions of all unpurchased scope with estimates organized by respective Division category (each unpurchased scope within each Division may be identified in a separate line item), and any other data to substantiate its accuracy. As subcontracts are executed, the Schedule of Values is to be updated monthly. Form PBSD 2349 shall be used as a basis for reviewing the Construction Manager’s “Application for Payment.”

9.3 APPLICATION FOR PAYMENT

9.3.1 At least twenty-five (25) business days before the date the Construction Manager desires a progress payment, the Construction Manager shall submit to the Architect four (4) notarized copies of the “Application and Certificate for Payment,” (Application) on Form PBSD 2354 supported by such data substantiating the Construction Manager’s right to payment as the Owner may require, and reflecting retainage as provided elsewhere in the Contract Documents.

The following items shall be submitted with each Application:

- Professional & Construction Services Utilization Report (Form PBSD 1528)
- Partial Release of Claims & Waiver of Claims/or Verification of Payment (Form PBSD 1620)
- Subcontractor Reconciliation (Form PBSD 2350)
- Subcontractor Change Order Matrix-Construction Change Authorization (Form PBSD 2351)
- Subcontractor Change Order Matrix-Construction Change Directive (Form PBSD 2352)
- Subcontractor Change Order Allowance Matrix (Form PBSD 2353)
- Allowance Use (Form PBSD 2348)
- Anticipated Cost Report
- CCA Log
- CCD Log
- DPO Log
- Allowance Log

- All executed subcontractor agreements for the period covered by each Pay Application (Submit on CD, one (1) CD marked for ODBP, and one (1) CD marked for Program Management)
- Periodic Performance Evaluation (PPE) for the time period covered by the Application

Failure to comply with the requirements of this paragraph shall be grounds for the Owner to reject the Application.

9.3.1.1 An Application may include requests for payment on account of Changes in the Work, which have been properly authorized by Construction Change Directives, but not yet included in Construction Change Orders.
SPECIAL CONDITIONS
OF THE CONTRACT FOR CONSTRUCTION MANAGEMENT AT RISK SERVICES
SECTION 00830

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ARTICLE 10 – PERFORMANCE AND PAYMENT BOND
ARTICLE 11 – ENVIRONMENTAL CONCERNS
ARTICLE 12 – SAFETY CONCERNS
ARTICLE 13 – OWNER’S REPRESENTATIVE
ARTICLE 14 – SMALL AND MINORITY / WOMEN BUSINESS ENTERPRISE SUBCONTRACTOR PARTICIPATION (GOALS) REQUIREMENTS
ARTICLE 15 – EVALUATION

REVISED 00830-1
All Proposals shall be delivered to:  Construction Purchasing Department  
3661 Interstate Park Road North, #200  
Riviera Beach, FL 33404

6.2 Proposals shall be prepared using the forms contained in this RFP and submitted in accordance with these Instructions to Proposers. Proposals containing any conditions, omissions, unexplained erasures, alternates, items not called for or irregularities of any kind may be rejected by the Owner.

6.3 Unless otherwise provided in any supplement to these Instructions to Proposers, no Proposer shall modify, withdraw or cancel its Proposal or any part thereof for sixty (60) days after the time designated for the receipt of Proposals in the "Advertisement for Request for Proposal."

6.4 Prior to the receipt of Proposals, as required, Addenda may be issued by the Owner to each Proposer recorded by the Owner as having received the Proposal Documents and will be available for inspection wherever the Proposal Documents are kept available for that purpose. Addenda issued after receipt of Proposals will be provided only to the selected Proposer. All Addenda issued by the Owner become part of the Request For Proposal Document. As part of the Proposal, the Proposer shall provide a statement acknowledging receipt of all addenda issued by the Owner.

6.5 Each Proposal shall provide, on the Proposal Response Form, the full business address of the Proposer, and state whether he is an individual, corporation, partnership or joint venture proposals by a corporation must be signed with the legal name and seal of the corporation followed by the name of the state of its incorporation and by the manual signature and designation of an officer, owner, or other person, authorized to bind the corporation. Proposals by partnerships shall show the names of all partners and shall be signed in the partnership name by one of the partners or by an authorized representative. In either case, the partnership signature shall be followed by the manual signature and designation of the person signing. Proposals by a joint venture shall be signed with the legal name of the joint venture followed by the manual signature of the individual who is the primary qualifying agent for the joint venture. In every case, the name of the person signing, and his designation, shall be typed or printed below his signature. A Proposal by a person who affixes to his signature the word "President", "Secretary", "Owner" or other designation without disclosing his principal may be held to be the Proposal of the individual so signing. Satisfactory evidence of the authority of an officer, owner, attorney, or other person signing for a corporation and for an owner, attorney, etc., signing for a partnership or an individual shall be furnished.

6.6 The Proposal shall be divided into three (3) Sections-1, 2 and 3. A Proposal shall include all items listed for Section 1, otherwise the Proposal shall be declared non-responsive. A Proposal should include all items specified for Sections 2 and 3, however, exclusion of any of the items specified in these Sections shall not be cause to declare the Proposal non-responsive.

Section 1 shall contain the following:

-Proposal Response Form (Required Response Form A)  
-SBE Sub-Consultant/Subcontractor Participation Form (Required Response Form B)  
-Drug Free Workplace Certification (Required Response Form C)  
-Public Entity Crime Statement (Required Response Form D)  
-Beneficial Interest and Disclosure of Ownership Affidavit, PBSD 1997 (Required Response Form E)  
-Disclosure of Discrimination Complaints (Section 00700, Article 13, Par. 13.4)- the Proposer shall submit a statement of whether or not, within the past ten years from the Proposal due date, any occurrences have taken place in which a complaint has been filed against the Proposer, litigation has been filed against the Proposer, litigation is pending against the Proposer, or the Proposer is currently involved in a legal or administrative proceeding alleging that the Proposer discriminated on the basis of race, gender, gender identity or expression, religion, national origin, ethnicity, sexual orientation, age, or disability against any of its subconsultants, vendors, suppliers, or commercial customers. The Proposer shall provide a specific description of each occurrence and the status or resolution of each occurrence, including any remedial action taken. If no such occurrences have taken place, the Proposer shall indicate such.  
-Acknowledgement of all Addenda received- per Paragraph 6.4 above.

REVISED 00830-4
Section 2:

-Copy of the Proposer’s General Contractor’s License
-Proof of an active Certificate of Authority issued by the Florida Department of State which authorizes the Proposer to transact business in the State of Florida. This proof may be provided by either submitting a copy of the Letter of Authority issued by the Office of the Secretary of State or by submitting a copy of the Certificate of Status Verification which may be obtained via Sunbiz.org-Department of State.
-Letter of Bonding Capability, issued by the Proposer’s surety verifying the surety’s rating as specified in Section 00700, Article 11 00830, Article 10 and the Proposer’s available capacity to bond the Project for the established Budget for Construction.
-Certificate of Insurance indicating the coverage required in Section 00830, Article 9 is in effect.

Section 3:

-Responses to Categories 1-3 and 5-7, Section 00830, Article 15, Par.15.3

6.7 A Proposal shall not exceed a total of 40 pages, exclusive of all submittal requirements specified in Sections 1 and 2, Par. 6.6. Proposals exceeding this 40 page limit shall be declared non responsive by the Owner. Each page shall be numbered consecutively, and shall not exceed 8-1/2” x 11” in size. Each page shall be printed in a minimum size 11 font and have a minimum 1” margin on all sides. CD’s will be submitted in PDF format, bookmarked per the selection criteria, and fully functioning.

6.8 One (1) original printed hard copy plus one CD containing Sections 1, 2 and 3 plus an additional TWELVE (12) CD copies of Section 3 only of the Proposal are to be sealed in one package and clearly labeled "Proposal for Construction Management at Risk Services". The Project Name(s) and Project Number(s) must be clearly stated on the outside of the package.

6.9 Each Proposer shall provide a statement of bonding capability from their Surety Company or agent. The statement shall reference the project and shall confirm the Proposer’s total bonding capability, single project capability, reserve available to satisfy the requirement of the project and the Surety’s rating for Service and Financial Strength. These ratings must meet the minimum requirements specified in Section 00830, Article 10 of the RFP.

6.10 As part of the proposal, the Proposer shall provide a list of all instances within the ten year period prior to the due date of the Proposal of any complaint filed against the Proposer in a legal or administrative proceeding alleging that the Proposer discriminated on the basis of race, gender, religion, national origin, ethnicity sexual orientation, age or disability against its subcontractors, vendors suppliers or commercial customers including a description of the status or resolution of each such complaint, including any remedial action taken.

ARTICLE 7
COSTS INCURRED BY PROPOSERS

7.1.1 All costs incurred by Proposers, their employees and agents in preparing a response to this Request for Proposals, in clarifying such response to the satisfaction of the Owner, in attending any pre-proposal conference or interview, in ascertaining the conditions of the site, in entering into a contract with the Owner or for any other reason shall be the sole responsibility of the Proposers and will not be paid or reimbursed by the Owner.
14.4.4 **Compliance:** The level of performance at which the School District and the Prime Contractor utilizes vendors in meeting diversity objectives. As the Superintendent’s designee, the Director of the Office of Diversity in Business Practices (ODBP) will establish procedures for monitoring and evaluating program performance and compliance.

14.4.5 **Goals (Annual Diversity Goals):** A percentage of total contract dollar volume, on an annual basis for the participation of minority and women-owned small business enterprises in the District’s procurement, professional services and construction contracts.

14.4.6 **Project Goals:** Contract-specific goals expressed as percentages of the total contract dollar volume that are anticipated by the District for subcontract participation by Small Business Enterprise firms or MAWBE firms based upon relative availability in the relevant industry.

14.4.7 Intentionally left blank.

14.4.8 **Contract Goal:** The stated Goal is to have portions of the Work under the Agreement performed by qualified SBE Subcontractors total not less than 15% of the total of Divisions 1-16, Bonds and Insurance, General Conditions (Direct Cost Items related to staff), Owner’s Construction Contingency and Allowances of the approved Guaranteed Maximum Price inclusive of addendums and change orders; and portions of the Construction Management Services Work under the Agreement performed by qualified SBE Subconsultants total not less than 15% of the total of Pre-construction Phase Services, Construction Phase Services, Construction Managers Fee and Overhead and Profit of the approved Guaranteed Maximum Price.

14.4.9 **Ready, Willing and Able (RWA):** Any vendor(s), who has registered an interest in doing business with the School District, and has the technical expertise, training, and licenses to perform in accordance to the contract documents.

14.4.10 **Controlled:** For the purpose of determining whether a business is a minority or women small business enterprise, “controlled by” shall mean that the small business enterprise minorities, the woman, or combination of minorities and women, as the context requires, shall (1) possess legal authority and power to manage business assets, good will and daily operations of the business; and (2) actively and continuously exercise such authority and power in determining the policies and directing the operations of the business, knowledge and technical expertise in the business endeavor, licensed to perform the business or trade, and the lack of external influence over the day-to-day operations or decision making process by any entity (with the exception of franchise operations).

14.4.11 **Disability:** A physical or mental impairment that substantially limits one or more of an individual’s major life activities.

14.4.12 **Subcontractor:** Any person providing goods and/or services to a prime contractor for profit, if such goods and/or services are procured or used in fulfillment of the prime contractor’s obligations arising from a contract with the School Board of Palm Beach County.

14.4.13 **Small Business Enterprise (SBE):** Any business firm that is certified by the District’s Office of Diversity in Business Practices (ODBP) as having average annual gross sales and an average number of full-time employees over the last three years that are less than fifty percent (50%) of the small business size standards as most recently defined by the U.S. Small Business Administration for the business firm’s relevant industry.

14.4.14 **SBE Vendor Directory:** To aid Proposers in meeting the SBE Contract Goal established for this Project a list of District Certified vendors is available via the internet at [www.palmbeachschools.org/mwbe](http://www.palmbeachschools.org/mwbe). The SBE Vendor Directory is maintained by and available from the Office of Diversity in Business Practices. This list represents vendors certified only by the School Board of Palm Beach County as meeting the requirements for participation as a Certified SBE vendor as listed below. Vendors certified as a SBE with any entity or agency other than the School District of Palm Beach County or the State of Florida Office of Supplier Diversity will not be acceptable. As the School District and the State of Florida Office of Supplier Diversity issues certificates of certification the vendor should provide a copy of his/her current certificate for inclusion in the required submissions of documentation. 

**REVISED 00830-15**
14.4.15 **SBE Participation**: The minimum SBE participation established by the School Board of Palm Beach County for this Project, as stated in Section 00030, Legal Advertisement. This is established as a numerical percentage of the Board approved Construction Budget. The minimum calculation as indicated above is to provide an estimate of the expected M/WBE SBE participation for the project. This goal can be reasonably attained by means of applying every reasonable and “good faith effort” to utilize SBE Sub-contractors and Sub-consultants in the performance of Work under this Project and in accordance with the terms and requirements of the School Board Policy 6.143 and the SBE & M/WBE Procedures Manual.

14.4.16 **Goal Setting Business Diversity Committee**: A committee established under the auspices of the Office of Diversity in Business (ODBP) with the responsibility of reviewing the contract bid and RFP documents and determining the appropriate type and scope of industry-specific remedial programs to be applied to the contract. This committee is comprised of professional and senior-level representatives from the following departments of the School District:

a. Department of Purchasing;
b. Diversity in Business Practices
c. Chief Operating Officer;
d. Superintendent’s Designee; and
e. The department responsible for letting the contract.

14.4.17 **Director of Office of Diversity in Business Practices (ODBP)**: The Employee of the School Board of Palm Beach County responsible for the coordination, implementation, establishing procedures for monitoring and evaluating program performance and compliance.

14.4.18 **Director of the Purchasing Department**: The employee of the School Board of Palm Beach County, the School Board's designated administrator of the Contract; responsible for the purchase of the commodities and contractual services for the District in compliance with Florida Statutes, State Board of Education Rules, and Board Policy.

14.4.19 **Senior Project Administrator**: An employee of the School Board of Palm Beach County assigned to this project. And designated representative

14.4.20 **Certified SBE Sub-Contractor**: A Sub-Contractor who is certified to do specific work under the SBE Proposers Participation Program if he/she meets all the following criteria:

a) He/She maintains an Occupational License establishing the company as an entity legally authorized to engage in construction in Palm Beach County;
b) He/She produces evidence of ownership, operation, control and management of the firm on a daily basis;
c) He/She is an SBE Sub-contractor as defined under paragraph 14.4.13 above and certified at the time the RFP is issued.
d) He/She can meet all requirements of Certification required by the School Board of Palm Beach County and/or State of Florida Office of Supplier Diversity prior to the award of contract under the SBE Program. Any pending application with the Palm Beach County School District and/or State of Florida Office of Supplier Diversity shall not be considered as certification of the vendor submitting application for consideration as an SBE Firm.
e) Inquiries regarding listings of the School District of Palm Beach County Small Business Enterprises can be made to the Office of Diversity in Business Practices, 3300 Forest Hill Boulevard - Suite A-106, West Palm Beach, FL 33406, (561) 434-8508 or on our website: [http://www.palmbeachschools.org/mwbe](http://www.palmbeachschools.org/mwbe)
f) He/She has or is able to obtain any and all licenses and insurance required to do such work prior to contract award.

**REVISED 00830-16**
14.5 UTILIZATION OF SBE SUBCONTRACTORS, SUBCONSULTANTS, AND VENDORS

14.5.1 Construction Manager’s Obligation:

(1) Ensure that Certified SBE Subcontractors as defined in Paragraph 14.4.13 herein, have the maximum opportunity to participate in the performance of the contract and to take all necessary and reasonable steps in accordance with this Provision to ensure that Certified SBE Subcontractors have the maximum opportunity to compete for and perform contracts.

(2) To execute and submit documentation relative to the selection, reflecting participation and payment of the participation SBE vendor for the project.

The same level and percentage of SBE participation shall exist in any and all amendments or change orders which increase or decrease in the dollar value of the proposed service, projects, or products where possible.

The Construction Manager shall comply with the proportionate dollar-amount goals throughout the term of the contract, such that when plans are made in proposals or bids for the use of SBE subcontractors, a SBE which for any reason no longer remains associated with the contract shall be replaced with another certified SBE unless the District grants written approval to the contrary.

14.5.2 Disqualification/Rejection of Bids/Proposals, and Debarment.

The School District reserves the right to reject any proposals from bidders who have previously failed to perform properly and who have done so by commission or omission of an act of such serious and compelling nature that the act indicates a serious lack of business integrity or honesty. Such acts include, but are not limited to:

(a) Violating any applicable law, regulation, or contract provision relating to the performance of obligations incurred pursuant to an agreement with a recipient under a School District contract

(b) Making or procuring to make any false statement or using deceit for the purpose of influencing in any way any action of the School District

(c) Making false representations purposes of qualifying for SBE certification

(d) Engaging in misconduct such as fraud, deceit, or other actions indicating serious lack of business integrity or honesty

(e) Acting as, or knowingly making use of, a “front” company (i.e., a firm which is not in fact an SBE but poses as such in order to participate as an SBE in the District’s program)

(f) Violation of the Board’s Commercial Nondiscrimination Policy 6.144.

Failure to Comply: Every reasonable effort to utilize SBE subcontractors must be demonstrated to the School Board of Palm Beach County. Failure on the part of the Proposer to comply with the requirements of this Article may be cause for finding the Proposer non-responsive with the conditions of the Request For Proposal. In the event a proposal is deemed non-responsive, award may then be made to the next responsive Proposer, or all remaining proposals may be rejected and the project re-advertised.

All determinations of compliance or non-compliance of the Construction Manager with the requirements of this Provision, and of the appropriate consequences of noncompliance, shall be made by the Office of Diversity in Business Practices, as provided herein. All such determinations shall be final and binding.

REVISED 00830-17
14.6 PROPOSAL REQUIREMENTS

As specified in Section 00030, “SBE Participation Requirements”, Proposers shall commit to a minimum Contract Goal for certified SBE participation percentage for Subcontractor participation and Subconsultant Participation for Construction Management Services. The method of establishing these requirements is specified in Article 15, “Evaluation”, Phase 1- Categories 5 and 6.

Proposers shall submit PBSD 1525 – Letter of Intent from each prospective Certified SBE Subconsultant for CM Services that has agreed to participate in the Project, stating the trade items and dollar amounts for Preconstruction and Construction phase services. If dollar amounts are unknown the Proposer shall indicate at a minimum percent (%) participation established for that contract.

Proposers shall verify Subconsultants are certified by the Office of Diversity in Business Practices. A copy of each certificate must be submitted as documentation.

Proposers shall submit PBSD 1526 – Subconsultants Participation Professional Services, including contract amounts (estimated or actual) as well as the item number and description of the work for all Subconsultants minority and non-minority. PBSD 1526 only details Sub-contractor participation.

14.6.1 Pre-Award Submittals

As a condition of the GMP award, the Construction Manager shall submit to the Office of Diversity in Business Practices, the following documents (utilizing copies of Owner provided standard forms found at the end of this Section) concerning SBE and non-minority SBE Subcontractors, Subconsultants, and vendors participation in the performance of the Contract:

1. **Form 1525 SBE-M/WBE Subcontractor/Subconsultant Participation Letter of Intent** – Identify the SBE firms to whom the Construction Manager has committed to Partner(s), subcontractor with for a specific scope of Work. One Form 1525 shall be submitted for each SBE who has agreed to participate in the Project. Additional copies may be made as needed. An original copy of the subcontract or subconsultant agreement must be attached to each form.

2. **Form 1526 Participation Summary** – List all (minority and non-minority SBE/non-SBE) subcontractors on Form 1526 SUBCONT, all subconsultants on Form 1526 PROF, and all vendors Form 1526 DPO, who have agreed to participate in the project for a specific contract (trade) item and dollar amount. Attach a copy of each firm’s SBE certificate issued by the School District of Palm Beach County. This list should be irrevocable. Failure to utilize the services of the SBE vendors listed or acceptable substitutions and/or to contract an amount less than indicated, may be grounds for formulation of a recommendation to the Board for contract rescission or termination.

3. **Form 1527 SBE-M/WBE Subcontractor/Subconsultant Participation Good Faith Effort** – List all the SBE subcontractors, subconsultants, and vendors who were invited to submit a proposal and declined to participate in the Project. This form is required if the solicitation goals are not met. Completion not required for Construction Managers meeting or exceeding the established goal.

4. **Form 1528 Professional & Construction Services Utilization Report** – Form is filled out by the Construction Manager and shall include all subcontractors, subconsultants, and vendors contacted to work on the project. This form shall be submitted by the Construction Manager attached to all payment requests. Forms 1620 & 1621 shall be attached for prior payments received. Payment requests/applications will not be processed without “Form 1528”. If the SBE portion of the draw for a particular month is zero dollars, the vendor shall submit and execute a notarized Form 1528, indicating zero payments for the month.

REVISED 00830-18
iv. whether the contractor selected feasible portions of work to be performed by SBEs including, where appropriate, de-bundling contracts or combining elements of work into feasible units (the ability of the contractor to perform the work with its own workforce will not in itself excuse a contractor from making positive efforts to meet contract goals);

v. whether the contractor has utilized SBE subcontractors on other District contracts within the past six months;

vi. whether the contractor advertised in general circulation, trade association, and/or minority/women or small-business-focused media concerning the subcontracting opportunities;

i. whether the contractor followed up initial solicitations of interest by contacting SBE to determine with certainty whether the SBEs were interested;

viii. whether the contractor provided interested SBEs assistance in reviewing the contract plans and specifications;

ix. whether the contractor offered to assist interested SBE firms in obtaining required bonding, lines of credit, or insurance if such assistance was necessary;

x. whether the contractor effectively used the services of available minority/women small business community organizations, minority/women small business contract groups or local, state, and federal SBE assistance offices, and other organizations that provide assistance in the recruitment and placement of SBEs;

xi. whether the prime contractor or vendor is actively participating in a mentoring program, which will contribute to the development of SBE contractors or vendors;

xii. whether the contractor considered all quotes received from SBEs (and the contractor shall provide an explanation of why the SBE quotes were not accepted for use in the contract. Receipt of a lower quote from a non-SBE will not in itself excuse a contractor from making positive efforts to meet contract goals);

xiii. whether the contractor negotiated in good faith with interested SBEs, not rejecting SBEs as unqualified without sound reasons based on a thorough investigation of their capabilities; and

xiv. whether the contractor's efforts were merely pro forma and, given all relevant circumstances, could not reasonably be expected to provide sufficient SBE participation to meet the goals.

(c) The department responsible for letting the contract shall forward the contract documents relative to SBE participation to the ODBP within the time prescribed in the document, which time shall not exceed 31 business days after bid/proposal opening and must be prior to commencement of the contract/project.

(d) If an SBE subcontractor listed in contractor's bid or proposal becomes decertified after submission of bids or proposals, but prior to the award of the contract, the ODBP shall require the contractor to attain the SBE goal with another certified SBE within a specific reasonable time frame.

(f) If an SBE subcontractor for any reason no longer remains associated with the contract after award of the contract, that SBE shall be replaced with another certified SBE unless ODBP grants written approval to the contrary.

REVISED 00830-20
14.7 Recommendations for Meeting Goals

14.7.1 Meeting the Contract Goal or making good faith efforts to do so is a condition of being awarded this contract. The listing of a SBE Subcontractor by a Construction Manager shall constitute a representation by the Construction Manager that such entity is qualified, willing and available, and a commitment by the Construction Manager that, upon Board approval of the Amendment of the Agreement, he / she will enter into a subcontract in an amount as set forth in PBS Form 1526, subject to the terms of the Contract Documents.

14.7.2 Counting SBE Subcontractor Participation toward Contract Goal:

1) Once the ODBP has determined a firm to be an eligible SBE firm, the total dollar value of the contract awarded to the SBE firm is counted toward the goal, except as limited by paragraph (2) through (3), below.

2) Only the dollar amount of work provided by certified SBE Sub-contractors in direct contract with the Construction Manager and paid by the Owner will be counted toward participation necessary to satisfy the Contract Goal.

3) Consistent with normal industry practices, an SBE Subcontractor may enter into subcontracts. If the SBE Subcontractor subcontracts a significantly greater portion of the work the contract than would be expected on the basis of normal industry practices to non-minority non-SBE subcontractors, the entity shall be presumed not to be acceptable as an SBE Sub-contractor.

4) The School Board of Palm Beach County, Florida will count toward the goal the portion of the total dollar value of a contract with a joint venture equal to the percentage of the ownership and control of the SBE Subcontractor partner in the joint venture.

14.7.3 Approval of Amendment (GMP)

Provided the Construction Manager has submitted properly completed forms and other information as required by the contract documents and this Article of the Special Conditions and is otherwise responsive to the Request For Proposal, the School Board of Palm Beach County may award the contract to the number one ranked Construction Manager who submits sufficient information to the School Board of Palm Beach County that it has met the contract goal or has made good faith efforts to meet the goal.

14.8 Requirements and Procedures Subsequent to Contract Award

14.8.1 SBE Substitutions:

After contract award, the successful Construction Manager will be permitted to replace a certified SBE Subcontractor who is unwilling or unable to perform such substitution must be done with other certified SBEs in order to maintain the SBE percentages submitted with the bid. If a Construction Manager cannot find a certified SBE to replace the originally proposed SBE, the Construction Manager must establish that good faith efforts were exercised in an attempt to do so. Requests for substitutes must be submitted in writing to the Office of Diversity in Business Practices and the Owner with a copy to the School District of Palm Beach County, Director of Purchasing,

a. The Construction Manager shall negotiate with the next lowest Certified SBE bidder, and, if necessary,

b. The Construction Manager shall rebid the portion of the Work. The CM shall notify all current Certified SBE firms qualified to complete that portion of the Work.

14.9 Responsibilities After Contract Award

All Construction Managers hereby assure that they will meet the SBE participation percentages submitted in their respective bids with the Subconsultants and Subcontractors on PBS Form 1526 and at the dollar values specified. Construction Managers agree to provide any additional information requested by the District to substantiate SBE participation.
Describe how processing of shop drawings is scheduled.
Describe how the development of subcontractor schedules is coordinated.
Describe the coordination of crew loading with construction scheduling.
Describe the development of cost loading of schedules.
Describe and provide an example of how the project’s monthly cost to complete is developed.

CATEGORY 4- Prior Contract Award..........................10 Points Possible

Point award for this Category will be based upon the total dollar amount of approved construction contracts awarded to each Proposer or joint venture partner by the School District of Palm Beach County during the twenty-four (24) month period prior to the proposal due date. The total contract and point awards of each Proposer or joint venture partner will be determined by the Construction Purchasing Department. Point awards will be provided at the Phase I Evaluation Committee Meeting. The Schedule for point award as follows:

Total Contract Awards Points
$0 to $19,999,999..............................................................10
$20,000,000 - $34,999,999..................................................8
$35,000,000 - $49,999,999....................................................6
$50,000,000 - $74,999,999....................................................4
$75,000,000 and over...........................................................0

CATEGORY 5 SBE Subcontractor Participation...........................10 Points Possible

Scoring Criteria
Proposers shall be awarded points for submittal of a letter, on the Proposer’s letterhead and signed by an authorized representative, acknowledging their commitment to achieving the Contract Goal of a minimum 15% Small Business Enterprise (SBE) Subcontractor participation based on the total of Divisions 1-16, Bonds and Insurance, General Conditions, Owner’s Construction Contingency and Allowances of the established Guaranteed Maximum Price (GMP). Only firms certified as SBE by the School District of Palm Beach County (as defined in Section, 00830, Article 14, Paragraph 14.1.13 14.4.13) or by the State of Florida Office of Supplier Diversity prior to submittal of the Guaranteed Maximum Price shall be accepted toward fulfillment of the SBE Subcontractor participation requirement established for this Project. Graduation and/or denial (as described in Board policy 6.143) from the District shall void certification by The State.

Ten points shall be awarded to firms that present the required letter acknowledging requirements for participation otherwise the point award shall be zero. The Office of Diversity in Business Practices will determine point award.

CATEGORY 6- SBE Subconsultant Participation for CM Services..............10 Points Possible

Scoring Criteria
A Contract Goal of 15% Minority/Women Small Business Enterprise Sub-consultant participation for Construction Management (CM) Services is established separately for the Preconstruction and Construction Phase Services. Participation for the Preconstruction Phase Services is based upon the total dollar amount negotiated for Preconstruction Phase Fees. Participation for the Construction Phase Services is based upon the total dollar amount negotiated for Construction Phase Fees and Overhead and Profit. Only firms certified as SBE by the School District of Palm Beach County (as defined in Section, 00830, Article 14, Paragraph 14.1.13) or by the State of Florida Office of Supplier Diversity shall be accepted toward fulfillment of the participation requirement established for this Project.

Graduation (as described in Board Policy 6.143) from District Certification shall void certification by the State.

A Proposer that is a School District of Palm Beach County certified SBE is also required to fulfill this Subconsultant participation requirement.

Proposers shall be awarded points as specified for adherence to each of the following requirements. The Office of Diversity in Business Practice will determine point award:

REVISED 00830-26
1) Submittal of a letter, prepared on the Proposer's letterhead and signed by an authorized representative, acknowledging a minimum requirement of 15% SBE CM Sub-consultant participation. .............................................................. 2 pts

2) List each Sub-consultant(s) and identify the individual(s) assigned to this Project. Services provided by each Sub-consultant as well as the individuals that will be assigned and their specific role in this project shall be provided. .............................................................. 2 pts

3) Provide copies of current District or State Certifications for each Sub-consultant. ......................................................... 4 pts

4) Provide Form PBSD 1525 - Letter of Intent (Appendix D) for each CM Services Sub-consultant(s) specifying the intended percent (%) participation shall be provided by the Proposer for each Sub-consultant. .................................................................................. 2 pts

CATEGORY 7- Proposer as a Certified SBE .............................................................................................................. 25 Points Possible

Scoring Criteria
Proposers certified as SBE by the School District of Palm Beach County (as defined in Section, 00830, Article 14, Paragraph 14.1.4) or by the State of Florida Office of Supplier Diversity shall be awarded points for this Category. Graduation (as described in Board Policy 6.143) and/or denial from District SBE Certification shall void certification and award of preference points for certification to the Proposer.

The Office of Diversity in Business Practice shall validate the Proposer’s certification and determine point award.

15.4 PHASE II EVALUATION

CATEGORY 1- Qualifications of the Firm ............................................................................................................. 50 Points Possible

Scoring Criteria
A) The Proposer should demonstrate the firm’s experience with the Florida Building Code related to construction of public school facilities utilizing the Construction Management at Risk delivery process. The Proposer should demonstrate their ability to meet occupancy deadlines by providing OEF Form 209 or other documented forms of project completion such as Certificates of Occupancy. The firm should also demonstrate how it interacts with the Owner and provides and exchanges information relative to the requirements of the project.

Points will be awarded as follows:
Qualifications of the Firm ................................ Up to 40 Points

B) The Proposer should provide examples of projects which demonstrate experience with LEED construction requirements. Proposers should identify those projects that will be submitted for LEED certification, are registered for LEED certification, or have achieved LEED certification.

Points will be awarded as follows:
LEED Qualifications of the Firm ................................ Up to 10 Points

CATEGORY 2- Experience of Project Manager ........................................................................................................ 35 Points Possible

Scoring Criteria
A) The Project Manager should be presented demonstrating their experience managing construction of educational facilities or other projects similar in scope.

REVISED 00830-27
APPENDIX D
REVISED FOR BANYAN CREEK SBE

THE SCHOOL DISTRICT OF PALM BEACH COUNTY
OFFICE OF DIVERSITY IN BUSINESS PRACTICES

Letter of Intent
Minority/Women Small Business Enterprise (M/WBE SBE) Participation

Form must be submitted to BidSync.com with your Proposal

Submit completed form to the Senior Project Administrator (SPA). Direct all questions to (561) 434-8508.

BID/RFP or Project Name ____________________________
BID/RFP or Project # ____________________________
Name of Bidder/Construction Manager ____________________________

The undersigned intends to perform work with the above project as (check one):

☐ Individual  ☐ Partnership  ☐ Corporation  ☐ Joint Venture*  
* If a joint venture, attach letterhead or other documentation proving relationship.

The undersigned intends to perform work with the above project as (check one):

☐ Subcontractor  ☐ Subconsultant  ☐ Manufacturer  ☐ Supplier

The undersigned is:

☐ Certified with the School District of Palm Beach County M/WBE SBE Coordinator
☐ Certified with the State of Florida, Department of General Services (Provisional)

The undersigned is (Must check one in column 1 and column 2. Check column 3 if applicable): NOT APPLICABLE

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PARTICIPATION The undersigned intends to perform the following work in connection with the above project:

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<th>Division No.</th>
<th>Contract (Trade) Items (Description/Division)</th>
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If the undersigned intends to sub-contract any portion of this subcontract to a non-certified M/WBE SBE subcontractor, the amount of any such subcontract must be stated $ ____________________________

Name of M/WBE SBE Subcontracting Firm ____________________________

Name and Position (type or print) ____________________________

INTERNAL USE ONLY - ROUTING DISPOSITION

All executed originals of the form must be submitted to the Office of Diversity in Business Practices
3300 Forest Hill Blvd., A-106, West Palm Beach, FL 33406-5813

Signature ____________________________ Date ____________

PBSD 1525 (Rev. 4/20/2010) ORIGINAL - Office of Diversity in Business Practices
REQUEST FOR PROPOSAL (RFP)

BANYAN CREEK ELEMENTARY CORE EXPANSION
PROJECT NO: 408000264

FOR

CONSTRUCTION MANAGEMENT (CM)
AT RISK SERVICES

THE SCHOOL DISTRICT OF PALM BEACH COUNTY, FLORIDA
# SECTION 00002

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LEGAL ADVERTISEMENT FOR REQUEST FOR PROPOSAL
CONSTRUCTION MANAGEMENT (CM) AT RISK SERVICES

PROJECT NAME: Banyan Creek Elementary Core Expansion
PROJECT NO: 408000264

The School Board of Palm Beach County, Florida invites qualified firms licensed by the State of Florida, to provide Construction Management at Risk services for renovation of core facilities and site/utility development at Banyan Creek Elementary School.

SCOPE OF WORK:

Phase 1
- Remodeling of administration offices and reception area.
- Addition of a new clinic and after-care office.
- Addition of a new kitchen. Included in the addition is new serving lines, staff dining area, restrooms, lockers and a generator room.
- Conversion of spaces adjacent to the media center into staff and student restrooms
- All remodeling/renovation will include mechanical, electrical, plumbing, fire alarm, intercom, data/voice modifications as required.
- Addition of 38 spaces to existing parking.
- Drainage modifications, lighting, utilities, fencing, sidewalks, covered walkways, dumpster enclosures.

Phase 2
- Conversion of the existing kitchen into multipurpose dining area.

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

APPROVED BUDGET FOR CONSTRUCTION: $3,221,500.00

CONSTRUCTION SCHEDULE

BOARD APPROVAL OF GUARANTEED MAXIMUM PRICE: January 19, 2011

CONSTRUCTION COMMENCEMENT: February 14, 2011

SUBSTANTIAL COMPLETION:
Phase 1: August 5, 2011
Phase 2: November 28, 2011

FINAL COMPLETION:
Phase 1: November 3, 2011
Phase 2: February 25, 2012

PROJECT ARCHITECT: Howard & Associates Architects, P.A.
SCHEDULE FOR CM SELECTION:

RFP Questions Due                           August 27, 2010, not later than 2:00 pm
Final Addendum Issued (if necessary)                  August 31, 2010,
Proposals Due                                 September 7, 2010, not later than 2:00 pm
Phase I Evaluation Meeting*          September 21, 2010 @ 9:00 am
Posting Date of Phase 1 Tabulation            September 22, 2010
Site Visit                                   September 23, 2010 @ 9:00 am
Phase 2 Evaluation Meeting*          October 7, 2010 @ 9:00 am
Posting Date of Phase 2 Final Tabulation  October 8, 2010
Pre-Construction Meeting    October 8, 2010 @ 3:00 pm
Scheduled Board Approval of Contract  November 16, 2010

*--OPEN TO PUBLIC ATTENDANCE

3661 Interstate Park Road North, #200
Riviera Beach, FL 33404

All issues or questions regarding the project shall be addressed and resolved through the Construction Purchasing Department. There shall be no communication between selection committee members or their staff and the Proposers.

The RFP document and all additional project information published as part of the RFP document may be obtained at: www.BidSync.com

For General Inquiries contact:
Helen Stokes, by email at stokesh@palmbeach.k12.fl.us or phone 561-882-1954
Debby Boutet, by email at boutetd@palmbeach.k12.fl.us or phone 561-882-1953

Small Business Enterprise (SBE) Participation: As specified by Board Policy 6.143 The School District of Palm Beach County may apply preferences for Small Business Enterprises in the District’s procurement process for the solicitation of all goods, services and construction contracts. School Board Policy 6.143 allows for SBE participation goals and that firm awarded work on such projects fully participate in the SBE program. The established Project Goal for SBE participation for this Project is a minimum of 15% certified SBE firms. Refer to Section 00830, Article 14 “SBE Subcontractor Participation”.

For more information on the District’s SBE and M/WBE programs as well as a list of District certified vendors go to www.palmbeachschools.org/mwbe.

Lobbying: Proposers/Consultants are hereby advised that lobbying is not permitted with any District personnel or Board members related to or involved with this RFP until the administration’s recommendation for award has been posted in the Construction Purchasing Department. All oral or written inquiries must be directed through the Construction-Purchasing Department. Lobbying is defined as any action taken by an individual, firm, association, joint venture, partnership, syndicate, corporation, and all other groups who seek to influence the governmental decision of a Board member or District personnel on the award of this Contract. Any Proposer of any individuals that lobby on behalf of Proposer during the time specified by the schedule will result in rejection/disqualification of said Proposal.

Any Proposer who is adversely affected by the recommended award may address the School Board at a regularly scheduled Board meeting.

Protest Proceedings: If a proposer wishes to protest the recommended award, they must do so in strict accordance with the procedures outlined in FS 120.57(3). Any person adversely affected by the decision or intended decision must file a notice of protest, in writing, within 72 hours after the posting. The formal written protest shall state with particularity the facts and law upon which the protest is based. Failure to file protest within the time prescribed in Section 120.57(3), Florida Statutes, will constitute a waiver of proceedings under Chapter 120, Florida Statutes. Any person who files an action protesting a decision or intended decision pertaining to this bid pursuant to FS 120.57(3) (b), shall post with the Director of the Purchasing Department, at the time of filing the formal written protest, a bond secured by an acceptable surety company in Florida payable

00030-2
to the School District of Palm Beach County in the amount of Twenty-five thousand dollars ($25,000) or 2 percent of the lowest accepted bid, whichever is greater, for projects valued over $500,000; and 5 percent of the lowest accepted bid for all other projects, as stated in FS255.0516. The bond shall be conditioned upon the payment of all costs that may be adjudged against the protester in the administrative hearing in which the action is brought and in any subsequent appellate court proceeding. In lieu of a bond, a cashier's check, certified bank check, bank certified company check or money order will be acceptable form of security. If, after completion of the administrative hearing process and any appellate court proceedings, the District prevails, it shall recover all costs and charges included in the final order of judgment, including charges by the Division of Administrative Hearings. Upon payment of such costs and charges by the protester, the protest security shall be returned. If the protest prevails, he or she shall recover from the District all costs and charges, which shall be included in the final order of judgment.

By: Monroe Benaim, M.D., Chairperson

Attest: Arthur C. Johnson, Ph.D., Superintendent

PUBLISH DATES: August 9, 16 and 23, 2010

The School District of Palm Beach County is an Equal Education Opportunity Provider and Employer.
http://www.palmbeachschools.org/Bids/purch/info/equity_coordinators.pdf

END OF SECTION
NOTICE TO CONTRACTORS
SMALL BUSINESS ENTERPRISE

SECTION 00050

Small Business Enterprise "Good Faith Efforts" shall apply to all contracts awarded by the School District of Palm Beach County based upon availability. Participation by Small Business Enterprise requires minimum participation of 15% certified SBE participants. Only firms certified by the School District of Palm Beach County or State of Florida Office of Supplier Diversity or its successors are accepted for participation.

CERTIFICATION APPLICATION INSTRUCTIONS

Firms seeking to participate in the SBE program are required to be certified as a Small Business Enterprise prior to the time of the proposal submission. An application, with supporting documentation, submitted by the firm and completed by the School District of Palm Beach County is required.

Important Points to Remember:

(a) Please make application prior to the time of proposal submission, the application review process takes up to sixty (60) days after receipt of the completed application.

(b) Please contact the Office Diversity in Business Practices for the application or information on certification at www.palmbeachschools.org/mwbe, by phone at (561) 434-8508 or write:

THE SCHOOL DISTRICT OF PALM BEACH COUNTY
3300 Forest Hill Boulevard
1st Floor, Wing A-106
West Palm Beach, Florida 33406

END OF SECTION
INSTRUCTIONS

SECTION 00100

1. DEFINITIONS

1.1 All definitions set forth in the General Conditions of the Contract for Construction Management at Risk Services, The School District of Palm Beach County, Florida, are applicable to these Instructions to Proposers.

1.2 Proposal Documents include the Advertisement for Request for Proposal, Notice to Prospective Proposers, Policies of the School Board, Instructions to Proposers, Contract, General Conditions, Supplementary General Conditions, Special Conditions, Proposal Bond, Performance Bond and Payment Bond, Proposal Form, and the proposed Contract Documents including Educational Specification, all Drawings, Performance Specifications and Addenda issued prior to proposal opening.

1.3 Addenda are written or graphic instruments issued prior to the execution of the Contract which modify or interpret the Proposal Documents, including Drawings and Specifications, by additions, deletions, clarifications or corrections. Addenda will become part of the Contract Documents when the Contract is executed.

2. PROPOSER’S REPRESENTATION

2.1 By submitting a Proposal, each Proposer represents they have read and understand the Proposal Documents.

3. PROPOSAL PROCEDURES

3.1 Proposals shall be prepared using the forms contained in this RFP and submitted in accordance with Article 6 Instructions to Proposers in Section 00830 Special Conditions. Proposals containing any conditions, omissions, unexplained erasures, alternates, items not called for or irregularities of any kind may be rejected by the Owner.

3.2 A Proposal is invalid if it has not been deposited at the designated location prior to the time and date for receipt of Proposals indicated in the Advertisement for Request for Proposal, or prior to any extension thereof issued to the Proposers.

3.3 Unless otherwise provided in any supplement to these Instructions to Proposers, no Proposer shall modify, withdraw or cancel its Proposal or any part thereof for sixty (60) days after the time designated for the receipt of Proposals in the “Advertisement for Request for Proposal.”

3.4 Joint Venture Proposal: In the case of a proposal submitted by a joint venture, at the time of submittal the joint venture shall be fully and properly licensed by the Florida Department of Business and Professional Regulation and properly qualified by the licensed general contractor that qualified one of the joint venture entities. Additionally, the joint venture shall provide a statement, signed by each participant of the joint venture, giving the licensed general contractor full authority to conduct the contracting business of the joint venture. Additionally the joint venture shall have a Certificate of Authorization in its own name issued by the Florida Department of State.

3.5 Proposal Modification: Proposal Modification will be accepted from Proposers if addressed to the Owners, at the place where Proposals are to be received, and if received prior to the closing time for the receipt of Proposals. Modifications shall be in writing. The requirements set forth in paragraph 3.6 pertaining to a signature on Proposals shall be applicable to the signatures on Proposal modifications. Modifications will be read by the Owner prior to opening formal Proposals.

3.6 Substitutions: Any substitution from the Proposal Document must be requested in writing.
3.7 Withdrawal of Proposals: Proposals may be withdrawn on written request received from Proposers prior to the time fixed for opening. Such request shall be properly signed in accordance with the requirements pertaining to signatures contained in paragraph 3.05(c). Negligence on the part of the Proposer in preparing the Proposal confers no right for withdrawal of the Proposal after it has been opened.

3.8 Familiarity with Laws: The Proposer is assumed to be familiar with all Federal, State and Local Laws, Ordinances, Rules and Regulations, that in any manner affect the Work. Public Contracting and Purchasing Process Florida Statute, Sections 1013.01 et seq. 287.132.133 (Public Entity Crimes) is applicable and Florida Department of Education, Office of Educational Facilities, Florida Building Code. Ignorance on the part of the Proposer will in no way relieve them from responsibility.

4. EXAMINATION OF PROPOSAL DOCUMENTS

4.1 Each Proposer shall examine the Proposal Documents carefully and shall make request to the Owner for interpretation or correction of any ambiguity, inconsistency or error therein which may be discovered in writing. Any interpretation or correction will be issued as an Addendum by the Owner. Only a written interpretation or correction by Addendum shall be binding. No Proposer shall rely upon any interpretation or correction given by any other method. If necessary, a Final Addendum may be issued for a project a minimum of three (3) Owner Business days prior to the proposal submission date.

5. REJECTION OF PROPOSALS

5.1 The Proposer acknowledges the right of the Owner to reject any or all Proposals and to waive any informality or irregularity in any Proposal received. In addition, the Proposer recognizes the right of the Owner to reject a Proposal if the Proposer failed to furnish any required Proposal security, or to submit the data required by the Proposal Documents, or if the Proposal is in any way incomplete or irregular; to reject the Proposal of a Proposer who is not in a position to perform the Contract; and to re-advertise for other or further Proposals or to accept the next responsive Proposal.

5.2 The Owner reserves the right to waive minor irregularities in the Proposals, or to reject all Proposals.

6. ACCESS TO PROPERTY

6.1 The Proposer shall have reasonable access to the subject property for the purpose of conducting such tests, evaluations, surveys, soil tests, borings, environmental studies, and other such tests, studies, drawings, plans, and inspections necessary to submit a definitive proposal. All such activities are at the Proposer’s expense and without damage to said property. Proposer agrees to and does indemnify the Owner from any and all damages, liability, claims, and demands whatsoever for any injury to Proposer’s employees or to any third party while workers are on the subject premises. Access to the property shall be requested in writing to the Owner through the Construction Purchasing Department. The Proposer shall be required to provide evidence of General Liability and Motor Vehicles coverage as specified in Section 00510, Article 12.

7. AWARD OF CONTRACT

7.1 The Contract(s), if awarded by the Owner, will be awarded based on the process described in Section 00830 ARTICLE 15 - EVALUATION; provided the Proposal is reasonable, meets the criterion specified herein and it is in the best interest of the Owner to accept the Proposal.

8. SUBMISSION OF POST-PROPOSAL INFORMATION

The items specified in Paragraph 8.1 must be received in proper form prior to contract award. The items specified in Paragraph 8.3 must be received in proper form before the Construction Manager is issued a Construction Notice To Proceed:
8.1 The selected Proposer shall, within five (5) days prior to Board Award of Agreement, submit the following:

1. Three (3) fully executed copies of the Agreement (Section 00510).
2. Three (3) original copies of Exhibits C and F.
3. Preliminary Project Schedule as specified in Article 3.11, General Conditions, Section 00700.

8.2 The Construction Manager shall, within five (5) days prior to Board approval of the Amendment to the Agreement (GMP), submit the following:

1. Three (3) fully executed copies of the Amendment to the Agreement (Exhibit A).

8.3 The selected Proposer shall, within fourteen (14) days following Board approval of the Amendment to the Agreement for each Phase of Construction, submit the following:

1. Executed Performance Bond and Labor and Material Payment Bond, as specified in Section 00830, Article 10. The Bond forms provided in Request for Proposal Manual, Section 00610 must be used.

NOTE: Bonds shall be recorded at the Recording Department of Palm Beach County Clerk of Circuit Court. Proof of recordation must be submitted to the Construction-Purchasing Department. One (1) set of originals with Bond Numbers shown are required.

Failure of the successful Proposer to execute and timely return the Contract Documents, together with bonds, certificates, or other items in proper form as required will be cause for cancellation of the award and withdrawal of the contract or delay issuance of the Notice To Proceed without extension of the construction schedule. The Work may be performed otherwise as the Owner decides is in their best interest.

8.4 The Construction Manager shall submit a GMP Document (Document) for Owner approval for each Phase of Work. The Document shall have a cover page identifying the Project Name and Project Number as stated in the Agreement and the Phase of Work for which the Document is submitted. The Document shall be identified as Exhibit “Z”, provided to the Owner on CD and shall include each of the following items book marked separately:

1. Executive Summary
2. Qualifications & Clarifications
3. Guaranteed Maximum Price Summary- shall include the following;
   a. An itemized GMP Summary (Exhibit B).
   b. Letter acknowledging implementation of a Direct Material Purchase Program (Appendix B).
   c. The total Guaranteed Sales Tax Recovery.
   d. A detailed list of an Owner accepted Value Engineering Items.
   e. Allowances
   f. Required Submittals:
      Exhibit D- Summary of Construction Phase Service Fees
      Exhibit E- CM Staff Per Diem For Time Extensions
      Exhibit F- Construction Team Assigned Representatives
      Exhibit H- Builder’s Risk Questionnaire
      Appendix E - PBSD 1526 (two parts):
      -Subcontractor Participation Division 1-16- list all subcontractors
      -List of Major Subcontractors
4. Construction Detail Summary Sheet – A detail by CSI Division per the GMP Summary (Exhibit B) of the purchased and unpurchased Scope of Work.
5. Schedule of Values- subdivided by Phase, if applicable, identifying the bidder selected for each item of Work with their bid amounts and separately identify the dollar value estimates for all Work not included in the bid (un-purchased).
6. A letter certifying the percent of Work and indicating the actual items of the Work to be performed by the Construction Manager.
7. Project Schedule containing the following:
   a. Schedule Narrative
   b. CPM Schedule identifying the specific milestone completion dates with Substantial Completion dates as required.

