

**PROFESSIONAL SERVICES AGREEMENT  
(Construction Management At Risk Project)  
BETWEEN**

**THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA  
AND PROJECT CONSULTANT  
FOR**

**ARCHITECTURAL/ENGINEERING SERVICES**

**THIS AGREEMENT**, made this, \_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, by and between **THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA**, hereinafter called the "**Owner**", and:

hereafter called the "**Project Consultant**" for the following project:

**Project Name:**

**Project No:**

**Fixed Limit Of Construction Cost (FLCC):** \$ \_\_\_\_\_

The Owner and Project Consultant agree as follows:

**ARTICLE 1 DEFINITIONS**

- 1.1 **The Facilities And Construction Management Division:** Various members of the Facilities and Construction Management Division, acting as representatives of the Owner, will meet with the Project Consultant at periodic intervals throughout the preparation of the Contract Documents to assess the progress of the Work in accordance with approved schedules. Division personnel will also examine documents submitted by the Project Consultant, including invoices, and will promptly render decisions and/or recommendations pertaining thereto to avoid unreasonable delay in the progress of the Project Consultant's work. The Project Manager shall be principally responsible for direct communication to the Project Consultant and the Construction Manager.
- 1.2 **The Deputy Superintendent of Facilities and Construction Management:** An employee of The School Board of Broward County, Florida, who has the authority and responsibility for oversight and management of the specific projects authorized under this Agreement. Referred to hereinafter as the Deputy Superintendent.
- 1.3 **Authorization To Proceed:** A document issued by the Owner to the Project Consultant authorizing the performance of specific professional services, and stating the time for completion and the amount of fee authorized for such services.
- 1.4 **Basic Services:** Those architectural, engineering and other professional design services defined in Article 2.1 through Article 2.8.
- 1.5 **Supplemental Services:** Those architectural, engineering and other professional design services defined in Article 2.9.
- 1.6 **Project Consultant:** The individual, partnership, corporation, association, joint venture, or any combination thereof, of professional architects, engineers or other design professionals properly registered and licensed in Florida, who has entered into a contract with the Owner to provide professional services for development of

the design and contract documents for the Work of this Project and provide construction contract administration and warranty services as described in the Project Manual and under this Agreement.

- 1.7 **Project Scope:** The activities necessary to respond to the Owner's requirements for the Project, including but not limited to the full or partial range of design, bidding and construction support services required to meet the Owner's educational program, construction standards, project construction support requirements, Project Budget and Project Schedule.
- 1.8 **Project Budget:** The sum, established by the Owner, as available for the entire Project, including but not limited to the construction budget (Fixed Limit of Construction Cost), land costs, costs of furniture, fixtures and equipment (FF&E), financing costs, compensation for all professional services, costs of Owner-furnished goods and services, contingency allowances and other similar established or estimated costs.
- 1.9 **Project Schedule:** The Owner's requirements for the progress of design and construction activities associated with the Project characterized by milestones signifying the required completion dates for design phases, construction progress, and other significant project events culminating with the completion of the project, issuance of warranties, Owner's occupancy and use of the new or improved facilities.
- 1.10 **The Contract Documents:** The Contract Documents as used herein refer to the Agreement Form, Addenda, Supplementary Conditions, General Conditions, Documents contained in the Project Manual, Drawings, Specifications, Education Specifications, all modifications thereto, issued before and after execution of the Contract and all Exhibits attached thereto used by the Owner to establish an agreement with the Construction Manager. These Contract Documents, and their requirements for the Project Consultant are incorporated by reference into this Agreement.
- 1.11 **Construction Manager:** The individual, partnership, corporation, association, joint venture, or any combination thereof, who has entered into an agreement with the Owner for the performance of the work defined by the contract documents.
- 1.12 **Project Manager:** An employee of The School Board of Broward County, Florida, who is assigned by the Deputy Superintendent of Facilities and Construction Management to manage the Project as a direct representative of the Owner.
- 1.13 **Inspector of Record:** A BCI (See also 1.18) employed by The School Board of Broward County, Florida, assigned by the Deputy Superintendent of Facilities and Construction Management to assist in the management of the Project as a direct representative of the Owner during Phase V (Construction).
- 1.14 **The Project:** The design of new construction, remodeling and/or renovation, and all services and incidents thereto, comprising a facility or facilities as contemplated and budgeted by the Owner.
- 1.15 **Sub-Consultant:** A person or organization of professional architects, engineers or other design professionals, registered and licensed in Florida, who has entered into an Agreement with the Project Consultant to provide professional services for the project.
- 1.16 **Superintendent Of Schools:** The duly appointed executive officer of the Owner authorized to act by and through The School Board of Broward County, Florida. Referred to hereinafter as the Superintendent.

- 1.17 **Fixed Limit Of Construction Cost:** The Fixed Limit of Construction Cost, referred to hereinafter as the FLCC, is the total dollar value of the sum of the project's anticipated base bid (the project's essential scope) including design contingency.
- 1.18 **Building Code Inspector (BCI):** An employee of The School Board of Broward County, Florida, or others designated by the Facilities and Construction Management Division who is certified pursuant to Chapters 468, 471 and 481 of the Florida Statutes. A BCI may provide plan review, construction inspection for code compliance and report non-compliant work to the Project Manager and Project Consultant.
- 1.19 **Value Engineering:** Value Engineering (VE) is the creative, organized process of analysis of a project as to cost and/or performance with a focus on analysis of the proposed facility (and its systems, assemblies or components) and the elimination or modification of those features which add cost without contributing to that facility's required function or design value.
- 1.20 **Constructability:** Constructability is the creative, organized process of reviewing a project's drawings, specifications and other project documentation with a goal of eliminating design, detailing, and specification problems which might render the construction contract documents unbuildable or requiring extensive Addenda or Change Orders to make them buildable.
- 1.21 **The Project Construction Team-** The Construction Manager, the Owner and the Project Consultant, called the "Project Construction Team", shall work jointly during the design and through the completion of the warranty phase and shall be available thereafter should additional services be required. The specific representatives of the Construction Team are shown in Exhibit A attached to the general conditions to the Agreement between Owner and Construction Manager.
- 1.22 **Substantial Completion:** The term Substantial Completion as used herein, shall mean that point at which the Work, or a designated portion thereof, is at a level of completion in substantial compliance with the Contract Documents such that the Owner or its designee can enjoy use or occupancy and can use or operate it in all respects for its intended purpose. In the event the Work includes more than one Phase, the Owner, at its discretion, may set Substantial Completion dates for each Phase and may impose provisions for liquidated damages for each Phase.
- 1.23 **Chief Building Official, Inspections and Code Compliance:** ("CBO") An employee of The School Board of Broward County, Florida, who has the responsibility for oversight and management of the Inspection and Code Compliance Section, and has the authority and responsibility for issuing Building Permits.

## **ARTICLE 2 PROJECT CONSULTANT SERVICES AND RESPONSIBILITIES**

### **2.1 Basic Services**

2.1.1 The Project Consultant agrees to:

- .1 Provide complete professional architectural, engineering and/or other professional design services set forth in the six Phases enumerated hereinafter and all necessary personnel, equipment and materials to perform such services;
- .2 Complete those design services in accordance with the Project Schedule (Attachment 1 to this Agreement) and provide multiple bidding packages to the Owner and Construction Manager

including but not limited to designated portions of the project as recommended by the Owner, Project Consultant, or Construction Manager and approved by the Owner.

- .3 Collaborate in the Owner's programs and cooperate with Construction