8. SBE
   a. Participation Detail (Form PBSD 1526)
   b. Letter of Intent (Form PBSD 1525) - All information on this form MUST be completed.
      SBE Certifications must be provided for each firm for which a Letter of Intent is submitted to apply toward the participation requirement.
   c. Statement of Good Faith Efforts (Form PBSD 1527) - As applicable if the established SBE participation requirement is not met.
   d. Good Faith SBE Subcontractor Participation Invitation (Form PBSD 1611) - As applicable for SBE subcontractor(s) that was invited but declined to participate in the bid process.

9. Document List (drawings, specifications, other documents)

10. State Licenses of all Subcontractors identified in PBSD 1526.


8.5 At the time the Construction Manager submits the GMP Document, the Construction Manager shall submit separately a Bid Tabulation Summary which shall include a Bid Tabulation for each item of Work bid within the Schedule of Values with a copy of each bid listed on the Bid Tabulation. The Construction Manager shall provide detail on each Bid Tabulation where a sub-contractor’s bid was selected in place of the lowest bid received.

8.6 If requested by the Owner, the Proposer shall be required to establish to the satisfaction of the Owner the reliability and responsibility of the proposed Sub-Contractors to furnish and perform the Work described in the sections of the specifications pertaining to such proposed Sub-Contractor's respective trades. Prior to the award of the Construction Contract, the Owner will notify the Proposer in writing if the Owner, after due investigation, has reasonable and substantial objection to any person or organization on such list. Sub-Contractors and other persons and organizations proposed by the Proposer and accepted by the Owner must be used on the Work for which they were proposed and accepted and shall not be changed except with the written approval of the Owner.

9. PERFORMANCE BOND AND LABOR AND MATERIAL PAYMENT BOND

9.1 The successful Proposer shall be required to furnish a separate Performance Bond and Labor and Material Payment Bond, each in the amount of one hundred percent (100%) of the Contract amount as set forth in Section 00610.

9.2 All required premiums shall be paid for by the successful Proposer and the amount of the premium shall be included in the Guaranteed Maximum Price.

10. PROTEST PROCEDURES

10.1 Any party who is adversely affected with respect to the Proposal Documents shall file a notice of protest in writing within seventy-two (72) hours after the receipt of the Proposal Documents, and SHALL FILE A FORMAL WRITTEN PROTEST WITHIN TEN (10) DAYS AFTER FILING THE NOTICE OF PROTEST. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under F.S. Chapter 120. All Notices of Protest and Formal Written Protests shall be submitted to:

   Director of Purchasing
   School Board of Palm Beach County
   3300 Forest Hill Blvd., Suite A323
   West Palm Beach, FL 33406
10.2 The Owner will provide notice of its decision or intended decision concerning a Proposal Solicitation or a Contract Award by posting the Tabulation notice in the Construction-Purchasing Department, 3661 Interstate Park Road North, #200, Riviera Beach, FL 33414. The notice required by this paragraph shall contain the following statement: "Failure to file a protest within the time prescribed in Florida Statutes 120.57(3) shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."

10.3 The intended decision to award this project shall be posted via Tabulation on the date specified in Section 00030. Any Proposer who is adversely affected by the Owner’s decision or intended decision shall file a protest within the time and manner prescribed in Florida Statute 120.57(3). Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under Chapter 120.

10.4 At time of filing the formal written protest, a bond, conditioned upon payment of all costs and fees which may be adjudged against the Protestor, must be secured and made payable to the District in an amount equal to Twenty-five thousand dollars ($25,000) or 2 percent of the lowest accepted bid, whichever is greater, for projects valued over $500,000; and 5 percent of the lowest accepted bid for all other projects, as stated in FS255.0516.

10.5 Upon receipt of the bond and notice of protest which has been timely filed, the Owner will stop the Proposal Solicitation process or the Contract Award process until the subject of the protest is resolved by final Owner action, unless the Owner sets forth in writing particular facts and circumstances which require the continuance of the Proposal Solicitation process or the Contract Award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare.

10.6 The Owner, on its own initiative or upon the request of a protestor will provide an opportunity to resolve the protest by mutual agreement between the parties within seven (7) days (excluding Saturdays, Sundays and State holidays) of receipt of a formal written protest.

10.7 If the subject of a protest is not resolved by mutual agreement and if there is no disputed issue of material fact, an informal proceeding shall be conducted pursuant to s. 120.57(3). If the hearing is not requested in the Notice of Proposal Protest, it shall be waived. The informal hearing shall be conducted in the presence of the Director of the Purchasing Department as the Superintendent’s designee, the legal staff, and any other witnesses deemed appropriate. The protesting party may be present with assistance of counsel and any witnesses he deems appropriate; however, failure to have counsel or witnesses present shall not invalidate the hearing.

11. LOBBYING

11.1 Proposers/Consultants are hereby advised that lobbying is not permitted with any District personnel or Board members related to or involved with this RFP until the administration’s recommendation for award has been posted in the Purchasing Department. All oral or written inquiries must be directed through the Construction- Purchasing Department.

11.2 Lobbying is defined as any action taken by an individual, firm, association, joint venture, partnership, syndicate, corporation, and all other groups who seek to influence the decision of a Board member or District personnel on the award of a contract.

11.3 All issues and or questions regarding a project shall be addressed and resolved through the Construction–Purchasing Department. There shall be no communication between Committee Members or their staff and the prospective proposers. Committee Members will not be allowed to meet separately and discuss the object.

11.4 Any proposer who is adversely affected by the recommended award may address the School Board at a regularly scheduled Board meeting.

11.5 Any proposer or any individuals that lobby on behalf of proposer during the time specified will result in rejection/disqualification of said proposal.
12. COMMUNICATIONS

12.1 All issues and or questions regarding a project shall be addressed and resolved through the Construction-Purchasing Department. There shall be no communication between Committee Members or their staff and the prospective proposers. Committee Members will not be allowed to meet separately and discuss the project.

13. CONTRACT DISCLOSURE

13.1 Upon filing of a complaint against the Construction Manager (CM) pursuant to Palm Beach County School Board Policy 6.144, upon the School District’s request, the CM agrees to provide the School District, within sixty (60) calendar days, a truthful and complete list of the names of all subcontractors, vendors, and suppliers that CM has used in the past five (5) years on any of its contracts that were undertaken within the Palm Beach county School District relevant geographic market as defined in Palm Beach County School Board Policy 6.143, including the total dollar amount paid by the CM for each subcontract or supply contract. CM agrees to fully cooperate in any investigation conducted by the School District pursuant to this Policy. CM understands and agrees that violation of this clause is a material breach of the contract and may result in contract termination, debarment, and other sanctions.

END OF SECTION
THIS AGREEMENT made this ___day of _____ in the year Two thousand and Ten.

Between the Owner; THE SCHOOL DISTRICT OF PALM BEACH COUNTY, FLORIDA,
And the Construction Manager: TBD

THE CONTRACT DOCUMENTS

The Contract Documents consist of the Contents of the Published Request for Proposal including, but not limited to, the Owner-Construction Management at Risk Services Agreement, General Conditions, Supplementary Conditions and Special Conditions, Performance and Payment Bonds, Notice to Proceed, all Exhibits and Appendices submitted by the Construction Manager’s Proposal submitted in response to Request for Proposal Document, documentation submitted by the Construction Manager prior to Notice to Proceed, the documentation submitted by Construction Manager following Notice to Proceed, Preliminary and Final Drawings, the Project Manual, all Addenda issued prior to Proposal submission deadline, all Modifications issued after, all applicable School Board Policies, School Board approved Educational Specifications, State Requirements For Educational Facilities (SREF) 2007, Florida Administrative Code (FAC), Florida Building Code (FBC) and all other applicable specifications in effect at the time of the execution of this Agreement, as well as any changes to SREF, FAC and FBC during the term of this Agreement.

These form the Contract, and all are fully a part of the Contract as if attached to this Owner-Construction Management at Risk Services Agreement or repeated herein.

THE PROJECT

The Construction Manager shall perform all the Work required by the Contract Documents for:

PROJECT NAME: Banyan Creek Elementary Core Expansion
PROJECT NO: 408000264

SCOPE OF WORK

The School Board of Palm Beach County, Florida invites qualified firms licensed by the State of Florida, to provide Construction Management at Risk services for renovation of core facilities and site/utility development at Banyan Creek Elementary School.

Phase 1
-Remodeling of administration offices and reception area.
-Addition of a new clinic and after-care office.
-Addition of a new kitchen. Included in the addition is a new serving line, staff dining area, restrooms, lockers and a generator room.
-Conversion of spaces adjacent to the media center into staff and student restrooms
- All remodeling/renovation will include mechanical, electrical, plumbing, fire alarm, intercom, data/voice modifications as required.
- Addition of 38 spaces to existing parking.
- Drainage modifications, lighting, utilities, fencing, sidewalks, covered walkways, dumpster enclosures.

Phase 2
- Conversion of the existing kitchen into multipurpose dining area.

The construction shall incorporate all of the requirements set forth in the permitted Construction Documents, School District of Palm Beach County Master Specifications, District Design Criteria, State Requirements For Educational Facilities (SREF) 2007, Florida Administrative Code (FAC) and Florida Building Code. The Construction Manager shall prepare all Project Documents in accordance with the requirements stated in Department of Education’s Chapter 6A-2, SREF 2007 and FAC.

OWNERS CONSTRUCTION BUDGET

Owner’s funds budgeted and requested for construction of the Project. The Owner’s Construction Budget for this Project is $3,221,500.00. The acknowledgement of the Owner’s Construction Budget is not to be construed as the Construction Manager’s Guaranteed Maximum Price. A Guaranteed Maximum Price will be offered by separate documentation as outlined in this Agreement.

ARTICLE 1

THE CONSTRUCTION TEAM AND EXTENT OF AGREEMENT

1.1 Extent of Agreement

This Agreement between the Owner and the Construction Manager supersedes any prior negotiations, representations or agreements. The Owner will issue an Agreement with the Construction Manager for Pre-Construction services and fees as described herein.

When Construction Documents, drawings, specifications and other descriptive documents defining the work to be included in the Guaranteed Maximum Price (GMP) are of sufficient detail to be acceptable to the Owner, the Agreement for each Phase(s) accepted by the Owner shall be amended by the Owner and Construction Manager acknowledging the GMP amount and the drawings, specifications and other descriptive documents upon which the GMP is based. To expedite the preparation of this GMP Amendment by the Owner, the Construction Manager shall obtain three (3) sets of signed, sealed and dated drawings, specifications and other documents upon which the GMP is based from the Architect-Engineer, shall acknowledge on the face of each document of each set that it is the set upon which he based his GMP and shall send one set of the documents to the Owners Project Manager along with his GMP proposal, while keeping one set for himself and returning one set to the Architect-Engineer.

This Agreement shall not be superseded by any provisions of the documents for construction and may be amended only by written instrument signed by both Owner and Construction Manager.

The Construction Manager accepts the relationship of trust and confidence established between him and the Owner by this Agreement. He covenants with the Owner to furnish his best skill and judgment and to cooperate with the Architect-Engineer in furthering the interests of the Owner. He agrees to furnish efficient business administration and superintendence and use his best efforts to complete the project in the best and soundest way and in the most expeditious and economical manner consistent with the interest of the Owner and the Construction Manager warrants that he has read those sections of the current Florida Building Code pertaining to Construction Management and agrees to perform to its standards and rules.
1.2 The Construction Team

The Construction Manager, the Owner or the Owners Project Representative and the Architect-Engineer, called the "Construction Team", shall work jointly during design and through final construction completion and shall be available thereafter should additional services be required. The Architect-Engineer will provide leadership during the design phase with support from the Construction Manager and the Construction Manager shall provide leadership to the Construction Team on all matters relating to construction. The specific representatives of the Construction Team are shown in the completed Exhibit D of the Request for Proposal Document.

1.3 Definitions

Project: The Project is the total work to be performed under this Agreement. The Project consists of planning, design, permitting, construction, code inspection and final inspections necessary to build the component parts of the project which shall be identified in the GMP (Exhibit B).

Owner: The entity that will occupy, use and own the project upon substantial completion is the School District of Palm Beach County. The funds which compensate the Architects, Engineers, Construction Managers, etc. are under the sole control of the School District of Palm Beach County.

Permitting Authority: The School Board of Palm Beach County.

Construction Manager: The firm designated by the Owner to provide all Work required by the Contract Documents described herein.

Architect-Engineer: The firm(s) designated by the Owner to provide professional design services related to the Project described herein:

Owner’s Authorized Representative: A designated representative fully acquainted with the project with authority to render decisions necessary to expedite the project.

Project Manager: The person designated by the Owner or Owner’s Authorized Representative to provide direct interface with the Construction Manager with respect to the Owners responsibilities.

Estimate: The Construction Managers latest estimate of probable project construction cost.

Phase: A clearly defined subset of work isolated for the purpose of expediting the entire Project to completion. The sum of all Phases is equal to the Scope of Work of the Project.

ARTICLE 2

CONSTRUCTION MANAGER’S SERVICES

The services which the Construction Manager shall provide include, but are not limited to, those described or specified herein. The services described or specified shall not be deemed to constitute a comprehensive specification having the effect of excluding services not specifically mentioned.

2.1 Pre-Construction Phase Activities

Services which the Construction Manager shall provide include, but are not limited to, those described or specified herein.

(a) Provide or review project requirements, Board approved Educational Specifications, on-site and off-site development, survey requirements, deed and municipal requirements / restrictions, preliminary budget and make recommendations for revisions.
(b) Prepare project schedule which clearly illustrates critical path elements, responsibilities of the owner, CM, architect, contractor and outside agencies and update monthly throughout the duration of the Project which includes the Pre-Construction and Construction Phase Activities.

(c) Provide for the Owner’s approval Project delivery options for the design, bid and bid packaging of the Project for efficient scheduling, cost control and financial resource management.

(d) Utilize an information and reporting system acceptable to the Owner to provide the Board with accurate and current cost control, Work status, including by not limited to work narrative, work completed / anticipated, schedules, estimated expenditures and Project accounting systems of the Project at all times.

(e) Provide, within twenty-one (21) days of the award of the Agreement, a Project Manual, which shall describe, as a minimum, the work plan, job responsibilities and written procedures for reports, meetings, inspections, changes to the project, etc.

(f) Provide the Owner with evidence of market analysis and motivation for adequate Sub-contractor participation to ensure competitive bidding and SBE participation prior to the solicitation of the publicly opened bids for the Guaranteed Maximum Price.

(f) Provide within thirty (30) days of the award of this Agreement for approval by the Owner, a Quality Assurance Program Manual which demonstrates the Construction Manager’s ability to ensure quality workmanship.

2.1.1 Project Management Information System (PMIS)

Commencing immediately after contract award, the Construction Manager shall implement and shall utilize throughout the life of this Contract all sub systems of the Project Management Information System hereinafter referred to as PMIS.

The reports, documents, and data to be provided shall represent an accurate assessment of the current status of the Project and of the work remaining to be accomplished and it shall provide a sound basis for identifying variances and problems and for making management decisions. It shall be prepared and furnished to the Owner and the Architect-Engineer monthly and shall accompany each pay request.

If requested by the Project Manager, the Construction Manager shall conduct a comprehensive workshop in West Palm Beach for participants designated by the Project Manager and additional seminars as required to provide instruction. This workshop and the seminars shall facilitate each participant’s and the Owner’s Representatives’ use and understanding of PMIS; shall support, in-part, the function of organizing in concert with the Architect-Engineer for the design and construction of the Project; and shall establish, with the full concurrence of the Owner and the Architect-Engineer, procedures for accomplishing the management control aspect of the Project.

The PMIS shall be reported on a monthly basis and described in terms of the following major sub systems:

(a) Narrative Reporting,
(b) Schedule Control
(c) Estimating
(d) Cost Control
(e) Project Accounting,
(f) Accounting and Payment
(g) Action Reports
(h) Subcontractor Reporting
(i) Vendor Reporting
(j) DMPO Log
(k) Change Order Logs (CCA, CCD, COPR)
(l) Milestone Schedule
(m) Variance Milestone Schedule
2.1.2 Narrative Reporting Subsystem

(1) The Construction Manager shall prepare written reports as described hereunder. No other PMIS narrative reports shall be required. All reports shall be in 8 ½" X 11 " formats.

(2) The Narrative Reporting Subsystem shall include the following reports:

   (a) A Monthly Executive Summary which provides an overview of current issues and pending decisions, future developments and expected achievements, and any problems of delays, including code violations found by Permitting Authority.

   (b) A Monthly Cost Narrative describing the current construction cost estimate status of the Project.

   (c) A Monthly Scheduling Narrative summarizing the current status of the overall project schedule. This report shall include an analysis of the various project schedules, a description of the critical path, and other analyses as necessary to compare planned performance with actual performance.

   (d) A Monthly Accounting Narrative describing the current cost and payment status of the entire project. This report shall relate current encumbrances and expenditures to the budget allocations.

   (e) A Monthly Construction Progress Report during the construction phase summarizing the work of the various Sub-Contractors. This report shall include information from the weekly job site meetings as applicable such as general conditions, long lead supplies, current deliveries, safety and labor relations programs, permits, construction problems and recommendations, and plans for the succeeding month.

   (f) A Daily Construction Diary during the construction phase describing events and conditions on the site.

   (g) A monthly Small Business Enterprise report during the construction phase summarizing the participation of certified minority Sub-Contractors /material suppliers for the current month, and project to date. The report shall include the names, addresses, and dollar amount of each certified SBE participant.

   (h) Construction Manager shall submit, for Owner approval, a direct tax savings purchase plan that, upon acceptance, will be part of the Construction Manager’s services.

(3) The reports outlined in subsection (2) (a) through (g) above shall be bound with applicable computer reports and submitted monthly during design and construction phases and shall be current through the end of the preceding month. Copies shall be transmitted to the Owner and the Architect-Engineer and others designated by the Project Manager with the monthly pay requisition.

Additional copies of the report outlined in subsection (2)(a) shall be bound separately and distributed monthly as directed by the Project Manager. A disk copy of the reports, in a compatible format, will also be provided with the pay request.

(4) The report outlined in subsection (2)(f) above shall be maintained at the site available to the Owner and Architect-Engineer. A copy, bound, of the complete diary shall be submitted to the Owner at the conclusion of the project.

2.1.3 Scheduled Control Subsystem:

Master Project Schedule - Upon award of this Agreement, the Construction Team, shall submit a master project schedule covering the entire project, from planning and design approvals, to construction, Owner occupancy and final completion of the Project. This schedule will serve as the framework for the subsequently development of all detailed schedules. The master project schedule shall be produced and updated monthly throughout the project.
Construction Schedule and Requirements for Overtime Work - for Projects with Construction Costs in Excess of $1,000,000.00 within thirty (30) days after the date of the Owner’s issuance of a Notice to Proceed, the Construction Manager shall prepare and submit to the Architect-Engineer a construction schedule in quadruplicate graphically depicting the activities contemplated to occur as necessary steps, incident to performance of the work required to complete the project, showing the sequence in which the Construction Manager proposes for each such activity to occur and duration (dates of commencement and completion, respectively) of each such activity. The Construction Schedule shall include but not be limited to the following: milestones for critical dates, demolition, project phases, major work areas such as buildings, access roads, work on-site and off-site, critical path and total float and the Project Schedule for all long lead equipment items for any activities on the critical path with less than ten (10) days float. Failure of the Construction Manager to develop and submit a Construction Schedule as aforesaid shall be sufficient grounds for the Owner and Architect-Engineer to find the Construction Manager in substantial default and certify to the Owner that sufficient cause exists to terminate the contract or withhold any further payment.

(a) An example of an acceptable form of such a construction schedule is contained in Appendix I of Corps of Engineers’ Regulation ER-1-11 entitled “Network Analysis System”, a copy of which is available to the Construction Manager from the Architect, upon request.

(b) Another form of construction schedule which provides the same kind of information and employs the same basic principles as illustrated in Appendix I of the Corps of Engineers' Regulation ER 1-1-11 will be acceptable to the Owner if used by the Construction Manager; provided, however, that the Architect-Engineer shall determine whether the construction schedule developed and submitted by the Construction Manager meets the requirements stated above and such determination shall be binding on the Construction Manager. Failure of the Construction Manager to develop and submit a construction schedule as aforesaid shall be sufficient grounds for the Architect-Engineer to find the Construction Manager in substantial default and certify to the Owner that sufficient cause exists to terminate the contract or to withhold any further payment.

Following development and submittal of the construction schedule as aforesaid, the Construction Manager shall, at the end of each calendar month occurring thereafter during the period of time required to finally complete the subject project, or at such earlier intervals as circumstances may require, update and/or revise the construction schedule to show the actual progress of the work performed and the occurrence of all events which have affected the progress of performance of the work already performed or will affect the progress of the performance of the work yet to be performed in contrast with the planned progress of performance of such work, as depicted on the original construction schedule and all updates and/or revisions thereto as reflected in the updated and/or revised construction schedule last submitted prior to submittal of each such monthly update and revision. Each such update and/or revision to the construction schedule shall be submitted to the Architect-Engineer in duplicate. Failure of the Construction Manager to update, revise, and submit the construction schedule as aforesaid shall be sufficient grounds for the Architect-Engineer to find the Construction Manager in substantial default and certify to the Owner that sufficient cause exists to terminate the Contract or to withhold payment to the Construction Manager until a schedule or schedule update acceptable to the Architect-Engineer is submitted.

The Construction Manager shall prepare and incorporate into the schedule database, at the required intervals, the following schedules:

(a) Phasing Schedule – To expedite the Project’s completion, the Construction Manager may recommend the Project to be divided into Phases, with each Phase having a clearly defined Scope of Work, commencement and completion date. Any Phasing of the Project must be approved by the Owner. If approved, all current and future schedules shall reflect this Phasing.

(b) Pre-Bid Schedules (Subnetworks): The Construction Manager shall prepare a construction schedule for work encompassed in each bid package. The schedule shall be sufficiently detailed as to be suitable for inclusion in the bid package as a framework for contract completion by the successful bidder. It shall show the interrelationships between the work of the successful bidder and that of other Sub-Contractors, and shall establish milestones keyed to the overall master schedule.
Sub-Contractor Schedules (Subnetworks): Upon the award of each sub-contract, the Construction Manager shall jointly with the Sub-Contractor, develop a schedule which is more detailed than the pre-bid schedule included in the specifications, taking into account the work.

Schedule of the other Sub-Contractors. The construction schedule shall include as many activities as necessary to make the schedule an effective tool for construction planning and for monitoring the performance of the Sub-Contractor. The construction schedule shall also show pertinent activities for material purchase orders, manpower supply, shop drawing schedules and material delivery schedules.

Occupancy Schedule: The Construction Manager shall jointly develop with the Architect-Engineer and Owner-Owner's Representative a detailed plan, inclusive of punch lists, final inspections, maintenance training and turn-over procedures, to be used for ensuring accomplishment of a smooth and phased transition from construction to Owner occupancy. The Occupancy Schedule shall be produced and updated monthly from its inception through final Owner occupancy.

2.1.4 Cost Estimate Subsystem:

The operation of this subsystem shall provide sufficient timely data and detail to permit the Construction Team to control and adjust the project requirements, needs, materials, equipment and systems by building and site elements so that construction will be completed at a cost which, together with all other project costs, will not exceed the maximum total project budget. Requirements of this subsystem include formal estimates at the following phases of the project. The Construction Manager shall submit to the Owner formal written estimates at the following phases of the Project:

(a) At Completion of Advanced Schematic Design Phase for each item or bid package.
(b) At Completion of Design Development Phase for each item or bid package.
(c) At Completion of 75% Construction Documents for each item or bid package.
(d) Within 10 (ten) days of any Change Order or Construction Change Directive being proposed.

2.1.5 Project Accounting/Cost Control Subsystem:

The operation of this subsystem shall enable the Construction Team to plan effectively and to monitor and control the funds available for the project, cash flow, costs, change orders, payments, and other major financial factors by comparison of budget, estimate, total commitment, amounts invoiced, and amounts payable. This subsystem will be produced and updated monthly and includes the following reports which together will serve as a basic accounting tool and an audit trail. These reports shall also provide for accounting by building and site element. On the first business day of each month, the Construction Manager shall provide the Owner with the following updated reports:

(a) A Costs Status Report presenting the budget, estimate, and base commitment (awarded contracts and purchase orders) for any given contract or budget line item. The Report shall show approved change orders for each or all contracts which when added to the base commitment will become the total commitment. Pending change orders will also be shown to produce the total estimated probable cost to complete the work.

(b) An Anticipated Cost Report detailing the dollar amount of any future anticipated line item of Work that was not initially purchased from the subcontractor, including Work self performed by the Construction Manager. This Report shall provide the Current Budget for the Work, Committed Cost (the dollar amount of the Current Budget that is committed toward the Work), the cost of the Future Anticipated Work, the Total Anticipated Cost and the resulting Budget Variance. This Report shall be detailed as follows:

Original + Approved = Current  Committed + Future = Total  Current - Total = Budget
Budget  Changes  Budget  Cost  Anticipated  Anticipated  Budget  Anticipated  Variance

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(c) A Payment Status Report showing the value in place (both current and cumulative), the amount invoiced (both current and cumulative), the retainage, the amount payable (both current and cumulative), and the balance remaining. A summary of this report shall accompany each pay request.

(d) A Detailed Status Report showing the complete activity history of each item in the project accounting structure. It shall include the budget, estimate and base commitment figures for each contract. It shall give the change order history including change order numbers, description, proposed and approved dates, and the proposed and approved dollar amounts. It shall also show all pending or rejected Change Orders and Construction Change Directives. In addition, utilizing the Construction Allowance Use Request (Form PBSD 2348), the Detailed Status Report shall show the use of all line item allowances by awarded contracts or contractor change orders.

The following are data logs required to be submitted monthly with each Application For Payment:

- CCA Log
- CCD LOG
- DPO Log
- Allowance Log

(e) A Cash Flow Diagram based upon the Owner's approved Schedule of Values showing the projected accumulation of cash payments against the Project over the Project Schedule. Cash flow projections shall be generated for anticipated monthly payments as well as cumulative payments.

(f) A Job Ledger shall be maintained as necessary to supplement the operation of the project accounting subsystem. The job ledger will be used to provide construction cost accountability for general conditions work, on-site reimbursable expenses, and costs requiring accounting needs.

The Construction Manager shall submit to the Owner a statement, sworn to if required, along with cost reports required by the Agreement, showing in detail all monies paid out, cost accumulated or costs incurred on account of the Total Construction Cost of the Project during the previous period and the amount of the Construction Manager's Phase Fee and Overhead and Profit due as provided by this Agreement. This data shall be attached to the Application and certificate for Payment (PBSD 2354). Payments by the Owner to the construction manager shall be made as described in this Agreement.

2.1.6 Project Manual:

Upon award of this Agreement the Construction Manager shall develop a comprehensive Project Manual acceptable to the Owner describing the services set forth in this Agreement. The Project Manual shall provide a plan for the control, direction, coordination and evaluation of work performed throughout the project organization including identification of key personnel, responsibilities of Construction Manager, Owner and Architect-Engineer; work flow diagrams; and strategy for bidding the work. The Project Manual shall be updated as necessary monthly and submitted with the Pay Application throughout the design, construction and Owner occupancy phases. The Construction Manager shall submit five copies of the Project Manual and any updates shall be submitted to the Owner and Architect-Engineer. In developing the Project Manual, the Construction Manager shall coordinate with the Owner and the Architect-Engineer.

Contents of Project Manual: The Project Manual shall describe in detail the procedures for executing the work and the organizations participating. The Project Manual shall include as a minimum the following sections:

(a) Project Definition: The known characteristics of the project or subprojects shall be described in general terms which will provide the participants a basic understanding of the project or sub-projects.

(b) Project Goals: The schedule, budget, physical, technical and other objectives for the project shall be defined.

(c) Project Strategy: A narrative description of the project delivery methods shall be utilized to accomplish the project goals.
(d) Project Work Plan: A matrix display of the program of work to be performed by the Construction Manager, the Architect-Engineer and the Owner during each phase of the Project.

(e) Project Organization: A summary organization chart showing the interrelationships between the Owner, the Construction Manager and the Architect-Engineer, and other supporting organizations and permitting review agencies. Detailed charts, one each for the Construction Manager, the Architect-Engineer, the Using Agency and Owner showing organizational elements participating in the Project shall be included.

(f) Responsibility Performance Chart: A detailed matrix showing the specific responsibilities and interrelationships of the Owner, the Architect-Engineer, and Construction Manager. The Responsibility Performance Chart shall indicate major responsibility, and minor responsibility, for each specific task required to deliver the project. The Construction Manager shall develop a similar chart for the personnel within his own organization who are assigned to the project, and also for the personnel of the Owner and the Architect-Engineer from data supplied by each.

(g) Flow Diagrams: These charts shall display the flow of information and the decision process for the review and approval of shop drawings and submittals, progress and change orders.

(h) Written Procedures: The Construction Manager will provide written procedures for communications and coordination required between Construction Team members throughout the project. Procedures shall cover such items as correspondence, minutes, reports, inspections, team meetings, technical reviews, design reviews, submittals, RFI’s and other necessary communications.

(i) A copy of the form of each subcontract, including the General and Supplemental Conditions.

2.2 Pre-Construction Phase Services:

Services which the Construction Manager shall provide include, but are not limited to, those described or specified herein:

(a) Review Project requirements, Board approved Educational Specifications, on-site and off-site development, survey requirements, deed and municipal requirements/restrictions, preliminary budget and make recommendations for revisions.

(b) Submit Project Schedule which clearly illustrates critical path elements, responsibilities of the Owner, Construction Manager, Architect-Engineer, Subcontractor, outside contractor and outside agencies and update monthly throughout the duration of the Project which includes the Pre-construction and Construction Phases.

(c) Provide, for the Owner’s approval, Project delivery options for the design, bid and bid packaging of the Project for efficient scheduling, cost control and financial resource management.

(d) Utilize an information and reporting system acceptable to the Owner to provide the Owner with an accurate and current cost control, Work status, including but not limited to Work narrative, Work completed/anticipated, schedules, estimated expenditures and Project Accounting Systems of the Project at all times.

(e) Provide within twenty-one (21) days of this Agreement, a Project Manual which shall describe, at a minimum, the Work Plan, job responsibilities and written procedures for reports, meetings, inspections, changes to the Project, etc.

(f) Provide the Owner with evidence of adequate Sub-contractor participation in the Project to insure competitive bidding and SBE participation prior to solicitation of bids for the Guaranteed Maximum Price.
(g) Provide within thirty (30) days of the award of this Agreement for approval by the Owner, a Quality Assurance Program Manual in accordance with Paragraph 2.1.6 herein, which demonstrates the Construction Manager’s ability to ensure quality workmanship.

2.2.1 Design Review and Recommendations:

Review and Recommendations and Warranty: The Construction Manager (CM) shall become thoroughly familiar with the evolving architectural, civil, mechanical, plumbing, electrical, and structural plans and specifications and shall follow the development of design from Preliminaries through Working Drawings. The CM shall make recommendations with respect to the selection of systems and materials, and cost reducing alternatives including assistance to the Architect-Engineer, and Owner in evaluating alternative comparisons versus long term cost effects. The evaluation shall speak to the benefits of the speed of erection and early completion of the project. The CM shall furnish pertinent information as to the availability of materials and labor that will be required. The CM shall submit to the Owner, Permitting Authority and Architect-Engineer such comments as may be appropriate concerning construction feasibility and practicality. The CM shall call to the Project Manager and the Architect-Engineer’s attention any apparent defects in the design, drawings and specifications or other documents. The CM shall prepare an estimate of the construction cost utilizing the unit quantity survey method.

Review Reports and Warranty: Within fourteen (14) days after receiving the Construction Documents for each phase of the project, the Construction Manager shall perform a specific review thereof, focused upon factors of a nature encompassed in Paragraph (1) above and on factors set out in Paragraph (3). Promptly after completion of the review, he shall submit to the Project Manager and Permitting Authority, with copies to the Architect-Engineer, a written report covering suggestions or recommendations previously submitted, additional suggestions or recommendations as he may deem appropriate, and all actions taken by the Architect-Engineer with respect to same, any comments he may deem to be appropriate with respect to separating the work into separate contracts, alternative materials, and all comments called for under Article 2.3(5).


Long Lead Procurements: The Construction Manager shall review the design for the purpose of identifying long lead procurement items (machinery, equipment, materials supplies, etc). When each item is identified, the Construction Manager shall notify the Sub-Contractors, the Project Manager and the Architect-Engineer of the required procurement and schedule. Such information shall be included in the bid documents and made a part of all affected sub-contracts. As soon as the Architect-Engineer has completed drawings and technical specifications and the Construction Manager has obtained permitting approval, the Construction Manager shall prepare invitations for bids. The Construction Manager shall keep himself informed of the progress of the respective Sub-Contractors or suppliers, manufacturing or fabricating such items and advise Project Manager, Owner and Architect-Engineer of any problems or prospective delay in delivery.

2.2.2 Separate Contracts Planning:

The Construction Manager shall review the design with the Architect Engineer and make recommendations to the Owner and to the Architect-Engineer with respect to dividing the work in such manner as will permit the Construction Manager to take bids and award separate construction sub-contracts on the current schedule while the design is being completed. The Construction Manager shall take into consideration such factors as
natural and practical lines of severability, sequencing effectiveness, access and availability constraints, total
time for completion, construction market conditions, availability of labor and materials, community relations and
any other factors pertinent to saving time and cost by overlapping design and construction that are authorized
by the Owner.

2.2.3 Interfacing

The Construction Manager shall take such measures as appropriate to provide that construction requirements
will be covered in the separate sub-contracts for procurement of long lead items, the separate construction
sub-contracts and the general conditions items performed without duplication or overlap, sequenced to
maintain completion of all work on schedule. Particular attention shall be given to provide that each bid
package clearly identifies the work included in that particular separate sub-contract, its schedule for start and
completion and its relationship to other separate Sub-contractors.

Without assuming any Design responsibilities of the Architect-Engineer, the Construction Manager shall
include in the reports required under Article 2.2.1 comments on overlap with any other separate sub-contracts,
omissions, lack of correlation between drawings, and any other deficiencies noted, in order that the Project
Manager and Architect-Engineer may arrange for necessary corrections.

2.2.4 Market Analysis and Stimulation of Bidder Interest

The Construction Manager shall monitor conditions in the construction market to identify factors that will or may
affect costs and time for completing the project; he shall make analysis as necessary to (1) determine and
report on availability of labor, material, equipment, potential bidders, and possible impact of any shortages or
surpluses of labor or material, and (2) in light of such determinations, make recommendations as may be
appropriate with respect to long lead procurement, separation of construction into bid packages, sequencing of
work, use of alternative materials, equipment or methods, other economics in design or construction, and
other matters that will promote cost savings and completion within the scheduled time.

Within thirty (30) days of commencement of Pre-Construction services the Construction Manager shall submit
a written "Construction Market Analysis and Prospective Bidders Report" setting out recommendations and
providing information as to prospective bidders (including SBE). As various bid packages are prepared for
bidding, the Construction Manager shall submit to the Project Manager and the Architect-Engineer a list of
potential bidders. The Construction Manager shall be responsible to stimulate bidder interest in the local
market place and identify and encourage bidding competition.

The Construction Manager shall carry out an active program of stimulating interest of qualified subcontractors
in bidding on the work and of familiarizing those bidders with the requirements of this Project.

2.2.5 Solicitation of Bids and Proposals

The CM shall establish a project qualification procedure and pre-qualify all potential bidders for applicable
procurements and sub-contract trades prior to issuing an invitation to bid for any portion of Work estimated by
the Construction Manager (CM) to exceed $25,000.00. The opportunity to pre-qualify shall be advertised a
minimum of once a week for three (3) consecutive weeks in a local newspaper with general circulation. Only
those bidders that are qualified (pre-qualified) by the Construction Manager shall be deemed responsible and
invited to provide an invitation to bid.

For each separate construction contract exceeding $25,000.00, the Construction Manager shall conduct a pre-
bid conference with all prospective bidders for that portion of Work. A minimum five (5) day notice to
prospective proposers is required for all pre-bid conferences. In the event an interpretation of the proposal
documents or questions are raised by the prospective bidders which indicate a need for clarification or
correction of the invitation to bid document, the Construction Manager shall transmit these to the Architect-
Engineer. The Architect – Engineer shall prepare an addendum which provides necessary clarifications or
corrections to the document and the Construction Manager shall issue same to all of the prospective bidders.
As part of such preparation, the Construction Manager shall review the specifications' and drawings prepared by the Architect-Engineer. Ambiguities, conflicts or lack of clarity of language, use of illegally restrictive requirements, and any other defects in the specifications or in the drawings noted by the Construction Manager shall be brought to the attention of the Project Manager and Architect-Engineer in written form.

Without assuming responsibilities of the Architect-Engineer, the Construction Manager shall prepare an Invitation To Bid, or Requests for Proposal (RFP) for all procurements of long lead items, materials and services, for Sub-Contractor contracts and for site utilities. Such RFP’s shall be prepared in accordance with the following guidelines:

(a) Contracts not exceeding $25,000.00 may be entered into by the Construction Manager with the firm who submits the lowest written quotation. The Construction Manager shall obtain a minimum of three (3) written quotations. These quotations shall be entered on a bid tabulation sheet and a copy of such tabulation sent to the Owner, Architect-Engineer and to each firm. The successful quotation shall be confirmed by written contract or purchase order to the low bid firm defining the scope and quality of work to be provided.

(b) Contracts exceeding $25,000.00 may be entered into by the Construction Manager with the firm who is qualified and submits the lowest responsive and responsible bid from a qualified bidder. The Construction Manager shall provide an Invitation To Bid to at least three (3) qualified firms to submit written, sealed bids based on written drawings and/or specifications. Written bids shall be opened publicly at the location, date and time named by the Construction Manager in the Invitation To Bid. A Bid Tabulation shall be completed by the CM for each portion of Work bid and a copy of each Bid Tabulation shall be furnished to the Owner and Architect-Engineer and to each firm.

2.3 Construction Phase Services

Services which the Construction Manager shall provide include, but are not limited to, those described or specified herein.

a) Provide contract administration and approval of payments; monitor and record the construction progress; review and approve as-builts, maintenance and warranty manuals from all subcontractors; provide limited construction services and keep a log of all site visits and observations.

b) Develop and implement procedures to monitor, record, review and approve all submittals, shop drawings, change orders, pay request and field orders for budget and schedule impact and compliance with the contract documents.

c) Provide inspection of all work, materials and tests prior to substantial completion and occupancy inspections by appropriate certified inspectors.

d) Ensure that as-builts are kept up to date and that one (1) comprehensive master set of as-built drawings is current and available on-site at all times.

e) Make recommendations for correction of nonconforming or substandard work.

f) Coordinate ordering and delivery of owner supplied equipment.

g) Coordinate the testing, inspections and approvals of project, delivery of instructions for operating all building systems, including training or maintenance staff for the owners.

h) Prepare final Project accounting and provide written evaluation of the A/E and major subcontractors.

i) CM may perform construction services if approved by board and upon justification of benefits to contract such as savings in cost, in time, improved quality or other issues relevant to delivery of the project within terms of the Agreement. CM may perform construction services as authorized by law in cases of emergency under procedures approved by the Board.

j) Assist Owner in completion of warranty work during the warranty period.
k) Assist Owner in the warranty inspections and completion of all required warranty work generated by the inspections.

l) Close out and transfer of the project to the maintenance department including the delivery of as-builts, warranties, guaranties and operating instructions.

2.3.1 Construction Manager’s Staff

The Construction Manager shall maintain sufficient off-site support staff, and competent full time staff at the Project site authorized to act on behalf of the Construction Manager to coordinate, inspect and provide general direction of the work and progress of the Sub-Contractors and he shall provide no less than those personnel during the respective phases of construction that are set forth in the Summary of Construction Phase Services (Exhibit D). The Construction Manager shall not change any of those persons named in Exhibit D unless mutually agreed to by the Owner and Construction Manager. In such case, the Owner shall have the right of approval of the qualifications of replacement personnel. Such approval will not be unreasonably withheld.

2.3.2 Job-Site Facilities

The Construction Manager shall arrange for all job-site facilities necessary to enable the Construction Manager, the Owner’s Representative and the Architect-Engineer to perform their respective duties in the management, inspection, and supervision of the Project.

2.3.3 Field Offices and Sheds

The Construction Manager shall maintain and cause the Field Office to be weather-tight with lighting, electrical outlets, heating, cooling and ventilating equipment. Office trailer should be at least 12x60 with bathroom (working) and running water. Offices front and rear, counter tops in each end office w/2 drawers fireproof legal filing cabinets, center conference area, plan rack, plan table. Cleaning service to insure the office is clean at all times.

Office Equipment to consist of a minimum of the following:
- (a) Two (2) executive desks
- (b) Two (2) office chairs
- (c) One (1) secretary desk
- (d) One (1) secretary chair
- (e) Copier with 11x17 capabilities
- (f) Fax machine (preferred HP fax, scanner, copier 700)
- (g) Conference table with 10 chairs
- (h) Seven (7) working phone lines (general contractor to pay for 3 working services)
- (i) Two (2) four drawer legal file cabinets (lockable)
- (j) Water Cooler and Water delivery
- (k) Coffee maker and coffee service
- (l) Microwave and small refrigerator
- (m) Three (3) Personal Computer (per District Standards)
- (n) Office Supplies contract

The Construction manager shall anchor all offices and sheds to be anchored to the ground to withstand 110 M.P.H. X1.1 wind.

The Construction Manager shall place signage on the Office Trailer reading School District of Palm Beach County Office

The Construction Manager shall provide three (3) designated parking areas.

Tangible personal property otherwise referred to as Job-Site facilities, include but are not limited to such things as trailers, toilets, typewriters, computers and any other equipment necessary to carry on the project. The
method of acquiring such job-site facilities which are planned to become the property of the owner at the conclusion of the project shall be evaluated based on cost over the life of the project. Owning versus leasing shall be considered by the Construction Manager obtaining at least three (3) proposals for leasing and at least three (3) proposals for purchasing and then analyzing which is least expensive over the usage life of the item. The Construction Manager shall present his evaluation with recommendation to the owner for approval.

When the Construction Manager wishes to supply Job-Site Facilities from his own equipment pool, he shall first evaluate buy versus lease as discussed in the paragraph above. If leasing is found to be the least expensive approach, then he may lease such Job-Site Facilities from his own equipment pool at a price not greater than the lowest of the three (3) lease proposals obtained.

For all such facilities purchased which may become the property of the Owner at the conclusion of the project, the Construction Manager shall maintain ownership responsibilities of such facilities until the project conclusion. Reimbursement for cost of such equipment will be made at the conclusion of the project at the documented purchase price. At that time, the Construction Manager shall provide the Owner with a complete inventory for each unit of equipment. The inventory shall describe the equipment and identify the purchase price, serial number, model number and condition. Where said equipment has a title, said title shall be properly transferred to the Owner or to his designee.

The Construction Manager is responsible for proper care and maintenance of all equipment while in his control. At the time of transfer to the owner, the owner may refuse acceptance of the equipment if the owner determines in its sole discretion that the equipment has not been properly cared for by the Construction Manager or that such acquisition would not otherwise be in the best interest of the Owner. In such event, the Construction Manager will be reimbursed for such item in accordance with Article 9.2(4) hereof.

2.3.4 Labor and Materials

The Construction Management shall provide, to the Owner for approval, a written statement setting forth the portion of the Work he shall provide. Once approved, no changes shall be made to this written statement without prior written approval of the Owner.

2.3.5 Lines of Authority

The Construction Manager shall establish and maintain lines of authority for these personnel, and shall provide this definition to the Owner and all other affected parties such as the code inspectors of the Permitting Authority, the Sub-Contractors, the Architect-Engineer and the Owner’s Representatives, to provide general direction of the work and progress of the various phases and Sub-Contractors. The Owner and Architect-Engineer may attend meetings between the Construction Manager and his Sub-Contractors; however, such attendance shall not diminish either the authority or responsibility of the Construction Manager to administer the Sub-Contractor.

2.3.6 Schedule and Project Manual Provisions

The Construction Manager shall provide Subcontractors and the Owner, its representatives and the Architect-Engineer with copies of the approved Project Manual (total number of copies not to exceed 10) developed and updated as required by Article 2.1.3 and 2.1.6 expanded for the Construction Phase employing their respective milestones, beginning and finishing dates, their respective responsibilities for performance and the relationships of their work with respect to Sub-Contractors and suppliers. The Construction Manager shall also continue to provide current scheduling information and provide direction and coordination regarding milestones, beginning and finishing dates, responsibilities for performance and the relationships of the Construction Manager’s work to the work of his Sub-Contractors and suppliers to enable them to perform their respective tasks so that the development of construction progresses in a smooth and efficient manner in conformance with the overall project schedule.

The schedule shall include all phases of the construction work, material supplies, long lease procurement, approval of shop drawings, change orders in progress, schedules for change orders, and performance testing requirements. The Construction Manager shall advise the Owner, its representatives and the Architect-Engineer of their required participation in any meeting or inspection giving each at least one week notice.
unless such notice is made impossible by conditions beyond his control. The Construction Manager shall hold job-site meetings at least once each month with the Construction Team and at least once each week with the Sub-Contractors and the Architect-Engineers Field Representative, or more frequently as required by work progress, to review progress, discuss problems and their solutions and coordinate future work with all Sub-Contractors.

2.3.7 Quality Control

The Construction Manager shall develop and maintain a program, acceptable to the Owner and Architect-Engineer, to assure quality control of the construction. The Construction Manager shall supervise the work of all Sub-Contractors providing instructions to each when their work does not conform to the requirements of the plans and specifications and shall continue to exert his influence and control over each Sub-Contractor to ensure that corrections are made in a timely manner so as to not affect the efficient progress of the work. Should disagreement occur between the Construction Manager and Architect-Engineer over acceptability of work and conformance with the requirements of the specifications and plans, the Owner shall be the final judge of performance and acceptability.

2.3.8 Sub-Contractor Interfacing

The Construction Manager shall be the single point of interface with all Sub-Contractors for the Owner and all of its agents and representatives including the Architect-Engineer. The Construction Manager shall negotiate all change orders, field orders and request for proposals, with all affected Sub-Contractors and shall review the costs of those proposals and advise the Owner and Architect-Engineer of their validity and reasonableness, acting in the Owner's best interest prior to requesting approval of each change order from the Owner. Before any work is begun on any change order, a written authorization from the Owner must be issued. However, when health and safety are threatened, the Construction Manager shall act immediately to remove the threat to health and safety. He shall also carefully review all shop drawings and then forward the same to the Architect-Engineer for review and actions. The Architect-Engineer will transmit them back to the Construction Manager who will then issue the shop drawings to the affected Sub-Contractor for fabrication or revision. The Construction Manager shall maintain a control system to promote expeditious handling. The Construction Manager shall request the Architect Engineer to make interpretations of the drawings or specifications requested of him by the Sub-Contractors and shall maintain a suspense control system to promote timely response. The Construction Manager shall advise the Project Manager and Architect-Engineer when timely response is not occurring on any of the above.

2.3.9 Contractor/Subcontractors Access To School Site

Construction Manager shall not start work at school site without advance notification to the principal or his/her designee regarding the following:

a) The nature of the work  
b) The time schedule of the work  
c) Other conditions that may be required to accomplish said work

All contractor / vendors must sign in and out at the school's front office whenever they are at a school facility.

During comprehensive testing periods including, but not limited to, FCAT or SAT, the Construction Manager shall not commence Work at a school site without coordinating the Work with the school principal or his/her designee.

2.3.10 Permits

The Construction Manager shall secure all necessary building permits from the Permitting Authority (The School District of Palm Beach County). Any and all other necessary permits including utility connection permits, the cost of which shall be considered a direct cost item, shall also be obtained by the Construction Manager.
2.3.11 Job Site Requirements

The Construction Manager shall provide for each of the following activities as a part of its Construction Phase Services fee:

(a) Maintain a log of daily activities, including major issues/decisions, manpower records, equipment mobilization and de-mobilization, weather, delays (reference to delays in the daily log shall not be a substitute for the written notice of claim requirements), etc.

(b) Maintain a roster of companies on the project with names and telephone numbers of key personnel.

(c) Reinforcement of established job rules governing parking, clean-up, use of facilities and worker discipline.

(d) Provide labor relations management for a harmonious, productive Project.

(e) Provide a safety program for the project to meet OSHA requirements. Monitor for Sub-Contractor compliance without relieving them of responsibilities to perform work in accordance with the best acceptable safety practice.

(f) Provide a safety meeting with principal and school staff prior to starting work on existing site.

The Construction Manager shall provide personnel to provide each of the following:

(a) Schedule the services of independent testing laboratories which provide the necessary testing of materials to ensure conformance to the Contract Documents.

(b) The printing and distribution of all required documents and shop drawings, including the sets required by the Permitting Authority’s inspectors.

2.3.12 Job Site Administration

Job Site Administration: The Construction Manager shall provide as part of his job site fee, job site administrative functions during construction to assure proper documentation, including but not limited to such things as the following:

(a) Job Meetings: Hold weekly progress and coordination meetings to provide for an easy flowing project. Implement procedures and assure timely submittals, expedite processing approvals and return of shop drawings, samples, etc. Coordinate and expedite critical ordering and delivery of materials, work sequences, inspection and testing, labor allocation, etc. Review and coordinate each Sub-Contractor's work. Review and implement revisions to the Schedule. Monitor and promote safety requirements.

In addition, regular project status meetings will be held between the architect, owner and Construction Manager either biweekly or monthly, whichever is designated by the Project Manager.

Use the job site meeting as a tool for preplanning of work and enforcing schedules and for procedures, responsibilities, and identification of authority for all to clearly understand.

Identify party or parties responsible for follow up on any problems, delay items or questions and record course for solution. Revisit each pending item at each subsequent meeting until resolution is achieved. Require all present to make any problems or delaying event known to those present for appropriate attention and resolution.

(b) Shop Drawing Submittals/Approvals: Provide staff to check shop drawings and to implement procedures for submittal and transmittal to the Architect-Engineer of such drawings for action, and closely monitor their submittal and approval process.
(c) Material and Equipment Expediting: Provide staff to closely monitor material and equipment deliveries, to the affected Sub-Contractor for fabrication or revision. The Construction Manager shall maintain a suspense control system to promote expeditious handling. He shall request the Architect-Engineer to make interpretations of the drawings or specifications requested of him by the Sub-Contractors and shall maintain a suspense control system to promote timely response. He shall advise the Project Manager and Architect-Engineer when timely response is not occurring on any of the above.

(d) Payments to Sub-Contractors: Develop and implement a procedure for review, processing, and payment of applications by Sub-Contractors for progress and final payments.

(e) Document Interpretation: Refer all questions for interpretation of the documents prepared by the Architect-Engineer to the Architect-Engineer.

(f) Reports and Project Site Documents: Record the progress of the project. Submit written progress reports to the Owner and the Architect-Engineer including information on the Sub-Contractors work, and the percentage of completion. Keep a daily log available to the Owner, the Architect-Engineer and the Permitting Authority Inspectors.

(g) Sub-Contractor’s Progress: Prepare periodic punch lists for Sub-Contractors work including unsatisfactory or incomplete items and schedules for their completion.

(h) Substantial Completion: Ascertain and determine when the work or designated portions thereof are ready for the Architect-Engineer’s Substantial Completion inspection. From the Architect-Engineers list of incomplete or unsatisfactory items, prepare a schedule for their completion indicating completion dates for the Owner’s review. If the Construction Manager wishes the Architect-Engineer to conduct a pre-substantial completion inspection in conjunction with his own forces, the Architect-Engineer will prepare the pre-substantial punch list from which the Construction Manager will develop a completion schedule. The Architect-Engineer will issue a certificate of substantial completion (G704) when all the work on his pre-substantial punch list has been accomplished.

(i) Final Completion: Monitor the Sub-Contractor’s performance on the completion of the project and provide notice to the Owner and Architect-Engineer that the work is ready for final inspection. Secure and transmit to the Owner, through the Architect-Engineer, all required guarantees, affidavits, releases, bonds and waivers, manuals, record drawings, and maintenance books including the Contract Completion form.

(j) Start-Up: With the Owner’s personnel, direct the checkout of utilities, operations, systems and equipment for readiness and assist in their initial start-up and testing by the trade Construction Managers.

(k) Record Drawings: During the progress of the work, the Construction Manager shall require the plumbing, air conditioning, heating, ventilating, elevator, and electrical Sub-Contractors to record on their field sets of drawings the exact locations, as installed, of all conduit, pipe and duct lines whether concealed or exposed which were not installed exactly as shown on the contract drawings. The Construction Manager shall also record all drawing revisions that have been authorized by change order that effect wall or partition locations, door and window locations and other template changes. The exact routing of conduit runs shall be shown on these drawings.

Upon completion of the work, this data shall be recorded to scale utilizing a computer-aided design and drafting application (CADD). Two (2) sets of disk files will be furnished to the Construction Manager by the Architect-Engineer, but cost shall be borne by the Construction Manager. Each drawing shall be noted “As Built” and shall bear the date and name of the Sub-Contractors that performed the work. Where the work was installed exactly as shown on the contract drawings the sheets shall not be disturbed except as noted above. The Construction Manager shall review the completed As-Built drawings and ascertain that all data furnished on the drawings are accurate and truly represent the work as actually installed. When manholes, boxes,
underground conduits, plumbing, hot or chilled water lines, inverts, etc. are involved as part of the work, the Construction Manager shall furnish true elevations and locations, all properly referenced by using the original bench mark used for the institution or for this project. The disks shall be submitted to the Architect-Engineer when completed, together with two sets of blue-line or black-line prints for certification and forwarding to the Using Agency, at the time of final completion.

2.3.13 Administrative Records

The Construction Manager will maintain at the job site, unless agreed to otherwise by the Project Director, on a current basis, files and records such as, but not limited to the following:

(a) Contracts or Purchase Orders  
(b) Shop Drawing Submittal/Approval Logs  
(c) Equipment Purchase/Delivery Logs  
(d) Contract Drawings and Specifications with Addenda  
(e) Warranties and Guarantees  
(f) Cost Accounting Records, Construction Contingency Authorization Log, Owners Construction Contingency Log  
(g) Sales Tax Recovery Status Report  
(h) Labor Costs  
(i) Material Costs  
(j) Equipment Costs  
(k) Cost Proposal Requests  
(l) Payment Request Records  
(m) Meeting Minutes  
(n) Cost-Estimates  
(o) Bulletin Quotations  
(p) Lab Test Reports  
(q) Insurance Certificates and Bonds  
(r) Contract Changes  
(s) Purchase Orders  
(t) Material Purchase Delivery Logs  
(u) Technical Standards  
(v) Design Handbooks  
(w) As-Built” Marked Prints  
(x) Operating & Maintenance Instruction  
(y) Daily Progress Reports  
(z) Monthly Progress Reports  
(aa) Correspondence Files  
(bb) Transmittal Records Inspection Reports  
(cc) Bid/Award Information  
(dd) Bid Analysis and Negotiations  
(ee) Punch Lists  
(ff) PMIS Schedule and Updates  
(gg) Suspense (Tickler) Files of Outstanding Requirements  
(hh) Project Manual  
(ii) Material Safety Data Sheet - MSDS

The project records shall be available at all times to the Owner and Architect-Engineer for reference or review.

2.3.14 Weather Protection

The Construction Manager shall ascertain what temporary enclosures, if any, of building areas should be provided for and may be provided as a practical matter, in order to assure orderly progress of the work in periods when extreme weather conditions are likely to be experienced. The Construction Manager shall submit to the Construction Team its recommendations as to needed requirements of this nature and as to the contract or contracts in which they should be included.
2.3.15 Owner Occupancy

Owner Occupancy: The Construction Manager shall provide services during the design and construction phases, which will provide a smooth and successful Owner occupancy of the project. The Construction Manager shall provide consultation and project management to facilitate Owner occupancy and provide transitional services to get the Work, as completed by the Construction Manager "on line" in such conditions as will satisfy Owner operational requirements.

(a) The Architect-Engineer shall conduct the Construction manager’s preliminary punch list inspection and coordinate the Construction Manager’s completion of all punch list work to be done with Owner occupancy requirements in mind.

(b) The Construction Manager shall catalog operational and maintenance requirements of equipment to be operated by maintenance personnel and convey these to the Owner in such a manner as to promote their usability. The Construction Manager shall provide operational training, in equipment use, for building operators.

(c) The Construction Manager shall, with each Pay Application, provide a comprehensive list of all tangible property and equipment currently installed during the project.

(d) The Construction Manager shall secure required guarantees and warranties, assemble and deliver same to the Owner in a manner that will facilitate their maximum enforcement and assure their meaningful implementation.

(e) The Construction manager shall continuously review "As-Built" Drawings and mark up progress prints to provide as much accuracy as possible.

The Owner will not occupy or take control of the entire project until the above items discussed in this paragraph have been completed and the "Substantial Completion", "Start-Up", "Record Drawing", and Warranty" requirements specified in paragraphs 2.3.14 (h), 2.3.14 (j), 2.3.14 (k) and 2.3.17 have been completed to the Owner’s satisfaction excluding the requirements for a warranty inspection Twelve (12) months after Owner Occupancy.

ARTICLE 3

OWNER'S RESPONSIBILITIES

3.1 Owners Information

The Owner shall provide full information regarding his requirements for the project.

3.2 Owner's Representative

The Owner shall designate a representative who shall be fully acquainted with the project and shall define the lines of Owner authority to approve Project Construction Budgets, and changes in Project. He shall render decisions promptly and furnish information expeditiously.

3.3 Architect and Engineers Agreement

The Owner shall retain an Architect-Engineer for design and to prepare construction documents for the project. The Architect-Engineer's services, duties and responsibilities are described in the Agreement between the Owner and the Architect-Engineer, a copy of which will be furnished to the Construction Manager upon request. The Agreement between the Owner and the Architect-Engineer shall not be modified without written notification to the Construction Manager.
3.4 Site Survey and Reports

The Owner shall provide, for the site of the project, all surveys describing the physical characteristics, soil reports, subsurface investigations, legal limitations, utility locations, covenants, deed restrictions and a legal description.

3.5 Approvals and Easements

The Owner shall pay for necessary approvals, easements, assessments and charges required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities as reimbursables to the Construction Manager.

3.6 Legal Services

The Owner shall furnish such legal services as may be necessary for providing the items set forth in Article 3.5 and such auditing services as may be required.

3.7 Drawings and Specifications

The Construction Manager will be furnished a reproducible set of all copies of Drawings and Specifications reasonably necessary and ready for printing.

3.8 Cost of Surveys & Reports

The services, information, surveys and reports required by the above paragraphs shall be furnished with reasonable promptness in accordance with the approved schedule at the Owners expense, and the Construction Manager shall be entitled to rely upon the accuracy and completeness thereof.

3.9 Project Fault Defects

If the Owner becomes aware of any fault or defect in the Project or non-conformance with the drawings and specifications, he shall give prompt written notice thereof to the Construction Manager and Architect-Engineer.

3.10 Funding

The Owner shall furnish in accordance with the established schedule, reasonable evidence satisfactory to the Construction Manager that sufficient funds will be available and committed for the cost of each part of the Project. The Construction Manager shall not commence any work, unless authorized in writing by the Owner.

3.11 Lines of Communication

The Owner and Architect-Engineer shall communicate with the Sub-Contractors or suppliers only through the Construction Manager while such method of communication is effective in maintaining project schedules and quality.

3.12 Lines of Authority

The Owner shall establish and maintain lines of authority for his personnel and shall provide this definition to the Construction Manager and all other affected parties. The school Principal has no direct contract authority. Any work accomplished at the principal’s direction is “at risk”.

3.13 Permitting & Code inspections

The Owner expects the Construction Manager to recognize and coordinate with the Permitting Authority.
ARTICLE 4

PERMITTING AND INSPECTION

Construction will be inspected for code compliance, compliance with drawings and specifications, and quality by inspectors working for the Permitting Authority. The building permitting and code inspection requirements shall be as described in Articles 4.1 through 4.2 hereinafter.

4.1 Building Permits

The Construction Manager shall provide the following information to the Permitting Authority and obtain approval from the Permitting Authority prior to beginning construction:

(a) Two (2) sets of documents, signed, sealed and dated by the Architect-Engineer, with all addenda enclosed with each set. These documents shall be sent to the Permitting Authority prior to sending the Permit Application address hereinafter.

4.2 Code Inspections

All projects require detailed code compliance inspections during construction in disciplines determined by the Permitting Authority. These disciplines normally include, but are not necessarily limited to, structural, mechanical, electrical, plumbing and general building safety. Inspection personnel will be provided by the Permitting Authority. Names, addresses and phone numbers of the inspectors will be provided to the Construction Manager by the Permitting Authority.

The Construction Manager shall request the appropriate inspector(s), no less than 48 hours in advance that the work is ready for inspection and before the work is covered up. Work not inspected and approved prior to cover-up shall be uncovered for inspection when directed by the Permitting Authority. All costs for uncovering and reconstruction shall be borne by the Construction Manager.

All inspections shall be made for conformance with the applicable building codes, compliance with drawings and specifications, and quality.

Cost for all re-inspections of Work found defective and subsequently repaired shall be borne by the Construction Manager.

Palm Beach School Building Department inspections are scheduled at 383-2093 or 383-2092.

ARTICLE 5

SUBCONTRACTS

5.1 Definition

A Sub-Contractor is a person or organization who has a direct contract with the Construction Manager to perform any of the work at the site. Nothing contained in the Contract Document shall create any contractual relation between the Owner or Architect-Engineer and any Sub-Contractor.

5.2 Proposals

Subject to Article 9 and, in accordance with Article 2.2.5, the Construction Manager shall request and receive proposals from Sub-Contractors and suppliers and will award those contracts to the qualified low bidder after he has reviewed each proposal and is satisfied that the Sub-Contractor is qualified to perform the work.

5.3 Required Sub-Contractors’ Qualifications and Subcontract Conditions
5.3.1 Sub-Contractor Relations:

By an appropriate written agreement, the Construction Manager shall require each Sub-Contractor to the extent of the work to be performed by the Sub-Contractor, to be bound to the Construction Manager by the terms of the Contract Documents, and to assume toward the Construction Manager all the obligations and responsibilities which the Construction Manager by these Documents, assumes toward the Owner and the Architect-Engineer. Said agreements shall preserve and protect the rights of the Owner and Architect-Engineer under the Contract Documents with respect to the Work to be performed by the Sub-Contractor so that the subcontracting thereof will not prejudice such rights. Where appropriate, the Construction Manager shall require each Sub-Contractor to enter into similar agreements with his Sub-Contractor.

The Construction Manager shall make available to each proposed Sub-Contractor, prior to the execution of the Subcontract, copies of the Contract Documents to which the Sub-Contractor will be bound by this Article 5.3 and identify to the Sub-Contractor any terms and conditions of the proposed Subcontract which may be at variance with the Contract Documents. Each Sub-Contractor shall similarly make copies of such Documents available to his Sub-Contractors.

5.3.2 Subcontract Requirements:

On subcontracts where the bid exceeds $100,000.00, the Construction Manager may require Sub-Contractors to provide a 100% performance bond and a 100% performance and a 100% labor and material payment bond from a surety company authorized to do business in the State of Florida by the Department of Insurance. Costs for such bonds or other forms of surety shall be reimbursed by the Owner in the GMP.

Subcontract bidders must meet the standard of the Construction manager’s established pre-qualification requirements and should demonstrate experience, bonding capability and financial condition. The Sub-contractor should also demonstrate that adequate assets and equipment are available to properly perform the Subcontract.

The Sub-Contractor must agree to perform no less than 15% of the project construction work utilizing its own employees. Should the Sub-contractor not meet this requirement, the Construction Manager shall notify the Owner in writing.

The Sub-Contractor must have successfully completed no less than two projects of similar size and complexity within the last five years.

The Sub-Contractor must agree to provide field (on-site) supervision through a named superintendent for each trade (general concrete forming and placement, masonry, mechanical, plumbing, electrical and roofing) included in the subcontract. In addition, the Sub-Contractor shall assign and name a qualified employee for scheduling direction for its work. The supervisory employees of the Sub-Contractor (including field superintendent, foreman and schedulers at all levels) must have been employed in a supervisory (leadership) capacity of a substantially equivalent level on a similar project for at least two years within the last five years. The Sub-Contractor shall include a resume of experience for each employee identified by him to supervise and schedule his work.

All subcontracts shall provide:

That the Sub-Contractors exclusive remedy for delays in the performance of the contract caused by events beyond its control, including delays claimed to be caused by the Owner or Architect-Engineer or attributable to the Owner or Architect-Engineer and including claims based on breach of contract or negligence, shall be an extension of its contract time.

That, in the event of a Change in the Work, the Sub-Contractor’s claim for adjustments in the contract sum are limited to the following items:
1. Cost of labor using the rates specified by the Change Order Rate Schedule (Exhibit G)
2. Cost of materials, supplies and equipment including transportation
3. Rental costs of machinery and equipment exclusive of hand tools
4. Cost of premiums for additional bonds and insurance, fees and taxes related to the change

That the total markup for overhead and profit among all tiers of sub-contractors for such Change in Work shall be 15% of the cost of items 1-4 above for the sub-contractor performing the Change in Work and 5% for each successively higher tier of Sub-contractor. No additional overhead and profit may be added for the cost of premiums for additional bonds and insurance, fees and taxes related to the Change in Work, if any.

That the Sub-Contractor shall expressly agree that the foregoing constitute the sole and exclusive remedies for delays and Changes in Work and thus eliminate any other remedies for claim for increase in the contract price, damages, losses or additional compensation.

That any claims by the Sub-Contractor for delay or additional cost must be submitted to Construction Manager within ten (10) days of the event giving cause to the claim. Within ten (10) days of the receipt of the claim from the Sub-contractor the Construction Manager must submit such claims to the Owner and Architect-Engineer.

Failure to comply with the conditions for giving notice and submitting claims shall result in the waiver of such claims.

5.4 Responsibilities for Acts and Omissions

The Construction Manager shall be responsible to the Owner for the acts and omissions of its employees and agents and his Sub-Contractors, their agents and employees, and all other persons performing any of the work or supplying materials under a contract to the Construction Manager.

5.5 Subcontracts to be provided

Within ten (10) days of the execution of each Subcontract, the Construction Manager shall submit a copy of that executed contract and supplementary general conditions to the Owner. The Construction Manager shall include a copy of each subcontract, including the general supplementary conditions, in the Project Manual.

ARTICLE 6

SCHEDULE, TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

6.1 At the time a Guaranteed Maximum Price (GMP) is established, as provided for in Article 7, completion of the Project in accordance with the master project schedule shall also be established by the Construction Team. The Construction Manager agrees to complete the construction in accordance with the agreed upon days for Substantial Completion, Final Completion and Owner Occupancy. The Construction Manager acknowledges that failure to complete the project within the construction time set forth in the approved schedule will result in substantial damages to the Owner. Liquidated Damages shall be assessed as specified in Article 8 of the General Conditions. Following Board approval of the Amendment to the Agreement to establish the GMP, the Notice To Proceed shall be issued upon receipt of the documents specified in Par. 9, Section 00100 and in accordance with the requirements of the Contract Documents.

6.2 The date of Owner Occupancy shall occur as described in Article 2.3.16 herein above. Warranties called for by this Agreement or by the Drawings and Specifications shall commence on the Date of Owner Occupancy of the project.

ARTICLE 7

GUARANTEED MAXIMUM PRICE FOR CONSTRUCTION

7.1 When the construction design documents are sufficiently complete to establish the Scope of Work for the Project or any Phase or portion thereof, as generally defined by a design document listing to be provided by
the Architect-Engineer and Construction Manager upon execution of this Agreement, which is to be used only as a guide in developing the specifications and plan data necessary to establish a Guaranteed Maximum Price, or at such time thereafter designated by the Owner, the Construction Manager will establish and submit in writing to the Owner for its approval a Guaranteed Maximum Price in the form described in Section 00100, Par. 9 of the Request for Proposal Document, guaranteeing the maximum price to the Owner for the construction cost of the Project or designated Phase thereof. Such Guaranteed Maximum Price will be subject to modification for Changes in the Work as provided in Article 7 of Section 00700, General Conditions, however, the actual price paid for the Work by the Owner shall be the actual cost of all Work subcontracts, supply contracts, direct labor costs, direct supervision costs and General Condition items, as defined under Article 9 herein, of the Project plus the Construction Managers Fees, less any Contingency balance, or the GMP, whichever is less, when the Work is complete.

7.2 The GMP will only include those taxes in the cost of the Project, which are legally enacted at the time the GMP is established.

7.3 The GMP shall include an agreed upon sum as the Owner’s Construction Contingency. Use of the Owner’s Construction Contingency by the Construction Manager must be authorized by the Owner. This authorization shall be requested by use of a Construction Contingency Change Authorization (CCCA). Funds shall be added to, or taken from, the Owner’s Construction Contingency by use of a Construction Contingency Change Authorization.

7.4 As the Construction Manager executes each trade contract, if additional funds for a line item of Work are required above the amount specified in the GMP, the deficiency may be taken from the Owner’s Construction Contingency. If funds required for a line item of Work are below the amount specified in the GMP the surplus shall be added to the Owner’s Construction Contingency. If bids are not received at or below the applicable amount for a portion of the Work established for any line item in Division 1-16 of the GMP, the Construction Manager reserves the right to perform that portion of the Work or negotiate for its performance for the specified line item amount or less.

7.5 Prior to the authorization for use of the Owner’s Construction Contingency the Construction Manager will be required to furnish documentation, approved by the architect-Engineer, justifying the expenditures that are requested to be funded from the Owner’s Construction Contingency. The Construction Manager is also responsible for evidencing surpluses credited to the Owner’s Construction Contingency. Adjustments to the Owner’s Construction Contingency shall be displayed monthly in the PMIS.

7.6 When the Project is bid and 100% of the trade contracts have been executed, the Owner’s Contingency within the GMP may be decreased in proportion to the percent of the Work completed. In other words, if 10% of the Work has been completed and the Owner requests that the Contingency within the GMP be adjusted, then 10% of the Contingency within the GMP will be removed from the GMP by Change Order.

7.7 At the time of submission of a Guaranteed Maximum Price, the Construction Manager shall verify the schedule for activities and Work which were adopted by the Construction Team and used to determine the Construction Manager’s Cost of Work.

ARTICLE 8

CONSTRUCTION MANAGER’S FEE

8.1 In consideration of the performance of the contract, the Owner agrees to pay the Construction Manager as compensation for his services, fees as set forth in Paragraphs 8.1.1, 8.1.2 and 8.1.3 of this Agreement.

8.1.1 Pre-Construction Fee: For the performance of the services set forth under Article 2 of the Agreement as required by the Owner and for profit and overhead related to these services, the Owner will pay the Construction Manager a total Fee of $TBD and Reimbursable Expenses not to exceed $TBD, as detailed on the Summary of Pre-Construction Services Fee (Exhibit C). The Pre-Construction Fee shall be paid based upon the completion of formal estimates at the phase of the project specified in Article 2.1.4 (a, b and c) of the
Agreement and the Solicitation of Bids specified in Article 2.2.5 of the Agreement. Reimbursable Expenses shall include costs necessarily incurred by the Construction Manager for advertising, out of office copying / reproductions and postage only. All costs for these expenses shall be included on the final For Payment for Pre-Construction Phase Services, accompanied by evidence of such expenses incurred.

The Construction Manager’s personnel to be assigned during Pre-Construction, their duties and responsibilities for this Project and the duration of their assignments are detailed on Exhibit C.

8.1.2 Construction Phase Fee: The Construction Manager shall commence the Construction Phase upon receipt of a Notice to Proceed from the Owner. The Construction Manager’s compensation for work or services performed during the Construction Phase shall be detailed on the Summary of Construction Phase services Fee (Exhibit D). The Owner retains the right to review the need and effectiveness of any employee or employees assigned by the Construction Manager. The Construction Phase Fee shall be paid in equal monthly payments throughout the Project based upon the duration of construction specified in the Notice to Proceed.

The first monthly payment shall follow the issuance of the Notice to Proceed and the final monthly payment shall be paid only when construction of the project is fully and finally completed and occupancy of the project accepted by the Owner. If construction is authorized only for a part of the project, the fee paid shall be proportionate to the amount of work authorized by the Owner.

1. The following are included in the Construction Managers Fee for services during the Construction Phase:

   (a) Salaries, benefits or other compensation of the Construction Manager’s employees at the job site. The Construction Manager’s personnel to be assigned to the site during the Construction Phase under the job site management and supervision fee, their duties and responsibilities and the duration of their assignment are shown on Exhibit D.

2. Adjustments in Fee: For changes in the Project as provided in Article 7 of Section 00700, General Conditions, which, excluding any negligent acts that may have been caused by the Construction Manager or it’s Sub-contractors, extends or reduces the Final Completion date specified on the Construction Notice To Proceed, Construction Phase Service fees may be re-negotiated based upon the Per Diem rates per person established in Exhibit E.

3. Construction Managers Exclusive Remedy: In the event the construction Substantial or Final Completion date is extended, regardless of whether delay is caused by any act or neglect of the Owner or the Architect Engineer, or is attributable to the Owner or the Architect-Engineer, the Construction Manager’s sole and exclusive remedy is an extension of the construction completion date.

8.1.3 Overhead and Profit for Construction Phase

For services provided during and related to the Construction Phase the percent (%) Overhead and Profit shall be based upon the total of the Total of Div. 2-16, Construction Phase Services Fee and General Conditions as specified in the GMP Summary and shall be paid proportionally to the ratio of the cost of the work in place, excluding stored materials and less retainage as described in Article 11 of this Agreement, as it bears on the latest estimate of the total Work cost or to the GMP or to the Owners Construction Budget, whichever is less. The balance of the Fee shall be paid upon Final completion. If Work is authorized only for a part of the project, the fee paid shall be proportionate to the amount of Work authorized by the Owner. The Construction Manager’s exclusive remedy for any adjustments in the Overhead and Profit for Construction Phase is provided in Article 8.1.3 (2) of this Agreement.

1. Costs and expenses included in the Overhead and Profit for Construction Phase:

   (1) General operating expenses related to this project of the Construction Manager’s principal and branch offices.

   (2) The costs of all data processing staff.

   (3) General operating expenses incurred in the management and supervision of the project except as expressly included in Article 9.
(4) Those services set forth in Article 2.3.12 of this Agreement (Job Site Requirements).

2. The Construction Manager will not be due any additional Overhead and Profit on the use of the Owner’s Construction Contingency or increases in the Guaranteed Maximum Price (GMP) that do not exceed a cumulative total of five percent (5%) of the total of Divisions 1-16 specified in the GMP Summary (Exhibit B) for each Phase or for all Phases of Work. Under the terms of Article 7 of the General Conditions, should the cumulative total increase of Divisions 1-16 exceed five percent (5%) due to no fault of the Construction Manager, the Construction Manager’s additional Overhead and Profit for that portion of the cumulative total of increases that exceeds five percent (5%) will be the same percent as the Overhead and Profit established in Article 8, Paragraph 8.1.3 of this Agreement.

ARTICLE 9
GENERAL CONDITIONS

The Owner agrees to pay the Construction Manager for General Conditions (Direct Cost Items Related to Field Staff) necessarily incurred in the Project during the Construction Phase for construction services and paid by the Construction Manager, which are not included in Divisions 1-16, Bonds and insurance or the Construction Phase Services Fee. Such General Condition items shall include only the items set forth in Paragraph 9.1 herein and the total payment for these items shall be the lump sum included on the GMP Summary (Exhibit B) as the General Conditions (Direct Cost Items Related to Field Staff). Such payment shall be paid proportionally to the ratio of the cost of work in place as it bears to Divisions 1-16 of the GMP. All other identifiable expense items and costs related to emergency conditions shall be itemized in Division 1 (General requirements) of the GMP Summary. Invoices submitted by the Construction Manager shall be submitted in sufficient detail for a proper pre-audit and post-audit thereof. Invoices for any travel expenses shall be submitted in accordance with Procedures specified in Section 112.061, Florida Statutes governing payments by the State for travel expenses.

9.1 General Condition Items

1. Cost including transportation and maintenance of all materials, supplies, equipment, temporary facilities including office facilities for Construction Manager and Owner’s Representative.

2. Expenses at the site, such as telegrams, long distance telephone calls, telephone service, expressage, postage, and similar petty cash items in connection with the Project to be billed at cost.

3. Miscellaneous job office supplies, postage, courier service.

4. Costs for cleaning and maintenance, trash and debris control and removal from the site.

5. Costs of all reproductions required by the Project to directly benefit the Project.

6. The Construction Manager shall provide and maintain for the Owner a suitable temporary field office as described in Article 2, Paragraph 2.3.4 of this Agreement.

ARTICLE 10
DISCOUNTS AND PENALTIES

10.1 All discounts for prompt payment shall accrue to the Owner to the extent the Cost of the project is paid directly by the Owner or from a fund made available by the Owner to the Construction Manager for such payments. To the extent the Cost of the Project is paid with funds of the Construction Manager, all cash discounts shall accrue to the Construction Manager. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the cost of the Project. All penalties incurred due to fault of the Construction Manager for late payment of cost of the project will be paid by the Construction Manager.
ARTICLE 11

PAYMENTS TO THE CONSTRUCTION MANAGER

11.1 Schedule of Values

The preliminary schedule of values shall be submitted on Form PBSD 2349, Certificate for Payment Continuation Sheet shall be submitted and approved prior to the initial request for payment. Each line item of the Work shall separately show the value of labor and materials in a ratio consistent with generally recognized estimating guides and supported by such data necessary to substantiate its accuracy, including the itemization of required bonds and insurance.

11.2 Retainage

Pursuant to Section 255.078, Florida Statutes, ten percent (10%) retainage will be withheld on the payment of the Construction Manager’s Fees set forth in Article 8.1.3 of this Agreement and the Direct Cost Items described in Article 9, Paragraph 9.1 (items 1 and 2) of this Agreement. Retainage will not be withheld on services or fees set forth in Article 8, Paragraphs 8.1.1 and 8.1.2. of this Agreement or Direct Cost Items described in Article 9, Paragraph 9.1 of this Agreement. When approved by the Owner certain suppliers and Sub-Contractors may be paid the entire amount due when such payment is generally the practice of the industry. After fifty percent (50%) completion of the Cost of Work as specified on the GMP Summary (Exhibit B) together with all costs associated with existing change orders is satisfactorily completed, the Owner must reduce the amount of retainage withheld from each subsequent progress payment made to the Construction Manager from ten percent (10%) to five percent (5%). After fifty percent (50%) completion of the Costs of Work, the Construction Manager may present to the Owner a payment request for up to one-half of the retainage held by the Owner during the pre-50% portion; and this payment will promptly be made unless there are grounds for withholding the payment under School Board Policy 7.23(3)(b).

11.3 Monthly Statements

The Construction Manager shall submit to the Owner a statement, sworn to if required, along with the cost reports required under Article 2.1.5 of this Agreement, showing in detail all monies paid out, cost accumulated or costs incurred on account of the Cost of the Project during the previous period and the amount of the Construction Manager’s fees due as provided in Article 8 of this Agreement. This data shall be attached to the Application and Certificate for Payment (Form PBSD 2354). Payments by the Owner to the Construction Manager shall be made as described in Article 8 of this Agreement.

11.4 Final Payment

Final payment constituting the unpaid balance of the Cost of the Project and the Construction Manager's fee, shall be due and payable as described in Article 8.1.2 of this Agreement after the Owner has accepted complete occupancy of the total project, provided that the Project be then finally completed, that the Construction Manager has verified by his signature that he has completed all items specified on the attached Appendix S, and that this Agreement has been finally performed. However, if there should remain work to be completed, the Construction Manager and the Architect-Engineer shall list those items prior to requesting final payment and the Owner may retain a sum equal to 150% of the estimated cost of completing any unfinished work and portion of the Construction Manager’s retainage, provided that said unfinished items are listed separately and the estimated cost of completing any unfinished items are likewise listed separately. Thereafter, Owner shall pay to Construction Manager, monthly, the amount retained for each incomplete item after each of said items is completed.

11.5 Payments to Sub-Contractors

The Construction Manager shall within 10 days after receipt of payment from the Owner, pay all the amount due Sub-Contractors less the retainage of ten percent (10%) described in paragraph 11.2 of this Agreement until the project is substantially complete, and based on Construction Managers evaluation of the Sub-Contractors acceptable performance, the Owner may approve a reduction in retainage from 10 to 5%.
thereafter. If there should remain items to be completed, the Construction Manager and Architect-Engineer shall list those items required for completion and the Construction Manager shall require the retainage of a sum equal to 150% of the estimated cost of completing any unfinished items, provided that said unfinished items are listed separately and the estimated cost of completing any unfinished items likewise listed separately. Thereafter, the Construction Manager shall pay to the Sub-Contractors, monthly, the amount retained for each incomplete item after each of said items is completed. Before issuance of final payment without any retainage, the Sub-Contractor shall submit satisfactory evidence that all payrolls, material bills and other indebtedness connected with the Project have been paid or otherwise satisfied, warranty information is complete, as-built markups have been submitted and instruction for the Owners operating and maintenance personnel is complete.

Final payment may be made to certain select Sub-Contractors whose work is satisfactorily completed prior to the total completion of the Project but only upon approval of the Owner.

11.6 Delayed Payments by Owner

If the Owner should fail to pay the Construction Manager within 30 days after the receipt of an approvable payment request from the Construction Manager, then the Construction Manager may, upon thirty (30) additional days written notice to the Owner and the Architect-Engineer, stop the Project until payment of the Amount owing has been received.

11.7 Payments for Materials and Equipment

Payments will be made for material and equipment not incorporated in the work but delivered and suitably stored at the site or another location subject to prior approval and acceptance by the Owner on each occasion.

11.8 Withholding Payments To Sub-Contractors

The Construction Manager shall not withhold payments to Sub-Contractors if such payments have been made to the Construction Manager. Should this occur for any reason, the Construction Manager shall immediately return such monies to the Owners, adjusting pay requests and project bookkeeping as required.

ARTICLE 12

TERMINATION OF THE AGREEMENT AND OWNER’S RIGHT TO PERFORM CONSTRUCTION MANAGER’S OBLIGATION

12.1 Termination by the Construction Manager

If the Project is stopped for a period of thirty (30) days under an order of any court or 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 Construction Manager, or if the Project should be stopped for a period of sixty (60) days by the Construction Manager, for the Owner's failure to make payments thereon, then the Construction Manager may, upon seven days written notice to the Owner, request payment for all work executed, the Construction Manager’s fees earned to date, and for any proven loss sustained upon any materials, equipment, tools, construction equipment, and machinery, including reasonable profit, damages and terminal expenses incurred by the Construction Manager.

12.2 Owner's Right to Perform Construction Manager's Obligations and Termination by Owner for Cause

1. If the Construction Manager fails to perform any of his obligations under this Agreement including any obligation he assumes to perform work with his own forces, the Owner may, after seven (7) days written notice during which period the Construction Manager fails to perform such obligation, make good such deficiencies. The GMP, or the actual cost of the Project, whichever is less, shall be reduced by the cost to the Owner of making good such deficiencies and the Construction Managers Construction Phase Fee shall be reduced by an amount required to manage the making good of such deficiencies.
2. If the Construction Manager is adjudged a bankrupt, or if he makes a general assignment for the benefit of his creditors, or if a receiver is appointed on account of his insolvency, or if he persistently or repeatedly refuses or fails, except in case for which extension of time is provided, to supply enough properly skilled workmen or proper materials and fails to maintain an established schedule (failure to maintain schedule shall be defined as any activity on the critical path that falls 45 days or more behind schedule) which has been adopted by the Construction Team, or if he fails to make prompt payment to Sub-Contractors for materials or labor, or persistently disregards laws, rules, ordinances, regulations, or orders of any public authority having jurisdiction, or otherwise is guilty of a substantial violation of a provision of the Agreement, then the Owner may, without prejudice to any right or remedy and after giving the Construction Manager and his surety, if any, seven (7) days written notice, during which period Construction Manager fails to commence to cure the violation, terminate the employment of the Construction Manager and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Construction Manager, and may finish the Project by whatever method he may deem expedient. In such case, the Construction Manager shall not be entitled to receive any further payment until the Project is finished nor shall he be relieved from his obligations assumed under Article 7. Reasonable terminal expenses incurred by the Owner may be deducted from any payments left owing the Construction Manager (excluding monies owed the Construction Manager for subcontract work).

3. If the Construction Manager refuses to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Construction Manager in conjunction with this Agreement, then the Owner may, without prejudice to any right or remedy and after giving the Construction Manager and his surety, if any, seven (7) days written notice, during which period Construction Manager still fails to allow access, terminate the employment of the Construction Manager and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon, owned by the Construction Manager, and may finish the project by whatever method he may deem expedient. In such case, the Construction Manager shall not be entitled to receive any further payment until the Project is finished nor shall he be relieved from his obligations assumed under Article 7. Reasonable terminal expenses incurred by the Owner may be deducted from any payments left owing the Construction Manager (excluding monies owed the Construction Manager for subcontract work).

12.3 Termination by Owner Without Cause

1. If the Owner terminates this Agreement other than pursuant to Article 14.2(2) or Article 14.3(2) of this Agreement, he shall reimburse the Construction Manager for any unpaid Cost of the Project due him under Article 9, plus that part of the unpaid balance of the Construction Phase Fee in an amount as will increase the payment on account of his fee to a sum which bears the same ratio to the Construction Phase Fee as the Cost of the Project at the time of termination bears to the Guaranteed Maximum Price, if established, otherwise to the Owner’s Construction Budget. The Owner shall also pay to the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment retained. In case of such termination of Agreement the Owner shall further assume and become liable for obligations, commitments and unsettled contractual claims that the Construction Manager has previously undertaken or incurred in good faith in connection with said Project.

The Construction Manager shall, as a condition of receiving the payments referred to in this Article 14, execute and deliver all such papers and take all such steps including the legal assignment of his contractual rights, as the Owner may require for the purpose of fully vesting in him the rights and benefits of the Construction Manager under such obligations or commitments.

2. After the establishment of the Guaranteed Maximum Price or at the completion of the Design Phase, if the final cost estimates or lack of legislative funding make the Project no longer feasible from the standpoint of the Owner, the Owner may terminate this Agreement and pay the Construction Manager his proportionate fee due in accordance with Article 8.1 of this Agreement plus any costs incurred pursuant to Articles 9 and 10.
ARTICLE 13

ASSIGNMENT AND GOVERNING LAW

13.1 Neither the Owner nor the Construction Manager shall assign his interest in this Agreement without the written consent of the other except as to the assignment of proceeds.

13.2 This Agreement shall be governed by the Laws of the State of Florida, with venue in Palm Beach County.

ARTICLE 14

NOTICE OF CLAIM: WAIVER OF REMEDIES; NO DAMAGES FOR DELAY

14.1 The Owner's liability to Construction Manager for any claims arising out of or related to the subject matter of this contract, whether in contract or tort, including, but not limited to, claims for extension of construction time, for payment by the Owner of the costs, damages or losses because of changed conditions under which the work is to be performed, or for additional work, shall be governed by the following provisions:

(a) All claims must be submitted as a Request for Change Order in the manner as provided herein;

(b) The Construction Manager must submit a Notice of Claim to Owner and to the Architect-Engineer within 20 days of when the Construction Manager was or should have been aware of the occurrence of the event giving rise to the claim; and

(c) Within 10 days of submitting its Notice of Claim, the Construction Manager shall submit to the Owner its Request for Change Order, which shall include a written statement of all details of the claim, including a description of the work affected and details of the cost implications.

The Construction Manager agrees that the Owner shall not be liable for any claim that the Construction Manager fails to submit as a Request for Change Order as provided in this paragraph.

14.2 After receipt of a Request for Change Order, the Owner, in consultation with the Architect-Engineer, shall deliver to the Construction Manager its written determination of the claim. As to matters subject to the determination by final agency action (not actions for breach of contract or tort) the Owners written decision shall be final agency action unless the Construction Manager requests an administrative proceeding pursuant to Section 120.57, Florida Statutes, by filing a petition in compliance with Rule Chapter 60-4, F.A.C. within thirty (30) days of the Construction Manager’s receipt of the Owners determination.

The venue for all civil and administrative actions against the department shall be in Palm Beach County, unless otherwise agreed by the parties.

14.3 For work the Construction Manager performs with its own forces, and in addition to the adjustments provided for in Article 8, the Construction Manager's exclusive remedy for delays in performance of the construction caused by events beyond its control, including delays claimed to be caused by or attributable to the Owner or the Architect-Engineer, including claims based on breach of contract or negligence, shall be a claim submitted in compliance with 14.1 of this Agreement, for an extension of the scheduled construction time. In the event of a change in such work, the Construction Managers claim for adjustments in the contract sum is limited exclusively to its actual costs for such changes plus 5% for profit. The Construction Manager expressly agrees that the foregoing constitute its sole and exclusive remedies for delays and changes in such work, and eliminate any other remedies for claim for increase in the contract price, delays, changes in the work, damages, losses or additional compensation.
ARTICLE 15
PROTECTION OF PERSONS AND PROPERTY

15.1 SAFETY PRECAUTIONS AND PROGRAMS

15.1.1 The Construction Manager shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

15.1.2 In the event the Construction Manager encounters hazardous materials on the Site, the Construction Manager shall immediately stop Work in the area affected and report the condition to the Owner and the Architect in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Construction Manager if, in fact, the material or removal has not been rendered harmless. The Work in the affected area shall be resumed when it has been rendered harmless, by written agreement of the Owner and Construction Manager.

15.1.3 The Construction Manager shall not be required pursuant to Section 2.3 to perform without consent any Work relating to hazardous materials.

15.1.4 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Construction Manager, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to reasonable attorney's fees, arising out of or resulting from performance of the Work in the affected area if in fact the material has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting there from, but not only to the extend caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner or anyone for whose acts claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in the Subparagraph. The indemnification herein is subject to Florida Statute 768.28.

15.2 SAFETY OF PERSONS AND PROPERTY

15.2.1 The Construction Manager shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:

(a) Employees on the Work and all other persons who may be affected thereby;

(b) The Work and materials and equipment to be incorporated therein, whether in storage on or off the Site, under care, custody or control of the Construction Manager or Construction Manager's Subcontractors or Sub-subcontractors;

(c) Other property at the Site and adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction;

15.2.2 All alcoholic beverages, smoking and drugs shall be prohibited from the Project site.

15.2.3 All workers on the Project site shall wear appropriate and uniform-like attire and shall have visible identification as being employees of the Construction Manager or Subcontractor. (for example, all employees wear same color shirts).

15.2.4 The Construction Manager shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on the safety of persons or property their protection from damage, injury or loss in accordance with CFR/29 Code of Federal Register, Part 1926.
15.2.5 The Construction Manager shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying Owners and users of adjacent sites and utilities.

15.2.6 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for the execution of the Work, the Construction Manager shall exercise utmost care and carry on such activities under the supervision of properly qualified personnel.

15.2.7 The Construction Manager shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Clauses 15.2.1.(b) and (c) of this agreement caused in whole or in part by the Construction Manager, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Construction Manager is responsible, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them or by anyone by whose acts either of them may be liable and not attributable to the fault or negligence of the Construction Manager. The foregoing obligations of the Construction Manager are in addition to any other obligations of the Construction Manager including Section 00700.

15.2.8 The Construction Manager shall designate a responsible member of the Construction Manager’s organization at the Site whose duty shall be prevention of accidents. This person shall be the Construction Manager’s Superintendent unless otherwise designated by the Construction Manager in writing to the Owner and Architect.

15.2.9 The Construction Manager shall not load or permit any part of the construction or site to be loaded so as to endanger the site safety.

15.2.10 The Construction Manager shall promptly report to the Architect and Owner in writing and by telephone all accidents arising out of or in connection with the Work that cause death, serious personal injury or major property damage. In addition, the Construction Manager shall be required to notify the Owner of all recordable accidents.

ARTICLE 16

MISCELLANEOUS

16.1 Interest

Any monies not paid when due to either party under this contract shall not bear interest except as may be required by Section 215.422(3)(b), Florida Statutes (2000).

16.2 Harmony

Construction Manager is advised and hereby agrees that he will exert every reasonable and diligent effort to assure that all labor employed by Construction Manager and his Sub-Contractors for work on the project shall work in harmony with and be compatible with all other labor being used by building and construction Managers now or hereafter on the site of the project.

Construction Manager further agrees that this provision will be included in all Sub-Contracts of the Sub-Contractors as well as the Construction Manager’s own contract; provided, however, that this provision shall not be interpreted or enforced so as to deny or abridge, on account of membership or non-membership in any labor union or labor organization, the right of any person to work as guaranteed by Article 1, Section 6 of the Florida Constitution.

16.3 Apprentices

If the Construction Manager employs apprentices on the project, the behavior of the Construction Manager and the Owner shall be governed by the provisions of Chapter 446, Florida Statutes, and by applicable standards and policies governing apprentice programs and agreements established by the Division of Labor of the State of Florida Department of Labor and Employment Security. The Construction Manager will include a provision similar to the foregoing sentence in each subcontract.
16.4 Invoices Submitted Under Article 9

Invoices submitted under Article 9 of this Agreement shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof. Invoices for any travel expenses shall be submitted in accordance with procedures specified in Section 112.061 of the Florida Statutes governing payments by the State for travel expenses.

16.5 Construction Manager’s Project Records

The Construction Managers Project Records shall be maintained as prescribed hereinabove for the minimum period required by Federal Law, and shall be made available to the Owner or his authorized representative at mutually convenient times.

16.6 Minority Participation

The Construction Manager shall diligently attempt to award at least fifteen percent (15%) of his material contracts and subcontracts to firms having a letter of certification as a minority business.

16.7 Construction Manager’s Payment Rights

Construction Managers providing goods and services to the Owner should be aware of the following time frames. Upon receipt of an approveable invoice the Owner has thirty (30) days to inspect, approve and make payment for the goods and services.

16.8 Public Entity Crime Information Statement

"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 Construction Manager, supplier, Sub-Contractor, 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, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list."

16.9 Unauthorized Aliens

The School District shall consider the employment by any Construction Manager of unauthorized aliens a violation of section 274A(e) of the Immigration and Nationalization Act. Such violation shall be cause for unilateral cancellation of this contract.

16.10 Possession of Firearms

Possession of firearms will not be tolerated on School District property.

"Firearm" means any weapon (including a starter gun or antique firearm) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any destructive device; or any machine gun.

No person who has a firearm in their vehicle may park their vehicle on School District property. Furthermore, no person may possess or bring a firearm on School District property.

If any employee of an independent contractor or sub-contractor is found to have brought a firearm on School District property, said employee will be terminated from the School Board project by the independent contractor or sub-contractor. If the sub-contractor fails to terminate said employee, the sub-contractor’s agreement with the independent contractor for the School Board project shall be terminated. If the independent contractor fails to terminate said employee or fails to terminate the agreement with the sub-contractor who fails to terminate said employee, the independent contractor’s agreement with the School Board shall be terminated.

16.11 Criminal Acts

Employment by any Construction Manager of any employees or Trade Contractors hired by the Construction Manager with multiple felonies and / or crimes against children will not be tolerated. The Construction Manager must provide documented proof of efforts to comply with this requirement.
The Owner may declare any non-compliance or lack of diligent effort by the Construction Manager to comply as a breach of contract and immediately terminate the services of the Construction Manager.

16.12 Background Checks

All non-instructional contractors (which includes, but is not limited to all employees of the Construction Manager and all of its subcontractors, vendors, individuals, other entities, etc.) under contract with the School Board (or who receives remuneration for services performed for the School District or a school) who are permitted access on school grounds when students are present, who have direct contact with students or who have access to or control of school funds must undergo level 2 screening. Level 2 screening consists of fingerprinting and a background check, as set forth in Section 1012.32, Florida Statutes. All contractual personnel agree to undergo a background check and fingerprinting if he/she is an individual who meets any of the above conditions and to require that all employees and subcontractors of the organization who meet any of the above conditions submit to a background check, including fingerprinting by the School Board’s Police Department, at the sole cost of the Contractor. Contract personnel shall not begin providing services contemplated by the Contract until he or she receives notice of clearance by the School Board. Neither the School Board, nor its members, officers, employees, nor agents, shall be liable under any legal theory for any claim whatsoever for the rejection of the Construction Manager/Contractor (or discontinuation of the Construction Manager/Contractor’s services) on the basis of these compliance obligations. Construction Manager agrees that neither the Construction Manager, nor any employee, agent nor representative of the Construction Manager who has been convicted or who is currently under investigation for a crime delineated in Section 435.04, Florida Statutes, will be employed in the performance of this Contract. All exceptions to certain fingerprinting and criminal history checks pursuant to Section 1012.468, Florida Statutes (2007) shall apply.

16.13 Contract Disclosure

Upon written request by the School District, and upon the filing of a complaint against the Construction Manager pursuant to Palm Beach County School Board Policy 6.144, the Construction Manager agrees to provide the School District, within sixty calendar days, a truthful and complete list of the names of all subcontractors, vendors, and suppliers that the Construction Manager has used in the past five years on any and all of its contracts that were undertaken within the Palm Beach County School District relevant geographic market as defined in Board Policy 6.143, including the total dollar amount paid by the Construction Manager for each subcontract. The Construction Manager agrees to fully cooperate in any investigation conducted by the School District pursuant to this Policy. The Construction Manager understands and agrees that violation of this clause is a material breach of the contract and may result in contract termination, debarment, and other sanctions.
IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

PROJECT NAME:        THE SCHOOL BOARD OF
PROJECT NUMBER:           PALM BEACH COUNTY, FLORIDA

CONSTRUCTION MANAGER: 
TBD
Company                                                        Superintendent

By: ________________________________    Date: ______________________________
(Signature)                                                   (Name-printed)

Title: ______________________________
Date: ______________________________

Attest: ______________________________    Chairperson
Title: ______________________________
Date: ______________________________    Date: ______________________________

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

________________________________________
School Board Attorney

(CORPORATE SEAL)                          Date: ______________________________

(SEAL)

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GENERAL PROVISIONS

1.1 BASIC DEFINITIONS

1.1.1 THE CONTRACT

The Contract Documents form the Agreement for Construction Management at Risk Services. The Contract represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations or agreements either written or oral. The Contract may be amended or modified only by a Modification. Except as set forth in Article 5.3 and 5.4, the Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Architect and the Construction Manager, (2) between the Owner and a Subcontractor or Sub-subcontractor or Material Supplier or (3) between any persons or entities other than the Owner and Construction Manager. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect’s duties.

1.1.2 THE CONTRACT DOCUMENTS

The Contract Documents consist of the Owner-Construction Management at Risk Services Agreement, the Performance and Payment bonds, Notice to Proceed, Proposal, documentation submitted by the Construction Manager prior to Notice to Proceed, the documentation submitted by Construction Manager following Notice to Proceed, Conditions of the Contract, Drawings, the Project Manual, Contents of the Published Request for Proposal and all Addenda issued prior to Proposal submission deadline and all Modifications issued after. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. These form the Contract and all are fully a part of the Contract as if attached to this Owner-Construction Management at Risk Services Agreement or repeated herein. Contract Documents shall also include all items to be providing by the Construction Manager and approved by the Owner prior to issuance of a “Notice to Proceed”.

1.1.3 EXECUTION, CORRELATION AND INTENT

The Contract Documents shall be signed by the Owner and Construction Manager as provided in the Agreement. If either the Owner or Construction Manager or both do not sign all the Contract Documents, the Architect shall identify such unsigned Documents upon request of either party.

Execution of the Contract is a representation that the Construction Manager has carefully examined the Contract Documents and the site, and represents that the Construction Manager is thoroughly familiar with the nature and location of the Work, the site, the specific conditions under which the Work is to be performed, and all matters which may in any way affect the Work or its performance. The Construction Manager further represents that, as a result of such examinations and investigations, the Construction Manager thoroughly understands the Contract Documents and their intent and purpose, and is familiar with all applicable codes, ordinances, laws, regulations and rules as they apply to the Work, and that the Construction Manager will abide by same. Claims for additional time or additional compensation as a result of the Construction Manager’s failure to follow the foregoing procedure and to familiarize itself with all local conditions and the Contract Documents will not be permitted.

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Construction Manager. Contract Documents are complimentary, and what is required by any one shall be as binding as if required by all; performance by the Construction Manager shall be required only to the extent consistent with the Contract Documents and reasonable inferable from them as being necessary to produce the intended results.
In the event of conflicting provisions in the specifications or the drawings, the more specific provision will take precedence over the less specific; the more stringent will take precedence over the less stringent the more expensive item will take precedence over the less expensive. On all drawings, figures take precedence over scaled dimensions. Scaling of dimensions, if done, is done at the Construction Manager’s own risk.

Organization of the Specifications into divisions, sections and articles, and the arrangement of drawings shall not control the Construction Manager in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

1.1.4 GOVERNING LAW

The Contract shall be governed by the laws of the State of Florida; venue Palm Beach County.

1.1.5 SUCCESSORS AND ASSIGNS; ASSIGNABILITY CLAUSE

The Owner and Construction Manager respectively bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract or any rights, duties, or obligations arising thereunder in whole or in part, without the prior written consent of the other.

1.1.6 WRITTEN NOTICE

Written notice shall be deemed to have been duly served if delivered in person to the individual or a member of the firm or entity or to an officer of the corporation for which it was intended, or if delivered at or sent by registered or certified mail to the last business address known to the party giving notice. Notice may also be made by facsimile transmission. In such case, notice will be deemed received when the transmission is made. The party making such facsimile transmission shall also forward an original copy of such notice by regular mail.

1.1.7 RIGHTS AND REMEDIES

Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

No action or failure to act by the Owner, Architect or Construction Manager shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

1.1.8 ARBITRATION

Nothing arising under the Contract Documents or in connection with the performance of the Work or Project shall be subject to arbitration, nor shall any attempts at arbitration be binding on the Owner.

1.2 CLAIMS

A claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of contract terms, payment of money, extension of time or other relief with respect to the terms of the Contract. The term “Claim” also includes other disputes and matters in question between the Owner and Construction Management at Risk Services arising out of or relating to the Contract. Claims must be made by written notice within twenty (20) days after the first observance of such injury or damage and the responsibility to substantiate the claims rest with the party making the claim.
1.3 THE WORK

The term “Work” means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Construction Manager to fulfill their obligations to the Owner. The Work may constitute the whole or a part of the Project. Any item relating to the Work that requires action by the School Board shall be submitted in writing to the Owner at least thirty-five (35) days prior to a regularly scheduled board meeting in order that it may be placed on the Agenda.

1.4 THE DRAWINGS

The Drawings are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams. Record drawings will be synonymous with “As Built” Drawings.

1.5 THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the Work, and performance of related services.

1.6 THE PROJECT MANUAL

The Project Manual is the volume usually assembled for the Work which includes but is not limited to the Bidding Requirements, Sample Forms, Conditions of the Contract and Specifications.

1.7 PERFORMANCE BOND AND PAYMENT BOND REQUIREMENTS

The Construction Manager shall furnish bonds and maintain throughout the duration of the Project as provided in Florida statutes 255.05 Et. Seq. and the bond forms included in Section 00610, covering the faithful performance of the Contract and payment of all obligations arising thereunder. Bonds shall be secured by the Proposer from a surety company licensed in the State of Florida with an “A” or better in management and Class X or better in financial size by Best’s Key Rating Guide published by Alfred M. Best Company, Oldwick, New Jersey, 08858.

The successful Proposer shall be required to provide Surety Bonds in the amount of one hundred percent (100%) of the Contract amount. The required premiums shall be paid for by the successful Proposer and shall be included in the GMP as a portion of the General Conditions. In addition to the above minimum qualifications, the surety company must meet at least one of the following additional qualifications:

- The surety company shall hold a current certificate of authority as acceptable surety on federal bonds in accordance with the United State Department of Treasury Circular 570, Current Revisions. If the amount of the Bond exceeds the underwriting limitation set forth in the circular, in order to qualify, the net retention of the surety company shall not exceed the underwriting limitation in the circular and the excess risks must be protected by coinsurance, reinsurance or other methods in accordance with Treasury Circular 297, revised September 1, 1978 (31 DFR Section 223.10 section 223.111). Further, the surety company shall provide the Owner with evidence satisfactory to the Owner that such excess risk has been protected in an acceptable manner.

Time of Delivery and Form Bonds:
The Bonds shall be written on Performance Bond and Payment Bond. Both bonds shall be written in the amount of the Contract Sum and shall continue in effect for one (1) year after completion and acceptance of the Work.

The Bonds shall be dated on or before the award of the GMP.
Executed Performance Bond and Labor and Material Payment Bond, with Bond Numbers noted as required in Special Conditions, Article 10 (Section 00830). Use Bond forms provided in Contract Documents (Section 00610) with appropriate Bond Numbers. NOTE: The Bonds must be recorded in the records of Palm Beach County, Florida:

Palm Beach County Clerk of Circuit Court  
205 North Dixie Highway, Room 425  
West Palm Beach, FL 33402

The Proposer shall require the Attorney-In-Fact who executes the required Bonds on behalf of the Surety to affix thereto a certified and current copy of the Power of Attorney. The “Power of Attorney” must have a license to do business in the State of Florida.

Pursuant to the requirements of Section 255.051(1)(a), Florida Statutes, Construction Management at Risk Services shall ensure that the Bond or Bonds referenced above shall be recorded in the public records of Palm Beach County. Proof of recordation must be submitted to the Construction-Purchasing Department. Two (2) sets of originals are required.

1.8 OWNERSHIP AND USE OF ARCHITECT’S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

The Drawings, Specifications and other documents prepared by the Architect are instruments of the Architect’s service through which the Work to be executed by the Construction Manager as described. The Construction Manager may retain one (1) contract record set. Neither the Construction Manager nor any Subcontractor, Sub-subcontractor or material or equipment supplier shall own or claim a copyright in the Drawings, Specifications and other documents prepared by the Architect, and unless otherwise indicated, the Architect shall be deemed the author of them and will retain all common law, statutory and other reserved rights, in addition to the copyright. All copies of them, except the Construction Manager’s record set, shall be returned or suitably accounted for to the Architect, on request, upon completion of the Work. The Drawings, Specifications and other documents prepared by the Architect, and copies thereof furnished to the Construction Manager, are for use solely with respect to this Project.

They are not to be used by the Construction Manager or any Subcontractor, Sub-subcontractor or material or equipment supplier on other projects or for additions to this Project outside the Scope of the Work without the specific written consent of the Owner and Architect. The Construction Manager, Subcontractors, Sub-subcontractors and material or equipment suppliers are granted a limited license to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Architect appropriate to and for use in the execution of their Work under the Contract Documents. All copies made under this license shall bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents prepared by the Architect. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect’s copyright or other reserved rights. Notwithstanding the foregoing, the Owner retains certain rights to use the drawings, specifications and other documents prepared by the Architect pursuant to the Owner-Architect Agreement which shall control such use of drawings.

1.9 TESTS AND INSPECTIONS

1.9.1 Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Construction Manager shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Construction Manager shall give the Architect timely notice of when and where tests and inspections are to be made so the Architect may observe such procedures. The Owner shall bear costs of tests, inspections or approvals. The Construction Manager will provide all tools access, and cooperation to support all tests and inspections.
1.9.2 If the Architect, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Subparagraph 1.9.1 the Architect will, upon written authorization from the Owner, instruct the Construction Manager to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Construction Manager shall give timely notice to the Architect of when and where tests and inspections are to be made so the Architect may observe such procedures. The Owner shall bear such costs except as provided in Subparagraph 1.9.3.

1.9.3 If such procedures for testing, inspection or approval under Subparagraphs 1.9.1 and 1.9.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, the Construction Manager shall bear all costs made necessary by such failure including those of repeated procedures and compensation for the Architects services and expenses.

Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, will be secured by the Construction Manager and promptly delivered to the Architect.

If the Architect is to observe tests, inspections or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

1.10 INTEREST

Any monies not paid when due to either party under this contract shall not bear interest except as may be required by Section 215.422 (3) (b), Florida Statutes 2003.

1.11 CAPITALIZATION

Terms capitalized in these General Conditions include those words or terms which are (1) specifically defined, (2) the titles of numbered articles and identified references to paragraphs, subparagraphs and clauses in the document or (3) the titles of other documents published by the American Institute of Architects.

1.12 INTERPRETATION

In the interest of brevity, the Contract Documents frequently omit modifying words such as “all” and “an,” but the fact that a modifier or an article is absent from one (1) statement and appears in another is not intended to affect the interpretation of either statement.

1.13 COMMENCEMENT OF STATUTORY LIMITATION PERIOD

As between the Owner and Construction Manager, all statutory limitation periods shall be governed by Law.

1.14 SCHOOL BOARD MEETINGS

Any item relating to the work that requires action by the School Board shall be submitted in writing to the Owner at least thirty-five (35) days prior to a regularly scheduled board meeting in order that it may be placed on the Agenda.

1.15 POSSESSION OF FIREARMS

Possession of firearms will not be tolerated on School District property. “Firearm” means any weapon (including a starter gun or antique firearm) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any destructive device; or any machine gun.
No person who has a firearm in their vehicle may park their vehicle on School District property. Furthermore, no person may possess or bring a firearm on School District property.

If any employee of an independent Construction Manager or sub-contractor is found to have brought a firearm on School District property, said employee will be terminated from the School Board project by the independent contractor or sub-contractor. If the sub-contractor fails to terminate said employee, the sub-contractor’s agreement with the independent contractor for School Board project shall be terminated. If the independent contractor fails to terminate said employee or fails to terminate the agreement with the sub-contractor who fails to terminate said employee, the independent contractor’s agreement with the School Board shall be terminated.

ARTICLE 2

OWNER

2.1 DEFINITION

The Owner is The School District of Palm Beach County, Florida and is referred to throughout the Contract Documents as if singular in number. The term “Owner” means the Owner or the Owner’s authorized representative.

2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

The Owner, unless otherwise agreed, shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project and a legal description of the site.

Except for permits and fees which are the responsibility of the Construction Manager under the Contract Documents, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

Information or services under the Owner’s control shall be furnished by the Owner with reasonable promptness to avoid delay in the orderly progress of the Work.

The Construction Manager will be furnished free of charge up to 10 if necessary, copies of drawings. Additional sets will be furnished at the cost of reproduction, postage and handling.

The foregoing are in addition to other duties and responsibilities of the Owner enumerated herein and especially those in respect to Article 6 (Construction by Owner or by Separate Contractors), and Article 9 (Payments and Completion) of the General Conditions of the Contract for Construction Management at Risk Services Section 00700. Plus those in respect to Article 9 (Insurance Requirements) and Article 10 (Performance and Payment Bonds) in the Special Conditions of the Contract for Construction, Management at Risk Services Section 00830.

2.3 OWNER’S RIGHT TO STOP THE WORK

2.3.1 If the Construction Manager fails to correct Work which is not in accordance with the requirements of the Contract Documents as required or persistently fails to carry out Work in accordance with the Contract Documents or Florida Statute Chapter 1013.01 et seq Florida Administrative Code (FAC), Chapter 6A-2, Florida Building Code, and School Board of Palm Beach County Administrative Policies and Directives, copies of which as incorporated herein by reference and are available to the Contractor, the Owner, by written order signed personally or by an agent specifically so empowered by the Owner in writing, may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work, shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Subparagraph 6.1.3.
2.4 OWNER’S RIGHT TO CARRY OUT THE WORK

2.4.1 If the Construction Manager defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven (7) day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence, the Owner may, without prejudice to other remedies, correct such deficiencies. In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due the Construction Manager the cost of correcting such default, neglect or failure. Such action by the Owner and amounts charged to the Construction Manager are both subject to prior approval of the Architect. If payments then or thereafter due the Construction Manager are not sufficient to cover such amounts, the Construction Manager shall pay the difference to the Owner upon demand.

2.5 RECORDS OF CONSTRUCTION MANAGER

2.5.1 The Construction Manager shall keep full and accurate records of all costs incurred and items billed in connection with the performance of the Work, which records shall be open to audit by the Owner or its authorized representative during performance of the Work and until two (2) years after final payment. In addition, the Construction Manager shall make it a condition of all subcontracts relating to the Work that any and all Subcontractors will keep accurate records of costs incurred and items billed in connection with their work and that such records shall be open to audit by the Owner or its authorized representative during performance of the Work and until two (2) years after final payment.

2.6 SCHOOL DISTRICT PROJECT REPRESENTATIVE

2.6.1 The Owner will designate a School District Project Manager who will act as the onsite Field Representative for the Owner and fulfill duties as enumerated in the FAC, Chapter 6A-2.0111 SREF, Chapter 4, Section 4.5.

ARTICLE 3

CONSTRUCTION MANAGER

3.1 DEFINITION

3.1.1 The Construction Manager is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as singular in number. The term “Construction Manager” means the Construction Manager or the Construction Manager’s authorized representative.

3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONSTRUCTION MANAGER

3.2.1 The Construction Manager represents that the Construction Manager, subcontractors and material and equipment suppliers have compared the Architectural, Structural, Mechanical, Electrical, Plumbing, Civil and Site drawings and specifications and have compared and reviewed all general and specific details on the drawings and that all patent conflicts, discrepancies, errors and omissions have been either corrected or clarified prior to acceptance of drawings by the owner. The Construction Manager represents that the contract sum represents the total costs for complete and functional systems and, therefore, the Construction Manager’s review and comparison of all drawings have taken into consideration the total and complete functioning of all systems.

3.2.2 The Construction Manager shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies or omissions discovered shall be reported to the Architect at once.

3.2.3 The Construction Manager shall perform the Work in accordance with the Contract Documents and submittals approved pursuant to Paragraph 3.12.
3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

3.3.1 The Construction Manager shall supervise and direct the Work, using the highest quality established by industry standards. The Construction Manager shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Agreement, unless Contract Documents give other specific instructions concerning these matters.

3.3.2 The Construction Manager shall be responsible to the Owner for the acts and omissions of the Construction Manager's employees, Subcontractors and their agents and any employees and other persons performing portions of the Work under Contract with the Construction Manager.

The Construction Manager shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Agreement, or by tests, inspections or approvals required or performed by persons other than the Construction Manager. The Construction Manager shall be responsible for inspection or portions or Work already performed under this Agreement to determine that such portions are in proper condition to receive subsequent Work.

3.3.5 The Construction Manager shall inspect all materials delivered to the site and shall reject any materials that will not conform to the Contract Documents when properly installed.

3.3.6 The Construction Manager shall be responsible for and coordinate any and all inspections required by the Owner and / or Architect or any other governmental body having jurisdiction over the Project. Failure to obtain any required approval because of failure of the Construction Manager to conform to the Contract Documents shall not extend the Contract Time, and the Construction Manager shall not be entitled to an increase in the Contract Sum.

3.4 PROJECT MANAGER AND SUPERINTENDENT

3.4.1 The Construction Manager shall employ a competent Project Manager and Superintendent and necessary assistants who shall be in attendance at the project site during the performance of the Work. The Project Manager and Superintendent shall represent the Construction Manager, and all communications given to the Project Manager and Superintendent shall be as binding as if given to the Construction Manager. All communications shall be confirmed in writing.

3.4.2 The Project Manager, Superintendent and necessary Construction Superintendent(s) shall be approved by and remain acceptable to the Architect and the Owner. The Construction Manager shall provide to the Owner and Architect resumes of each Project Manager, Superintendent and necessary Assistant Superintendent(s) engaged by the Construction Manager for the Work.

3.4.3 As directed by the Architect, there is to be held at the Construction Manager's field office, a meeting of the representatives of the various trades engaged about the Work, for furthering the progress of the Work and giving of clarifications by the Architect.

3.4.4 The Construction Manager shall not change the Project Manager and Superintendent without the prior written consent of the Owner, which consent shall not be unreasonably withheld. The Project Manager and Superintendent shall be present at the job until final completion. At the Owner’s request, for good cause shown, the Construction Manager shall assign a different Project Manager or Superintendent to the Project.

3.4.5 For non-compliance with subparagraphs 3.4.1, 3.4.2, 3.4.3 and 3.4.4, the Owner may take a credit in an amount equal to the daily pay rate of the absent personnel.

3.5 LABOR AND MATERIALS

3.5.1 Unless otherwise provided in the Contract Documents, the Construction Manager shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation and other facilities and services necessary for the proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.
3.5.2 Construction Manager shall enforce strict discipline and good order among theConstruction Manager’s employees and other persons carrying out the Contract. The Construction Manager shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

3.5.3 The Construction Manager shall employ its own forces, in addition to supervision and layout, to perform not more than 20% of the Contract Sum which shall only include two (2) or more of the following: carpentry work, concrete form work, reinforcing steel work, structural steel work, miscellaneous steel work or concrete work. Prior to the Contract being awarded, the Construction Manager shall provide to the Owner, for approval, a written statement setting forth the portion of the Work the Construction Manager shall provide; once approved, no changes shall be made to this written statement without prior written approval of the Owner.

3.6 WARRANTY

3.6.1 The Construction Manager warrants to the Owner and the Architect that all materials and equipment furnished under the Contract will be of good quality and new, unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized may be considered defective. If required by the Architect, the Construction Manager shall furnish satisfactory evidence as to the kind and quality of materials and equipment. In the event of a failure or breakdown of equipment which is still under warranty, and is crucial to the operation of the school center and/or Construction Manager’s response time would be prohibitive, the Owner may effectuate repairs without voiding the warranty, and the Construction Manager shall assume all such responsibility for obtaining the Owner rights contained herein from the manufacturer of such equipment.

Where any work is performed by the Construction Manager’s own forces or by Sub-Contractors under contract with the Construction Manager, the Construction Manager shall warrant that all materials and equipment included in such Work will be new except where indicated otherwise in Contract Documents, and that such Work will be of good quality, free from improper workmanship and defective materials and in conformance with the Drawings and specifications. With respect to the same Work, the Construction Manager further agrees to correct all work found by the Owner to be defective in material and workmanship or not in conformance with the Drawings and Specifications for a period of twelve (12) months from the date of Substantial Completion or for such longer periods of time as may be set forth with respect to specific warranties contained in the trade sections of the Specifications. The Construction Manager shall collect and deliver to the Owner any specific written warranties given by others as required by the Contract Documents. Also, the Construction Manager shall conduct, jointly with the Owner and the Architect-Engineer, a warranty inspection twelve (12) months after the date of Owner Occupancy.

3.6.2 The Construction Manager represents and warrants the following to the Owner (in addition and without modification to any other representations and warranty given by the Construction Manager to the Owner) as an inducement to the Owner to enter into the Owner-Construction Manager Agreement, which representations and warranties shall survive the execution of the Contract Documents and final completion of the Work and final payment hereof:

3.6.3 The Construction Manager shall furnish the tools, materials, supplies, equipment and labor required to complete the Work and perform their obligations under the Contract Documents, and shall have sufficient experience and competence to do so;

3.6.4 The Construction Manager is authorized to do business in the State of Florida and is properly licensed by all necessary governmental, public and other authorities having jurisdiction over the Construction Manager and the Project;

3.6.5 The persons executing the Owner-Construction Manager Agreement, on behalf of the Construction Manager, are properly authorized to do so.

3.7 TANGIBLE PROPERTY

3.7.1 Tangible Property is defined as machinery, furniture and other equipment, which the District intends to hold or continue to use over a long period of time (one year or more).
3.7.2 Contractors shall be required to furnish the District (Department of Capital Assets) with detailed records of Contractor Supplied Equipment that would be classified as Tangible Property.

3.7.3 This information shall be provided on disk in Microsoft Excel format and shall include description, manufacturer, model number, installed location and contractor’s cost.

3.8 TAXES

3.8.1 The Construction Manager shall pay all sales, consumer, use and other similar taxes for the Work or portions thereof provided by the Construction Manager which are legally enacted when Bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

3.9 DIRECT MATERIAL PURCHASE PROGRAM

3.9.1 The Construction Manager shall administer a Direct Material Purchase Program. The Procedure for the Owner’s Direct Material Purchase Program is outlined in Appendix B. It shall be the responsibility of the Construction Manager to insure that all Direct Material Purchases adhere to the requirements of the Procedure and meet the qualifications of a tax exempt transaction as provided by F.S 212.08 (6) and Chapter 12A1.038 of the Florida Administrative Code. The Construction Manager shall, upon establishing the GMP for the project or any portion thereof, provide the Owner a Guaranteed Sales Tax Recovery amount as specified on the GMP Summary (Exhibit B), including a detailed outline of materials that comprise this amount. All expenses incurred to administer this Procedure will be the responsibility of the Construction Manager.

3.10 PERMITS, FEES AND NOTICES

3.10.1 Unless otherwise provided in the Contract Documents, the Construction Manager shall secure and pay for permits and governmental fees and licenses.

3.10.2 The Construction Manager shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities bearing on the performance of the Work.

3.10.3 It is not the Construction Manager’s responsibility to ascertain that the Contract Documents are in accordance with applicable laws, statutes, building codes, rules and regulations. However, if the Construction Manager observes that portions of the Contract Documents are at variance therewith, the Construction Manager shall promptly notify the Architect and Owner in writing, and necessary changes shall be accomplished by appropriate modification.

3.10.4 If the Construction Manager performs Work knowing it to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without such notice to the Architect and Owner, they shall assume full responsibility for such Work, and shall bear the attributable costs.

3.10.5 Copies of any and all permits, licenses and certificates shall be delivered to the Architect and Owner as soon as they are obtained.

3.11 CONSTRUCTION MANAGER’S CONSTRUCTION SCHEDULES

3.11.1 The Construction Manager shall prior to Board approval of Pre-construction Phase Services, submit to the Owner for approval a short-term schedule in the form of a three-month bar chart indicating the initial activities of the contract. This short-term schedule must be approved by the Owner prior to application for the first payment for Pre-construction Services.

The Construction Manager shall, prior to Board approval of the Guaranteed Maximum Price submit to the Owner a complete Construction Schedule in the form of a Critical Path Method Schedule (CPM). This and all other required schedules shall be received and approved by the Owner and Architect for their content and completeness, prior to issuing a Notice To Proceed or any payment to the Construction Manager. The schedule shall be based on a critical path analysis of the construction activities and sequential operations.
needed for the orderly performance and completion of any separable parts of or any and all Work in accordance with the Agreement. This schedule shall follow the format of “CPM in Construction Management - Project Management with CPM” or the Associated General Contractor (AGC), “The Use of CPM in Construction - A Manual for General Contractors and the Construction Industry” (Latest Edition).

The Construction Schedule shall be complete in all respects, covering, in addition to all work, activities and interfaces with the contractors at the Site of the Work, off-site activities such as design or fabrication and allowance for delays, submittals, procurement and job-site delivery of contractor furnished material and equipment. The Construction Manager shall submit a detailed written narrative describing a plan of performing work to meet the Construction Schedule.

Total construction time should be the late finish date for the final activity of the project and total milestone construction time should be the late finish date for the final activity of that milestone.

The Construction Schedule shall include the following:
(a) activities showing scheduled start and finish,
(b) brief description of each activity,
(c) Relationships between activities,
(d) indication of activities with less than one (1) month of float,
(e) contractual and other major milestones,
(f) monetary value of activity, keyed to the Schedule of Values and,
(g) the original submittal of the CPM network and each periodic update of the same shall be accompanied by a separate listing of all activities on the Schedule, which shall include the following:
   1. a listing of all activities by activity description, each identified by node or activity number,
   2. the duration of each activity
   3. the earliest start and finish dates for each activity and,
   4. float time for each activity
(h) the schedule must be updated and submitted monthly in electronic format using standard scheduling format generated by scheduling software acceptable to the Owner.

As each duration, start date, finish date, and float times of each activity become actual; it shall be noted as such on the periodic update of the activities listing. As each activity is completed, it shall be noted as such on the periodic update of the activities listing.

The Construction Manager shall promptly inform the Owner and Architect of any proposed change in the Schedule and narrative and shall furnish the Owner and Architect with a revised Schedule and narrative within ten (10) calendar days after approval by Owner and Architect of such change. The Schedule, activities listing and narrative shall be kept current, taking into account the actual progress of the Work and shall be updated and submitted to the Owner and Architect every thirty (30) calendar days.

The revised Schedule, activities listing and narrative shall be sufficient to meet the requirements for the completion of the separable parts of any and all Work, as set forth in the Contract. Monthly progress payments will not be approved until receipt by the Owner and Architect of these updates.

Based on the activities as shown on the required Schedule, a separate activities listing for monthly progress payment purposes shall contain the following data for each activity to be paid for: activity numbers, activity description, total value, percent previously paid, amount previously paid percent, the payment request for period, amount of payment requested for period, total percentage requested through current payment request, and total amount requested through payment requests.

The Construction Manager shall prepare and keep current, for the Architect’s approval, a schedule of submittals which is coordinated with the Construction Manager’s Construction Schedule and allows the Architect reasonable time to review submittals.

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The Construction Manager shall submit one electronic copy and three (30 written color copies of the approved progress schedule and one (1) written color copy to the Architect-Engineer. The approved progress schedule shall be attached with each “Application and Certificate for Payment”, and marked to show the percentage completed for each subdivision of the Work. The monthly submission shall also state the estimated total number of days ahead of or behind the Completion Date. Should the Construction Manager fail to meet the approved CPM Schedule, documentation acceptable to the Owner and Architect shall be required of the Construction Manager to show just cause for delays or for additional time requests. Failure to comply with this subparagraph shall be sufficient grounds for the Owner or Architect to find the Construction Manager in substantial default and certify that sufficient cause exists to terminate the Contract or to withhold payment to the Construction Manager until an updated Progress Schedule, acceptable to the Owner and Architect is submitted, reviewed and approved. Such failure shall not be cause for additional time. The Construction Manager shall conform to the most recently approved Schedules.

3.12 DOCUMENTS AND SAMPLES AT THE SITE

The Construction Manager shall maintain at the Site for the Owner, one (1) record copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to record changes made during construction, and in addition, approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work and before final Payment is made.

The Construction Manager shall maintain all approved permits, drawings and other documents at the site, so as to make them accessible to inspectors, the Architect and the Owner at all times that the Work is in progress.

3.13 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a subcontractor, sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Construction Manager to illustrate materials or equipment for some portion of the Work.

Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittals is to demonstrate for those portions of the Work for which submittals are required the way the Construction Manager proposes to conform to the information given and the design concept expressed in the Contract Documents. Review by the Architect is subject to the limitations of Subparagraph 4.2.7.

The Construction Manager shall review, approve and submit to the Architect, Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors.

Submittals made by the Construction Manager which are not required by the Contract Documents may be returned without action. At the time of submission, the Construction Manager shall inform the Architect in writing if the Shop Drawings, Product Data or Samples deviate from the requirements of the Contract Documents. All submissions shall be in accordance with Division One, Section 01300 of the Project Manual.

The Construction Manager shall perform no portion of the Work requiring submittal and review of Shop Drawings, Project Data, Samples or similar submittals until the respective submittal has been approved by the Architect. Such Work shall be in accordance with approved submittals.

By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Construction Manager represents that the Construction Manager has determined and verified materials and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.
The Construction Manager shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect’s approval of Shop Drawings, Product Data, Samples or similar submittals unless the Construction Manager has specifically informed the Architect in writing of such deviation at the time of submittal and the Architect has given written approval to the specific deviation. The Construction Manager shall not be relieved of responsibility for errors or omissions in the Shop Drawings, Product Data, Samples or similar submittals by the Architect’s approval thereof.

The Construction Manager shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Architect on previous submittals. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents.

When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the Architect shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

3.14 USE OF SITE

The Construction Manager shall confine operations at the Site to areas permitted by law, ordinances, permits and Contract Documents, and shall not unreasonably encumber the Site with materials or equipment.

3.15 CUTTING AND PATCHING

The Construction Manager shall be responsible for all cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

The Construction Manager shall not damage or endanger a portion of the Work or fully or partially completed construction by the Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Construction Manager shall not cut or otherwise alter such construction by the Owner, or a separate contractor, except with the written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld from the Owner or a separate contractor, the Contractor’s consent to cutting or otherwise altering the Work. In addition, all cutting and patching shall be in accordance with Division One, Section 01045 of the Project Manual.

When cutting into existing work will result in any interruption of existing utility or other services to an existing building, the Construction Manager shall provide specific notice to the Owner in sufficient time to allow the Owner to minimize or avoid the disruption of service. The Construction Manager shall fully accommodate the Owner’s reasonable needs in that regard including, but not limited to, adhering to a schedule established by the Owner for this work.

3.16 CLEANING UP

The Construction Manager shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract (see Division One, Section 01045).

At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor’s tools, construction equipment, machinery and surplus materials.

If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the cost thereof shall be charged to the General Conditions of the Guaranteed Maximum Price.

3.17 HARMONY

Construction Manager is advised and hereby agrees that he will exert every reasonable and diligent effort to assure that all labor employed by Construction Manager and his Sub-Contractors for work on the project shall work in harmony with and be compatible with all other labor being used on the site of the project.
Construction Manager further agrees that this provision will be included in all Sub-Contracts of the Sub-Contractors as well as the contractors own contract; provided, however, that this provision shall not be interpreted or enforced so as to deny or abridge, on account of membership or non-membership in any labor union or labor organization, the right of any person to work as guaranteed by Article 1, Section 6 of the Florida Constitution.

3.18 APPRENTICES

If the Construction Manager employs apprentices on the project, the behavior of the Construction Manager and the Owner shall be governed by the provisions of Chapter 446, Florida Statutes and by applicable standards and policies governing apprentice programs and agreements established by the Division of Labor of the State of Florida Department of Labor and Employment Security. The Construction Manager will include a provision similar to the foregoing sentence in each subcontract.

3.19 UNAUTHORIZED ALIENS

The School District shall consider the employment by any Construction Manager of unauthorized aliens a violation of section 174A (e) of the Immigration and Nationalization Act. Such violation shall be cause for unilateral cancellation of this contract.

3.20 ACCESS TO WORK

The Construction Manager shall provide the Owner and Architect access to the Work in preparation and progress wherever located.

3.21 ROYALTIES AND PATENTS

The Construction Manager shall pay all royalties and license fees. The Construction Manager shall defend suits or claims for infringement of patent rights and shall hold the Owner harmless from loss on account thereof, but shall not be responsible for all such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents. However, if the Construction Manager has reason to believe that the required design, process or product is an infringement of a patent the Construction Manager shall be responsible for such loss unless such information is promptly furnished to the Architect.

3.22 INDEMNIFICATION

To the fullest extent permitted by law, the Construction Manager shall defend, indemnify and hold harmless the Owner, Architect, Architect’s Consultants, and their agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys’ fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death or to injury to or destruction of tangible property including the loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 3.22.1.

In claim against any person or entity indemnified under this Paragraph 3.22.1 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 3.22.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under worker’s or workmen’s compensation acts, disability benefit acts or other employee benefit acts.
The obligations of the Construction Manager under this Paragraph 3.22.1 shall not extend to the liability of the Architect, the Architect's consultants, and agents and employees of any of them arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications, or (2) the giving of or failure to give directions or instructions by the Architect, the Architect's consultants, and agents and employees of any of them provided such giving or failure to give is the primary cause of the injury or damage.

The purchase of insurance by the Construction Manager with respect to the obligations required herein shall in no event be construed as fulfillment’s or discharge of such obligations.

None of the foregoing provisions shall deprive the Owner or the Architect of any action, right or remedy otherwise available to them or any of them by common law.

In the event that any party is requested but wrongfully refuses to honor the indemnity obligations hereunder, then the party indemnifying shall, in addition to all other obligations, pay the cost of bringing any such action, including corresponding.

3.23 DISCLOSURE OF PROJECT INFORMATION

The Construction Manager specifically acknowledges that he is aware of the potential security problems that might arise from a disclosure of the matters upon which it is working. Accordingly, he will take all actions necessary to ensure that building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of any building, arena, stadium, water treatment facility, or other structure owned or operated by the School District or any security system plans relating to any such building, arena, stadium, water treatment facility, other structure, will not be disclosed to any entities or persons except to enable that entity or person to perform work on or related to the building, arena, stadium, water treatment facility, or other structure owned or operated by the School District; or upon a showing of good cause before a court of competent jurisdiction. In addition, the Construction Manager will take all actions necessary to ensure that the entities or persons receiving such information will maintain the non-disclosure status of the information.

ARTICLE 4

ADMINISTRATION OF THE CONTRACT

4.1 DEFINITIONS

The Architect is the person lawfully licensed to practice Architecture or an entity lawfully practicing Architecture identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term “Architect” means the Architect or the Architect’s authorized representative.

Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner and Architect. Consent shall not be unreasonably withheld.

In case of termination of employment of the Architect, the Owner shall appoint an Architect and whose status under the Contract Documents shall be that of the former Architect.

Disputes arising under Subparagraphs 4.1.2 and 4.1.3 shall be subject to litigation by a court of competent jurisdiction.

4.2 ARCHITECT’S ADMINISTRATION OF THE CONTRACT

The Architect will provide administration of the Contract as described in the Contract Documents, (1) during construction, (2) until final payment is due and (3) with the Owner’s concurrence, from time to time during the correction period described in Paragraph 12.2.2. The Architect will advise and consult with the Owner. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified by written instrument in accordance with other provisions of the Agreement.
The Architect will visit the site at intervals appropriate to the stage of construction to become familiar with the progress and quality of the completed Work and to determine if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents. The Architect will be required to make on-site inspections to check quality and quantity of the Work at such intervals so as to insure conformance with the Contract Documents a minimum of two (2) times per month. On the basis of on-site observations and inspections as an Architect, the Architect will keep the Owner informed of progress of the Work, and will guard the Owner against defects and deficiencies in the Work.

The Architect will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Construction Manager’s responsibility as provided in Paragraph 3.3. The Architect will not be responsible for the Construction Manager’s failure to carry out the Work in accordance with the Contract Documents subject to the requirements in Article 4.2.2. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Construction Manager, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work subject to the requirements in Article 4.2.2.

Communications Facilitating Contract Administration. Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Construction Manager shall endeavor to communicate through the Architect.

Communications by and with the Architect’s consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

Based on the Architect’s observations and evaluations of the Construction Manager’s “Applications for Payment,” the Architect will review and certify the amounts due the Construction Manager and will issue “Certificates for Payment” in such amounts.

The Architect will have authority to reject Work which does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable for implementation of the intent of the Contract Documents, the Architect will have authority to require additional inspections or testing of the Work in accordance with Subparagraphs 1.9.2 and 1.9.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Construction Manager, Subcontractors, material and equipment suppliers, their agents or employees, or other persons performing portions of the Work.

The Architect will review and approve or take other appropriate action upon the Contractor’s submittals such as Shop Drawings, Product Data and Samples, but only for the purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

The Architect’s action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Construction Manager or separate contractors, while allowing sufficient time in the Architect’s professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Construction Manager as required by the Contract Documents. The Architect’s review of the Contractor’s submittals shall not relieve the Construction Manager of obligations under Paragraphs 3.3, 3.5 and 3.11. The Architect’s review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect’s approval of a specific item shall in no way indicate approval of an assembly of which the item is a component.

The Construction Manager shall not submit any Shop Drawing(s) that is merely a tracing or other copy of any of the Contract Documents. Each Shop Drawing must be prepared by the Contractor, a subcontractor or supplier of the Contractor. The Architect shall have the authority to reject any Shop Drawing that violates this provision, and no extension of the Contract time shall be given on account of such rejection.
The Architect will prepare Change Orders and Construction Change Directives, and may authorize minor changes in the Work as provided in Article 7.

The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of Final Completion; will receive and forward to the Owner for the Owner’s review and records written warranties and related documents required by the Contract and assembled by the Contractor; and will issue a final “Certificate for Payment” upon compliance with the requirements of the Contract Documents.

At the request of the Owner, the Architect will provide one (1) or more project representatives to assist in carrying out the Architect’s responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents or in the Architect’s Agreement with the Owner.

The Architect will interpret and decide matters concerning performance under and requirements of the Contract Documents on written request of either the Owner or Construction Manager. The Architect’s response to such requests will be made with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Paragraph 4.2.11, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until 15 days after written request is made for them.

Interpretations and decisions of the Architect will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Construction Manager, will not show partiality to either and will not be liable for results of interpretations or decisions so rendered in good faith except as permitted by law. The Architect’s decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

4.3 CLAIMS AND DISPUTES

4.3.1 A Claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with respect to the terms of the Contract. The term, “Claim”, also includes other disputes and matters in question between the Owner and Construction Manager arising out of, or relating to, the Contract. Claims must be made by written notice. The responsibility to substantiate Claims shall rest with the party making the Claim.

4.3.2 Claims, including those alleging an error or omission by the Architect shall be referred initially to the Architect for action as provided in Paragraph 4.4 and 4.5. A decision by the Architect shall be required as a condition precedent to litigation of a Claim between the Construction Manager and Owner and/or Architect as to all such matters arising prior to the date final payment is due, regardless of (1) whether such matters relate to execution and progress of the Work or (2) the extent to which the Work has been completed. The decision by the Architect in response to a claim shall not be a condition precedent to litigation in the event (1) the position of Architect is vacant, (2) the Architect has not received evidence or has failed to render a decision within agreed time limits, (3) the Architect has failed to take action required under Paragraph 4.5 within 30 days after the Claim is made or (4) 45 days have passed after the Claim has been referred to the Architect. The parties hereto waive arbitration and agree to litigate in a court of competent jurisdiction when such claims arise. Venue shall lie in Palm Beach County, Florida.

4.3.3 Time Limits on Claims. Claims by either party must be made within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be made by written notice. An additional Claim made after the initial Claim has been implemented by Change Order will not be considered.

4.3.4 Continuing Contract Performance. Pending final resolution of a Claim, unless otherwise agreed in writing, the Construction Manager shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents, except as otherwise provided herein.
4.3.5 Waiver of Claims: Final Payment. The making of final payment shall constitute a waiver of Claims by the Owner except those arising from:

(a) liens, claims, security interests or encumbrances arising out of the Contract and unsettled;
(b) failure of the Work to comply with the requirements of the Contract Documents; or
(c) terms of warranties and guarantees required by the Contract Documents; and
(d) defects in the Work.

4.3.6 Claims for Concealed or Unknown Conditions; If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then notice by the observing party shall be given to the other party promptly before conditions are disturbed, and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Construction Manager's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall so notify the Owner and Construction Manager in writing, stating the reasons. Claims by either party in opposition to such determination must be made within 21 days after the Architect has given notice of the decision. If the Owner and Construction Manager cannot agree on an adjustment in the Contract Sum or Contract Time, the adjustment shall be referred to the Architect for initial determination, subject to further proceedings pursuant to Paragraph 4.4.

4.3.7 Claims for Additional Cost. If the Construction Manager wishes to make Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Paragraph 10.3. If the Construction Manager believes additional cost is involved for reasons including but not limited to (1) a written interpretation from the Architect, (2) an order by the Owner to stop the Work where the Construction Manager was not at fault, (3) a written order for a minor change in the Work issued by the Architect, (4) failure of payment by the Owner, (5) termination of the Contract by the Owner, (6) Owner's suspension or (7) other reasonable grounds, the Claim shall be filed in accordance with the procedure established herein.

4.4 CLAIMS FOR ADDITIONAL TIME

4.4.1 If the Construction Manager wishes to make Claim for an increase in the Contract Time, written notice as provided in Article 4.3.3 shall be given. The Construction Manager's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In case of a continuing delay, only one (1) Claim is necessary.

4.4.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time and could not have been reasonably anticipated and that weather conditions had an adverse effect on the scheduled construction. For the purpose of determining weather conditions, the parties agree to use the National Climatic Center in Asheville, N.C., or such other nationally recognized sources for determining the same.

4.4.3 Injury or Damage to Person or Property. If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party or of any of the other party's employees or agents, or of others for whose acts such party is legally liable, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Subparagraphs 4.3.7 or 4.3.8.
4.5 RESOLUTION OF CLAIMS AND DISPUTES

4.5.1 The Architect will review Claims and take one or more of the following preliminary actions within 10 days of receipt of a Claim: (1) request additional supporting data from the claimant, (2) submit a schedule to the parties indicating when the Architect expects to take action, (3) reject the Claim in whole or in part, stating reasons for rejection, (4) recommend approval of the Claim by the other party, or (5) suggest a compromise.

The Owner intends to encourage the concept of “partnering” as an integral aspect of this contract, and encourages both the Construction Manager and Architect to endeavor to partner with the Owner to solve any disputes that arise during the performance of this Contract.

4.5.2 If a Claim has been resolved, the Architect will prepare or obtain appropriate documentation.

4.5.3 If a Claim has not been resolved, the party making the Claim shall, within 10 days after the Architect’s preliminary response, take one or more of the following actions: (1) submit additional supporting data requested by the Architect, (2) modify the initial Claim or (3) notify the Architect that the initial Claim stands.

4.5.4 If a Claim has not been resolved after consideration of the foregoing and of further evidence presented by the parties or requested by the Architect, the Architect will notify the parties in writing that the Architect’s decision will be made within seven (7) days, which decision shall be final and binding on the parties but subject to litigation. Upon expiration of such time period, the Architect will render to the parties the Architect’s written decision relative to the Claim, including any change in the Contract Sum or Contract Time or both. If there is a Surety and there appears to be a possibility of a Construction Manager’s default, the Architect shall notify the Surety and request the Surety’s assistance in resolving the controversy.

4.6 LITIGATION

4.6.1 Controversies and Claims are subject to Litigation. Any controversy or claim arising out of or related to the Contract or the breach thereof, shall be settled by litigation, except controversies or claims relating to aesthetic effect and except those waived as provided for in Subparagraph 4.3.5.

4.6.2 Contract Performance During Litigation. During litigation proceedings, the Owner and Construction Manager shall comply with Subparagraph 4.3.4.

4.6.3 When Litigation may be demanded. Demand for litigation of any Claim may not be made until the earlier of (1) the date on which the Architect has rendered a final written decision on the Claim, (2) the tenth day after the parties have presented evidence to the Architect or have been given reasonable opportunity to do so, if the Architect has not rendered a final written decision by that date, or (3) any of the four (4) events described in Subparagraph 4.3.2.

4.6.4 When a written decision of the Architect states that (1) the decision is final but subject to litigation and (2) a demand for litigation of a Claim covered by such decision must be made within 30 days after the date on which the party making the demand receives the final written decision, then failure to demand litigation within said 30 days period shall result in the Architect’s decision becoming final and binding upon the Owner and Contractor. If the Architect renders a decision after litigation proceedings have been initiated, such decision may be entered as evidence, but shall not supersede litigation proceedings unless the decision is acceptable to all parties concerned.

4.6.5 Notwithstanding the foregoing prior to instituting litigation the parties may submit to non-binding mediation in Palm Beach County (Florida).

ARTICLE 5

SUBCONTRACTORS

5.1 DEFINITIONS

A Subcontractor is a person or an entity that has a direct contract with the Construction Manager to perform a
portion of the Work at the Site. The term “Subcontractor” is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term “Subcontractor” does include any separate contractor or subcontractors of a separate contractor.

A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the Site. The term “Sub-subcontractor” is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

Nothing contained in the Contract Documents shall create any contractual relationship between the Owner and Subcontractor or Sub-subcontractor.

All Subcontractors and Sub-subcontractors shall have a required “Occupational License” appropriate for the location of the Work and a “Certificate of Competency” for those trades that require such Certificates.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

5.2.1 The Construction Manager, within five (5) Owner Business Days of the bid opening, shall furnish in writing to the Owner, through the Architect, the names of the persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the Work. The Owner will promptly reply to the Construction Manager in writing stating whether or not the Owner or the Architect, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner and Architect to reply promptly shall constitute notice of no reasonable objection.

5.2.2 The Construction Manager shall not contract with any such proposed person or entity to which the Owner or the Architect has made reasonable and timely objection. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has made reasonable objection.

5.2.3 Following the Solicitation of Bids, if the Owner or the Architect has reasonable objection to a person or entity proposed by the Construction Manager, the Construction Manager shall propose another to whom the Owner or the Architect has no objection. The proposed base cost for construction shall be increased or decreased by the difference in cost occasioned by such change. If necessary an appropriate construction change order shall be issued.

5.2.4 The Construction Manager shall not change a Subcontractor, person or entity previously selected if the Owner or Architect makes reasonable objection to such change.

5.3 SUBCONTRACTUAL RELATIONS

5.3.1 By appropriate agreement, written where legally required for validity, the Construction Manager shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Construction Manager by terms of the Contract Documents, and to assume toward the Construction Manager all the obligations and responsibilities which the Construction Manager, by these Documents assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Construction Manager that the Construction Manager, by the Contract Documents, has against the Owner. The Construction Manager shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Construction Manager shall make available to each proposed Subcontractor, prior to the execution of the Subcontract, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement which may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.
5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

5.4. Each subcontract agreement for a portion of the Work is assigned by the Construction Manager to the Owner provided that:

(a) Assignment is effective only after termination of the Agreement by the Owner for cause pursuant to Article 13 and only for those subcontract agreements which the Owner accepts by notifying the Subcontractor in writing;
(b) Assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract; and
(c) The Construction Manager shall promptly submit to the Owner a copy of each subcontract upon execution of same. Each subcontract shall contain a contingent assignment of the subcontract to the Owner.

ARTICLE 6

CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

6.1 OWNER’S RIGHT TO PERFORM WORK AND TO AWARD SEPARATE CONTRACTS

6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner’s own forces, or though the award of one or more separate contracts to one or more separate contractors if the scope of the work changes during the term of this Agreement and the Owner and Construction Manager are unable to agree as to the Construction Manager’s timely performance of such changed scope of work. Additionally, the Owner reserves the right to award separate Contracts in connection with other portions of the Project or other construction or operations on the Site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance waiver of subrogation. If the Construction Manager claims that delay or additional cost is involved because of such action by the Owner, the Construction Manager shall make claim as provided elsewhere in the Contract Documents and subject to the limitations as contained herein.

6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the Site, the term “Contractor” in the Contract Documents in each case, shall mean the Contractor who executes each separate Owner-Contractor Agreement.

6.1.3 The Owner shall provide for coordination of the activities of the Owner’s own forces and of each separate contractor with the Work of the Construction Manager, who shall cooperate with them. The Construction Manager shall make any revisions to the construction schedule and Contract Sum deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Construction Manager, separate contractors and the Owner until subsequently revised.

6.1.4 Unless otherwise provided in the Contract documents, when the Owner performs construction or operations related to the Project with the Owner’s own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights which apply to the Construction Manager under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.

6.1.5 Notwithstanding any other provision of the Contract Documents, should the Construction Manager sustain loss or be damaged by acts or omissions of a separate Contractor, the Owner shall not be liable for any such loss or damage and the Construction Manager shall not be entitled to obtain any monetary relief from the Owner to compensate for any such loss or damage, but shall be limited to such recovery as is otherwise available at law from persons and/or entities other than the Owner.

6.2 MUTUAL RESPONSIBILITY

6.2.1 The Construction Manager shall afford the Owner and separate contractor’s reasonable opportunity for the introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor’s and operations with theirs as required by the Contract Documents.
6.2.2 If any part of the Construction Manager's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Construction Manager shall, prior to proceeding with that portion of the Work, promptly report to the Architect apparent discrepancies or defects in such other construction that render it unusable for such proper execution and results. Failure of the Construction Manager to so report shall constitute an acknowledgment that the Owner’s or separate contractors’ completed or partially completed construction is fit and proper to receive the contractor’s Work except as to defects not then reasonably discoverable.

6.2.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefore. These are in addition to Liquidated Damages.

6.2.4 The Construction Manager shall promptly remedy damage wrongfully caused by the Construction Manager to completed or partially completed construction or to property of the Owner or separate Contractors as provided in Subparagraph 10.2.5. If such separate contractor sues the Owner on account of any damage alleged to have been caused by the Construction Manager, the Owner shall notify the Construction Manager who shall defend such proceedings at the Construction Manager's expense, and if any judgment or award against the Owner arises therefrom, the Construction Manager shall pay or satisfy it and shall reimburse the Owner for all attorney’s fees and costs which the Owner has incurred.

6.2.5 Claims and other disputes and matters in question between the Construction Manager and a separate contractor shall be subject to the provisions of Paragraph 4.3 provided the separate contractor has reciprocal obligations.

6.3.6 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Construction Manager in Paragraph 3.13.

6.3 OWNER’S RIGHT TO CLEAN UP

6.3.1 If a dispute arises among the Construction Manager, contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Paragraph 3.15, the Owner may clean up and allocate the cost among those responsible as the Architect determines to be just.

ARTICLE 7

CHANGES IN THE WORK

7.1 Changes
The Owner, without invalidating this Agreement, may order Changes in the Work within the general scope of this Agreement consisting of additions, deletions or other revisions. The GMP and the Construction Completion Date may be adjusted accordingly. All changes in the Project not covered by the authorized contingency shall be authorized by Change Order, Construction Change Directive (CCD) or order for minor change in the project, subject to any limitations stated in Article 7 or elsewhere in the Contract Documents.

7.1.1 A Change Order shall be based upon agreement among the Owner, Contractor and Architect. A CCD requires agreement by the Owner and Architect and may or may not be agreed to by the Construction Manager; and order for minor change in the Work may be issued by the Architect alone.

7.1.2 Changes in the Project shall be performed under applicable provisions of the Contract Documents, and the Construction Manager shall proceed promptly, unless otherwise provided in the Change Order, CCD or order for a minor change in work.

7.2 Change Orders

7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Construction Manager and Architect, stating their agreement upon all of the following:

1. a change in the project
2. the amount of the adjustment in the Guaranteed Maximum Price, if any; and
3. the extent of the adjustment in the Contract Time, if any.
7.2.2 The increase or decrease in the Guarantee Maximum Price resulting from a Change Order shall be determined in one or more of the following ways:
1. Cost of Labor using the rates specified by the Change Order rate Schedule (Exhibit G).
2. Cost of materials, supplies and equipment including transportation
3. Rental Costs of machinery and equipment exclusive of hand tools;
4. Costs of premiums for additional bonds and insurance, fees and taxes related to the Change.

7.2.3 If none of the methods set forth in Paragraph 7.2.2 is agreed upon, the Construction Manager, provided it receives a written order signed by the Owner, shall promptly proceed with the Work involved. The cost of such Work shall then be determined on the basis of the reasonable expenditures and savings of those performing the Work attributed to the change. However, in the event a Change Order is issued under these conditions, the Architect will establish an estimated cost of the work and the Construction Manager shall not perform any work whose cost exceeds that estimate without prior written approval by the Owner.

In such case, and also under Article 7.2.1 above, the Construction Manager shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data of the increase in the Cost of the Project as outlined in Article 9 of the Agreement. The amount of decrease in the Guaranteed Maximum Price to be allowed by the Construction Manager to the Owner for any deletion or change which results in a net decrease in cost will be the amount of the actual net decrease.

7.2.4 If unit prices are stated in the Agreement or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order that application of the agreed unit prices to the quantities of Work proposed will cause substantial inequity to the Owner or the Construction Manager, the applicable unit prices and Guaranteed Maximum Price shall be equitably adjusted.

7.3 Construction Change Directives

7.3.1 A Construction Change Directive (CCD) is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Project and stating a proposed basis for adjustment, if any, in the GMP or Contract Time, or both. The Owner may by CCD, without invalidating the Contract, order changes in the Project within the general scope of the Contract consisting of additions, deletions or other revisions, the GMP and Contract Time being adjusted accordingly. A CCD shall be used in the absence of total agreement on the terms of a Change Order. All Construction Change Directives shall be implemented per Board Policy 7.22.

7.3.2 If the CCD provides for an adjustment to the Guaranteed Maximum Price, the adjustment shall be based on one of the following methods:

1. Cost of Labor using the rates specified by the Change Order rate Schedule (Exhibit G)
2. Cost of materials, supplies and equipment including transportation
3. Rental Costs of machinery and equipment exclusive of hand tools
4. Costs of premiums for additional bonds and insurance, fees and taxes related to the Change
5. or as provided in 7.3.5

7.3.3 Upon receipt of a CCD, the Construction Manager shall promptly proceed with the change in the Project involved and advise the Architect of the Construction Manager’s agreement or disagreement with the method, if any, provided in the CCD for determining the proposed adjustment in the GMP or Contract Time.

7.3.4 A CCD signed by the Construction manager indicates the agreement of the Construction manager’s therewith, including the adjustment in the GMP and Contract Time or the method for determining them. Such agreement shall become effective immediately and shall be recorded as a Change Order.

7.3.5 If the Construction Manager does not respond promptly or disagrees with the method for adjustment in the GMP, the method and adjustment shall be determined by the Architect on the basis of reasonable expenditures and saving of those performing the work attributable to the change, including, in case of an increase in the GMP, a reasonable allowance for overhead and profit. In such case, the Construction Manager
shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of 7.3.5 shall be limited to the following:

1. Cost of labor using the rates specified by the Change Order Rate Schedule (Exhibit G)
2. Cost of materials, supplies and equipment including transportation
3. Rental costs of machinery and equipment exclusive of hand tools
4. Cost of premiums for additional bonds and insurance, fees and taxes (excluding Social Security) related to the change.

The total markup for overhead and profit among all tiers of sub-contractors for such Change in Work shall be 15% of the cost of items 1-4 above for the sub-contractor performing the Change in Work and 5% for each successively higher tier of Sub-contractor. No additional overhead and profit may be added for the cost of premiums for additional bonds and insurance, fees and taxes related to the Change in Work, if any.

The amount of credit to be allowed by the Construction Manager to the Owner for a deletion or change which results in a net decrease in the GMP will be the amount of actual net cost as confirmed by the Architect. When both additions and deletions covering the related Work or substitutions are involved in any one (1) change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

7.3.6 Pending final determination of cost to the Owner, amounts not in dispute may be included in Applications for Payment. The amount of credit to be allowed by the Construction Manager to the Owner for a deletion or change, which results in a net decrease in the GMP shall be, the actual net cost as determined by the Architect. When both additions and credits covering related work or substitutions are involved in a change, any allowance for overhead and profit shall be established as provided by Section 00510, Article 8 of the Contract Documents.

7.3.7 If the Owner and Construction Manager do not agree with the adjustment in Contract Time or the method for determining it, the adjustment or the method shall be referred to the Architect for determination.

7.3.8 When the Owner and the Construction Manager agree with the determination with the determination made by the Architect concerning the adjustments in the GMP and Contract Time, or otherwise reach agreement upon the adjustments, such agreements shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order.

7.4 Claims For Additional Cost Or Time

7.4.1 All claims for additional cost or time shall be made by request for a change order submitted as provided in this Article.

If the Construction Manager is delayed at any time in the progress of the work by any act or neglect of the Owner or the Architect or of any employee of either or by any separate Construction Manager employed by the Owner or by any changes ordered in the work by labor disputes, fire, or unusual delay in transportation, unavoidable casualties or any causes beyond the Construction Manager's control or by delay authorized by the owner pending resolution of disputes, and such delay extends the completion date, the Substantial Completion shall be extended by Change Order for such reasonable time as the Owner may determine.

Only delays, which are determined to extend the critical path of the schedule for constructing the project, will result in a time extension. Neither the Owner nor the Construction Manager shall be considered to own the schedule float time.

7.5 Minor Changes In The Project

7.5.1 The Architect-Engineer will have authority to order minor changes in the Project not involving an
adjustment in the Guaranteed Maximum Price or an extension of the Construction Completion Date and not inconsistent with the intent of the Drawings and Specifications. Such changes shall be effected by written order. Documentation of changes shall be determined by the Construction Team, included in the Project Manual and displayed monthly in the PMIS. Changes shall be approved by the Project Manager and the Architect-Engineer.

7.6 Emergencies

7.6.1 In any emergency affecting the safety of persons or property, the Construction Manager shall act at his discretion, to prevent threatened damage, injury or loss. Any increase in the Guaranteed Maximum Price or extension of time claimed by the Construction Manager on account of emergency work shall be determined as provided in Article 7.

7.7 Concealed Conditions

7.7.1 Should concealed conditions encountered in the performance of the Work below the surface of the ground or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Drawings, Specifications, or Owner furnished information or should unknown physical conditions below the surface of the ground or should concealed or unknown conditions in an existing structure of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement, be encountered, the Guaranteed Maximum Price and the Construction Completion date shall be equitably adjusted by Change Order upon a request for Change Order in accordance with Paragraph 7.2.

ARTICLE 8

TIME

8.1 DEFINITIONS

8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of Work.

8.1.1.1 The Contract Time will begin the date of award of a Notice to Proceed by the Owner which is the official action taken by the Owner.

8.1.1.2 Work on the Site will not commence until the Certificates of Insurance and Bonds are received and approved by the Owner; however, the Construction Manager's delay in providing such Certificates of Insurance and Bonds and other such requirements shall not be reason for granting of an extension of time. The Construction Manager shall carry the Work forward expeditiously with adequate forces and achieve Substantial Completion within the Contract Time.

8.1.1.3 Final Completion of the Project is defined in Article 9.10, Paragraph 9.10.1.

8.1.2 The date of commencement of the Work is the date established in the Notice of Proceed. The date shall not be postponed by the failure to act of the Construction Manager or of persons or entities for which the Construction Manager is responsible.

8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Paragraph 9.8.

8.1.4 The term “day” as used in the Contract Documents shall mean “calendar day,” unless otherwise specifically designated.

8.1.5 The term “delay” as used in the contract documents shall include “delay”, “acceleration”, and “inefficiency” claims unless otherwise specifically designated.

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8.2 PROGRESS AND COMPLETION

8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Construction Manager confirms that the Contract Time is a reasonable period for performing the Work.

8.2.2 The Construction Manager shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 13, Section 00510 of the Contract Documents to be furnished by the Construction Manager. The date of commencement of the Work shall not be changed by the effective date of such insurance. Unless the date of commencement is established by a notice to proceed given by the Owner, the Construction Manager shall notify the Owner in writing, not less than five (5) days or other agreed period before commencing the Work, to permit the timely filing of mortgages, mechanic's liens and other security interests.

8.2.3 The Construction Manager shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

8.2.4 All time limits stated in the Contract Documents are of the essence to the Contract.

8.2.5 The Construction Manager shall begin the Work on the date of commencement as defined in Subparagraphs 8.1.1.1 and 8.1.1.2, shall carry the Work forward expeditiously with adequate forces, and shall complete it within the Contract Time.

8.2.6 Construction Manager’s request for Substantial Completion Inspection, to establish a punch list, shall mean that all work is complete and properly installed. If, at this time, the Architect indicates that the job is not ready or is incomplete, the inspection will be cancelled and rescheduled. Re-inspection costs for Architect/Architect visitations will be borne by the Construction Manager.

8.3 DELAYS AND EXTENSIONS OF TIME

8.3.1 If the Construction Manager is delayed at any time in the progress of the Work by neglect of the Owner or the Architect, or by any separate contractor employed by the Owner, or by changes ordered in the Work or by labor disputes, fire, or by any other cause which the Architect determines may justify the delay, then the Contract time shall be extended by Change Order for such reasonable time as the Architect may determine.

An extension of Contract time will not be given due to weather conditions, unless such weather conditions (wind or rain) for any 30 day period are on the average for the 30 days more severe than the average for the same 30 day period for the previous 10 years, and caused a delay. In requesting an extension of time for weather conditions, Construction Manager shall present complete records and averages referred to above, and such requests shall document how the weather conditions delayed the progress of the Work. See reference Paragraph 4.4.

8.3.2 Any claim for extension of time shall be made in writing to the Owner not more than 21 days after the commencement of the delay, otherwise it shall be waived. In each written request for extension of time the following information shall be provided, as a minimum. Failure to submit such information shall constitute a just cause for denial of the claim for extension of time:

(a) Nature of the delay;
(b) Dates of commencement/cessation of the delay;
(c) Activities on the current progress schedule affected by the delay;
(d) Identification of the source of delay;
(e) Anticipated impact and extent of the delay;
(f) Recommended action to minimize the delay; and
(g) Schedule analysis of the delay using the CPM.

Any additional claim made after the initial claim has been implemented by Change Order shall not be considered. Pending final resolution of a claim, request for extension of time, or Change Order, the...
Construction Manager shall proceed diligently with the performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. In the case of a continuing delay only one claim is necessary. The Construction Manager shall provide an estimate of the probable effect of such delays on the progress of the Work.

8.3.3 If no agreement is made stating the dates upon which interpretations are to be made then no claim for delay shall be allowed on account of failure to furnish such interpretation until 15 days after written request is made for them, and not then unless such claim is reasonable.

8.3.4 The Construction Manager shall not be entitled to any extensions of time for delays resulting from any such causes unless it shall have notified the Architect in writing within 21 days after the commencement of such cause of the occurrence thereof and of the probable duration thereof. The Construction Manager shall not be entitled to and hereby waives, any and all damages which it may suffer by reason of delay, for any Act of God or unforeseen condition, and waives all damages which it may suffer by reason of such delay including lost profits, overhead, supervision, home office, the extension of time granted herein being the Construction Manager's sole remedy.

8.3.5 Extensions of time shall be the Construction Manager's sole remedy for any and all delays. No payment or compensation of any kind shall be made to the Construction Manager for damages because of hindrance in the orderly progress of the Work or delay from any cause in the progress of the Work, whether such hindrances or delays are avoidable or unavoidable, reasonable or unreasonable, anticipated or unanticipated. Construction Manager expressly agrees not to make, and hereby waives any claim for damages on account of any delay, obstruction, or hindrance for any cause whatsoever, including but not limited to the aforesaid causes and agrees that the Construction Manager's sole right and remedy in the case of any delay shall be an extension of the time fixed for completion of the Construction Contract. Without limitation, the Owner's exercise of its rights under the changes, clauses, regardless of the extent or number of such changes, shall not under any circumstances be construed as compensable delays, it being acknowledged that the Construction Contract amount includes and anticipates any and all delays whatsoever from any cause, whether such delays be avoidable or unavoidable, reasonable or unreasonable, anticipated or unanticipated.

8.3.6 In the event it shall be determined by a Court of competent jurisdiction that the preceding provision is inapplicable or unenforceable for any reason or cause, then the Construction Manager shall be entitled to a maximum sum of $200 per day for each day it is actually delayed by the action of or neglect of the Owner or A/E or by changes in the Work, or by any other cause of delay which is attributable to the Owner or A/E and beyond the Construction Manager's control, avoidance or mitigation and without the fault or negligence of the Construction Manager and/or Subcontractor or supplier at any tier. This provision contemplates anticipated and actual loss caused by any delay and the difficulty in proving the loss.

8.4 FAILURE TO COMPLETE THE WORK ON TIME

8.4.1 It is mutually agreed by and between the parties hereto that time shall be an essential part of this Contract, including, without limitation, the time for achieving Substantial Completion as defined herein. The parties agree that in case of the failure on the part of the Construction Manager to achieve scheduled Substantial Completion as set forth in the Notice To Proceed, the Owner will be damaged thereby; and the amount of said damages, inclusive of expenses for inspection(s), as well as additional and necessary traveling expenses being difficult if not impossible of definite ascertainment and proof, it is hereby agreed that the amount of such damages shall be (see Table 1-Schedule for Liquidated Damages) as liquidated damages for every calendar days delay in achieving Substantial Completion; and the Construction Manager hereby agrees that said sum shall be deducted from monies due the Construction Manager under the contract or if, insufficient money is then due, the Construction Manager hereby agrees to pay to the Owner as liquidated damages and not by way of penalty, such total sum as shall be due. It is also expressly agreed that these liquidated damages do not include any additional fees which may be charged the Owner by any third party as a result of the failure to achieve Final Completion within the required time and the Construction Manager shall reimburse the Owner such additional fees and charges in addition to the liquidated damages established in this Agreement.
8.4.2 It is mutually agreed by and between the parties hereto that time shall be an essential part of this Contract, including, without limitation, the time for achieving Final Completion as defined herein. The parties agree that in case of the failure of the parties to achieve scheduled Final Completion as set forth within the Notice To Proceed within (see Table 2-Schedule for Liquidated Damages) days of the date of Substantial Completion, the Owner will be damaged thereby; and the amount of said damages, inclusive of expenses for inspection(s), as well as additional personal superintendence, and necessary traveling expenses being difficult if not impossible of definite ascertainment and proof, it is hereby agreed that the amount of such damages shall be sum of (see Table 2-Schedule for Liquidated Damages) as liquidated damages for every calendar days delay in achieving Final Completion in excess of the number of calendar days prescribed; and the Construction Manager hereby agrees that said sum shall be deducted from monies due the Construction Manager under the contract or if, insufficient money is then due, the Construction Manager hereby agrees to pay to the Owner as liquidated damages and not by way of penalty, such total sum as shall be due. It is also expressly agreed that these liquidated damages do not include any additional fees which may be charged the Owner by any third party as a result of the failure to achieve Final Completion within the required time and the Construction manager shall reimburse the Owner such additional fee and charges in addition to the liquidated damages established in this Agreement.

8.4.3 In further recognition of the adverse impact of delay on the Owner, the Construction Manager recognizes that the Owner, in addition to assessing liquidated damages, may notify the Construction Manager’s bonding company of the failure to achieve Final Completion.

8.4.4 The Construction Manager further recognizes that it may have to perform its Final Completion work in a manner compatible with the on-going operation of the school which may result in access to areas where work is needed being denied or limited. The Construction Manager expressly agrees that such denial or limitation of access is an anticipated event and that such denial or limitation will not excuse the timely performance of the Construction Manager nor shall it be grounds for any claim for additional time and/or costs, such being expressly waived and relinquished.

8.4.5 In the event that the Construction Manager shall have achieved Substantial Completion before the date required by the contract documents, those days shall be added to the number of days available to the Construction Manager to attain Final Completion before liquidated damages shall commence.

Table 1- Schedule for Liquidated Damages

<table>
<thead>
<tr>
<th>Cost of Construction</th>
<th>Liquidated Damages</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 to $20,000,000.</td>
<td>$ 5,000 per day</td>
</tr>
<tr>
<td>$20,000,001. to $40,000,000.</td>
<td>$ 6,000 per day</td>
</tr>
<tr>
<td>In excess of $40,000,000.</td>
<td>$ 7,000 per day</td>
</tr>
</tbody>
</table>

Table 2- Schedule for Liquidated Damages

<table>
<thead>
<tr>
<th>Cost Of Construction</th>
<th>Days from Substantial Completion</th>
<th>Liquidated Damages</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 to 20,000,000.</td>
<td>90</td>
<td>$ 500 per day</td>
</tr>
<tr>
<td>$20,000,001. to $40,000,000.</td>
<td>120</td>
<td>$ 700 per day</td>
</tr>
<tr>
<td>In excess of $40,000,000.</td>
<td>150</td>
<td>$ 900 per day</td>
</tr>
</tbody>
</table>
ARTICLE 9

PAYMENT AND COMPLETION

9.1 GUARANTEED MAXIMUM PRICE

9.1.1 The Guaranteed Maximum Price is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Construction Manager for performance of the Work under the Contract Documents.

9.2 SCHEDULE OF VALUES

9.2.1 Before the first “Application and Certificate for Payment,” the Construction Manager shall submit to the Owner for approval a “Schedule of Values” in such a form, Schedule of Values SD 703 (PBSD 2349) as the Owner may require. The “Schedule of Values” document shall be arranged in accordance with the Construction Specification Institute (CSI) format as outlined by Divisions 1-16 of the completed Exhibit B of the GMP.

The data within the Schedule of Values must be supported by actual data from all subcontracts, Divisional surplus data (each identified and then re-routed to Contingency and included in Contingency log), brief descriptions of all unpurchased scope with estimates organized by respective Division category (each unpurchased scope within each Division may be identified in a separate line item), and any other data to substantiate its accuracy. As subcontracts are executed, the Schedule of Values is to be updated monthly. Form PBSD 2349 shall be used as a basis for reviewing the Construction Manager’s “Application for Payment.”

9.3 APPLICATION FOR PAYMENT

9.3.1 At least twenty-five (25) business days before the date the Construction Manager desires a progress payment, the Construction Manager shall submit to the Architect four (4) notarized copies of the “Application and Certificate for Payment,” (Application) on Form PBSD 2354 supported by such data substantiating the Construction Manager’s right to payment as the Owner may require, and reflecting retainage as provided elsewhere in the Contract Documents.

The following items shall be submitted with each Application:

- Professional & Construction Services Utilization Report (Form PBSD 1528)
- Partial Release of Claims & Waiver of Claims/or Verification of Payment (Form PBSD 1620)
- Subcontractor Reconciliation (Form PBSD 2350)
- Subcontractor Change Order Matrix-Construction Change Authorization (Form PBSD 2351)
- Subcontractor Change Order Matrix-Construction Change Directive (Form PBSD 2352)
- Subcontractor Change Order Allowance Matrix (Form PBSD 2353)
- Allowance Use (Form PBSD 2348)
- Anticipated Cost Report
- CCA Log
- CCD Log
- DPO Log
- Allowance Log
- Periodic Performance Evaluation (PPE) for the time period covered by the Application

Failure to comply with the requirements of this paragraph shall be grounds for the Owner to reject the Application.

9.3.1.1 An Application may include requests for payment on account of Changes in the Work, which have been properly authorized by Construction Change Directives, but not yet included in Construction Change Orders.
9.3.1.2 An Application may not include requests for payment for amounts the Construction Manager does not intend to pay to a subcontractor or material supplier because of a dispute or other reason.

9.3.1.3 Until the Work reaches Substantial Completion, the Owner shall pay the amount due the Construction Manager on account of progress payments less retainage as described in Article 11, Section 00510. At the time Work reaches said Substantial Completion, the Architect may recommend to the Owner that the retainage be reduced. Retainage on phased projects may be reduced as the phases attain Substantial Completion. After all Contract Document requirements for Final Completion have been met, the Architect will recommend to the Owner that the retainage to be released, less any set-offs which the Owner may have against the Construction Manager, which shall include, but not be limited to, claims for incomplete work and claims by third parties. In addition, reduction of retainage shall be in accordance with the Owner/School Board Policies and Directives, copies of which are available to the Construction Manager.

9.3.2 Unless otherwise provided in the Contract Documents, payments may be made at the discretion of the Owner on account, for materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a bonded and insured location as agreed upon in writing. Payment for materials or equipment stored on or off the site shall be conditioned upon compliance by the Construction Manager with procedures satisfactory to the Owner to establish the Owner’s title to such materials and equipment or otherwise protect the Owner’s interest, and shall include applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

9.3.3 The Construction Manager warrants that title to all Work covered by an “Application for Payment” will pass to the Owner no later than the time of payment. The Construction Manager further warrants that upon submittal of an “Application for Payment” all Work for which “Certificates for Payment” have been previously issued and payments received from the Owner shall, to the best of the Construction Manager’s knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Construction Manager, Subcontractors, material suppliers or other persons or entities making a claim by reason of having other person or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

9.3.3.1 Following receipt of the first payment and prior to the receipt of each subsequent payment, the Construction Manager shall furnish the Owner with satisfactory evidence that all labor and materials furnished through the date of the preceding requisition for payment have been fully paid, less the retained percentage. At any time, the Owner may require proof of payment to the Subcontractors and Suppliers in a form acceptable to the Owner be submitted by the Construction Manager with the “Application for Payment.” If any Subcontractor or Supplier is not paid, the Construction Manager shall supply written explanation for such nonpayment, with the “Application for Payment.” Failure to comply with the above may result in payment being withheld.

9.4 CERTIFICATES FOR PAYMENT

9.4.1 The Architect will, within five (5) Owner business days after receipt of the Construction Manager’s Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Construction Manager, for such amount as the Architect and Owner determines is properly due, or notify the Construction Manager in writing of the reasons for withholding certification in whole or in part as provided in Subparagraph 9.5.1.

9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect’s observations and/or inspections at the Site and the data comprising the Application for Payment, that the Work has progressed to the point indicated and that, to the best of their knowledge, information and belief, the quality of the Work is in accordance with Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests and inspections, to minor deviations from the
Contract Documents correctable prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Construction Manager is entitled to payment in the amount certified.

However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures.

**9.5 DECISIONS TO WITHHOLD APPLICATION AND CERTIFICATE FOR PAYMENT**

**9.5.1** The Architect may decide not to certify payment and may withhold a “Certificate for Payment” in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect’s opinion the representations to the Owner required by Subparagraph 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Construction Manager and Owner as provided in Subparagraph 9.4.1. If the Construction Manager and the Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also decide not to certify payment or, because of subsequently discovered evidence or subsequent observations, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect’s opinion to protect the Owner from loss because of:

(a) Defective Work not remedied;
(b) Third party claims filed or reasonable evidence indicating probable filing of such claims;
(c) Failure of the Construction Manager to make payments properly to Subcontractors for labor, materials or equipment within ten (10) days;
(d) Reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
(e) Damage to the Owner or another contractor;
(f) Reasonable evidence that the Work will not be completed within the Contract Time and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
(g) Persistent failure to carry out the Work in accordance with the Contract Documents,
(h) Rejection of the Work or any part of the Work by any governmental authority having jurisdiction over the Project;
(i) Failure of the Construction Manager to comply with 9.3.3.1 and 5.2.4.
(j) Failure to properly fill out Owner forms required for payment.
(k) Failure to maintain and submit, as required, up-to-date and accurate record documents and schedules.

**9.5.2 PROMPT PAYMENT TO SUBCONTRACTORS, MATERIALMEN AND SUPPLIERS**

Upon receipt of payment from the Owner, the Construction Manager shall, within ten (10) days of receipt of payment, make payment to all subcontractors/subconsultants for which payment has been remitted by the Owner. If a Construction Manager fails to pay a subcontractor, after ten (10) days from being paid by the Owner on a previous draw, and no legitimate disputes exist as determined by the Architect, then such event shall thus be considered a default under the Contract Documents, and the Architect shall be requested not to certify any further payments to the Construction Manager. This provision shall apply to as well as material men and suppliers of the Construction Manager. Notwithstanding the foregoing, this shall not confer any third party beneficiary rights to the subcontractors, material men and suppliers. Further, this shall be considered an act of default by the Construction Manager.

**9.5.3** When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.
9.5.4 In the event the Construction Manager disputes any determination of the Architect with respect to any Application and Certificate for Payment, the Construction Manager shall never the less continue to diligently prosecute the Work.

9.5.5 Upon receipt of payment from the Owner, the Construction Manager shall insure that, within seven (7) days of the subcontractor’s receipt of payment from the Construction Manager, the subcontractor shall make payment to all of their subcontractors (sub-subcontractor) for which payment has been remitted by the Owner. If a subcontractor fails to pay a sub-subcontractor, after seven (7) days from being paid by the Construction Manager on a previous payment, and no legitimate disputes exist as determined by the Architect, then such event may thus be considered a default under the Contract Documents.

9.6 PROGRESS PAYMENTS

9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

9.6.2 The Construction Manager shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Construction Manager on account of such Subcontractor’s portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Construction Manager on account of such Subcontractor’s portion of the Work. The Construction Manager shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in similar manner.

9.6.3 The Architect will, on request, furnish to a Subcontractor, if practical, information regarding the percentages of completion or amounts applied for by the Construction Manager and action taken thereon by the Architect and Owner on account of portions of work done by such Subcontractor.

9.6.4 Neither the Owner nor the Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law.

9.6.5 A “Certificate for Payment,” a Progress Payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents, nor abrogate liquidated damages claim.

9.7 FAILURE OF PAYMENT

9.7.1 If the Architect does not issue a Certificate for Payment, through no fault of the Construction Manager, within five (5) Owner Business Days after receipt of the Construction Manager’s “Application for Payment,” or if the Owner does not pay a Construction Manager within 15 Owner Business Days after the date established in the Contract Documents any amount certified by the Architect, then the Construction Manager may, after written notice to the Owner and Architect, stop work after 14 additional days until payment of the amount owing has been received, unless otherwise provided by this Agreement.

9.8 SUBSTANTIAL COMPLETION

9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use. All warranties and guaranties shall begin the next day.

9.8.2 When the Construction Manager considers that the Work is substantially complete as defined in Subparagraph 9.8.1, the Construction Manager shall notify the Architect and Owner. If the Architect and Owner, on the basis of an inspection, determine that the Work and the requirements of the Contract Documents are substantially complete, the Architect will then prepare a Certificate of Substantial Completion (G704) for the Owner, which shall establish the Date of Substantial Completion. Time involved in obtaining Substantial Completion beyond the date established therefore shall be subjected to the assessment of Liquidated Damages. At the time of Substantial Completion, the Owner will request that the State Department 00700-35
of Education conduct its inspection to determine that the facility is in compliance with statutes, rules, and codes affecting the health and safety of the occupants, and issue a Facility Occupancy Certificate, FAC 6A-2.023-5 SREF, Forms OEF 110B (Certificate of Occupancy) and 209 (Certificate of Final Inspection). The Department of Education will determine that the facility is in compliance with statutes, rules and codes affecting the health and safety of the occupants.

**9.8.3** When the Construction Manager notifies the Owner and the Architect that the Work is substantially complete, the Architect, Owner and the Construction Manager will inspect the Project. If it is apparent that many items of the Work and the requirements of the Contract Documents are not complete, no further inspection will be made. At the time that the Project is Substantially Complete and ready for inspection, the Architect, Owner and the Construction Manager will jointly inspect the Work and develop a comprehensive list of all items that are required for satisfactory final completion of the Project.

Following that joint inspection, the Architect shall provide to the Construction Manager and the Owner a comprehensive list of items that must be rendered complete, satisfactory and acceptable the construction services purchased by the School Board. The list must be provided within thirty (30) days if the Project construction cost is Ten Million Dollars ($10,000,000) or less and within sixty (60) days if the Project construction cost is more than Ten Million Dollars ($10,000,000). The Construction Manager shall have the time permitted by this contract to fully satisfy and complete that list or shall pay the liquidated damages set forth herein. The failure to include any corrective work or pending items not yet completed on the list does not alter the responsibility of the Construction Manager to complete all the construction services purchased pursuant to the contract.

Upon proper and satisfactory completion of the Work identified on the list, and the satisfaction of all non-construction requirements such as but not limited to, providing the appropriate warranties and other required documentation set forth in Paragraph 9.10, the Construction Manager may submit a payment request for all remaining retainage being withheld by the Owner. If a good faith dispute exists as to whether one or more of the items identified on the list have been completed in accordance with the contract, the Owner will continue to withhold an amount not to exceed 150 percent of the total costs to complete the Work.

Should the Construction Manager, in whole or in part, fail to cooperate in the inspection and preparation of the final completion list of Work or should the Construction Manager fail to perform its contractual responsibilities with regard to the development of the list, the Owner will not pay or process any payment request for retainage.

**9.9 PARTIAL OCCUPANCY OR USE**

**9.9.1** The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Construction Manager, provided such occupancy or use is consented to by the insurer and authorized by the Architect. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Construction Manager have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. Nothing herein shall require the Owner and/or Architect to reduce retainage.

When the Construction Manager considers a portion substantially complete, the Construction Manager shall prepare and submit a list to the Architect as provided under Subparagraph 9.8.2 Consent of the Construction Manager to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Construction Manager or, if no agreement is reached, by decision of the Architect. If the Owner occupies any of the facility as provided herein, nothing shall relieve the Construction Manager from liquidated damages as provided in this Agreement unless provided in writing by the Owner.
It is expressly understood and agreed that the Construction Manager shall not be entitled to any damages or compensation from the Owner or be reimbursed for any losses on account of any delay or delays resulting from the Owner’s partial occupancy of the Work. Upon the Construction Manager’s request for a Change Order (for time only), the Architect shall determine the number of days the Construction Manager has been delayed, and shall promptly issue a Change Order to the Construction Manager for the appropriate number of days delay.

9.9.2 Immediately prior to such partial occupancy or use, the Owner, Construction Manager and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

9.10 FINAL COMPLETION AND FINAL PAYMENT

9.10.1 When the Work and the requirements of the Contract Documents are fully and finally completed, the Architect shall certify Final Completion to the Owner, and after Board acceptance the Owner shall make final payment to the Contractor, subject to any set-offs as permitted in the Agreement.

9.10.2 The Architect shall prepare two (2) copies of the “Certificate of Final Inspection,” OEF Form 209, on forms provided by the Owner and return forms to the Owner for approval. Upon approval, the Owner shall then submit the “Certificate of Final Inspection” to the State Department of Education. The Owner shall make Final Payment to the Construction Manager after all legal and contractual requirements are met.

9.10.3 The Final Payment shall be due when the Construction Manager submits to the Architect (1) a notarized affidavit (Final Release, PBSD 1621) that all Subcontractor payrolls, bills for materials and equipment, and other indebtedness connected with the Work, have been paid or otherwise satisfied, (2) consent of surety to final payment, (3) warranties and guarantees, (4) operational manuals, (5) record drawings, (6) sign off of extra materials and all other items pertaining to close out, and (7) updated Performance and Labor & Materials Payment Bonds covering the total value of the project (Send to: The School District of Palm Beach County, Construction Purchasing Department, 3661 Interstate Park Road North, Building 200, Riviera Beach, FL 33404). The acceptance of Final Payment shall constitute a waiver of all claims by the Construction Manager except those previously made in writing and identified by the Construction Manager as unsettled at the time of Final “Application and Certificate for Payment.”

9.10.4 The making of final payment shall not constitute a waiver of any claims by the Owner and shall not relieve the Construction Manager of the responsibility for negligence, defects of manufacture, faulty materials, or workmanship to the extent within the period provided by law and by the warranties provided herein; and upon written notice by the Owner, the Construction Manager shall remedy any defects due thereto and pay all expenses for any damages to other work resulting therefrom.

9.10.5 Written Guarantee: The Construction Manager shall and does hereby guarantee the Work and shall remedy any defects due to faulty materials or workmanship which appear within one (1) year, unless a longer period is specified in the Contract Documents, from the date specified as the date for Substantial Completion. Neither the final payment nor any provisions in the Contract Document shall relieve the Construction Manager of the responsibility for negligence, defects of manufacture, faulty materials, or workmanship to the extent within the period provided by law and upon written notice they shall remedy any defects due thereto and pay all expenses for any damages to other work resulting therefrom. If any lien or claim remains unsatisfied after all payments are made, the Construction Manager shall refund to the Owner all monies that the latter may be compelled to pay in discharging such liens or claims, including all costs and reasonable Attorney’s fees. Any Subcontractor may seek relief from the Surety and Construction Manager under Florida Statute 255.05.

9.10.5 Data Furnished by the Contractor: During the Work and prior to receiving Final Payment, the Construction Manager shall furnish to the Architect for transfer onto the record drawings one (1) complete set of “record” drawings acceptable to the Architect and Owner, indicating all construction changes and actual locations which are at variance with the original drawings.

00700-37
9.10.7 At the completion of the Work and prior to receiving Final Payment, the Construction Manager shall furnish to the Architect for delivery to the Owner all bonds, warranties, guarantees, manuals and operating instructions and a complete list of equipment installed in the Project showing manufacturer, location, model numbers and cost.

9.10.8 At the completion of the Work and prior to receiving final payment, the Construction Manager shall furnish to the Architect a Schedule of Maintenance, stating frequency and type of service for each piece of equipment.

9.10.9 At the completion of the Work and prior to receiving Final Payment, the Construction Manager and Subcontractor shall instruct the Owner how to use all equipment and systems in the Project and supply appropriate instruction manuals.

ARTICLE 10

PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECAUTIONS AND PROGRAMS

10.1.1 The Construction Manager shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

10.1.2 In the event the Construction Manager encounters hazardous materials on the Site, the Construction Manager shall immediately stop Work in the area affected and report the condition to the Owner and the Architect in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Construction Manager if, in fact, the material or removal has not been rendered harmless. The Work in the affected area shall be resumed when it has been rendered harmless, by written agreement of the Owner and Contractor, or in accordance with final determination by the Architect on which litigation has not been demanded, or by litigation under Article 4.

10.1.3 The Construction Manager shall not be required pursuant to Article 7 to perform without consent any Work relating to hazardous materials.

10.1.4 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Construction Manager, Architect, Architect’s consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to reasonable attorney’s fees, arising out of or resulting from performance of the Work in the affected area if in fact the material has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom, but not only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner or anyone for whose acts claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in the Subparagraph 10.1.4. The indemnification herein is subject to Florida Statute 768.28.

10.2 SAFETY OF PERSONS AND PROPERTY

10.2.1 The Construction Manager shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:

(a) Employees on the Work and all other persons who may be affected thereby;

(b) The Work and materials and equipment to be incorporated therein, whether in storage on or off the Site, under care, custody or control of the Construction Manager or Contractor's Subcontractors or Sub-subcontractors;
(c) Other property at the Site and adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction;

10.2.2 All alcoholic beverages, smoking and drugs shall be prohibited from the Project site.

10.2.3 All workers on the Project site shall wear appropriate and uniform-like attire and shall have visible identification as being employees of the Construction Manager or Subcontractor. (for example, all employees wear same color shirts).

10.2.4 The Construction Manager shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on the safety of persons or property their protection from damage, injury or loss in accordance with CFR/29 Code of Federal Register, Part 1926.

10.2.5 The Construction Manager shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying Owners and users of adjacent sites and utilities.

10.2.6 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for the execution of the Work, the Construction Manager shall exercise utmost care and carry on such activities under the supervision of properly qualified personnel.

10.2.7 The Construction Manager shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Clauses 10.2.1. (b) and (c) caused in whole or in part by the Construction Manager, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Construction Manager is responsible under Clauses 10.2.1 (b) and 10.2.1 (c), except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them or by anyone by whose acts either of them may be liable and not attributable to the fault or negligence of the Construction Manager. The foregoing obligations of the Construction Manager are in addition to any other obligations of the Construction Manager including Paragraph 3.17.

10.2.8 The Construction Manager shall designate a responsible member of the Contractor’s organization at the Site whose duty shall be prevention of accidents. This person shall be the Contractor’s Superintendent unless otherwise designated by the Construction Manager in writing to the Owner and Architect.

10.2.9 The Construction Manager shall not load or permit any part of the construction or site to be loaded so as to endanger the site safety.

10.2.10 The Construction Manager shall promptly report to the Architect and Owner in writing and by telephone all accidents arising out of or in connection with the Work that cause death, serious personal injury or major property damage. In addition, the Construction Manager shall be required to notify the Owner of all recordable accidents. (See Florida Department of Labor and Employment Security, Division of Worker’s Compensation on LES Form DWC-1 (1/91) with monthly pay requests.

10.3 EMERGENCIES

10.3.1 In any emergency affecting the safety of persons or property, the Construction Manager shall act at the Construction Manager’s discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Construction Manager on account an emergency shall be determined as provided in Paragraph 4.3 and Article 7.
ARTICLE 11

UNCOVERING AND CORRECTION OF WORK

11.1 UNCOVERING OF WORK

11.1.1 If a portion of the Work is covered contrary to the Architect’s or Owner’s request or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the Architect, be uncovered for the Architect’s observation and/or inspection be replaced at the Contractor’s expense without change in the Contract Time.

11.1.2 If a portion of the Work has been covered which the Architect or Owner has not specifically requested to observe or inspect prior to it’s being covered, the Architect or Owner may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall be made by appropriate Change Order.

11.2 CORRECTION OF WORK

11.2.1 The Construction Manager shall promptly correct Work rejected by the Architect or Owner or failing to conform to the requirements of the Contract Documents, whether observed before or after the Substantial Completion and whether or not fabricated, installed or completed. The Construction Manager shall bear costs of correcting such rejected Work, including additional testing and inspections and compensation for the Architect’s services and expenses made necessary thereby.

11.2.2 If, within one (1) year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties and guarantees established under Subparagraph 9.10.5, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Construction Manager shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Construction Manager a written acceptance of such condition. This period of one (1) year shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work.

11.2.3 The Construction Manager shall remove from the site any portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Construction Manager nor accepted by the Owner.

11.2.4 If the Construction Manager fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Construction Manager does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect, the Owner may remove it and store the salvable materials or equipment at the Contractor’s expense. If the Construction Manager does not pay costs of such removal and storage within 10 days after written notice, the Owner may upon 10 additional days written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, including compensation for the Architect’s services and expenses made necessary thereby. If such proceeds of sale do not cover costs which the Construction Manager should have borne, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Construction Manager are not sufficient to cover such amount, the Construction Manager shall pay the difference to the Owner.

11.2.5 The Construction Manager shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, by the Owner or separate contractors caused by the Contractor’s correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

11.2.6 Nothing contained in this Paragraph 12.2 shall be construed to establish a period of limitation with respect to other obligations, which the Construction Manager might have under the Contract Documents. Establishment of the time period of one (1) year as described in Subparagraph 12.2.2 related only to the
specific obligation of the Construction Manager to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Construction Manager’s liability with respect to the Construction Manager’s obligations other than specifically to correct the Work.

11.3 ACCEPTANCE OF NONCONFORMING WORK

11.3.1 If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 12

TERMINATION OR SUSPENSION OF THE CONTRACT

12.1 TERMINATION BY THE CONSTRUCTION MANAGER

12.2 The Construction Manager may terminate the Contract if the Work is stopped for a period of 60 days through no act or fault of the Construction Manager or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Construction Manager, for any of the following reasons:

(a) Issuance of an order of a court or other public authority having jurisdiction;
(b) An act of government, such as a declaration of national emergency, making material unavailable;
(c) Because the Architect has not issued a “Certificate for Payment” and has not notified the Construction Manager of the reason for withholding certification as provided in Subparagraph 9.4.1, or because the Owner has not made payment on a “Certificate for Payment” within the time stated in the Contract Documents and the Owner or Architect does not have a right provided in this Agreement;
(d) If repeated suspensions, delays or interruptions by the Owner, as described in Paragraph 8.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less; or
(e) The Owner has failed to furnish to the Construction Manager promptly, upon the Construction Manager’s request, reasonable evidence as required by Subparagraph 2.2.1.

12.1.2 If one (1) of the above reasons exists, the Construction Manager may, upon seven (7) additional days written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead, profit and damages.

12.1.3 If the Work is stopped for a period of 90 days through no act or fault of the Construction Manager or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Construction Manager because the Owner has persistently failed to fulfill the Owner’s obligations under the Contract Documents with respect to matters important to the progress of the Work, the Construction Manager may, upon seven (7) additional days written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Subparagraph 12.1.2.

12.2 TERMINATION BY THE OWNER FOR CAUSE

If the Construction Manager is adjudged a bankrupt, or if they make a general assignment for the benefit of their creditors, or if a receiver is appointed on account of their insolvency, or if they persistently or repeatedly refuse or fail, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials, or if they fail to make prompt payment to Subcontractors or for materials or labor, or disregard laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or otherwise are guilty of a violation of a provision of the Contract Documents, then the Owner, upon certification by the Architect that sufficient cause exists to justify such action, may, without prejudice to any right or remedy and after giving the Construction Manager and their Surety, seven (7) days written notice, terminate the
employment of the Construction Manager and take possession of the Site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Construction Manager and may finish the Work by whatever method that they may deem expedient. In such case, the Construction Manager shall not be entitled to receive any further payment until the Work is finished.

12.2.2 If the unpaid balance of the Contract Sum exceeds the cost of finishing the Work, including compensation for the Architect's additional services made necessary thereby, such excesses shall be paid to the Contractor. If such costs exceed the unpaid balance, the Construction Manager shall pay the difference to the Owner upon demand. The amount to be paid to the Construction Manager or to the Owner, as the case may be, shall be certified by the Architect, and this obligation for payment shall survive termination of the Contract.

12.2.3 When the Owner terminates the Contract for one (1) of the reasons stated in Subparagraph 12.2.1, the Construction Manager shall not be entitled to receive further payment until the Work is finished.

12.2.4 The costs of finishing the Work includes, without limitation, all reasonable attorneys' fees, insurance, Architects' and Architects' fees, personnel time multiplied by 2.5 of the Direct Personnel Expense, insurance, loss of use because of delay, and all other direct, indirect and consequential costs incurred by the Owner by reason of the termination of the Construction Manager as stated herein. Notwithstanding the foregoing, nothing contained herein shall allow the Owner to obtain double recovery for said items.

12.3 SUSPENSION AND/OR TERMINATION BY THE OWNER FOR CONVENIENCE

12.3.1 The Owner may, without cause, order the Construction Manager in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

12.3.2 An adjustment shall be made for increases in the cost of performance of the Contract, including profit on the increased cost of performance, causes by suspension, delay or interruption. No adjustment shall be made to the extent:

(a) That performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Construction Manager is responsible; or
(b) That an equitable adjustment is made or denied under another provision of this Contract.

12.3.3 Adjustments made in the cost of performance may have a mutually agreed fixed or percentage fee.

The Owner reserves the right at any time and for any reason whatsoever, in the Owner's absolute discretion, to terminate this Agreement and the services of the Construction Manager and the Work by giving 30 days prior written notice to the Contractor. In such event, the Construction Manager shall be entitled to, and the Owner shall reimburse the Construction Manager for that portion of the Work completed prior to the effective date of termination. The Contractor's fee shall also include all properly stored materials per the Contract Documents and materials ordered and/or in transient. The Construction Manager shall not be entitled to loss of profit from the project for uncompleted work. In addition, should a court of competent jurisdiction determine that the Owner wrongfully terminated this Agreement without cause, then the Construction Manager agrees to treat such termination as a termination for convenience hereunder.

ARTICLE 13

EQUAL OPPORTUNITY

13.1 CONSTRUCTION MANAGER’S EMPLOYMENT POLICY

The Construction Manager and all Subcontractors shall not discriminate against any employee or applicant for employment because of race, gender, gender identity or expression, religion, national origin, ethnicity, sexual orientation, age, or disability. The Construction Manager shall take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, gender, gender identity or expression, religion, national origin, ethnicity, sexual orientation, age, or disability. Such action shall
include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertisement; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Construction Manager agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of non-discrimination.

The Construction Manager and all Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, gender, gender identity or expression, religion, national origin, ethnicity, sexual orientation, age

13.2 MANDATORY NONDISCRIMINATION CONTRACT CLAUSE
As specified in Board Policy 6.144, the Construction Manager shall not discriminate on the basis of race, gender, gender identity or expression, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, suppliers, or commercial customers. Construction Manager shall provide equal opportunity for subcontractors to participate in all of its public sector and private sector subcontracting opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that has occurred or is occurring in the marketplace, such as those specified in Palm Beach County School Board Policy 6.143. Construction Manager understands and agrees that violation of this clause is a material breach of the contract and may result in contract termination, debarment, or other sanctions.

13.3 COMMERCIAL NONDISCRIMINATION
As specified in Board Policy 6.144, the School Board of Palm Beach County shall not accept proposals from, nor to engage in business with, any business firm that has discriminated on the basis of race, gender, gender identity or expression, religion, national origin, ethnicity, sexual orientation, age, disability, or any other form of unlawful discrimination in its solicitation, selection, hiring, or treatment of another business.

13.4 CONTRACTOR BID REQUIREMENTS
If applicable, the Proposer will submit with their Proposal, a list of all instances within the past ten years where a complaint was filed or pending against Bidder or Proposer in a legal or administrative proceeding alleging that Proposer discriminated on the basis of race, gender, gender identity or expression, religion, national origin, ethnicity, sexual orientation, age, or disability against its subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of each such complaint, including any remedial action taken

13.5 CONTRACT DISCLOSURE REQUIREMENTS
Upon the School District’s request, and upon the filing of a complaint against Contractor pursuant to Palm Beach County School Board Policy 6.144, Contractor agrees to provide the School District, within sixty calendar days, a truthful and complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past five years on any of its contracts that were undertaken within the Palm Beach County School District relevant geographic market as defined Palm Beach County School Board Policy No. 6.143, including the total dollar amount paid by Contractor for each subcontract or supply contract. Contractor agrees to fully cooperate in any investigation conducted by the School District pursuant to this Policy. Contractor understands and agrees that violation of this clause is a material breach of the contract and may result in contract termination, debarment, and other sanctions.

END OF SECTION
ARTICLE 1 – SCOPE

ARTICLE 2 – AWARD

ARTICLE 3 – PRE-PROPOSAL QUESTIONS AND CLARIFICATIONS

ARTICLE 4 – TIME SCHEDULE

ARTICLE 5 – DELIVERY

ARTICLE 6 – INSTRUCTIONS TO PROPOSERS

ARTICLE 7 – COSTS INCURRED BY PROPOSERS

ARTICLE 8 – DUE DILIGENCE

ARTICLE 9 – INSURANCE REQUIREMENTS

ARTICLE 10 – PERFORMANCE AND PAYMENT BOND

ARTICLE 11 – ENVIRONMENTAL CONCERNS

ARTICLE 12 – SAFETY CONCERNS

ARTICLE 13 – OWNER’S REPRESENTATIVE

ARTICLE 14 – SMALL AND MINORITY / WOMEN BUSINESS ENTERPRISE SUBCONTRACTOR PARTICIPATION (GOALS) REQUIREMENTS

ARTICLE 15 – EVALUATION
SPECIAL CONDITIONS
OF THE CONTRACT FOR CONSTRUCTION MANAGEMENT AT RISK SERVICES

ARTICLE 1

SCOPE

1.1 The purpose and intent of The School District of Palm Beach County Request for Proposal (RFP) is to solicit proposals from qualified firms for securing Construction Management at Risk Services for a school facility.

1.2 All respondents are encouraged to submit proposals that meet or exceed the specifications, terms and conditions as stated herein.

1.3 The scope of services will be as defined in the form of Agreement between Owner and Construction Manager.

1.4 Construction Management at Risk Services will, as part of their basic services, be required to administer a Direct Material Purchase Program as outlined by the Owner in Appendix B. All expense incurred to administer this Program will be the responsibility of the Construction Manager. A copy of this plan is available at the request of the Proposer from the Construction-Purchasing Department.

ARTICLE 2

AWARD

2.1 It is the intent of the School Board to award an Agreement for Construction Management at Risk services.

2.2 The School Board of Palm Beach County reserves the right to reject any or all offers or to accept any offers which is in its best interest. The School Board also reserves the right to waive any informalities, irregularities and technicalities in procedure.

2.3 An Agreement may be awarded to the Construction Management at Risk Services Proposer that has been established as the #1 ranked Proposer through the process outlined in Section 00830, Article 7- Evaluation.

2.4 Before making an award, The School Board of Palm Beach County reserves the right to require a Proposer to submit such evidence of qualifications and any current or updated information that was requested in the RFP as it may deem necessary, and may consider any information available to it of the financial, technical, and other qualifications and abilities of a Proposer, including past performance with other governmental/educational agencies. Proposers are advised that requests for additional information or site visitations are not to be construed as an indication that a Proposer will receive or is in the best position to receive an award.

2.5 The School Board reserves the right to cancel the agreement, or portions thereof, without penalty at any time.

2.6 The Proposer meeting specifications, terms, and conditions and being designated as having the highest ranking shall enter into negotiations for award of an Agreement and commencement of Pre-Construction Phase Services.

2.7 It is necessary for the Proposer to carefully consider each item, and make sure that each item meets the specifications as indicated.
ARTICLE 3
PRE-PROPOSAL QUESTIONS AND CLARIFICATIONS

3.1 Any questions concerning the Request For Proposal shall be submitted through BidSync @ www.bidsync.com. The cut-off for the receipt of questions shall be at 2:00 p.m. on August 27, 2010. All questions submitted shall be held until such time as they are compiled and answered in the form of Written Addendum, which will be released via BidSync, on or before August 31, 2010.

ARTICLE 4
TIME SCHEDULE

4.1 The School District will use the following time lines which will result in selection of qualified firms. Dates are subject to change if necessary.

SCHEDULE FOR CM SELECTION:

- Proposals Due: September 7, 2010, not later than 2:00 pm
- Phase I Evaluation Meeting*: September 21, 2010 @ 9:00 am
- Posting Date of Phase 1 Tabulation: September 22, 2010
- Site Visit: September 23, 2010 @ 9:00 am
- Phase 2 Evaluation Meeting*: October 7, 2010 @ 9:00 am
- Posting Date of Phase 2 Final Tabulation: October 8, 2010
- Pre-Construction Meeting: October 8, 2010 @ 3:00 pm
- Scheduled Board Approval of Contract: November 16, 2010

**Committee meetings are open to public attendance located at:
Construction Purchasing Department
3661 Interstate Park Road North, #200
Riviera Beach, FL 33404

Proposers are requested to have a representative present at the Phase 1 Evaluation Committee Meeting to respond to questions the Committee may have regarding the contents of their Proposal.

ARTICLE 5
DELIVERY

5.1 This project shall be completed and delivered to the Owner under the time constraints stated in the RFP Documents.

ARTICLE 6
INSTRUCTIONS TO PROPOSERS

6.1 Proposals will be received no later than 2:00 p.m., on September 7, 2010. If a proposal is transmitted by U.S. Mail or other delivery medium, the Proposer shall be responsible for its timely delivery to the designated School District office. The officer whose duty it is to receive them will decide when the specified time has arrived and no proposals received thereafter will be considered. No responsibility will be attached to any officer for the premature opening of a proposal not properly addressed and identified.

Proposals received after the stated time and date will not be considered and will be returned unopened to the Proposer. The official recording of time for receipt of proposals will be the time clock located in Construction-Purchasing Department. Proposals not conforming to the instructions provided herein may be subject to disqualification. A Proposal is invalid if it has not been deposited at the designated location prior to the time and date for receipt of Proposals indicated in the Advertisement for Request for Proposal, or prior to any extension thereof issued to the Proposers.
6.2 Proposals shall be prepared using the forms contained in this RFP and submitted in accordance with these Instructions to Proposers. Proposals containing any conditions, omissions, unexplained erasures, alternates, items not called for or irregularities of any kind may be rejected by the Owner.

6.3 Unless otherwise provided in any supplement to these Instructions to Proposers, no Proposer shall modify, withdraw or cancel its Proposal or any part thereof for sixty (60) days after the time designated for the receipt of Proposals in the "Advertisement for Request for Proposal."

6.4 Prior to the receipt of Proposals, as required, Addenda may be issued by the Owner to each Proposer recorded by the Owner as having received the Proposal Documents and will be available for inspection wherever the Proposal Documents are kept available for that purpose. Addenda issued after receipt of Proposals will be provided only to the selected Proposer. All Addenda issued by the Owner become part of the Request For Proposal Document. As part of the Proposal, the Proposer shall provide a statement acknowledging receipt of all addenda issued by the Owner.

6.5 Each Proposal shall provide, on the Proposal Response Form, the full business address of the Proposer, and state whether he is an individual, corporation, partnership or joint venture proposals by a corporation must be signed with the legal name and seal of the corporation followed by the name of the state of its incorporation and by the manual signature and designation of an officer, owner, or other person, authorized to bind the corporation. Proposals by partnerships shall show the names of all partners and shall be signed in the partnership name by one of the partners or by an authorized representative. In either case, the partnership signature shall be followed by the manual signature and designation of the person signing. Proposals by a joint venture shall be signed with the legal name of the joint venture followed by the manual signature of the individual who is the primary qualifying agent for the joint venture. In every case, the name of the person signing, and his designation, shall be typed or printed below his signature. A Proposal by a person who affixes to his signature the word "President", "Secretary", "Owner" or other designation without disclosing his principal may be held to be the Proposal of the individual so signing. Satisfactory evidence of the authority of an officer, owner, attorney, or other person signing for a corporation and for an owner, attorney, etc., signing for a partnership or an individual shall be furnished.

6.6 The Proposal shall be divided into three (3) Sections-1, 2 and 3. A Proposal shall include all items listed for Section 1, otherwise the Proposal shall be declared non-responsive. A Proposal should include all items specified for Sections 2 and 3, however, exclusion of any of the items specified in these Sections shall not be cause to declare the Proposal non-responsive.

Section 1 shall contain the following:

-Proposal Response Form (Required Response Form A)
-SBE Sub-Consultant/Subcontractor Participation Form (Required Response Form B)
-Drug Free Workplace Certification (Required Response Form C)
-Public Entity Crime Statement (Required Response Form D)
-Beneficial Interest and Disclosure of Ownership Affidavit, PBSD 1997 (Required Response Form E)
-Disclosure of Discrimination Complaints (Section 00700, Article 13, Par. 13.4)- the Proposer shall submit a statement of whether or not, within the past ten years from the Proposal due date, any occurrences have taken place in which a complaint has been filed against the Proposer, litigation has been filed against the Proposer, litigation is pending against the Proposer, or the Proposer is currently involved in a legal or administrative proceeding alleging that the Proposer discriminated on the basis of race, gender, gender identity or expression, religion, national origin, ethnicity, sexual orientation, age, or disability against any of its subconsultants, vendors, suppliers, or commercial customers. The Proposer shall provide a specific description of each occurrence and the status or resolution of each occurrence, including any remedial action taken. If no such occurrences have taken place, the Proposer shall indicate such.
-Acknowledgement of all Addenda received- per Paragraph 6.4 above.
Section 2:

- Copy of the Proposer’s General Contractor’s License
- Proof of an active Certificate of Authority issued by the Florida Department of State which authorizes the Proposer to transact business in the State of Florida. This proof may be provided by either submitting a copy of the Letter of Authority issued by the Office of the Secretary of State or by submitting a copy of the Certificate of Status Verification which may be obtained via Sunbiz.org-Department of State.
- Letter of Bonding Capability, issued by the Proposer’s surety verifying the surety’s rating as specified in Section 00700, Article 11 and the Proposer’s available capacity to bond the Project for the established Budget for Construction.
- Certificate of Insurance indicating the coverage required in Section 00830, Article 9 is in effect.

Section 3:

- Responses to Categories 1-3 and 5-7, Section 00830, Article 15, Par. 15.3

6.7 A Proposal shall not exceed a total of 40 pages, exclusive of all submittal requirements specified in Sections 1 and 2, Par. 6.6. Proposals exceeding this 40 page limit shall be declared non responsive by the Owner. Each page shall be numbered consecutively, and shall not exceed 8-1/2” x 11” in size. Each page shall be printed in a minimum size 11 font and have a minimum 1” margin on all sides. CD’s will be submitted in PDF format, bookmarked per the selection criteria, and fully functioning.

6.8 One (1) original printed hard copy plus one CD containing Sections 1, 2 and 3 plus an additional TWELVE (12) CD copies of Section 3 only of the Proposal are to be sealed in one package and clearly labeled "Proposal for Construction Management at Risk Services". The Project Name(s) and Project Number(s) must be clearly stated on the outside of the package.

6.9 Each Proposer shall provide a statement of bonding capability from their Surety Company or agent. The statement shall reference the project and shall confirm the Proposer’s total bonding capability, single project capability, reserve available to satisfy the requirement of the project and the Surety’s rating for Service and Financial Strength. These ratings must meet the minimum requirements specified in Section 00830, Article 10 of the RFP.

6.10 As part of the proposal, the Proposer shall provide a list of all instances within the ten year period prior to the due date of the Proposal of any complaint filed against the Proposer in a legal or administrative proceeding alleging that the Proposer discriminated on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age or disability against its subcontractors, vendors, suppliers or commercial customers including a description of the status or resolution of each such complaint, including any remedial action taken.

ARTICLE 7

COSTS INCURRED BY PROPOSERS

7.1.1 All costs incurred by Proposers, their employees and agents in preparing a response to this Request for Proposals, in clarifying such response to the satisfaction of the Owner, in attending any pre-proposal conference or interview, in ascertaining the conditions of the site, in entering into a contract with the Owner or for any other reason shall be the sole responsibility of the Proposers and will not be paid or reimbursed by the Owner.
ARTICLE 8
DUE DILIGENCE

8.1 The Proposer, in submitting their Proposal, realizes that Time Is Of The Essence and that any delay of this project will have a serious negative impact on the Students of Palm Beach County. Therefore, the Proposer has taken Due Diligence to determine factors that may impact the days necessary to complete this Project. Specifically, the approval process required under Florida Statute as governed by the Rules of the Department of Education, Florida State Board of Education, Florida Building Code, as well as the Permitting process required by the Department of Environmental Regulation, the South Florida Water Management District, Palm Beach County, and any other bodies that have jurisdiction over the land parcel for this Project.

ARTICLE 9
INSURANCE REQUIREMENTS

9.1 The Construction Manager shall purchase and maintain such insurance that will protect him from claims set forth which may arise out of or result from the Construction Manager’s operations under the Contract and provide the Owner with Certificates of Insurance containing a minimum 30 day advance notice of cancellation provision prior to commencement of the Work. The Owner (School Board of Palm Beach County) shall be named as an additional Certificate Holder or on an endorsement thereto on all policies issued in connection with Work contracted to the Construction Manager and the Project Name and Number, as designated by the Owner, shall be referenced in the Description of Operations. The Construction Manager shall be responsible for all policy deductibles and self insured retentions. Proof of coverage will be evidenced with a Certificate of Insurance delineating:

Automobile Liability Insurance with limits of not less than $1,000,000 per occurrence for bodily injury and property damage for owned, hired and non-owned vehicles.

Comprehensive General Liability Insurance including coverage with limits of not less than $1,000,000 per claimant and $1,000,000 per incidence or occurrence which:

(a) includes Premises, Operations, Products, Completed Operations, Blanket Contractual, Personal Injury, and unless the Owner waives the requirement in writing because there is no exposure, Independent Contractors, Explosion, Collapse and Underground Liability.

(b) provides the Construction Manager’s insurance applies separately to the Owner except with respect to limits of liability and is primary to rather than contributory with any insurance carried by the Owner; claims for damages because of bodily injury, occupational sickness or disease, or death of his employees; claims for damages because of bodily injury, sickness or disease, or death of any person other than its employees; claims for damages insured by unusual personal injury liability coverage which are sustained (1) by any person as a result of any offense directly or indirectly related to the employment of such person by the Construction manager, or (2) by any other person; claims for damages, other than to the Work itself because of injury to or destruction of tangible property, including loss of use resulting there from and claims for damages because of bodily injury or death if any person or property damage arises out of ownership, maintenance or use of any motor vehicle.

Statutory Workers’ Compensation and Employers Liability Insurance with limits of not less than $200,000 per accident and in compliance with Chapter 440, Florida Statutes.

Builder’s Risk Insurance: The Owner shall procure and maintain for the life of the Project, Builder’s Risk Insurance. The Construction Manager shall include with the GMP Proposal the completed Builder’s Risk Project Questionnaire (Exhibit H) included in the RFP document. The Construction Manager shall be responsible for policy deductibles up to $25,000.00 on all perils including named windstorm, flood or earthquake damages. A copy of the Binder outlining established coverage shall be provided to the Construction Manager upon request.
9.1.1 Any loss insured under Subparagraph 9.1 is to be adjusted with the Construction Manager and Owner and made payable to the Owner as trustee for the insurees, as their interest may appear, subject to the requirements of any applicable mortgagee clause and of subparagraph 9.1.4. The Construction Manager shall pay each Sub-Contractor a just share of any insurance money received by the Construction Manager and by appropriate agreement, written where legally required for validity, shall require each Sub-Contractor to make payment to his Sub-subcontractors in a similar manner.

9.1.2 Installation Floater: An Installation Floater, in the amount equal to 100 percent of value of the items to be installed is required when Builder’s Risk Insurance is not appropriate and there are materials to be installed. Examples include: air conditioning equipment, boilers, aluminum railings, plumbing fixtures, processing machinery from manufacturing plants, and similar items. Coverage must be written on an All Risk basis, and the School District of Palm Beach County must be listed as an additional insured. All deductibles are the responsibility of the Contractor and must not exceed $1,000. Thirty (30) days written notice must be provided to the School District Palm Beach County via Certified Mail in the event of impending cancellation.

9.1.3 All required insurance coverage’s shall be underwritten by insurance companies that are licensed to do business in the State of Florida. State approved excess and surplus lines insurers shall have a current rating of A- or better by A.M. Best Company with a financial size category of Class VIII or larger.

9.1.4 It shall be the Construction Manager’s responsibility to determine whether the required minimum coverage’s and limits of liability are adequate and to purchase whatever coverage’s and limits of liability are necessary to protect the Construction Manager’s interests. The Construction Manager shall not cancel or fail to renew any of the required insurance coverage’s until the Work required by the contract document has been completed. The Products and Completed Operations Liability Insurance shall be continued for not less than two (2) years following completion and acceptance of the Work. The Construction Manager will provide complete copies of any insurance policy for the required coverage’s within seven (7) days of the date requested by the Owner.

9.2 Additional Coverage’s Request

9.2.1 The following additional coverage’s are required if applicable:

<table>
<thead>
<tr>
<th>Coverage</th>
<th>When Coverage is Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Independent Contractor</td>
<td>The use of Subcontractors by the Contractor to perform any of the Construction work.</td>
</tr>
<tr>
<td>Explosion</td>
<td>The use or presence of dynamite or other explosives or welding tanks or other containers of potentially explosive substances.</td>
</tr>
</tbody>
</table>
| Collapse       | (1) Grading, paving, excavating, drilling, tunneling, burrowing, filling, backfilling, pile driving or clearing land close enough to an existing building or structure to cause damage, or  
(2) Moving, shoring, underpinning, raising or demolition of any structure or removal or rebuilding structural supports.  |
| Underground    | The use of mechanical equipment to grade, pave, excavate, drill, tunnel, burrow, fill, backfill, pile drive or clear land.  |

9.3 WAIVER OF RIGHTS

9.3.1 The Owner and Contractor waive all rights against (1) each other and the Subcontractors, sub-subcontractors, owners and employees each of the other, and (2) the Architect and separate Contractors, Subcontractors, owners and employees, for damages to the extent covered by property insurance obtained pursuant to Article 9.1, above or any other property insurance applicable to the Work except such rights as they may have to the proceeds of such insurance held by the Owner as trustee.

00830-7
9.4 RECEIPTS AND APPLICATION OF PROCEEDS

9.4.1 The Owner as trustee shall, upon the occurrence of any insured loss, deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If after such loss no other special agreement is made, replacement of damaged work shall be covered by an appropriate Change Order.

ARTICLE 10

PERFORMANCE AND PAYMENT BOND

10.1 PERFORMANCE AND PAYMENT GUARANTY

10.1.1 Within five (5) Owner business days of the award of the Guaranteed Maximum Price by The School District of Palm Beach County, the Construction Manager shall furnish a Performance and Payment Guaranty in an amount not less than the total construction cost as defined in Section 00510, Article 9 and inclusive of the Construction Manager’s fees, consisting of:

10.1.2 A Performance Bond containing all the provisions of the Performance Bond included in Section 00610 of the Contract Documents.

10.1.3 A Labor and Materials Payment Bond containing all the provisions of the labor and materials Payment Bond included in Section 00610 of the Contract Documents.

10.2 BOND REQUIREMENTS

10.2.1 The Construction Manager shall furnish bonds and maintain throughout the duration of the Project and until one (1) year after Final Completion and acceptance of the Work as provided in Florida Statutes 255.05 et seq, covering the faithful performance of the Contract and payment of all obligations arising thereunder. Bonds shall be secured by the Construction Manager from a surety company licensed in the State of Florida with a Best rating and financial size specific in 10.2.5.

10.2.2 The successful Construction Manager shall be required to provide Surety Bonds in the amount of 100% of the Contract amount. The required premiums shall be paid for by the successful Construction Manager and shall be included in the Guaranteed Maximum Price.

To be acceptable to the School District of Palm Beach County as Surety for Performance Bonds and Labor and Material Payment Bonds, a Surety Company shall comply with the following provisions:

- The Surety Company shall have a currently valid Certificate of Authority, issued by the State of Florida Department of Insurance, authorizing it to write surety bonds in the State of Florida.

- The Surety Company shall have currently valid Certificate of Authority issued by the United States Department of Treasury under Sections 9304 to 9308 of Title 31 of the United States Code.

- The Surety Company shall be in full compliance with the provisions of the Florida Insurance Code.

- The Surety Company shall have at least twice the minimum surplus and capital required by the Florida Insurance Code at the time the invitation to bid is issued.

10.2.3 In addition to the above-minimum qualifications, the Surety Company must meet at least one of the additional qualifications specified in 10.2.4.
10.2.4 The Surety Company shall hold a current certificate of authority as acceptable surety on federal bonds in accordance with the United States Department of Treasury Circular 570, Current Revisions. If the amount of the Bond exceeds the underwriting limitation set forth in the circular, in order to qualify, the net retention of the surety company shall not exceed the underwriting limitation in the circular, and the excess risks must be protected by coinsurance, reinsurance, or other methods in accordance with Treasury Circular 297, revised September 1, 1978 (31 DFR Section 223.10 Section 223.111). Further, the surety company shall provide the Owner with evidence satisfactory to the Owner, that such excess risk has been protected in an acceptable manner.

10.2.5 The Surety company shall have at least an “A-” Best Rating and “IX” Financial Strength Category in the latest edition of Best’s Key Rating Guide published by AM Best Company, Oldwick, NJ.

The Surety Company shall not expose itself to any loss on any one risk in an amount exceeding ten (10) percent of its surplus to policyholders, provided:

(a) Any risk or portion of any risk being reinsured shall be deducted in determining the limitation of the risk as prescribed in this section. These minimum requirements shall apply to the reinsuring carrier providing authorization or approval by the State of Florida, Department of Insurance to do business in this state have been met.

(b) In the case of the surety insurance company, in addition to the deduction for reinsurance, the amount assumed by any co-surety, the value of any security deposited, pledged or held subject to the consent of the surety and for the protection of the surety shall be deducted.

10.3 TIME OF DELIVERY AND FORM OF BONDS

10.3.1 The Construction Manager shall deliver the required bonds to the Owner within ten (10) Owner Business days, after the award of the Guaranteed Maximum Price by the School Board of Palm Beach County, Florida.

10.3.2 The Performance Bond and Labor and Materials Payment Bond shall be written in the amount of the Guaranteed Maximum Price and shall continue in effect for one (1) year after completion and acceptance of the Work.

10.3.3 The Bonds shall be dated on or before The Notice to Proceed Date.

10.3.4 The Construction Manager shall require the Attorney-In-Fact who executes the required Bonds on behalf of the Surety to affix thereto a certified and current copy of the Power of Attorney.

10.3.5 Pursuant to the requirements of the Chapter 255.05 (1)(a), Florida Statutes, Construction Manager shall ensure that the Bond or Bonds referenced above shall be recorded in the public records of Palm Beach County. Proof of recordation must be submitted to the Contracting and Procurement Department. Two (2) sets of originals are required.

ARTICLE 11

ENVIRONMENTAL CONCERNS

11.1 TOXIC SUBSTANCES

11.1.1 The Construction Manager and their Subcontractor(s) shall submit a written list of all toxic substances, pursuant to Chapter 38F-41, FAC, known to be used on this project at commencement of award. Said list must be sent in triplicate to the Architect at least five (5) days prior to the commencement of construction, and for additional substance, prior to usage on site. Said notification shall contain the following:
11.1.2 The name of the substance to be used,
11.1.3 Where the substance is to be used;
11.1.4 And when the substance will be used.

11.1.5 The Construction Manager must also attach to the notification a copy of a Material Safety Data Sheet (M.S.D.S.) as defined in Chapter 442.103, Florida Statutes, for each toxic substance to be used.

11.2 HAZARDOUS WASTE

11.2.1 The Construction Manager is responsible for the proper storage, handling and disposal of hazardous wastes generated at a school site during construction or maintenance activities.

11.2.2 The Construction Manager must notify the Architect of their intent to generate, store and remove hazardous waste from a site. Any costs including, but not limited to, fines, disposal and clean up incurred by the Owner to comply with the proper storage and disposal of hazardous waste shall be withheld from final payment to the Contractor.

11.3 ASBESTOS

11.3.1 Any maintenance, construction, renovation, demolition, or other alteration of an educational facility and other ancillary facilities must be cleared through the School District’s Environmental Control Office (ECO) to preclude disturbance of asbestos-containing materials. Failure to obtain proper clearance will subject the Contractor to all expenses incurred in decontaminating the facility and such fines or penalties associated with the same.

11.3.2 Neither the Construction Manager nor their Subcontractors shall use or substitute building materials which contain asbestos for any component of an educational facility. Construction Managers will be held liable for the cost of removing any asbestos-containing building materials (A.C.B.M.) and reinstallation of non-asbestos building materials should subsequent sampling of materials reveal the presence of more than one percent (1%) asbestos.

11.3.3 The Construction Manager engaged in removal of bituminous resinous asbestos containing roofing materials (BRACRM) shall be either:

11.3.4 A “State of Florida Licensed Roofing Contractor” in accordance with Florida Statutes 455.301 - 455.309, and shall employ and have present on-site a supervisor who has attended a Roofing Supervisor course and an Asbestos Worker course, during all BRACRM removal and related activities. These courses must be approved by the Asbestos Oversight Program Team or,

11.3.5 A “State of Florida Licensed Asbestos Contractor” in accordance with Florida Statutes 455.301 - 455.309.

11.3.6 Submittals;

11.3.7 Copies of “Certificate of Attendance” of all on-site supervisors for Supervisor course and Asbestos Worker course in accordance with Florida Statute 469.01 et seq shall be submitted to the Owner.

11.4 WELL-FIELD PROTECTION

11.4.1 Palm Beach County’s Well-Field Protection Ordinance requires that all construction activity follow their procedures in a well-field zone.
11.4.2 The Construction Manager shall be responsible for assuring that each Subcontractor evaluates each site before construction is initiated to determine if any site conditions may pose particular problems for the handling of any regulated substances. For instance, handling regulated substances in the proximity of ground water, surface water or wetlands may be improper.

11.4.3 If any regulated substances are stored on the construction site during the construction process, they shall be stored in a location and manner, which will minimize any possible risk of release to the environment. Any storage container of 55 gallons, or 440 pounds, or more containing regulated substances shall have constructed below it an impervious containment system constructed of materials of sufficient thickness, density and composition that will prevent the discharge to the land, ground waters, or surface waters, of any pollutant which may emanate from said storage container or containers. Each containment system shall be able to contain 150% of the contents of all storage containers above the containment system.

11.4.4 Each Contractor shall familiarize himself with the manufacturer’s Material Safety Data Sheet supplied with each material containing a regulated substance and shall be familiar with procedures required to contain and clean up any releases of the regulated substance. Any tools or equipment necessary to accomplish same shall be available in case of a release.

11.4.5 Upon completion of construction, all unused and waste regulated substances and containment systems shall be removed from the construction site by the responsible Contractor and shall be disposed of in a proper manner as prescribed by law.

11.5 LEAD - PLUMBING/PAINT

11.5.1 All potable water plumbing fixtures, including faucets, valves, bubblers, water coolers, ice machines and related lines and solder, must be supplied with a manufacturer’s certification that these materials do not contain lead. In the interest of protecting the students and staff, this is more restrictive than the E.P.A. allowance of 8% lead in plumbing fixtures.

11.5.2 All paints used in school facilities must not contain greater than 0.06 percent lead by weight of the dried paint film. A manufacturer’s certification of this lead content must be provided.

11.5.3 Any lead paint removal in the District must conform with all applicable guidelines as stated in: “Lead Based Paint Interim Guidelines for Hazardous Identification and Abatement in Public and Indian Housing”, September 1990 and “Construction Standard for Lead Paint 29CFR1926.62”.

11.6 USE OF TOXIC OR HAZARDOUS MATERIALS DURING OCCUPIED TIMES

11.6.1 The Construction Manager shall not use any toxic or hazardous material during occupied times that will expose PBC School District students and staff to any danger. This includes, but is not limited to the use of hot asphalt, paints, pesticides, adhesives, including plastic roofing cement, single-ply roofing adhesives, asphalt primer, sealants, solvents, gasoline and aluminum roofing coatings or glues. These products could be used if conditions preclude exposure to students and staff. The Contractor must take this into consideration when planning their work schedule around school operating hours as necessary.

11.7 MERCURY CONTAINING DEVICES AND BALLAST MANAGEMENT

11.7.1 Remodeling and Renovations.

11.7.2 Prior to remodeling or demolition, the number of lighting fixtures with fluorescent tubes and oil containing ballasts, thermostats, and switches requiring removal will be determined by the Construction Manager.

11.7.3 The Construction Manager shall determine the appropriate number of drums for ballast storage or proper fluorescent tube containers from the recycler prior to removal from the fixtures by the Construction Manager.
11.7.4 All affected items shall be removed by Construction Manager. This shall occur before project commencement. The Project Manager will assure that Construction Manager conforms to contract specifications for safe handling, storing and/or disposing of any non-electronic ballast or mercury-containing device, coordinating the disposal with ECO.

11.7.5 The Construction Manager shall place all items (discussed above) in appropriate containers and will notify the Facility/Project Manager when finished. The Recycling Contractor will then be contacted by Project Manager. Small quantities of less than one fluorescent tube-recycling container shall be stored on site or picked up by warehouse for storing until a pick up can be arranged. Small quantities of mercury switches, mercury thermostats and non-electronic ballasts of less than one drum will be transported to area maintenance until a pick up by recycler or disposal firm can be arranged.

11.7.6 Facility/Project Manager will sign Shipping Statements from Recycling Contractor and forward the documents to ECO.

11.8 RESTRICTION AGAINST CONSTRUCTION ACTIVITY WHICH GENERATES TOXIC OR HAZARDOUS MATERIALS DURING OCCUPIED SCHOOL HOURS

11.8.1 The Construction Manager shall not perform any construction activity during occupied school hours, which generates toxic or hazardous materials. Such activity includes, but is not limited to cutting, drilling, coring, removal, or other disturbance of existing materials which may contain, or which are known to contain fiberglass, lead, lead containing paint, coal tar pitch or asphalt.

11.9 USE OF MATERIALS DURING OCCUPIED SCHOOL HOURS

11.9.1 The use of materials and performance activities referenced under Paragraphs 3.6 and 3.8 shall be restricted to days/hours during which the school facility is unoccupied by students and staff. Refer to the calendar included in this Project Manual to determine the days/hours when the school facility will be unoccupied by students and staff.

11.9.2 At the discretion of the School District of Palm Beach County representatives, some of the restrictions referenced under Paragraphs 3.6 and 3.8 may be waived if conditions preclude exposure of students and staff.

11.10 COORDINATION WITH LOCAL LAWS

11.10.1 Nothing in this section shall act to alter the effect of restrictions imposed by local government zoning laws and ordinances. The Construction Manager shall be responsible to discover such local governmental zoning laws and ordinances, to restrict their construction activities in order to comply with same and to account for such restrictions of construction activities when planning this work schedule.

11.11 CONTRACTOR EXTENSION OF TIME

11.11.1 The Construction Manager shall not be entitled to any extension of the Contract Time for delays resulting from the restrictions referenced under Paragraphs 11.6, 11.7, 11.8, 11.9 and 11.10.

ARTICLE 12

SAFETY CONCERNS

12.1 TRENCH SAFETY ACT

12.1.1 The Construction Manager shall comply with the Trench Safety Act, Chapter 90-96, Florida Statutes and the Occupational Safety and Health Administration Standard 29 C.F.R.S. 1926.650, subpart P. The Construction Manager shall be required to design a Trench Safety System and provide the Owner with the following information should trench excavation be in excess of five (5) feet.
12.1.2 The proposal submitted by the Construction Manager to perform such excavation shall include:

12.1.2.1 A reference to the trench safety standards that will be in effect during the period of construction of the Work.

12.1.2.2 Written assurance by the Contractor performing the trench excavation that such Contractor will comply with the applicable trench safety standards.

12.1.2.3 A separate item identifying the cost of compliance with the applicable trench safety standards.

12.1.3 A Contractor performing trench excavation shall:

12.1.3.1 As a minimum, comply with the excavation safety standards, which are applicable to the Work.

12.1.3.2 Adhere to special shoring requirements, if any, of the State or other political subdivision, which may be applicable to such Work.

12.1.3.3 If any geotechnical information is available from the Owner, the Construction Manager, or otherwise, the Contractor performing trench excavation shall consider this information in the Construction Manager’s design of the trench safety system which will be employed on the Work. This paragraph shall not require the Owner to obtain geotechnical information.

12.1.3.4 The separate item identifying the cost of compliance with Trench Safety standards shall be based on the linear feet or cubic yards of trench to be excavated. The separate item for special shoring requirements, if any, shall be based on the square feet of shoring used. Every separate item shall indicate the specific method of compliance as well as the cost of that method.

12.1.3.5 The Construction Manager shall prepare and submit a form containing the costs required by Article 12.1.3.4 above.

12.2 CODE OF FEDERAL REGULATIONS, LABOR-29 PART 1926 LATEST REVISION

12.2.1 The Construction Manager shall adhere to all pertinent rules and regulations including, but not limited to, Code of Federal Regulation, Labor - 29, Part 1926, (Latest Revision).

12.3 DECLARATION OF ALCOHOL AND DRUG FREE ZONE

12.3.1 Article 10 of the General Conditions requires the Construction Manager to take reasonable precautions for safety of the Work. To enhance the safety of the site, the Contractor shall prohibit all alcoholic beverages and drugs there from.

12.3.2 The Construction Manager shall post signage indicating that the Job Site is an “Alcohol and Drug Free Construction Site” and such acts are prohibited by the Contract with the Owner.

12.4 RESTRICTION AGAINST PERFORMANCE OF HAZARDOUS CONSTRUCTION ACTIVITY DURING OCCUPIED SCHOOL HOURS

12.4.1 The Construction Manager shall not perform any hazardous construction activity during occupied school hours. Such activity includes, but is not limited to hoisting of materials over occupied areas, heating and application of solder, heating of asphalt or coal tar pitch.

12.4.2 Work requiring the performance of hazardous construction activity shall be scheduled during unoccupied school hours.
ARTICLE 13

OWNER’S REPRESENTATIVE

13.1 The Owner’s representative for this project shall be identified in Exhibit F.

ARTICLE 14

SBE SUBCONTRACTOR PARTICIPATION

14.1 POLICY

It is the policy of the School District of Palm Beach County that Small Business Enterprises (SBEs) have the maximum practical opportunity to participate in the competitive process of supplying goods and services to the District. To that end, in the Palm Beach County School Board enacted Policy 6.143 Diversity and Equitable Utilization in Business, they are incorporated in this solicitation. Compliance with the requirements shall result in a bidder being deemed responsive. The provisions of 6.143 that are amended and are applicable to this solicitation shall have precedence in the event of any conflict. As required by School Board Policy 6.143:

a) The SBE & M/WBE Procedure Manual (as part of Policy 6.143) is incorporated by reference and the Contractor’s failure to comply with any of its requirements will be considered a breach of contract

b) The Contractor shall maintain and submit to the District all relevant records and information necessary to document compliance with Policy 6.143). The District has the right to inspect such records

14.2 GOALS

The District established SBE participation Contract Goal for this solicitation inclusive of all alternates and change orders of:

- 15% for certified SBE Sub-contractor participation
- 15% for certified SBE Sub-consultant participation for CM Services

14.3 PROPOSER PREFERENCES

Proposers who meet the established Contract Goal or exercise sufficient good faith efforts to do so, as provided in the Policy 6.143 and the SBE & M/WBE Procedures Manual will be deemed to be responsive and responsible to SBE requirements. The contract award may be made to the responsible Proposer meeting the SBE Contract Goal.

14.4 DEFINITIONS

The following terms shall have the listed meanings (the definitions shall not apply outside of this Article where inconsistent with those listed elsewhere in the Proposal Documents).

14.4.1 Availability: The percentage of ready, willing and able business firms that are minority-and/or women-owned and seek to provide goods and services to the School District.

14.4.2 Award Amount: The award amount is the dollar value of the contract when awarded.

14.4.3 Contractor: An individual, firm, partnership, corporation or combination thereof submitting a proposal for the work as the Construction Manager.
14.4.4 **Compliance:** The level of performance at which the School District and the Prime Contractor utilizes vendors in meeting diversity objectives. As the Superintendent’s designee, the Director of the Office of Diversity in Business Practices (ODBP) will establish procedures for monitoring and evaluating program performance and compliance.

14.4.5 **Goals (Annual Diversity Goals):** A percentage of total contract dollar volume, on an annual basis for the participation of minority and women-owned businesses in the District’s procurement, professional services and construction contracts.

14.4.6 **Project Goals:** Contract-specific goals expressed as percentages of the total contract dollar volume that are anticipated by the District for subcontract participation by Small Business Enterprise firms or M/WBE firms based upon relative availability in the relevant industry.

14.4.8 **Contract Goal:** The stated Goal is to have portions of the Work under the Agreement performed by qualified SBE Subcontractors total not less than 15% of the total of Divisions 1-16, Bonds and Insurance, General Conditions (Direct Cost Items), Owner’s Construction Contingency and Allowances of the approved Guaranteed Maximum Price inclusive of addendums and change orders; and portions of the Construction Management Services Work under the Agreement performed by qualified SBE Subconsultants total not less than 15% of the total of Pre-construction Phase Services, Construction Phase Services, Construction Managers Fee and Overhead and Profit of the approved Guaranteed Maximum Price.

14.4.9 **Ready, Willing and Able (RWA):** Any vendor(s), who has registered an interest in doing business with the School District, and has the technical expertise, training, and licenses to perform in accordance to the contract documents.

14.4.10 **Controlled:** For the purpose of determining whether a business is a minority or women business enterprise, “controlled by” shall mean that the minorities, the woman, or combination of minorities and women, as the context requires, shall (1) possess legal authority and power to manage business assets, good will and daily operations of the business; and (2) actively and continuously exercise such authority and power in determining the policies and directing the operations of the business, knowledge and technical expertise in the business endeavor, licensed to perform the business or trade, and the lack of external influence over the day-to-day operations or decision making process by any entity (with the exception of franchise operations).

14.4.11 **Disability:** A physical or mental impairment that substantially limits one or more of an individual’s major life activities.

14.4.12 **Subcontractor:** Any person providing goods and/or services to a prime contractor for profit, if such goods and/or services are procured or used in fulfillment of the prime contractor’s obligations arising from a contract with the School Board of Palm Beach County.

14.4.13 **Small Business Enterprise (SBE):** Any business firm that is certified by the District’s Office of Diversity in Business Practices (ODBP) as having average annual gross sales and an average number of full-time employees over the last three years that are less than fifty percent (50%) of the small business size standards as most recently defined by the U.S. Small Business Administration for the business firm’s relevant industry.

14.4.14 **SBE Vendor Directory:** To aid Proposers in meeting the SBE Contract Goal established for this Project a list of District Certified vendors is available via the internet at www.palmbeachschools.org/mwbe. The SBE Vendor Directory is maintained by and available from the Office of Diversity in Business Practices. This list represents vendors certified only by the School Board of Palm Beach County as meeting the requirements for participation as a Certified SBE vendor as listed below. Vendors certified as a SBE with any entity or agency other than the School District of Palm Beach County or the State of Florida Office of Supplier Diversity will not be acceptable. As the School District and the State of Florida Office of Supplier Diversity issues certificates of certification the vendor should provide a copy of his/her current certificate for inclusion in the required submissions of documentation.

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14.4.15 **SBE Participation:** The minimum SBE participation established by the School Board of Palm Beach County for this Project, as stated in Section 00030 Legal Advertisement. This is established as a numerical percentage of the Board approved Construction Budget. The minimum calculation as indicated above is to provide an estimate of the expected M/WBE participation for the project. This goal can be reasonably attained by means of applying every reasonable and “good faith effort” to utilize SBE Sub-contractors and Sub-consultants in the performance of Work under this Project and in accordance with the terms and requirements of the School Board Policy 6.143 and the SBE & M/WBE Procedures Manual.

14.4.16 **Goal Setting Committee:** A committee established under the auspices of the Office of Diversity in Business (ODBP) with the responsibility of reviewing the contract bid and RFP documents and determining the appropriate type and scope of industry-specific remedial programs to be applied to the contract. This committee is comprised of professional and senior-level representatives from the following departments of the School District:

a. Department of Purchasing;
b. Diversity in Business Practices
c. Chief Operating Officer;
d. Superintendent’s Designee; and
e. The department responsible for letting the contract.

14.4.17 **Director of Office of Diversity in Business Practices (ODBP):** The Employee of the School Board of Palm Beach County responsible for the coordination, implementation, establishing procedures for monitoring and evaluating program performance and compliance.

14.4.18 **Director of the Purchasing Department:** The employee of the School Board of Palm Beach County, the School Board's designated administrator of the Contract; responsible for the purchase of the commodities and contractual services for the District in compliance with Florida Statutes, State Board of Education Rules, and Board Policy.

14.4.19 **Senior Project Administrator:** An employee of the School Board of Palm Beach County assigned to this project. And designated representative

14.4.20 **Certified SBE Sub-Contractor:** A Sub-Contractor who is certified to do specific work under the SBE Proposers Participation Program if he/she meets all the following criteria:

a) He/She maintains an Occupational License establishing the company as an entity legally authorized to engage in construction in Palm Beach County;

b) He/She produces evidence of ownership, operation, control and management of the firm on a daily basis;

c) He/She is an SBE Sub-contractor as defined under paragraph 14.4.13 above and certified at the time the RFP is issued.

d) He/She can meet all requirements of Certification required by the School Board of Palm Beach County and/or State of Florida Office of Supplier Diversity prior to the award of contract under the SBE Program. Any pending application with the Palm Beach County School District and/or State of Florida Office of Supplier Diversity shall not be considered as certification of the vendor submitting application for consideration as an SBE Firm.

e) Inquiries regarding listings of the School District of Palm Beach County Small Business Enterprises can be made to the Office of Diversity in Business Practices, 3300 Forest Hill Boulevard - Suite A-106, West Palm Beach, FL 33406, (561) 434-8508 or on our website: [http://www.palmbeachschools.org/mwbe](http://www.palmbeachschools.org/mwbe)

f) He/She has or is able to obtain any and all licenses and insurance required to do such work prior to contract award.
14.5 UTILIZATION OF SBE SUBCONTRACTORS, SUBCONSULTANTS, AND VENDORS

14.5.1 Construction Manager’s Obligation:

(1) Ensure that Certified SBE Subcontractors as defined in Paragraph 14.1.13 herein, have the maximum opportunity to participate in the performance of the contract and to take all necessary and reasonable steps in accordance with this Provision to ensure that Certified SBE Subcontractors have the maximum opportunity to compete for and perform contracts.

(2) To execute and submit documentation relative to the selection, reflecting participation and payment of the participation SBE vendor for the project.

The same level and percentage of SBE participation shall exist in any and all amendments or change orders which increase or decrease in the dollar value of the proposed service, projects, or products where possible.

The Construction Manager shall comply with the proportionate dollar-amount goals throughout the term of the contract, such that when plans are made in proposals or bids for the use of SBE subcontractors, a SBE which for any reason no longer remains associated with the contract shall be replaced with another certified SBE unless the District grants written approval to the contrary.

14.5.2 Disqualification/Rejection of Bids/Proposals, and Debarment.

The School District reserves the right to reject any proposals from bidders who have previously failed to perform properly and who have done so by commission or omission of an act of such serious and compelling nature that the act indicates a serious lack of business integrity or honesty. Such acts include, but are not limited to:

(a) Violating any applicable law, regulation, or contract provision relating to the performance of obligations incurred pursuant to an agreement with a recipient under a School District contract

(b) Making or procuring to make any false statement or using deceit for the purpose of influencing in any way any action of the School District

(c) Making false representations purposes of qualifying for SBE certification

(d) Engaging in misconduct such as fraud, deceit, or other actions indicating serious lack of business integrity or honesty

(e) Acting as, or knowingly making use of, a "front" company (i.e., a firm which is not in fact an SBE but poses as such in order to participate as an SBE in the District’s program)

(f) Violation of the Board’s Commercial Nondiscrimination Policy 6.144.

Failure to Comply: Every reasonable effort to utilize SBE subcontractors must be demonstrated to the School Board of Palm Beach County. Failure on the part of the Proposer to comply with the requirements of this Article may be cause for finding the Proposer non-responsive with the conditions of the Request For Proposal. In the event a proposal is deemed non-responsive, award may then be made to the next responsive Proposer, or all remaining proposals may be rejected and the project re-advertised.

All determinations of compliance or non-compliance of the Construction Manager with the requirements of this Provision, and of the appropriate consequences of noncompliance, shall be made by the Office of Diversity in Business Practices, as provided herein. All such determinations shall be final and binding.
14.6 PROPOSAL REQUIREMENTS

As specified in Section 00030, “SBE Participation Requirements”, Proposers shall commit to a minimum Contract Goal for certified SBE participation percentage for Subcontractor participation and Subconsultant Participation for Construction Management Services. The method of establishing these requirements is specified in Article 15, “Evaluation”, Phase 1- Categories 5 and 6.

Proposers shall submit PBSD 1525 – Letter of Intent from each prospective Certified SBE Subconsultant for CM Services that has agreed to participate in the Project, stating the trade items and dollar amounts for Preconstruction and Construction phase services. If dollar amounts are unknown the Proposer shall indicate at a minimum percent (%) participation established for that contract.

Proposers shall verify Subconsultants are certified by the Office of Diversity in Business Practices. A copy of each certificate must be submitted as documentation.

Proposer shall submit PBSD 1526 - Subconsultants Participation Professional Services, including contract amounts (estimated or actual) as well as the item number and description of the work for all Subconsultants minority and non-minority. PBSD 1526 only details Sub-contractor participation.

14.6.1 Pre-Award Submittals

As a condition of the GMP award, the Construction Manager shall submit to the Office of Diversity in Business Practices, the following documents (utilizing copies of Owner provided standard forms found at the end of this Section) concerning SBE and non-minority Subcontractors, Subconsultants, and vendors participation in the performance of the Contract:

1. **Form 1525 SBE-M/WBE Subcontractor/Subconsultant Participation Letter of Intent** – Identify the SBE firms to whom the Construction Manager has committed to Partner(s), subcontractor with for a specific scope of Work. One Form 1525 shall be submitted for each SBE who has agreed to participate in the Project. Additional copies may be made as needed. An original copy of the subcontract or subconsultant agreement must be attached to each form.

2. **Form 1526 Participation Summary** – List all (minority and non-minority) subcontractors on Form 1526 SUBCONT, all subconsultants on Form 1526 PROF, and all vendors Form 1526 DPO, who have agreed to participate in the project for a specific contract (trade) item and dollar amount. Attach a copy of each firm’s SBE certificate issued by the School District of Palm Beach County. This list should be irrevocable. Failure to utilize the services of the SBE vendors listed or acceptable substitutions and/or to contract an amount less than indicated, may be grounds for formulation of a recommendation to the Board for contract rescission or termination.

3. **Form 1527 SBE-M/WBE Subcontractor/Subconsultant Participation Good Faith Effort** – List all the SBE subcontractors, subconsultants, and vendors who were invited to submit a proposal and declined to participate in the Project. This form is required if the solicitation goals are not met. Completion not required for Construction Managers meeting or exceeding the established goal.

4. **Form 1528 Professional & Construction Services Utilization Report** – Form is filled out by the Construction Manager and shall include all subcontractors, subconsultants, and vendors contacted to work on the project. This form shall be submitted by the Construction Manager attached to all payment requests. Forms 1620 & 1621 shall be attached for prior payments received. Payment requests/applications will not be processed without “Form 1528”. If the SBE portion of the draw for a particular month is zero dollars, the vendor shall submit and execute a notarized Form 1528, indicating zero payments for the month.
5. **Form 1611 Good Faith Memorandum (Availability)** – Form must be received from each SBE subcontractor, subconsultant, vendor, supplier, manufacturer, and professional. This form cites their availability, readiness and willingness (RWA) to submit quotations/bids on the project as a prospective participant. Good Faith Efforts will not be approved without the submission of Forms 1611 for each SBE subcontractor, subconsultant and vendor solicited for the project.

6. **Form 1620 Partial Release of Claims and Waiver of Lien and/or Verification of Payment** - Verification of receipt of payment executed by the subcontractor, subconsultant, or vendor. This form shall be attached to all current payment requests certifying that payments previously made by SDPBC to the Construction Management have been made to all vendors included in the previous payment and pay request. If previous amount reported does not match amount reported on the attached lien waiver, The Construction Manager is required to submit reason(s) for variance. Any amounts paid to the Construction Manager that are unpaid to subcontractors or subconsultants, shall be returned to the School District of Palm Beach County.

7. **Form 1621 Final Release of Claims and Waiver of Lien and/or Verification of Payment** – Verification of final payment executed by the subcontractor, subconsultant, vendor, or supplier. The form verifies that there are no outstanding payments to vendors (including Retainage). Before issuance of final payment without Retainage, the Construction Manager shall submit final payment verifications (Form 1621) from all subcontractors, subconsultants and material suppliers, satisfactory evidence that all payrolls, material bills and other indebtedness connected with the Project have been paid or otherwise satisfied, warranty information is complete, as-built markups have been submitted and instructions for the Owners operating and maintenance personnel is complete.

8. **Form 1629 Good Faith Efforts Noncompliance Supplement** – This form is not required if established goals are met or exceeded. Form is completed if Construction Manager fails to achieve SBE goals established for the project.

14.6.2 **Good Faith Efforts**

Compliance and Good Faith Efforts - Contractors submitting bids or proposals to provide goods and services to the District shall exercise good-faith efforts to comply with the participation goals for the contract as established under this program. Any act or omission by the District shall not relieve the contractor of this responsibility. The District reserves the right to reject any bid or proposal deemed non-responsive for failing to meet these requirements (and the Board also reserves the right to reject any proposals from bidders who have previously failed to perform properly under a contract with the Board, whether by omission or by commission of an act of such serious and compelling nature that the act indicates a serious lack of business integrity or honesty).

(a) Proposers shall provide the District with all documentation required in the invitation to bid or RFP regarding SBE participation and good faith efforts. The documents shall include a list of all subcontractors, including certified SBE subcontractors, who will be used on the contract.

(b) The contractor’s Proposal must include evidence of good faith efforts to achieve the established Project Goal. The District shall consider, at a minimum, the following criteria in determining good faith efforts (although this list is not intended to be exclusive or exhaustive, and the District will look not only at the different kinds of efforts the contractor has made, but also at the quality, quantity, intensity, and timeliness of those efforts):

   i.  attendance at the pre-bid conference, if held;

   ii. the specific work the contractor intended to subcontract;

   ii. whether and when the contractor provided written notice to all certified SBEs listed as District SBEs who perform the type of work to be subcontracted, and their level of interest in the contract and obtaining information for the review and inspection of contract plans and specifications;
iv. whether the contractor selected feasible portions of work to be performed by SBEs including, where appropriate, de-bundling contracts or combining elements of work into feasible units (the ability of the contractor to perform the work with its own workforce will not in itself excuse a contractor from making positive efforts to meet contract goals);

v. whether the contractor has utilized SBE subcontractors on other District contracts within the past six months;

vi. whether the contractor advertised in general circulation, trade association, and/or minority/women- or small-business-focused media concerning the subcontracting opportunities;

i. whether the contractor followed up initial solicitations of interest by contacting SBE to determine with certainty whether the SBEs were interested;

viii. whether the contractor provided interested SBEs assistance in reviewing the contract plans and specifications;

ix. whether the contractor offered to assist interested SBE firms in obtaining required bonding, lines of credit, or insurance if such assistance was necessary;

x. whether the contractor effectively used the services of available minority/women community organizations, minority/women contract groups or local, state, and federal SBE assistance offices, and other organizations that provide assistance in the recruitment and placement of SBEs;

xi. whether the prime contractor or vendor is actively participating in a mentoring program, which will contribute to the development of SBE contractors or vendors;

xii. whether the contractor considered all quotes received from SBEs (and the contractor shall provide an explanation of why the SBE quotes were not accepted for use in the contract. Receipt of a lower quote from a non-SBE will not in itself excuse a contractor from making positive efforts to meet contract goals);

xiii. whether the contractor negotiated in good faith with interested SBEs, not rejecting SBEs as unqualified without sound reasons based on a thorough investigation of their capabilities; and

xiv. whether the contractor’s efforts were merely pro forma and, given all relevant circumstances, could not reasonably be expected to provide sufficient SBE participation to meet the goals.

(c) The department responsible for letting the contract shall forward the contract documents relative to SBE participation to the ODBP within the time prescribed in the document, which time shall not exceed 31 business days after bid/proposal opening and must be prior to commencement of the contract/project.

(d) If an SBE subcontractor listed in contractor’s bid or proposal becomes decertified after submission of bids or proposals, but prior to the award of the contract, the ODBP shall require the contractor to attain the SBE goal with another certified SBE within a specific reasonable time frame.

(f) If an SBE subcontractor for any reason no longer remains associated with the contract after award of the contract, that SBE shall be replaced with another certified SBE unless ODBP grants written approval to the contrary.

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14.7 Recommendations for Meeting Goals

14.7.1 Meeting the Contract Goal or making good faith efforts to do so is a condition of being awarded this contract. The listing of a SBE Subcontractor by a Construction Manager shall constitute a representation by the Construction Manager that such entity is qualified, willing and available, and a commitment by the Construction Manager that, upon Board approval of the Amendment of the Agreement, he / she will enter into a subcontracts in an amount as set forth in PBSD Form 1526, subject to the terms of the Contract Documents.

14.7.2 Counting SBE Subcontractor Participation toward Contract Goal:

1) Once the ODBP has determined a firm to be an eligible SBE firm, the total dollar value of the contract awarded to the SBE firm is counted toward the goal, except as limited by paragraph (2) through (3), below.

2) Only the dollar amount of work provided by certified SBE Sub-contractors in direct contract with the Construction Manager and paid by the Owner will be counted toward participation necessary to satisfy the Contract Goal.

3) Consistent with normal industry practices, an SBE Subcontractor may enter into subcontracts. If the SBE Subcontractor subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices to non-minority subcontractors, the entity shall be presumed not to be acceptable as an SBE Sub-subcontractor.

4) The School Board of Palm Beach County, Florida will count toward the goal the portion of the total dollar value of a contract with a joint venture equal to the percentage of the ownership and control of the SBE Subcontractor partner in the joint venture.

14.7.3 Approval of Amendment (GMP)

Provided the Construction Manager has submitted properly completed forms and other information as required by the contract documents and this Article of the Special Conditions and is otherwise responsive to the Request For Proposal , the School Board of Palm Beach County may award the contract to the number one ranked Construction Manager who submits sufficient information to the School Board of Palm Beach County that it has met the contract goal or has made good faith efforts to meet the goal.

14.8 Requirements and Procedures Subsequent to Contract Award

14.8.1 SBE Substitutions:

After contract award, the successful Construction Manager will be permitted to replace a certified SBE Subcontractor who is unwilling or unable to perform. Such substitution must be done with other certified SBEs in order to maintain the SBE percentages submitted with the bid. If a Construction Manager cannot find a certified SBE to replace the originally proposed SBE, the Construction Manager must establish that good faith efforts were exercised in an attempt to do so. Requests for substitutes must be submitted in writing to the Office of Diversity in Business Practices and the Owner with a copy to the School District of Palm Beach County, Director of Purchasing,

a. The Construction Manager shall negotiate with the next lowest Certified SBE bidder, and, if necessary,

b. The Construction Manager shall rebid the portion of the Work. The CM shall notify all current Certified SBE firms qualified to complete that portion of the Work.

14.9 Responsibilities After Contract Award

All Construction Managers hereby assure that they will meet the SBE participation percentages submitted in their respective bids with the Subconsultants and Subcontractors on PBSD Form 1526 and at the dollar values specified. Construction Managers agree to provide any additional information requested by the District to substantiate SBE participation.
14.9.1 Professional & Construction Services Utilization Report (Form PBSD 1528).

The Construction Manager shall submit an executed and notarized or corporate sealed Form PBSD 1528 “Subconsultant CM Services and Subcontractor/Vendor Utilization Reports” and Form PBSD 1620 Release of Claims and Waiver of Lien and/or Verification of Payment for SBE Subcontractors, Subconsultants and vendors (PBSD 1621) from previous payments received, less retainage. Both forms shall be submitted with each “Application and Certification Form” – PBSD 2354. Form PBSD 1621 Final Release and Verification of Payment including retainage, shall be provided prior to the District’s payment to the Construction Manager of final retainage. If subcontractor, subconsultant and vendor payment application for a particular month is zero dollars, the Construction Manager shall submit an executed and notarized form 1528, indicating zero payments for that month.

The Monthly Subconsultant CM Services and Subcontractors/Vendors Utilization Reports (PBSD 1528) are to be filled out by the Construction Manager and the Partial Release of Claims and Waiver of Lien and/or Verification of Payment PBSD 1620 and Final Release of Claims and Waiver of Lien and/or Verification of Payment PBSD 1621 respectively are to be executed by the SBE firm to verify receipt of payment. These forms must reflect the current payment information. Failure to provide accurate information shall delay payment.

The sample report and the instruction submittal will be available to the Construction Manager at the Pre-Construction Conference or from the Office of Diversity in Business Practices.

The application for payment will not be processed without Forms PBSD 1528 and/or PBSD 1620.

Noncompliance with Monthly Monitoring: Should the Construction Manager fail to comply with the provisions of Article 14, or to provide the required documentation shall constitute a material breach of contract. Such failure shall also preclude the Construction Manager from further receipt of progress payments and he is subject to default of his contract.

14.5.3 Closeout Compliance Report

The Construction Manager must complete the Close-out SBE Compliance Report (Appendix V) and submit the Report as an attachment to the Final Pay Application to the Program Management (PM) Senior Project Administrator (SPA), and to the Office of Diversity in Business Practices (ODBP) after completion of all work on the Project. Final Payment will not be processed unless the Contract Close-out Compliance Report is attached to the final Payment Application, and completed Report as required by Appendix S. PM and ODBP will verify the information included in the Report.

ARTICLE 15
EVALUATION

15.1 GENERAL OVERVIEW

The purpose of the Evaluation Process is to equitably judge each proposal submitted in response to the requirements specified by the Request for Proposal. Each responsive proposal will be evaluated by each Selection Committee member using the process outlined herein. Final award is subject to approval by the School Board of Palm Beach County. All issues and questions regarding this project shall be addressed through the Construction Purchasing Department. There shall be no communication between Committee Members or their Staff and the Proposers or their sub-consultants. Committee Members are not allowed to meet separately and discuss the project or contents of the proposals.

The Committee meeting for each evaluation phase will be scheduled in accordance with F.S. 286.011 and held at the School District of Palm Beach County.
15.2 EVALUATION PROCESS

PHASE I – THE COMMITTEE EVALUATES ALL RESPONSIVE PROPOSALS TO ESTABLISH THE "SHORTLISTED" FIRMS. THE PROPOSERS RANKED 1, 2 AND/OR 3 WILL BE "SHORTLISTED" TO ADVANCE TO PHASE II.

PHASE II – THE COMMITTEE EVALUATES PRESENTATIONS BY "SHORTLISTED" FIRMS TO ESTABLISH A #1 RANKED PROPOSER. ALL FINALISTS ARE IN EQUAL STANDING BEGINNING PHASE II EVALUATION.

Each phase of the evaluation process is divided into Categories. Each Committee Member will award points for each category based upon their assessment of the Proposer's response to the requirements of the criteria described in each category. The points indicated as Points Possible are the maximum that may be awarded for each category. As specified in the criteria, the point award for certain categories shall be established and/or verified by Construction Purchasing or The Office of Diversity. The points awarded for all categories will be tabulated on a Tabulation Form to achieve the Total Points awarded to each Proposer. The Tabulation Form shall be the basis for determining the ranking order of the Proposers for each phase of evaluation. The Total Points awarded to each Proposer will be ranked 1,2,3,4, etc. with the highest point total ranked 1, the next highest point total ranked 2, etc. A ranking of 1 is equal to 1 point; a ranking of 2 is equal to 2 points, etc. The ranking points of each Proposer will be tabulated from each Committee Member. The Proposer with the lowest total of ranking points will be #1, the next lowest will be #2, etc.

15.3 PHASE I EVALUATION

CATEGORY 1- Experience of the Firm .................................................................60 Points Possible

Scoring Criteria
A) The Proposer should provide a profile of each project which best illustrates the experience of the firm. Consideration will only be given to projects comparable in scope and complexity. The Proposer should list a minimum of five (5) projects completed no more than five (5) years ago. To be considered, a project should have achieved Substantial Completion. List all projects with the School District of Palm Beach County. As available, Periodic Performance Evaluations for each Proposer will be provided to the Selection Committee for consideration. The profile should include:

1) Owners name, location of the project and scope of work.
2) The firm's responsibility on the project (delivery method).
3) The Owner's project representative's name, addresses, and phone number.
4) Size of project (construction cost, GSF and cost/GSF).
5) Construction commencement and completion.

Points will be awarded as follows:
Experience of the firm……………Up to 50 Points

B) The Proposer should provide examples of projects which demonstrate experience with Leadership in Energy and Environmental Design (LEED) construction requirements. Proposers should identify those projects that will be submitted for LEED certification, are registered for LEED certification, or have achieved LEED certification.

Points will be awarded as follows:
LEED Experience of the firm…… Up to 10 Points
CATEGORY 2- Experience of the Project Team Members........................................70 Points Possible

Scoring Criteria
A) The experience and availability of the staff assigned to the project will be evaluated with specific attention to project related experience. Provide the organization chart as it relates to this Project indicating the key personnel and their relationship. The organization chart should be followed by resumes of the Project Executive, Project Manager, Project Superintendent(s), the individual(s) from the participating SBE firm(s) and the individual(s) assigned to administer Quality Assurance assigned to this project. Identify the availability of all Project Team Members from Preconstruction Phase through Final Completion. Information provided on each Project Team Members resume should include:

1) Name and title.
2) How many years with this firm?
3) How many years with other firms?.
4) Experience:
   Types of projects.
   Size of projects (dollar value & SF of project).
   Describe the specific project involvement/responsibility
5) Active registrations (P.E., G.C., etc.).
6) Other experience and qualifications relevant to this project.

Points will be awarded as follows:
Experience of Project Team Members ….Up to 60 Points

B) Proposers should demonstrate that their Project Team Members have experience constructing educational facilities or other projects with LEED requirements. Proposers should identify the key personnel in their Project Team that will manage the LEED construction Process. Identify those members of the Project Team who are LEED Accredited Professionals and provide a copy of their Accreditation.

Points will be awarded as follows:
LEED Experience of the Project Team Members….Up to 10 Points

NOTE: SUBSTITUTION OF PROJECT TEAM PERSONNEL.
Following submittal of the Proposal, firms may substitute Project Team Members. Any substitution in the proposed Project Team prior to the selection committee meeting for Phase 1 of the Evaluation Process shall be provided in writing to the Committee Administrator prior to the scheduled date of the Phase 1 committee meeting. An explanation of the reason for the substitution, a revised Workload Summary and a resume of the substitute Project Team Member which includes the information required by this Category shall be provided. Any substitution in the proposed Project Team Members prior to the selection committee meeting for Phase 2 of the Evaluation Process shall be advised in writing prior to the date of the Phase 2 selection committee meeting. An explanation of the reason for the substitution, a revised Workload Summary and a resume of the substitute Project Team member including the information required by Category 2 of Phase 1 of the Evaluation Process shall be provided.

CATEGORY 3- Scheduling, Cost Control, Quality Assurance. .............................30 Points Possible

Scoring Criteria
The Proposer’s scheduling and cost control systems should be described. Methods for assuring subcontractors adherence to schedule should be highlighted. The Proposer should provide a comparison of the projects profiled in Category 1, which demonstrates their ability to hold to original schedules and budgets. The Proposer should also describe their Quality Assurance process and demonstrate how Quality Assurance is integrated into their construction process. Specify the scheduling software utilized by your firm. Attach a sample CPM schedule which illustrates scheduling capabilities. Include in the schedule summary of activities which represent major milestones of the project.
Describe how processing of shop drawings is scheduled.
Describe how the development of subcontractor schedules is coordinated.
Describe the coordination of crew loading with construction scheduling.
Describe the development of cost loading of schedules.
Describe and provide an example of how the project’s monthly cost to complete is developed.

**CATEGORY 4- Prior Contract Award............................................................10 Points Possible**

Point award for this Category will be based upon the total dollar amount of approved construction contracts awarded to each Proposer or joint venture partner by the School District of Palm Beach County during the twenty-four (24) month period prior to the proposal due date. The total contract and point awards of each Proposer or joint venture partner will be determined by the Construction Purchasing Department. Point awards will be provided at the Phase I Evaluation Committee Meeting. The Schedule for point award as follows:

<table>
<thead>
<tr>
<th>Total Contract Awards Points</th>
<th>$0 to $19,999,999</th>
<th>$20,000,000 - $34,999,999</th>
<th>$35,000,000 - $49,999,999</th>
<th>$50,000,000 - $74,999,999</th>
<th>$75,000,000 and over</th>
</tr>
</thead>
<tbody>
<tr>
<td>Points</td>
<td>10</td>
<td>8</td>
<td>6</td>
<td>4</td>
<td>0</td>
</tr>
</tbody>
</table>

**CATEGORY 5 SBE Subcontractor Participation........................................10 Points Possible**

**Scoring Criteria**

Proposers shall be awarded points for submittal of a letter, on the Proposer’s letterhead and signed by an authorized representative, acknowledging their commitment to achieving the Contract Goal of a minimum 15% Small Business Enterprise (SBE) Subcontractor participation based on the total of Divisions 1-16, Bonds and Insurance, General Conditions, Owner’s Construction Contingency and Allowances of the established Guaranteed Maximum Price (GMP). Only firms certified as SBE by the School District of Palm Beach County (as defined in Section, 00830, Article 14, Paragraph 14.1.13) or by the State of Florida Office of Supplier Diversity prior to submittal of the Guaranteed Maximum Price shall be accepted toward fulfillment of the SBE Subcontractor participation requirement established for this Project. Graduation and/or denial (as described in Board policy 6.143) from the District shall void certification by The State.

Ten points shall be awarded to firms that present the required letter acknowledging requirements for participation otherwise the point award shall be zero. The Office of Diversity in Business Practices will determine point award.

**CATEGORY 6- SBE Subconsultant Participation for CM Services....................10 Points Possible**

**Scoring Criteria**

A Contract Goal of 15% Minority/Women Business Enterprise Sub-consultant participation for Construction Management (CM) Services is established separately for the Preconstruction and Construction Phase Services. Participation for the Preconstruction Phase Services is based upon the total dollar amount negotiated for Preconstruction Phase Fees. Participation for the Construction Phase Services is based upon the total dollar amount negotiated for Construction Phase Fees and Overhead and Profit. Only firms certified as SBE by the School District of Palm Beach County (as defined in Section, 00830, Article 14, Paragraph 14.1.13) or by the State of Florida Office of Supplier Diversity shall be accepted toward fulfillment of the participation requirement established for this Project.

Graduation (as described in Board Policy 6.143) from District Certification shall void certification by the State.

A Proposer that is a School District of Palm Beach County certified SBE is also required to fulfill this Sub-consultant participation requirement.

Proposers shall be awarded points as specified for adherence to each of the following requirements. The Office of Diversity in Business Practice will determine point award:

00830-26
1) Submittal of a letter, prepared on the Proposer’s letterhead and signed by an authorized representative, acknowledging a minimum requirement of 15% SBE CM Sub-consultant participation........................................................................................................................................2 pts

2) List each Sub-consultant(s) and identify the individual(s) assigned to this Project. Services provided by each Sub-consultant as well as the individuals that will be assigned and their specific role in this project shall be provided.................................................................................................................................................................2 pts

3) Provide copies of current District or State Certifications for each Sub-consultant........................................4 pts

4) Provide Form PBSD 1525 - Letter of Intent (Appendix D) for each CM Services Sub-consultant(s) specifying the intended percent (%) participation shall be provided by the Proposer for each Sub-consultant...........................................................................................................................................................................2 pts

CATEGORY 7- Proposer as a Certified SBE..................................................................................................................25 Points Possible

Scoring Criteria
Proposers certified as SBE by the School District of Palm Beach County (as defined in Section, 00830, Article 14, Paragraph 14.1.4) or by the State of Florida Office of Supplier Diversity shall be awarded points for this Category. Graduation (as described in Board Policy 6.143) and/or denial from District SBE Certification shall void certification and award of preference points for certification to the Proposer.

The Office of Diversity in Business Practice shall validate the Proposer’s certification and determine point award.

15.4 PHASE II EVALUATION

CATEGORY 1- Qualifications of the Firm..................................................................................................................50 Points Possible

Scoring Criteria
A) The Proposer should demonstrate the firm’s experience with the Florida Building Code related to construction of public school facilities utilizing the Construction Management at Risk delivery process. The Proposer should demonstrate their ability to meet occupancy deadlines by providing OEF Form 209 or other documented forms of project completion such as Certificates of Occupancy. The firm should also demonstrate how it interacts with the Owner and provides and exchanges information relative to the requirements of the project.

Points will be awarded as follows:
Qualifications of the Firm …..Up to 40 Points

B) The Proposer should provide examples of projects which demonstrate experience with LEED construction requirements. Proposers should identify those projects that will be submitted for LEED certification, are registered for LEED certification, or have achieved LEED certification.

Points will be awarded as follows:
LEED Qualifications of the Firm …..Up to 10 Points

CATEGORY 2- Experience of Project Manager..................................................................................................35 Points Possible

Scoring Criteria
A) The Project Manager should be presented demonstrating their experience managing construction of educational facilities or other projects similar in scope.
Points will be awarded as follows:
Experience of the Project Manager …..Up to 25 Points

B) The Project Manager should be demonstrate their experience managing construction projects utilizing LEED requirements, LEED Professional Accreditation should also be provided if applicable.

Points will be awarded as follows:
LEED Experience of the Project Manager….Up to 10 Points

CATEGORY 3 - Experience of Superintendent..............................................................25 Points Possible

Scoring Criteria
A) Experience of the On-site Superintendent should be provided which demonstrates successful experience with on site supervision of educational facilities or projects of similar scope. Safety assurance and the ability to interact and communicate with staff and faculty shall also be demonstrated.

Points will be awarded as follows:
Experience of the Superintendent.....................Up to 20 Points

B) Experience of the On-site Superintendent should be provided which demonstrates their experience managing construction project utilizing LEED requirements.

Points will be awarded as follows:
LEED experience of the Superintendent……………Up to 5 Points

CATEGORY 4 - GMP, Cost Control, Reporting, Quality.............................................20 Points Possible

Scoring Criteria
The Firm should present its approach to establishing a Guaranteed Maximum Price and demonstrate adherence to established GMPs on previous projects along with reviewing established methods of Cost Control, Reporting Systems and Quality Assurance process. The firm should offer an assessment of the established budget for construction.

CATEGORY 5 - Approach to Construction Program Requirements………………..40 Points Possible

Scoring Criteria
A) The proposer should present their approach to accomplishing the requirements of the Program. Items relative to phasing of construction, civil and traffic requirements, mitigation of the impact of the project on the community, quality assurance, safety, etc. should be addressed.

Points will be awarded as follows:
Approach to program requirements ….Up to 30 Points

A) The Proposer should present their approach to managing the design and construction phases to insure that established LEED requirements are met in order to achieve the required certification level of the project.

Points will be awarded as follows:
Approach to LEED program requirements ..Up to 10 Points
CATEGORY 6 - SBE Subcontractor Participation…………………………………………………..10 Points Possible

Scoring Criteria

The Proposer shall present their commitment and approach to meet or exceed the Project Goal of 15% SBE participation for subcontractor participation. Proposers shall demonstrate the percentage of SBE subcontractor participation and performance record on completed projects either through the School District of Palm Beach County, other Districts, public agencies, municipalities or owners. The Proposer shall clearly demonstrate the SBE requirements established for those projects and provide actual results achieved for each completed project. Additionally, the Proposer should demonstrate resources and methods employed to maximize SBE participation such as utilization of District and State SBE contractor directories, company initiatives, etc. Proposers shall be awarded points at the discretion of the committee member.

CATEGORY 7 - SBE Subconsultant Participation for CM Services……………………………..10 Points Possible

Scoring Criteria

The Proposer shall present their commitment to meet or exceed the established Project Goal of 15% participation for SBE subconsultant participation for Preconstruction Phase and Construction Phase Services. Proposers shall identify the firm(s) that will be utilized to achieve this participation and demonstrate the qualifications and availability of the assigned personnel to complete their responsibilities for the project. The Proposer should present the individual(s) from the firm(s) that will be responsible for performing the work described. Proposer shall be awarded points at the discretion of the committee member.

CATEGORY 8- Proposer as a Certified SBE………………………………………………………25 Points Possible

Scoring Criteria

Proposers shall be awarded points based on the criteria requirements specified in Category 7 of Phase 1,

15.5 TIE BREAKING PROCEDURE

After completion of the Phase 2 Evaluation Process, whenever two or more Proposers are Ranked #1, for the purpose of determining the Top Ranking Proposer, all previously tabulated total point scores by each of the Committee Members are final. No further discussion or scoring revisions shall occur. The following tie-breaking procedures shall be followed:

1. DRUG FREE WORKPLACE SUBMITTAL: Pursuant to FS 287.087, the Proposer submitting a Drug Free Workplace Certification in their original proposal shall be awarded preference and declared the top ranked Proposer. If a tie continues, the Top Ranking Proposer shall be determined by the procedure described in 2.

2. CERTIFIED SBE: The Proposing firm certified as SBE with the School District of Palm Beach County as defined in School Board Policy 6.143, shall be awarded preference and declared as the Top Ranking Proposer. If a tie continues, the Top Ranking Proposer shall be determined as described in 3.

3. CERTIFIED M/WBE: The Proposing firm certified with the School District of Palm Beach County as a Minority/Woman Business Enterprise, as defined in Board Policy 6.143, shall be awarded preference and declared as the Top Ranking Proposer. If a tie continues, the Top Ranking Proposer shall be determined by the procedure described in 4.

4. PRIOR CONTRACT AWARD: The Proposer with the least dollar value of prior contract awards as described by the Criteria in Category 4 of the Phase 1 Evaluation will be determined the Top Ranking Proposer. If the tie continues, the Top Ranking Proposer shall be determined by the procedure described in 5.

5. TOTAL POINTS: The Proposer with the highest cumulative total of points awarded for all Categories by all participating Scoring Committee Members will be determined the Top Ranking Proposer.
15.6 NEGOTIATIONS

The Top Ranking Proposer will be invited to negotiate a final contract for approval by the School Board. If negotiations are unsuccessful with the Top Ranking Proposer, negotiations may proceed to the next ranked Proposer until a final contract is approved.

END OF SECTION
REQUIRED RESPONSE FORM A

PROPOSAL RESPONSE

PROJECT NAME:

PROJECT NO:

Anti-Collusion Statement:

I, the undersigned authorized representative for the Proposer, certify the Proposer has not divulged, discussed or compared this Proposal with any other Proposers and have not colluded with any other Proposer in order to gain unfair advantage in the award of this Project. I acknowledge that all information contained herein is part of the public domain as defined in the Public Records Act, Chapter 119, Florida Statutes.

Proposal Certification:

I further certify that I have read the entire contents of this Request For Proposal document and agree to full, complete and unconditional acceptance of the contents of this Request for Proposal, and all appendices and the contents of any Addendum released hereto. I further certify that by virtue of executing and returning this PROPOSAL RESPONSE FORM, I am submitting the following information as this company's Proposal.

PROPOSER (firm name): _____________________________________________________________________

STREET ADDRESS: _________________________________________________________________________

CITY/STATE/ZIP: ___________________________________________________________________________

CONTACT PERSON: ________________________________________________________________________

CONTACT PERSON’S ADDRESS: _____________________________________________________________

TELEPHONE: ___________________ FAX: ____________________ TOLL FREE: ______________________

E-MAIL ADDRESS: _________________________________________________________________________

PROPOSER TAX PAYER IDENTIFICATION NUMBER: ____________________________________________

PRINT NAME OF AUTHORIZED REPRESENTATIVE:____________________________________________

SIGNATURE OF AUTHORIZED REPRESENTATIVE:_______________________________________________

TITLE:________________________________________________DATE:_______________________________

NOTE: Entries must be completed in ink or typewritten. An original manual signature is required Submit this form with your proposal.
REQUIRED RESPONSE FORM B
SMALL BUSINESS ENTERPRISE
PARTICIPATION RESPONSE

PROJECT NAME:

PROJECT NUMBER:

This Form shall be submitted to the School District of Palm Beach County, Construction Purchasing Department, 3661 Interstate Park Road North, Suite 209, Riviera Beach, Florida, 33404 with your proposal.

Proposal Certification:

I hereby certify full, complete and unconditional acceptance of the Contract Goal for SBE participation established for this Project and acknowledge that contract award is conditional upon achievement of this Contract Goal, or demonstration of acceptable Good Faith Efforts.

Construction Services: Only a sub-contractor certified as a Small Business Enterprise by the School District of Palm Beach County Office of Diversity in Business Practices or the State of Florida Office of Supplier Diversity or its successors shall qualify for sub-consultant participation for Professional Services.

As described in School Board Policy 6.143, graduation from the School District of Palm Beach County SBE certification or denial of SBE certification by the School District of Palm Beach County shall void acceptance of certification by the State of Florida Office of Supplier Diversity or its successors. A copy of the sub-consultant’s /sub-contractor’s current SBE Certification shall be included in the Proposers response to satisfy the requirement for this Category. The School District of Palm Beach County Office of Diversity in Business Practices (ODBP) shall validate the sub-consultant’s/subcontractor’s certification.

By virtue of executing and returning with this Proposal this REQUIRED RESPONSE FORM, I further certify full, complete and unconditional acceptance of the contents of this Request for Proposal, and all appendices and the contents of any Addendum released hereto.

PROPOSER (firm name): _____________________________________________________________________

STREET ADDRESS: _________________________________________________________________________

CITY/STATE/ZIP: ___________________________________________________________________________

PRINT NAME OF AUTHORIZED REPRESENTATIVE: ______________________________________________

SIGNATURE OF AUTHORIZED REPRESENTATIVE: ______________________________________________

TITLE: ___________________________________________  DATE:__________________________________

CONTACT PERSON: ________________________________________________________________________

CONTACT PERSON’S ADDRESS: _____________________________________________________________

TELEPHONE: _____________________ FAX: ___________________ TOLL FREE: _____________________

INTERNET E-MAIL ADDRESS: ________________________________________________________________

PROPOSER TAX PAYER IDENTIFICATION NUMBER: _____________________________________________

NOTE: Entries must be completed in ink or typewritten. An original manual signature is required. Submit this form with your Proposal.
DRUG-FREE WORKPLACE CERTIFICATION

PROJECT NAME:

PROJECT NO:

Preference shall be given to proposers certifying they have a Drug-Free Workplace in accordance with Section 287.087, Florida Statutes. Effective January 1, 1991 this requirement affects all public entities of the State. The special condition is as follows:

IDENTICAL TIE PROPOSALS – Whenever two or more proposals which are equal with respect to meeting the RFP criterion are received, preference shall be given to a Proposer that submits a Drug Free Workplace Certificate in accordance with Florida Statutes 287.087.

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.

2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.

3. Give each employee engaged in providing the commodities of contractual services that are under the proposal a copy of the statement specified in subsection (1).

4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under the proposal, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Florida Statutes, Chapter 893.01 et seq. or of any controlled substance law of the United States or any state, for violation occurring in the workplace no later than five (5) days after such conviction.

5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.

6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

COMPANY NAME

SIGNATURE

Shall be executed and returned with Proposal.
REQUIRED RESPONSE FORM D

PUBLIC ENTITY CRIMES STATEMENT

SCHOOL DISTRICT OF PALM BEACH COUNTY
SWORN STATEMENT UNDER SECTION 287.133 (3) (a)
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES

THIS FORM MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO ADMINISTER OATHS.

3. This sworn statement is submitted to:_____________________________________________________
   (print name of public entity)

   By_____________________________________________________
   (print individual’s name and title)

   for_____________________________________________________
   (print name of entity submitting sworn statement)

   whose business address is ____________________________________________________________

   and (if applicable) its Federal Employer Identification Number (FEIN) is: _______________________
   (If entity has no FEIN, include the Social Security Number of the Individual signing this sworn statement.)

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any proposal or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentations.

3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.

4. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:
   (1) A predecessor or successor of a person convicted of a public entity crime; or
   (2) An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
5. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which submits proposals or applies to submit a proposal on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. (Please indicate which statement applies.)

_____ Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, nor an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to September 1, 1990.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to September 1, 1990.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to September 1, 1990. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. (attach a copy of the final order)

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE DIRECTOR OF THE PURCHASING DEPARTMENT FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

(Signature)

Sworn to and subscribed before me this ____________ day of,______________20_____.

Personally known

OR Produced identification Notary Public - State of ______________

My commission expires ______________

(Printed typed or stamped commissioned name of notary public)
THE SCHOOL DISTRICT OF PALM BEACH COUNTY
BENEFICIAL INTEREST AND DISCLOSURE OF OWNERSHIP AFFIDAVIT

Bid No.________________________ Project No./Title_____________________________________________________________________________
____________________________________________________________________________________________________________________________
Corporate Name:_____________________________________________________________________________________________________________
__________________________________________________________ Tax FEIN No.__________________________________________________
Before me, the undersigned authority, personally appeared, ______________________, ("Corporate Representative") this _______ da y of
_______________, 20___, who, first being duly sworn, as required by law, subject to the penalties prescribed for perjury, deposes and says:
1) Corporate Representative has read the contents of this Affidavit, has actual knowledge of the facts contained herein,
and states that the facts contained herein are true, correct, and complete.
2) The following is a list of every "person" (as defined in Section 1.01(3), Florida Statutes to include individuals,
children, firms, associates, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries,
corporations and all other groups and combinations) holding 5% or more of the beneficial interest in the disclosing
entity: (If more space is needed, attach separate sheet)
A. Persons or corporate entities owning 5% or more:

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>

B. Persons or corporate entities who hold by proxy the voting power of 5% or more:

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Percentage</th>
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<tbody>
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</tbody>
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C. Stock held for others and for whom held:

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Percentage</th>
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</tbody>
</table>

CORPORATE REPRESENTATIVE

By: ______________________________________________

SWORN TO and subscribed before me this _____ day of ________________, 20___, by ____________________. Such person(s)
(Notary Public must check applicable box): [ ] is/are personally known to me. [ ] produced a current driver license(s). [ ] produced
as identification.

(NOTARY PUBLIC SEAL)                                    __________

(Print, Type or Stamp Name of Notary Public)

PBSD 1997 (Rev. 1/13/2009)
FIRST (OR SECOND ETC.) AMENDMENT TO THE
OWNER AND CONSTRUCTION MANAGEMENT AT RISK SERVICES AGREEMENT
(FIRM NAME)

PROJECT NAME:
PROJECT NO.:

This First (or Second etc.) Amendment made this _____ day of ________, 20__.

Prior to execution of this Amendment, the Owner and the Construction Manager have spent considerable time studying the scope of work, drawings, plans and specifications as described more particularly in the Construction Manager’s GMP Proposal. The Construction Manager has had full access to the Architect and all Engineers to ascertain the complete scope of the Project. Furthermore, the Owner has encouraged the Construction Manager to verify all drawings and specifications for complete accuracy with all Governmental Agencies having jurisdiction over the Construction Manager’s Work. The Construction Manager represents to the best of his knowledge after careful review that the above described documents are currently complete and sufficient to provide buildings with substantially complete and functional systems, and to furnish a Guaranteed Maximum Price. Therefore, the Construction Manager will not make claims for change orders for omissions of items that are reasonably inferable from the above described documents and agrees not to charge Owner any additional cost on account of incidental discrepancies that might appear in the above described documents. Construction Manager acknowledges that the Contract and Guaranteed Maximum Price are all inclusive of the Work required to complete the Project and based upon the negotiated and approved documents described in the Guaranteed Maximum Price Proposal dated ____________, 20__, as attached and incorporated as Exhibit Z.

In accordance with the requirements of Article 7 of the Agreement dated ________________, 20__, Project No: ____-____, is hereby amended to incorporate a Guaranteed Maximum Price in the amount of $___________ as detailed in Exhibit B attached. Execution of this Amendment does not alter the responsibilities of the Construction Manager or the extent of the Agreement beyond those already stated in Article 1 of the executed Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to the ____________, 20__ Agreement the day and year first written above.

Construction Manager:               The School Board of Palm Beach County

____________________________________
Company          Chairman

By: _________________________________                   _______________________________
Name (printed)                                  Title     Date

__________________________________                             _______________________________
Signature                                           Date            Superintendent

Attest:________________________________
Name (printed)                              Title     Date

________________________________
Signature                                        Date

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

______________________________                          School District Attorney                        Date
(Corporate Seal)
EXHIBIT B
GUARANTEED MAXIMUM PRICE SUMMARY

PROJECT NAME: ________________________________
PROJECT NO.: ________________________________

<table>
<thead>
<tr>
<th>DIVISION</th>
<th>DESCRIPTION</th>
<th>COST</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 - GENERAL</td>
<td>REQUIREMENTS (Direct Cost Items Related to Site)</td>
<td>$</td>
</tr>
<tr>
<td>2 - SITE</td>
<td>CONSTRUCTION</td>
<td>$</td>
</tr>
<tr>
<td>3 - CONCRETE</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>4 - MASONRY</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>5 - STEEL</td>
<td></td>
<td>$</td>
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<tr>
<td>6 - CARPENTRY</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>7 - THERMAL/</td>
<td>MOISTURE</td>
<td>$</td>
</tr>
<tr>
<td>8 - WINDOWS</td>
<td>AND DOORS</td>
<td>$</td>
</tr>
<tr>
<td>9 - FINISHES</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>10 - SPECIALTIES</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>11 - EQUIPMENT</td>
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<td>$</td>
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<td>12 - FURNISHINGS</td>
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<td>13 - SPECIAL CONSTRUCTION</td>
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<td>14 - ELEVATOR</td>
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</tr>
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<td>15 - MECHANICAL</td>
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<td>$</td>
</tr>
<tr>
<td>16 - ELECTRICAL</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>TOTAL DIVISIONS 1-16</td>
<td>(including accepted value engineered items)</td>
<td>$</td>
</tr>
</tbody>
</table>

BONDS AND INSURANCE.................................................................$    
CONSTRUCTION PHASE FEE (On Site and Offsite Staff)..........................$    
GENERAL CONDITIONS (Direct Cost Items Related to Field Staff)............... $    
CONSTRUCTION MANAGER FEE (Overhead & Profit) ................................... $    
OWNER'S CONTINGENCY..................................................................... $    
CONSTRUCTION CONTINGENCY............................................................. $    

SUB-TOTAL (DIVISIONS 1-16, BONDS AND INSURANCE, GENERAL CONDITIONS, FEES, OWNER'S CONTINGENCY)................................. $    

DEDUCT: GUARANTEED SALES TAX RECOVERY ....................................... $(_______)

TOTAL GUARANTEED MAXIMUM PRICE.................................................... $    

PRECONSTRUCTION PHASE FEE.......................................................... $    

TOTAL CONSTRUCTION COST (Preconstruction Fee + GMP)....................... $    

Certified True and Correct by:

NAME / TITLE  DATE
(Must be Officer of company)
### SUMMARY OF PRECONSTRUCTION FEE

**PROJECT NAME:**

**PROJECT NO.:**

**CONSTRUCTION MANAGER'S PERSONNEL ASSIGNED DURING THE PRECONSTRUCTION PHASE**

<table>
<thead>
<tr>
<th>Description of Service</th>
<th>Name/Title</th>
<th>Duration (weeks)</th>
<th>Hours/Wk</th>
<th>Rate/Hr</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>PMIS Reporting</td>
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<td>Schedule Control</td>
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<td>Schedule</td>
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<td>Project Accounting System</td>
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<td>Project Manual</td>
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<td>Cost Control (Design Review &amp; Estimates):</td>
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<tr>
<td>- Advanced Schematic</td>
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<td>- Design Development</td>
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<td>- 50% CD</td>
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<td>- Solicitation of Bids/Establish GMP</td>
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<td>Other Activities (Specify)</td>
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<td>Reimbursable Expenses</td>
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<td>(Specify)</td>
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**TOTAL PRE CONSTRUCTION FEE $**

Certified True and Correct by:

__________________________________
Name (printed)/ Position

_________________________________
Signature
PERSONNEL ASSIGNED DURING CONSTRUCTION
SUMMARY OF CONSTRUCTION PHASE SERVICES FEE

PROJECT NAME:
PROJECT NO.:

<table>
<thead>
<tr>
<th>Name / Title</th>
<th>Percentage of Time</th>
<th>Hours/Wk</th>
<th>Rate/Hour</th>
<th>Duration (weeks)</th>
<th>Total</th>
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Total________________
CONSTRUCTION MANAGER'S STAFF PER DIEM FOR TIME EXTENSIONS

PROJECT NAME:
PROJECT NO.:

<table>
<thead>
<tr>
<th>Name / Title</th>
<th>Hrs / Day</th>
<th>Rate / Hr</th>
<th>Per Diem Rate</th>
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CONSTRUCTION TEAM AUTHORIZED REPRESENTATIVES

PROJECT NAME:  
PROJECT NO.:  

Owner:  
Address:  
City/State:  
Telephone No.:  
Fax No.:  
Cellular:  
Email Address:  

Owner’s Authorized Representative:  
Address:  
City/State:  
Telephone No.:  
Fax No.:  
Cellular:  
Email Address:  

Construction Manager:  
Address:  
City/State:  
Telephone No.:  
Fax No.:  
Cellular:  
Email Address:  

Architect-Engineer:  
Address:  
City/State:  
Telephone No.:  
Fax No.:  
Cellular:  
Email Address:  
## CHANGE ORDER RATE SCHEDULE

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<thead>
<tr>
<th>Craft</th>
<th>Rate/Hour</th>
<th>Overtime Rate/Hour</th>
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<tr>
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<td>$30.00</td>
<td>$38.00</td>
</tr>
<tr>
<td>Laborer Foreman</td>
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</tr>
<tr>
<td>Carpenter</td>
<td>$35.00</td>
<td>$40.45</td>
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<tr>
<td>Lather</td>
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<td>$40.45</td>
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<tr>
<td>Plasterer</td>
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<td>Carpenter Foreman</td>
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<td>$50.80</td>
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<tr>
<td>Mason</td>
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<td>$48.60</td>
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<tr>
<td>Heavy Equipment Operator</td>
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<tr>
<td>Site Foreman</td>
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<td>$50.80</td>
</tr>
<tr>
<td>Pipe fitter/ Plumber</td>
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<td>Sheet metal worker</td>
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<td>Glazier</td>
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<td>Sprinkler worker</td>
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<td>Ironworker (red)</td>
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<td>$57.15</td>
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<td>Ironworker (rebar)</td>
<td>$35.00</td>
<td>$40.45</td>
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</table>
Builder’s Risk Questionnaire

Owner: School District of Palm Beach County, Florida

Contractor Name & Address: ____________________________________________________________

Project Title, Project Number & Description: ____________________________________________

Project Address: ____________________________________________________________________

Estimated Cost of Construction: New- _______________________ Modernization- ______________

Intended Use of Completed Structure: __________________________________________________

Number of Stories: ________________ Number of Buildings: ________________________________

Total GSF of Construction: ____________________________________________________________

Construction Commencement: _______________ Construction Completion: _________________

Type of Construction: Walls-___________________________ Roof: __________________________

Footings on Fill, Ground, Piles or Other: ______________________________________________

Foundation Materials: __________________________________________________________________

Distance to Nearest Fire Hydrant: _______________________________________________________

Distance to Fire Department: __________________________________________________________

Distance to Nearest Structure: _________________________________________________________

Will Sprinklers Be Installed:____________________________________________________________

Site Security (Fencing, Lighting, Security Service): _______________________________________

Material Storage On-Site-

How Will Material Be Stored: ___________________________ Value: _________________________

Will Flammables Be Stored On-Site & How: ______________________________________________

List the Major Subcontractors and Estimated Percent of Work:- _____________________________

____________________________________________________________________________________

Is Demolition Required (Describe): ______________________________________________________

Completed By: __________________________________    Date: ______________________________
PERFORMANCE BOND

FORM 00610-PB

STATE OF FLORIDA, COUNTY OF PALM BEACH

COUNTY OF PALM BEACH BOND NUMBER

KNOW ALL MEN BY THESE PRESENTS:

That we, ___________________________ (hereinafter called the "Principal", and ___________________________ (hereinafter called the "Surety") and are held firmly bound unto THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA as Obligee (hereinafter called the "Owner") in the sum of:

$_________________________ for the payment of which Principal and Surety bind ourselves, our heirs, executors, administrators, successors and assigns jointly and severally for the faithful performance of a certain written contract (hereinafter "contract"), dated this ______ day of ________________, 20____, entered into between the Construction Manager and the SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA, for the Construction Management and Construction of:

PROJECT NAME: ___________________________
PROJECT NO: ___________________________

A copy of which said contract is incorporated herein by reference and is made a part hereof as if fully contained herein.

NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION ARE SUCH: The conditions of Florida Statute 255.05 are met and that, if the Principal (Construction Management at Risk Services) shall in all respects comply with the terms and conditions of said contract, and his obligations thereunder, including the Contract Documents (which include but is not limited to the Notice, Proposal, Construction Agreement, Contract Bond, Instructions to Proposers and the General Supplementary Conditions, Special Conditions, the Drawings and Specifications referred to and made a part thereof, including all modification as provided for), and shall indemnify and save harmless the said Owner from and against any and all liability, loss, costs, expenses or damages including reasonable attorneys' fees, engineering and architectural fees which said Owner may incur or which may be imposed upon it by reason of any negligence, default or misconduct, or any combination thereof, including patent infringement, on the part of said Construction Manager, Owners or employees, in the execution of performance of said contract, including the guarantee, warranty, and indemnity provisions this obligation shall be void; otherwise, the Principal and Surety jointly agree to repay to and reimburse to said Owner, promptly upon demand, all sums of money, including reasonable attorneys' fees, architects and other professional services and any damages, direct or indirect, or consequential, reasonably incurred, paid out or expended by the Owner on account of the failure or refusal of the Construction Manager to carry out, do, perform or comply with any of the terms and provisions of said contract at the time and in the manner therein provided.

And the said Construction Manager and Surety hereby further bind themselves, their successors, executors, administrators and assigns, jointly and severally that they will amply and fully protect the said Owner against, and will pay any and all amounts, damages, costs and judgments which may be recovered against or damage arising from the performance of said work, or of the repair or maintenance thereof, or the manner of doing the same, or the neglect of the said Construction Manager or his owners or servants, or the improper performance of the said work by the Construction Manager or his owners or servants, or the infringements of work done, as aforesaid, or otherwise.

00610-1
And whenever Construction Management at Risk Services shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

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

2. Obtain a Proposal or Proposals for submission to Owner for completing the Contract in accordance with its terms and conditions and upon determination by Owner and Surety of the lowest responsible Proposer, arrange for a contract between such Proposer and Owner, and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay cost of completion less the balance of the Contract price. The term "balance of the Contract Price", as used in this paragraph, shall mean the total amount payable by Owner to Construction Management at Risk Services under the Contract and any amendments thereto, less the amount properly paid by Owner to Construction Management at Risk Services.

And the said Surety for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder or the Specifications accompanying the same, or noncompliance with any formalities connected with the Contract shall in any way affect its obligation on this bond, and it does hereby waive notice of any such damages, extension of time, alterations or additions to the terms of the Contract or to the Work or to the Specifications. Construction Manager and Surety expressly acknowledge that any and all provisions relating to consequential, delay and liquidated damages contained in the contract are expressly covered by and made a part of this Performance Bond. Construction Manager and Surety acknowledge that any such provisions lie within the scope of their obligations and the conditions of this instrument.

Signed and sealed this _____ day of ______________ in the year Two Thousand and Ten.

______________________________
(Witness)                        (Principal)    (Seal)

______________________________
(Principal Business Address)     (Principal Business Address for Notice or Communication relating to this Bond)

______________________________
(Surety)                        (Title)

______________________________
(Witness)                        (Title)
LABOR AND MATERIAL PAYMENT BOND

FORM 00610-LMPB

This Bond is issued simultaneously with performance bond in favor of the Owner conditioned on the full and faithful performance of the Contract

KNOW ALL MEN BY THESE PRESENTS: that

(Here insert full name and address or legal title of Construction Management at Risk Services)

as Principal, hereinafter called "Principal", and,

(Here insert full name and address or legal title of Surety)

as Surety, hereinafter called "Surety", are held and firmly bound unto

The School District of Palm Beach County, Florida
3300 Forest Hill Boulevard
West Palm Beach, Florida 33406-5869

as Obligee, hereinafter called "Owner", for the use and benefit of claimants as herein below defined, in the amount of

Dollars ($)

(Here insert a sum equal to the Contract Price)

for the payment whereof Principal and Surety bind themselves, their heirs, personal representatives, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS,

Principal has by written agreement dated __________, entered into a contract with the Owner for Construction Manager at Risk

PROJECT NAME:
PROJECT NO:
PROJECT LOCATION:
in accordance with Final Drawings and Final Specifications approved by the Owner and prepared by

NAME OF PROPOSING FIRM
STREET ADDRESS OF FIRM
CITY STATE ZIP
PHONE
FAX

which contract is by reference made a part hereof, in its entirety, and is hereinafter referred to as the Contract.
LABOR AND MATERIAL PAYMENT BOND
FORM 00610-LMPB2

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the contract dated ____________20__________, between Principal and Owner for Construction Management at Risk of, ____________, the contract being made a party of this bond by reference, at the times and in the manner prescribed in the contract; and

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

3. Pays Owner all losses, damages, expenses, costs, and attorneys’ fees, including appellate proceedings, that Owner sustains because of a default by Principal under the contract; and

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

5. Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract or the changes does not affect Surety’s obligation under this bond.

6. The penal sum of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of construction liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against the bond.

7. Principal and Surety expressly acknowledge that any and all provisions relating to consequential, delay and liquidated damages contained in the contract are expressly covered by and made a part of this Labor and Material Payment Bond. Principal and Surety acknowledge that any such provisions lie within their obligations and within the policy coverages and limitations of this instrument.

8. Section 255.05, Florida Statutes, as amended, together will all notice and time provisions contained therein, is incorporated herein, by reference, in its entirety. This instrument regardless of its form, shall be construed and deemed a statutory bond issued in accordance with Section 255.05, Florida Statutes.

9. Any action brought under this instrument shall be brought in the court of competent jurisdiction in the county in which the Project, or any part thereof, is situated (i.e. Palm Beach County), and not elsewhere.
FORM 00610-LMPB3

Signed and sealed this _____ day of _______________ in the year Two Thousand and Ten.

(Witness)  (Principal)  (Seal)

(Principal Business Address)

(Title)

(Witness)  (Surety)  (Seal)

(Principal Business Address for Notice or Communication relating to this Bond)

(Title)

END OF SECTION
The Construction Manager at Risk shall prepare an initial deductive Change Order for the total amount of the Guaranteed Sales Tax Recovery specified on the GMP Summary (Exhibit B).

Thereafter, for each District-Purchased Material (DPM), the Construction Manager at Risk shall prepare a District-Purchased Material Purchase Order, consecutively numbered, excluding sales tax, between the School District of Palm Beach County and the Supplier/Vendor. The School District of Palm Beach County (SDPBC) will provide the Construction Manager at Risk with blank purchase order forms to be completed. This procedure should be followed for all DPMs up to the guaranteed sales tax savings amount. Once this amount is exceeded, the DPM purchase order should include sales tax and the total amount will be deducted from the Construction Manager at Risk (CM) contract; resulting in tax savings going directly to SDPBC for any amount exceeding the guaranteed amount.

The Construction Manager at Risk transmits draft District-Purchased Material purchase orders to the School District of Palm Beach County's Construction Purchasing Department. Upon approval from the SDPBC's Construction Purchasing Department, the DPM information is forwarded to Capital Projects to create an express purchase order. Construction Purchasing will electronically route the Vendor Copy to the Vendor; providing a fax number or email address has been provided for that Vendor.

CM must provide a current detailed listing of all District-Purchased Materials with each Pay Application. Retainage should not be held on materials purchased through the DPM Program.

Materials shall be delivered to the project job site to the attention of the Construction Manager's project site representative or the Subcontractor on site. The materials manifest is validated and matched to the invoice by the Subcontractor and Construction Manager at Risk.

The Supplier/Vendor invoices the School District of Palm beach County in care of the Subcontractor.

Note: The invoice is sent to the Subcontractor, not to the School District of Palm Beach County’s Accounts Payable Department. Failure to send to the Subcontractor will result in a delay of payment.

The Subcontractor will review and approve the invoice(s) and then forward to the Construction Manager for review and approval. The CM shall forward the approved invoice to the School District of Palm Beach County’s Project Manager. The SDPBC Project Manager will approve the pay application and forward it to Capital Projects for processing through the Accounts Payable Department. The SDPBC’s Accounts Payable Department will issue a check payable to the Supplier/Vendor.

The purchase order shall be closed when the final payment is made. If it is projected that the sum of all invoices will exceed the PO amount, the Construction Manager will contact the SCPBC’s Construction Purchasing Department for an increase approval, and Construction Purchasing will authorize the Capital Projects Department to adjust the purchase order accordingly. A copy of the adjusted PO will be electronically routed to the Vendor. If the sum of all invoices is less than the purchase order amount, an adjustment will be made to close out the PO.

Once all District-Purchased Materials have been paid in full, the SDPBC’s Capital Projects Department and the Construction Manager will reconcile all transactions. If the totals do not match the initial Construction Manager’s DPM Purchase Order, the CM must draft an adjusting purchase order to amend the contract(s) accordingly.
Trench Safety Act Compliance Statement

Project Name ___________________________ Project Number _______ - ___________

Project Location

Instructions

Chapter 90-96 of the Laws of Florida requires all contractors engaged by The School District of Palm Beach County to comply with Occupational Safety and Health Administration Standard 29 C.F.R.s. 1926.650 Subpart P. All prospective contractors are required to sign the compliance statement and provide compliance cost information where indicated below. This cost for complying with the Trench Safety Act must be incorporated into this project's base bid.

This form must be certified in the presence of a notary public or other officer authorized to administer oaths.

Certification

1. I understand that Chapter 90-96 of the Laws of Florida (The Trench Safety Act) requires me to comply with OSHA Standard 29 C.F.R.s. 1926.650 Subpart P. I will comply with the Trench Safety Act, and I will design and provide trench safety systems at all trench excavations in excess of five (5) feet in depth for this project.

2. The estimated cost imposed by compliance with the Trench Safety Act will be:

   ________________________________ Dollars $ _____________
   (Written)                  (Figures)

3. The amount listed above has been included within the Base Bid of this Proposal Form.

Certified:

By:

______________________________
(Company/Contractor)

______________________________
(President’s Signature)

______________________________
(President’s Typed or Printed Name)

Notarization

______________________________
Sworn to and subscribed before me in ______________________, Florida on the ___ day of __________________, 20__.

Notary Public: ________________________________ (affix Seal)

My Commission Expires: ________________________________
THE SCHOOL DISTRICT OF PALM BEACH COUNTY
OFFICE OF DIVERSITY IN BUSINESS PRACTICES

Participation Letter of Intent

Submit completed form to the Senior Project Administrator (SPA). Direct all questions to (561) 434-8508.
Form must be submitted to BidSync.com

BID/RFP or Project Name ______________________________________________________
BID/RFP or Project # ______________________________________________________
Name of Bidder/Construction Manager _________________________________________

The undersigned intends to perform work with the above project as (check one):

☐ Individual ☐ Partnership ☐ Corporation ☐ Joint Venture*

* If a joint venture, attach letterhead or other documentation proving relationship.

The undersigned intends to perform work with the above project as (check one):

☐ Subcontractor ☐ Subconsultant ☐ Manufacturer ☐ Supplier

The undersigned is:

☐ Certified with the School District of Palm Beach County M/WBE Coordinator

☐ Certified with the State of Florida, Department of General Services (Provisional)

The undersigned is: (MWBE must check one in column 1 and column 2; Column 2, completed by both MWBE or SBE; Column 3 completed by MWBE or SBE if applicable)

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<tr>
<th>Column 1 (MWBE ONLY)</th>
<th>Column 2 (MWBE ONLY)</th>
<th>Column 3</th>
</tr>
</thead>
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</tr>
<tr>
<td>☐ Hispanic American</td>
<td>☐</td>
<td>☐</td>
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</table>

PARTICIPATION The undersigned intends to perform the following work in connection with the above project:

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Division No.</th>
<th>Contract (Trade) Items (Description/Division)</th>
<th>Amount</th>
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</table>

If the undersigned intends to sub-contract any portion of this subcontract to a non-certified M/WBE or SBE subcontractor, the amount of any such subcontract must be stated $ ____________________________

Name of M/WBE or SBE Subcontracting Firm __________________________________________

Name and Position (type or print) __________________________________________________

INTERNAL USE ONLY - ROUTING DISPOSITION
All executed originals of the form must be submitted to the Office of Diversity in Business Practices
3300 Forest Hill Blvd., A-106, West Palm Beach, FL 33406-5813

Signature __________________________ Date ________________
Subconsultant, Subcontractor & Vendor Participation Services

Subject to Agreement with the Construction Manager, the Subcontractor firms (minority & non-minority) listed below will participate in this project for the Contract (Trade) Items and the dollar amounts shown.

Subcontractors represented as Certified MWBEs/SBEs are certified according to requirements established in the Proposal & Contract documents. A copy of the certification and signed Letter of Intent must be attached for each MWBE/SBE. List must also include non-minority firms.

CM’s Firm Name

Name/Position

Signature/Date

---

### APPENDIX E

<table>
<thead>
<tr>
<th>Div. No.</th>
<th>Subcontractor/Subconsultant/Vendor Name</th>
<th>Budget (Est. Cost)</th>
<th>Contract Amount</th>
<th>Description</th>
<th>MWBE or SBE (Yes or No)</th>
<th>Amount</th>
<th>Percentage %</th>
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<td>Yes</td>
<td>No</td>
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</table>

**Subtotal (this page only)>**

**Total SBE/MWBE Services Participation**

**Total Non-MWBE/SBE Participation**

**Total Percentage of Total Bid (Alternates & Change Orders)** (Do not exceed 100%)

PBSSD 1526 (Rev. 8/31/2010)
<table>
<thead>
<tr>
<th>No.</th>
<th>SUBCONTRACTOR / SUBCONSULTANT / VENDOR NAME</th>
<th>BUDGET (Est. Cost)</th>
<th>CONTRACT AMOUNT</th>
<th>DESCRIPTION</th>
<th>MWBE/SBE (Yes or No)</th>
<th>MWBE ONLY AMOUNT</th>
<th>PERCENTAGE %</th>
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SUBTOTAL (this page only):
<table>
<thead>
<tr>
<th>No.</th>
<th>SUBCONTRACTOR / SUBCONSULTANT / VENDOR NAME</th>
<th>BUDGET (Est. Cost)</th>
<th>CONTRACT AMOUNT</th>
<th>DESCRIPTION</th>
<th>MWBE/SBE (Yes or No)</th>
<th>MWBE ONLY AMOUNT</th>
<th>PERCENTAGE %</th>
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**SUBTOTAL (this page only)**: 

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**SUBTOTAL (this page only)**: 

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**TOTAL BID OR CM SERVICES AMT. (Required)**: 

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The following Certified M/WBE or SBE Subcontractors were invited to submit a proposal and declined to participate in the above project for the following work.

<table>
<thead>
<tr>
<th>Item Number</th>
<th>Division Number</th>
<th>M/WBE or SBE Contractor (Trade) Items</th>
<th>Date Contacted</th>
<th>Who Contacted</th>
<th>Reason Number</th>
</tr>
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<tbody>
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* REASON NUMBERS

1. Firm did not agree to participate
2. Unable to reach accommodation with price
3. Firm did not submit proposal
4. Firm indicated that its current work program precluded them from participating
5. Price submitted by firm in excess of estimated market value
6. Unable to contact firm
7. Other (explain)

CERTIFICATION I certify the preceding statements are true.

Name and Position (print or type)  

Name of Contracting Firm  

Signature  

Date  

PBSD 1527 (REV. 8/31/2010)
This report is required by The School District of Palm Beach County. Failure to comply may result in The School District commencing proceedings to impose sanctions on the contractor/consultant. In addition to pursuing other legal remedies, sanctions may include the withholding of payments for work committed to Minority, Women & Small Business Enterprise participants, and a negative recommendation on future bids by the contractor/consultant for The School District of Palm Beach County.

Commencing on September 1, 1996, partial release of lien is required from each subcontractor & vendor and shall accompany any application and certification for payment. Prompt payment to CONTRACTOR/CONSULTANT is dependent on appropriate documentation. The signature below of corporate officer attest to the accuracy of the information.

Signature of Company Officer
Date
Title
Phone #

STATE OF FLORIDA, PALM BEACH COUNTY
IN WITNESS WHEREOF, I have hereunto set my hand and official seal this day of ___________, 1999.

My commission expires ________________

NOTARY PUBLIC, STATE OF FLORIDA

PBSD 1528 (Rev. 8/31/2010) ORIGINAL - Office of Diversity in Business Practices COPY - Construction Department
<table>
<thead>
<tr>
<th>27. FED ID #</th>
<th>28. NAME OF SUBCONTRACTORS, SUB CONSULTANTS, VENDORS, SUPPLIERS, MFRS.</th>
<th>29. MINORITY CODE</th>
<th>30. WORK DESCRIPTION</th>
<th>31. CONTRACT AMOUNT FOR PROJECT</th>
<th>32. AMOUNT DRAWN PREVIOUS MONTH</th>
<th>33. AMOUNT DRAWN THIS MONTH</th>
<th>34. TOTAL PAID TO DATE</th>
<th>35. ACTUAL START DATE</th>
<th>36. SCHEDULED COMPLETE DATE</th>
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INSTRUCTIONS

1. Name of Project
2. School Project Number
3. Application Number - From document SD 702 or from project manager
4. School District's Purchase Order Number
5. Application date is same date as on draw application
6. Reporting Period - from document SD 702 “Period to”
7. Minority Women Business Enterprise/Small Business Enterprise Goal as set by Guaranteed Maximum Price for this project
8. Minority Women Business Enterprise/Small Business Enterprise Goal as set by the Request for Proposal for this project
9. Estimated Construction Budget for this project
10. Scheduled completion date for this project
11. Percentage of Minority Women Business Enterprise/Small Business Enterprise participation
12. Percentage of project completed to this date
13. Business name of prime contractor
14. Prime contractor’s mailing address
15-17. Project Manager’s name, phone and fax number
18-20. School District’s Senior Project Administrator’s name, phone and fax number
22. Total of this draw as authorized on the SD702 document
23. Prime contractor’s Completed and stored amount to date
24. School District approved Guaranteed Maximum Price (amount)
25. Minority Women Business Enterprise/Small Business Enterprise subcontractor participation (amount)
26. Minority Women Business Enterprise/Small Business Enterprise sub-consultant participation (amount)
27. Federal Identification Number
28. Business name of subcontractor, sub-consultant, vendor, supplier and manufacturer
29. Subcontractor’s/sub-consultant’s Minority Women Business Enterprise/Small Business Enterprise status
30. Brief description of work each subcontractor will perform (Roofing, HVAC, Trash removal, consulting, etc)
31. List contract total for each subcontractor/sub-consultant
32. Amount drawn previous month for subcontractor/sub-consultant
33. Amount drawn this month for each subcontractor/sub-consultant
34. To date total amount paid to each subcontractor/subcontractor
35. Start date for each subcontractor/sub-consultant
36. Scheduled completion date for each subcontractor/sub-consultant

NOTES

1. All 1528 forms must be submitted with every pay application
2. You should submit the partial release of liens with the draw application
3. You should have a copy of the certification for every certified minority or small business subcontractor/subcontractor
4. This form must be notarized

MINORITY WOMEN BUSINESS ENTERPRISE
A = Black Male  G = Asian Male
B = Black Female  H = Asian Female
C = Hispanic Male  I = White Female
D = Hispanic Female  N = Non-Minority/ Small Business
E = Indian/Alaskan Male
F = Indian/Alaskan Female

SMALL BUSINESS ENTERPRISE
SBE = Small Business Enterprise
N = Non-Small Business Enterprise

N = Non-Minority/ Small Business
Good Faith Memorandum

○ Minority/Women Business Enterprise (MWBE)  ○ Small Business Enterprise (SBE)

This submission is made to: ___________________________ Date ______________

Name of Prime/Professional ____________________________

Address ____________________________________________

City, State, Zip _______________________________________

SUBJECT SUB-CONTRACTOR, SUPPLIERS, VENDORS, MANUFACTURERS, PROFESSIONAL GOOD FAITH INITIATION

PROJECT NAME ________________________________________

By this memorandum, we cite our availability, readiness, and willingness to submit quotations on the above named project as a prospective participant.

FROM Sub-contractor/Vendor ______________________________

Contact Person _______________________________________

Address ____________________________________________

City, State, Zip _______________________________________

Telephone (______) ______ - _______ Extension ______________________

Fax Number (______) ______ - _______ E-mail ______________________

Business Hours _______________________________________

The trade, product, service(s), we are offering to present quotes on are:

____________________________________________________________________

By the presence of this form, we respectfully request that the primary vendor/professional provide all technical data relative to the formulation of the proposal, plans, and specifications to include addendums necessary to facilitate our formulation of a realistic proposal.

NOTE TO PRIMARY VENDOR - The Palm Beach County School Board (Policy No. 6.143) has established participation goals and bid preferences relative to Minority, Women and Small Business Enterprise participation in all commercial solicitations presented for public offering. If this form is being transmitted to the primary contractor via certified mail, include a photo copy of the receipt with this form.
Partial Release of Claims and Waiver of Lien
and/or Verification of Payment

The undersigned, in consideration of the receipt of $ ______________, the receipt of which is hereby acknowledged hereby waives and releases in favor of ____________________________ as contractor, the School District of Palm Beach County, Florida, as owner of the property described below, any and all liens, rights of lien or all rights and claims of whatsoever kind or character on or respect to the property and improvements thereon described below, on account of any and all labor, material, or both, delivered, furnished for or incorporated into the improvements from the date of commencement of any of the improvement through (date) ____________________________ . The undersigned further certifies that all services, labor and materials used by the undersigned with respect to such improvements have been full paid for, and no party has asserted, or has the right to assert, any claim or security interest with respect to such services, labor or materials.

SDPBC Project # ____________________________ Project Name ____________________________

<table>
<thead>
<tr>
<th>STATEMENT OF CONTRACT/SUBCONTRACT ACCOUNT TO DATE</th>
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<tbody>
<tr>
<td>Original Agreement Amount</td>
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<tr>
<td>Approved Change Order Amount</td>
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<tr>
<td>Approved Direct Material Purchase Order Amount</td>
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<tr>
<td><strong>Total Contract/Subcontract Amount</strong></td>
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<tr>
<td>Total Net Payments Received to Date</td>
</tr>
<tr>
<td>Total Amount of Retention Currently Withheld</td>
</tr>
</tbody>
</table>

Signature of Witness ____________________________ Date ____________________________
Witness Title ____________________________

Signature of Witness ____________________________ Date ____________________________
Witness Title ____________________________

STATE OF FLORIDA, PALM BEACH COUNTY

The foregoing instrument was acknowledged before me this __________ day of ______________ , 20 __, by ____________________________, of ____________________________, on behalf of The corporation. He/she is personally known to me or has produced ____________________________ as identification.

______________________________
NOTARY PUBLIC, STATE OF FLORIDA

My commission expires: ____________________________
Print Name ____________________________
THE SCHOOL DISTRICT OF PALM BEACH COUNTY

Final Release and Verification of Payment

Send all executed originals of this verification to The School District of Palm Beach County, Office of Diversity in Business Practices, 3300 Forest Hill Boulevard, Suite A-106, Florida 33406

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, __________________________________________,
in consideration on the sum of ________________________________________ ($ _____________),
receipt whereof is hereby acknowledged, and other valuable considerations and benefits to the undersigned accruing,
does hereby, on behalf of itself, or the subcontractors, as they may claim through or on behalf of the subcontractors, for
the benefit of the attached subcontractors, as listed on Form 1621 (supplement release) and quit claim its rights, bond
rights, claims or demands of every kind whatsoever, including delay, disruption, acceleration, or any claims related to
time, which the undersigned now has, or may hereafter have, against the Palm Beach County School Board, its Agents, or
Representatives, for the project known as ____________________________________________________________
on account of work and labor performed, and/or materials furnished in, to, or about the construction of any building or
buildings situated thereon, or in improving said property above described, or any part thereof.

<table>
<thead>
<tr>
<th>FINAL STATEMENT OF CONTRACT/SUBCONTRACT ACCOUNT</th>
<th>Original Agreement Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Approved Change Orders</td>
<td>_________________________</td>
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<tr>
<td>Total Approved Direct Material Purchase Orders</td>
<td>_________________________</td>
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<tr>
<td><strong>Total Contract/Subcontract Amount</strong></td>
<td>_________________________</td>
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<tr>
<td>Total Payments Received including Retention</td>
<td>_________________________</td>
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<tr>
<td>Amount of Retention Currently Unpaid</td>
<td>_________________________</td>
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</table>

It being the understanding of the undersigned that this is a Final Release and Verification of Payment which the
undersigned has against the Palm Beach County School Board, its Agents, or Representatives, or the premises herein, the
undersigned warrants that no assignment of said rights or claims has or will be made, and that the undersigned has the
right to execute this Final Release and Verification of Payment, and that all laborers employed by the undersigned, and
all bills for services furnished by others to the undersigned in connection with the construction of improvements upon
the aforesaid premises have been fully paid.

Signature of Company Representative ___________________________ Date _______ Title ______________________

STATE OF FLORIDA, PALM BEACH COUNTY

The foregoing instrument was acknowledged before me this _____________ day of __________, 20 ___,
by ___________________________ of ___________________________ on behalf of
the corporation. He is personally known to me or has produced ___________________________ as identification.

NOTARY PUBLIC, STATE OF FLORIDA

Sign: ___________________________
Print: __________________________
My commission Expires: ___________
Good Faith Efforts Noncompliance Supplement
NOTE: Completion of this form is not required if established goals are met or exceeded.

- Minority/Women Business Enterprise (M/WBE)
- Small Business Enterprise (SBE)

CONTRACTOR FIRM

PROJECT NAME

PROJECT NUMBER  DATE

This document is to be completed if bidder fails to achieve the Minority/Women Business Enterprise (MWBE/SBE) goals established for the project. The bidder is allowed to use an alternate method that demonstrates the “good faith efforts” made to meet the goals established as long as all of the requested information is included. Failure to include all requested information shall result in the bid being determined as non-responsive to the MWBE/SBE requirements.

The following list is not intended to be exclusive or exhaustive, and the School District will look not only at the different kinds of efforts the bidder has made, but also the quality, quantity, intensity and timeliness of those efforts. It is the responsibility of the bidder to exercise “Good Faith Efforts.” Any act or omission by the District shall not relieve the bidder of this responsibility.

Criteria listed below are excerpted from the School District of Palm Beach County Policy 6.143. A response is required to address each cited paragraph. Additional pages may be added as necessary.

1. Attendance at pre-bid conference, if held: Yes □ No □ Not Held

2. Whether and when the bidder provided written notice to all certified MWBE/SBE listed in the School District of Palm Beach County Directory that perform the type of work to be subcontracted and advising the MWBE/SBE of the specific work the bidder intends to subcontract; that their interest in the contract is being solicited; and how to obtain information for the review and inspection of contract plans and specifications.

Provide complete list of all MWBE/SBE solicited.

Provide the date letters were transmitted (MWBE/SBE will be canvassed as to who sent them letters and what date they were received.) Provide a copy of solicitation and all other letters sent to MWBE/SBE. Recommended information in your solicitation letter can include, but not be limited to, the following:

- Project specific information.
- Your willingness to assist with supply purchases.
- Bonding requirements of your firm.
- Availability of specifications and plans through your office.

- Best time to reach you by phone (MWBE/SBE firms will be canvassed regarding your responsiveness to their calls and project information they received from your firm.)
- Bid opening date and all addendum information.
- Your requirements/time frames/payment schedules.

3. Has the bidder selected feasible portions of work to be performed by MWBE/SBE, including, where appropriate, breaking contracts or combining elements of work into feasible units? The ability of the bidder to perform work with its own work force will not in itself excuse a bidder from making positive efforts to meet the established goals.

If appropriate, detail any subcontracting category that you have broken down to assist MWBE/SBE firms and list firms that have been made aware of this reduced scope.

<table>
<thead>
<tr>
<th>SUBCONTRACTING CATEGORY</th>
<th>MWBE/SBE FIRM</th>
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PBSD 1629 (REV. 08/31/2010)
4. Has the bidder considered all quotations received from MWBE/SBE's and for those quotations not accepted the bidder shall provide an explanation of why the MWBE/SBE will not be used during the course of the contract? Receipt of lower quotation from non-MWBE/SBE will not in itself excuse a bidder's failure to meet project goals.

List all MWBE/SBE firms who quoted this project; the amount quoted and the successful Subcontractor (if not the MWBE/SBE firm) and their quote.

<table>
<thead>
<tr>
<th>NAME OF MWBE/SBE</th>
<th>MWBE/SBE'S QUOTE</th>
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<tr>
<th>NAME OF NON-MWBE/SBE SUBCONTRACTOR CHOSEN</th>
<th>SUBCONTRATOR'S QUOTE</th>
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5. Has the bidder provided interested MWBE/SBE assistance in reviewing the contract plans and specifications? Name the MWBE/SBE firms provided assistance, and describe how your firm provided such assistance.

________________________________________________________________________
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________________________________________________________________________

6. Whether the bidder advertised in general circulation, trade association, and/or minority/women - focused media concerning the subcontracting opportunities.

The minority focused papers include:

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<th>BLACK</th>
<th>HISPANIC</th>
<th>MAJORITY</th>
<th>OTHER</th>
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</thead>
<tbody>
<tr>
<td>None</td>
<td>None</td>
<td>Palm Beach Post</td>
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List which papers carried your ad and attach a copy of the ad

________________________________________________________________________
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7. Has the bidder followed up initial solicitations of interest by contacting MWBE/SBE’s to determine with certainty whether the MWBE/SBE was interested?

Name the MWBE/SBE you followed up with and describe your follow up efforts.

8. Has the bidder negotiated in good faith with interested MWBE/SBE, not rejecting MWBE/SBE as unqualified without sound reasons and based on a thorough investigation of their capabilities?

a) Provide a detailed statement of the reasons why subcontracts were not entered into with a sufficient number of MWBE/SBE to meet the established goals.

b) Provide a list of MWBE/SBE Subcontractors you deemed unqualified and provide an explanation of the conclusion you reached.

c) For those MWBE/SBE Subcontractors contacted, but determined to be unavailable, provide either:

I) a signed letter to the bidder from the MWBE/SBE stating they are unavailable;

OR

II) a statement from the bidder that the MWBE/SBE Subcontractor refused to submit a letter after a reasonable request; and a detailed statement from the Bidder of the reasons for the bidder’s conclusion.
9. Has the bidder effectively used the services of available minority/women community organizations; minority/women contractors' groups; local state and federal minority/women business assistance offices; and other organizations that provide assistance in the recruitment and placement of minority/women business enterprises?

The following is a partial list of MWBE/SBE organizations that may be helpful in locating eligible MWBE/SBE.

**ORGANIZATION**
Florida Dept. Of Management Services ................................................................. 850-487-0915

List minority/women organizations contacted.

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<tr>
<th>ORGANIZATION</th>
<th>PERSON CONTACTED</th>
<th>PHONE NUMBER</th>
<th>DATE CONTACTED</th>
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10. Has the bidder utilized MWBE/SBE Subcontractors on other School District contracts within the past six (6) months?

List any School District of Palm Beach County projects your firm has performed in the last six (6) months, the MWBE/SBE Subcontractors utilized and the dollar value of the MWBE/SBE Subcontractor.

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<tr>
<th>PROJECT NAME</th>
<th>MWBE FIRMS USED</th>
<th>DOLLAR VALUE</th>
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11. Describe any additional efforts or circumstances which may assist the School District in determining "Good Faith Efforts."

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SIGNATURE OF COMPANY OFFICIAL ______________________ DATE ____________ COMPANY ADDRESS ________________________________________

PRINT NAME ______________________ CITY/STATE/ZIP ____________
POSITION ______________________ TELEPHONE ______ FAX ____________
# Construction Allowance Use Request

**From**: 

**Date**: 

**Allowance Log #**: 

**Project #**: 

**Project**: 

**PM Initiated By**: 

**Reviewed By**: 

**Reason For Using Allowance:**

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<th>DIV</th>
<th>SUB NAME</th>
<th>ALLOWANCE LINE ITEM DESCRIPTION</th>
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**SUBTOTAL**

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**THE SCHOOL DISTRICT OF PALM BEACH COUNTY APPROVAL**

**Signature** 

**Date**
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<tr>
<th>DIV NO.</th>
<th>DESCRIPTION OF WORK</th>
<th>ORIGINAL SCHEDULED VALUE</th>
<th>INTERNAL CHANGE</th>
<th>EXTERNAL CHANGE</th>
<th>DIRECT PAYMENTS</th>
<th>REVISED SCHEDULED VALUE</th>
<th>PREVIOUS APPLICATION</th>
<th>CURRENT APPLICATION</th>
<th>TOTAL COMPLETED &amp; STORED TO DATE</th>
<th>BALANCE TO FINISH (C-G)</th>
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*Note: Amounts are stated to the nearest dollar.*

**Contractor's signed Certification is attached.**

**APPENDIX M**
<table>
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<th>DIV NO.</th>
<th>DESCRIPTION OF WORK</th>
<th>ORIGINAL SCHEDULED VALUE</th>
<th>SCHEDULED INTERNAL CHANGE</th>
<th>SCHEDULED EXTERNAL CHANGE</th>
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<th>STORED MATERIALS &amp; STORED TO FINISH</th>
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PBSD 2349 (New 01/15/2010)
********NOTES********

All Remaining Funding in each line item not part of Subcontractors Contracts or work scope is to be re-routed and placed into the Construction Contingency Line to be used by the Owner (SDPBC) for future executed change orders.

When the subcontractor is selected, their NAME shall appear on the line item with an estimated amount even if not yet agreed to. When the agreed executed value is entered, then transfer any remaining funds into contingency. This new amount should also appear on your subcontractor list.

DPO's are shown on each subcontractor line item subtracted out of the subcontractors contract amount. Subtract the DPO amount net of tax on the DPO line shown after Revised Construction Cost in first column. When the tax savings is deducted from the subcontractor in the DPO column - use same positive amount into Tax savings line item into DPO column. This is to prevent a double reduction to the contract in the revised Schedule of Value column.

Change Orders - CCD Board Approved, then enter on CCD line item into Original Schedule of Value Column. In the CCD change order column same line item enter the negative total CCD amount. For each affected subcontractor, apply the corresponding amount into CCD Change Order Column.

Contingency - After an approved change order (CCA) deduct amount from Contingency line item in the CCA Change Order Column and add amount to the respective subcontractor in each of their CCA Change Order Columns.

Ensure all subcontractor's pay apps are correctly stated to correspond to this CM application for payment as proper backup (change subcontractor pay app if necessary & inform sub as to change) Waivers must match pay applications which include contracts, change orders and retainage.

Provide Invoices for Bonds and Insurance from originator in order for payment to be made.

Construction Phase Fee, Overhead and Profit and General Conditions shall be based on the percent complete of Divisions 1-16 when Billing Current Period. General Conditions is currently billed over duration of Construction in equal payments. All current period billing amounts shall be paid to corresponding subcontractors and if not, written notification shall be submitted to the Owner and subcontractor explaining the reasons prior to providing waivers by the next application for payment. Remember, if payment is made to the Construction Manager, then payment shall not be withheld from the Subcontractor.

On the Contract Form G702, the Total Contract Sum To Date amount which includes change orders shall correspond exactly to New or Adjusted Construction Cost Total line on the Schedule of Values Form SD703.

Supporting documents and logs include 1) DPO log with subcontractors affected and corresponding material vendor (MWBE) 2) CCA log with corresponding subcontractors, 3) CCD log with corresponding subcontractors, 4) Contingency LOG showing all Divisional Buyout Surpluses and withdrawals and CCA’s - this can be combined with the CCA Log, 5) Subcontractor Pay apps in full with corresponding amounts, 6) Executed subcontractor contracts showing amount and scope. All logs are to have totals that Correspond to the amounts on the Application for Payment submitted to the SDPBC.

All Retainage payments made must be paid to the affected subcontractors with a Waiver / Release of Lien from the subcontractor showing payment was made.

UnPurchased Scope or Unbought Scope - This amount included from the GMP Identifies all Scope of Work not yet having executed contracts with known Subcontractors. Still in process to be linked with a subcontractors. This left over Scope of work to complete the construction of the school project shall be identified and submitted with an estimated value in the Monthly Report and shown on the Schedule of Values each separately with in the Divisions 1-16 with its value. A monthly Buyout update for all Divisions with all subcontractors is to be shown on all monthly Reports.
## THE SCHOOL DISTRICT OF PALM BEACH COUNTY

**SUBCONTRACTOR RECONCILIATION REPORT**

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**APPENDIX N**

**SUBCONTRACTOR RECONCILLIATION REPORT**

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**CHANGE ORDERS**

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Total of Division 12: 0.00

| Div 13    |                      |                          |                     |                      |               |            |       |       |             |               |                   |                   |      |             |        | 0.00                        |
| 13        |                      |                          |                     |                      |               |            |       |       |             |               |                   |                   |      |             |        | 0.00                        |
| 13        |                      |                          |                     |                      |               |            |       |       |             |               |                   |                   |      |             |        | 0.00                        |

Total of Division 13: 0.00

| Div 14    |                      |                          |                     |                      |               |            |       |       |             |               |                   |                   |      |             |        | 0.00                        |
| 14        |                      |                          |                     |                      |               |            |       |       |             |               |                   |                   |      |             |        | 0.00                        |
| 14        |                      |                          |                     |                      |               |            |       |       |             |               |                   |                   |      |             |        | 0.00                        |

Total of Division 14: 0.00

| Div 15    |                      |                          |                     |                      |               |            |       |       |             |               |                   |                   |      |             |        | 0.00                        |
| 15        |                      |                          |                     |                      |               |            |       |       |             |               |                   |                   |      |             |        | 0.00                        |
| 15        |                      |                          |                     |                      |               |            |       |       |             |               |                   |                   |      |             |        | 0.00                        |

Total of Division 15: 0.00

| Div 16    |                      |                          |                     |                      |               |            |       |       |             |               |                   |                   |      |             |        | 0.00                        |
| 16        |                      |                          |                     |                      |               |            |       |       |             |               |                   |                   |      |             |        | 0.00                        |
| 16        |                      |                          |                     |                      |               |            |       |       |             |               |                   |                   |      |             |        | 0.00                        |

Total of Division 16: 0.00

Total of Divisions 1-16: 0.00

| Bonds and Insurance | 0.00 | 0.00 |
| Construction Phase Fee | 0.00 | 0.00 |
| General Conditions | 0.00 | 0.00 |
| Construction Manager Fee (O&P) | 0.00 | 0.00 |
| Construction Contingency | 0.00 | 0.00 |
| Allowance | 0.00 | 0.00 |
| Guaranteed Sales Tax Recovery | 0.00 | 0.00 |
### Subcontractor Change Order Matrix - Construction Change Authorization - CCA

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Totals | $ -   | $ -   | $ -   | $ -   | $ -   | $ -   | $ -        |

PBSD - 2351 (New 01/15/2010)
## Subcontractor Change Order Matrix - Construction Change Directive - CCD

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<tr>
<th>Division</th>
<th>Subcontractor Name</th>
<th>CCD#1</th>
<th>CCD#2</th>
<th>CCD#3</th>
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| SubTotals | $  | $  | $  | $  | $  | $  | $  | $          |
| CM Overhead & Profit | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $ - |
| CM Bond and Insurance | $ - |

Totals | $  | $  | $  | $  | $  | $  | $  | $ - |

PBSD - 2352 (New 01/15/2010)
# Subcontractor Change Order Allowance Matrix

Owner's Allowances

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<tr>
<th>Division</th>
<th>Subcontractor Name</th>
<th>Allowance</th>
<th>Allowance</th>
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**Totals**

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**Totals**

$ -  $ -  $ -  $ -  $ -  $ -  $ -  $ -  $ -  $ -  $ -  $ -  $ -  $ -  $ -  $ -
TO OWNER
School District of Palm Beach County

FROM CONTRACTOR
School District Purchase Number

APPLICATION NO: Program Management Approvals

PERIOD TO:

PROJECT NO:

APPLICATION AND CERTIFICATE FOR PAYMENT

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in substantial accordance with the Contract Documents, that all amounts have been paid by the Owner, and that current payment shown herein is now due.

CONTRACTOR:

By: ___________________________________________ Date: ________________________

State of: ____________________
County of: ____________________

Subscribed and sworn to before me this __________ day of ____________________________

Notary Public
My Commission expires ______________________________

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observation and the data provided, Architect's knowledge, information and belief the Work has progressed as indicated, that the quality of the Work is in substantial accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED: $__________

(Attach explanation if amount certified differs from the amount applied for. Initial all figures on this Application and on the Continuation Sheet that are changed to conform to the amount certified.)

ARCHITECT:

By: ___________________________________________ Date: ________________________

This Certificate is not negotiable. THE AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment, and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

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<tr>
<th>CHANGE ORDER SUMMARY</th>
<th>ADDITIONS</th>
<th>DEDUCTIONS</th>
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<td>Total approved this Month</td>
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<td><strong>TOTALS</strong></td>
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PBSD 2354 (New 01/15/2010)
CONSTRUCTION MANAGER’S FINAL PAYMENT CHECKLIST

1. Pay Request (3 copies with original signatures and original seals, noted as Final)
2. Final Schedule of Values
3. Sub-contractor reconciliation form
4. Fully executed copies of all Sub-contracts and Sub-contractor change orders
5. Fully executed Sub-Contractor Payment Summary Affidavit (for each Sub-contractor)
6. Consent of Surety to make final Payment (signed and sealed)
7. Power of Attorney from Surety for Release of Final Payment (Signed and sealed and dated same as Consent of Surety)
8. Certificate of Final Inspection (OEF209)
9. Contractor’s Final Payment Affidavit
10. Construction Manager’s Guarantee of Construction (as required in Article 9.10.5 of the General Conditions)

9. Copy of the approval by the Architect-Engineer and the transmittal to the end user of manuals, shop drawings, as-builts (one set of CAD disk(s), one set of TIFF disk(s), two sets of prints), brochures, warranties, and List of Sub-Contractors, with telephone numbers, addresses and contact person on disk.

11. Verification that Using Agency personnel have been trained in the operation of their new equipment (per system: HVAC, controls, fire alarm, etc.). Include copies of attendance lists, and videos of training sessions.
12. Fully executed Roof Warranty (if applicable) in the name of the Using Agency
13. Verification memo from Facilities Services that all warranties as required by specifications have been received
14. Architect’s letter stating that its design does not contain Asbestos Containing Materials
15. Copy of Certificate of Occupancy
16. Copy of Certificate of Substantial Completion
17. Letter from Construction Manager stating that all work in compliance with Florida Building Code and current District Master Specifications

NOTE: The Senior Project Administrator and the Treasury Department shall verify the math of all Pay Requests prior to signing Final Pay Request to assure correct payment.

Project Number: 

Project Name and Location: 

Project Manager Signature: 

Senior Project Administrator Signature: 
CLOSE-OUT CHECK LIST

1. SPA  □ Legal Advertisement – Board approved Budget amount and percentage of M/WBE Participation approved for the project

2. SPA  □ Proposal
   a. □ Certifications (non-District M/WBE)
   b. □ Letters of Intent
      i. □ M/WBE CM Partner
   c. □ CM Commitment Letters
      i. □ Sub-Consultant _____%
      ii. □ Subcontractor ______%

3. SPA  □ Board Approved Amounts
   a. □ Exhibit B – GMP Summary
   b. □ Exhibit C – Summary of Preconstruction Fee
   c. □ Exhibit D – Summary of Construction Phase Fee
   d. □ Exhibit S – Subcontractors Participation Div. 1-16
      i. □ M/WBE Certifications
      ii. □ M/WBE Letters of Intent

4. SPA  □ Notice to Proceed

5. SPA  □ Subcontract Log (CM & SDPBC)

6. SPA  □ Change Order Log (CM & SDPBC)

7. SPA  □ Direct Materials Purchase Order Log (CM & SDPBC)

8. SPA  □ Retainage Unpaid

9. ODBP □ Form 1528 – Subcontractor/Sub-consultant Utilization Report (Final/Draft)
   a. □ All subcontractors, sub-consultants, and suppliers listed
   b. □ All requested information completed
   c. □ Verification of M/WBE Status
   d. □ Division Breakdown of Race & Gender
10. ODBP ☐ Participation Verification
   a. ☐ Subcontracts and Change Orders
      i. ☐ M/WBE Subcontractors
      ii. ☐ Non-minority Subcontractors
   b. ☐ Letter Agreements or Service Agreements
      i. ☐ M/WBE Sub-consultants
      ii. ☐ Non-minority Sub-consultants
   c. Direct Material Purchases & Purchase Orders
      i. ☐ M/WBE vendors, suppliers, material men

11. ODBP ☐ Payment Verification
    a. ☐ Submitted Lien Waivers/Verification of Payments
    b. ☐ Direct Verification with Subcontractors & Sub-consultants

12. ODBP ☐ Site Visit?  ☐ No    ☐ Yes       Date____________________

13. ODBP - EEOC Plan Posted.  ☐ No    ☐ Yes

14. ODBP - Noncommercial Discrimination Complaint filed.  ☐ No    ☐ Yes

15. ODBP - M/WBE Goal   __________
    a. Established __________
    b. Completed __________

16. ODBP - Rating _____________________
    _____________________
    _____________________

NOTES/COMMENTS
The Contractor/Consultant must complete the Compliance Plan & Close Out Report and submit the Report as an attachment to the final pay application to the Program Management (PM) Senior Project Administrator (SPA), and to the Office of Diversity in Business Practices (ODBP) after completion of all work on the Project. Final payment will not be processed unless the Contractor/Consultant has submitted, attached to the Final Payment Application, a completed Report as required by Exhibit H. PM and ODBP will verify the information included in the Report. If you have questions regarding the preparation of this Report, contact the SPA.

**Part 1: Summary Information**

**Contract Amount:** Report the total amount of the Agreement awarded to the Contractor/Consultant, the total amount of all approved changes to the Agreement, the total amount of the Agreement (i.e. the total of the original contract amount plus the amount of all approved changes), and the total amount the District has actually paid the Contractor/Consultant to date.

**M/WBE Amounts:** Report the total dollar amount and percentage of the contract committed to MBEs and WBEs (including the prime contractor/consultant, if the prime contractor/consultant is an MBEs, WBEs, and Non-MBE/WBEs) as stated in the original approved Compliance Plan; the total of all approved changes to amounts committed to MBEs, WBEs, and Non-MBE/WBEs; the final total dollar amount and percentage of the final contract amount MBEs and WBEs will be paid on the contract (i.e. the total amount actually paid to MBEs and WBEs to date plus the amount of retainage due to MBEs, WBEs, and Non-MBE/WBEs); and the total amount actually paid to MBEs, WBEs, and Non-MBE/WBEs to date. If the solicitation contained race-specific Goals, provide the summary information for each racial group.

**Part 2: Contractor/Consultant Participation**

Complete Part 2 only if the Contractor/Consultant is a MBEs and WBEs, and Non-MBE/WBEs. Report the Contractor/Consultant’s own participation (total dollar amount and percentage of the contract), less any amount subcontracted, as reported in the original approved Guaranteed Maximum Price (GMP) Compliance Plan; report the total dollar value of approved changes to the amount of the Contractor/Consultant’s participation, less any amount subcontracted; and report the final total of the Contractor/Consultant’s participation (total dollar amount and percentage of the contract), less any amount subcontracted.

**Part 3: Subcontractor Participation**

List each subcontractor/sub-consultant/supplier (including MBEs, WBEs, and non-MBE/WBEs) contained in Parts A and D of the original approved GMP Compliance Plan. Also list any other subcontractors/sub-consultants/suppliers used in the performance of the contract. Give the complete name of each subcontractor/sub-consultant/supplier and provide (a) the dollar amount committed to the subcontractor/sub-consultant/supplier in the original GMP Compliance Plan, (b) the dollar amount of any approved changes to the commitment to that subcontractor/sub-consultant/supplier, (c) the actual amount paid to the subcontractor/sub-consultant/supplier to date, and (d) the amount of retainage due to the subcontractor/sub-consultant/supplier. For each subcontractor/sub-consultant/supplier, explain any difference in the amount contained in the original M/WBE Compliance Plan (a), and the final total. The final total is the actual amount paid to the subcontractor/sub-consultant/supplier to date plus the amount of retainage due to the subcontractor/sub-consultant/supplier (c + d).

If a subcontractor/sub-consultant/supplier was substituted with another subcontractor/sub-consultant/supplier, or if a subcontractor/sub-consultant/supplier was added or deleted, attach a copy of the approved “Request for Change of M/WBE Compliance Plan” form. If an unapproved substitution was made, please indicate. Attach any relevant documentation.

**Part 4: Affidavit**

The form must be signed by a company officer of the Contractor/Consultant and notarized.
**Part 1: Summary Information**

<table>
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<th>Original Agreement and Compliance Plan</th>
<th>Approved Changes</th>
<th>Final Total</th>
<th>Actual Amount Paid</th>
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| **Check Totals**                     |                  |             |                    |
| **$**                                | **0.00**          | **100.0%**  | **$**              |

**Part 2: Contractor's Participation**

If Contractor is an MBE or WBE, Contractor's participation, less any amount subcontracted

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<th>Approved Changes</th>
<th>Final Total</th>
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### Part 3: Subcontractor Participation

List all Subcontractors/Sub-consultants, Manufacturers, and Suppliers (MBEs, WBEs as well as non-minorities) used in performance of the Agreement below.

| Subcontractor | Subconsultant | Manufacturer | Supplier (circle one) | A | B | C | D | E | F | G | H | I | N (circle one) | d) Amount of Retainage Due |
|---------------|---------------|--------------|----------------------|---|---|---|---|---|---|---|---|---|---|--------|---------------------|
|               |               |              | a) Compliance Plan   | - |   |   |   |   |   |   |   |   |   |        |                     |
|               |               |              | b) Approved Changes  |   |   |   |   |   |   |   |   |   |   |        |                     |
|               |               |              | c) Actual Amount Paid|   |   |   |   |   |   |   |   |   |   |        |                     |
|               |               |              | $                  | - |   |   |   |   |   |   |   |   |   |   | $      |                     |

Reason for any difference in amount contained in the Board Approved Plan (a) and final total (c + d) *(c + d) $ -

| Subcontractor | Subconsultant | Manufacturer | Supplier (circle one) | A | B | C | D | E | F | G | H | I | N (circle one) | d) Amount of Retainage Due |
|---------------|---------------|--------------|----------------------|---|---|---|---|---|---|---|---|---|---|--------|---------------------|
|               |               |              | a) Compliance Plan   | - |   |   |   |   |   |   |   |   |   |        |                     |
|               |               |              | b) Approved Changes  |   |   |   |   |   |   |   |   |   |   |        |                     |
|               |               |              | c) Actual Amount Paid|   |   |   |   |   |   |   |   |   |   |        |                     |
|               |               |              | $                  | - |   |   |   |   |   |   |   |   |   |   | $      |                     |

Reason for any difference in amount contained in the Board Approved Plan (a) and final total (c + d) *(c + d) $ -

| Subcontractor | Subconsultant | Manufacturer | Supplier (circle one) | A | B | C | D | E | F | G | H | I | N (circle one) | d) Amount of Retainage Due |
|---------------|---------------|--------------|----------------------|---|---|---|---|---|---|---|---|---|---|--------|---------------------|
|               |               |              | a) Compliance Plan   | - |   |   |   |   |   |   |   |   |   |        |                     |
|               |               |              | b) Approved Changes  |   |   |   |   |   |   |   |   |   |   |        |                     |
|               |               |              | c) Actual Amount Paid|   |   |   |   |   |   |   |   |   |   |        |                     |
|               |               |              | $                  | - |   |   |   |   |   |   |   |   |   |   | $      |                     |

Reason for any difference in amount contained in the Board Approved Plan (a) and final total (c + d) *(c + d) $ -

| Subcontractor | Subconsultant | Manufacturer | Supplier (circle one) | A | B | C | D | E | F | G | H | I | N (circle one) | d) Amount of Retainage Due |
|---------------|---------------|--------------|----------------------|---|---|---|---|---|---|---|---|---|---|--------|---------------------|
|               |               |              | a) Compliance Plan   | - |   |   |   |   |   |   |   |   |   |        |                     |
|               |               |              | b) Approved Changes  |   |   |   |   |   |   |   |   |   |   |        |                     |
|               |               |              | c) Actual Amount Paid|   |   |   |   |   |   |   |   |   |   |        |                     |
|               |               |              | $                  | - |   |   |   |   |   |   |   |   |   |   | $      |                     |

Reason for any difference in amount contained in the Board Approved Plan (a) and final total (c + d) *(c + d) $ -

| Subcontractor | Subconsultant | Manufacturer | Supplier (circle one) | A | B | C | D | E | F | G | H | I | N (circle one) | d) Amount of Retainage Due |
|---------------|---------------|--------------|----------------------|---|---|---|---|---|---|---|---|---|---|--------|---------------------|
|               |               |              | a) Compliance Plan   | - |   |   |   |   |   |   |   |   |   |        |                     |
|               |               |              | b) Approved Changes  |   |   |   |   |   |   |   |   |   |   |        |                     |
|               |               |              | c) Actual Amount Paid|   |   |   |   |   |   |   |   |   |   |        |                     |
|               |               |              | $                  | - |   |   |   |   |   |   |   |   |   |   | $      |                     |

Reason for any difference in amount contained in the Board Approved Plan (a) and final total (c + d) *(c + d) $ -
Part 3: Subcontractor Participation (Continued). Duplicate as needed.

| Subcontractor Name | Subconsultant Name | Manufacturer | Supplier (circle one) | A | B | C | D | E | F | G | H | I | N (circle one) | a) Compliance Plan | b) Approved Changes | c) Actual Amount Paid | d) Amount of Retainage Due |
|--------------------|---------------------|--------------|-----------------------|---|---|---|---|---|---|---|---|---|---|-----------------|-------------------|-------------------|-------------------|-------------------|
|                    |                     |              |                       |   |   |   |   |   |   |   |   |   | (c + d)         | $ -               | $ -               | $ -               | $ -               |
|                    |                     |              |                       |   |   |   |   |   |   |   |   |   | (c + d)         | $ -               | $ -               | $ -               | $ -               |
|                    |                     |              |                       |   |   |   |   |   |   |   |   |   | (c + d)         | $ -               | $ -               | $ -               | $ -               |
|                    |                     |              |                       |   |   |   |   |   |   |   |   |   | (c + d)         | $ -               | $ -               | $ -               | $ -               |
|                    |                     |              |                       |   |   |   |   |   |   |   |   |   | (c + d)         | $ -               | $ -               | $ -               | $ -               |

Reason for any difference in amount contained in the Board Approved Plan (a) and final total (c + d)

$ -                   $ -                   $ -                   $ -                   

Contract Compliance Close Out Report.xlsx 3 of 5 9/17/2010
| Subcontractor | Subconsultant | Manufacturer | Supplier (circle one) | A | B | C | D | E | F | G | H | I | N (circle one) | d) Amount of Retainage Due |
|---------------|---------------|--------------|----------------------|---|---|---|---|---|---|---|---|---|---|----------------|-------------------|
|               |               |              |                      |   |   |   |   |   |   |   |   |   |   |               |                   |
|               |               |              |                      |   |   |   |   |   |   |   |   |   |   |               |                   |
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|               |               |              |                      |   |   |   |   |   |   |   |   |   |   |               |                   |

Reason for any difference in amount contained in the Board Approved Plan (a) and final total (c + d) 

(c + d) $ -

Subcontractor | Subconsultant | Manufacturer | Supplier (circle one) | A | B | C | D | E | F | G | H | I | N (circle one) | d) Amount of Retainage Due |
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(c + d) $ -

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Reason for any difference in amount contained in the Board Approved Plan (a) and final total (c + d) 

(c + d) $ -

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Reason for any difference in amount contained in the Board Approved Plan (a) and final total (c + d) 

(c + d) $ -

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Reason for any difference in amount contained in the Board Approved Plan (a) and final total (c + d) 

(c + d) $ -
DIVERSITY IN BUSINESS PRACTICES
M/WBE PARTICIPATION COMPLIANCE REPORT

Name:
a) Compliance Plan b) Approved Changes c) Actual Amount Paid d) Amount of Retainment Due
$ $ $ $ Reason for any difference in amount contained in the Board Approved Plan (a) and final total (c + d) (c + d) $ $ $ $ $ - $ - $ - $ -

The above information is true and complete to the best of my knowledge and belief.
Name and Title (Print): ______________________________________________________
SIGNATURE: ___________________________________________________________
DATE: __________
STATE OF _____________________________________________________________
COUNTY OF _____________________________________________________________
On the ______ day of __________________, 20____, personally appeared

______________________________________________
Notary Public
Printed Name of Notary

For School District of Palm Beach County use only:

School District of Palm Beach County Approvals:

Program Management – Approval ___________________________ Date___________________
Diversity in Business Practices - Approval ___________________________ Date___________________
Diversity Evaluation points given on PPE ___________________________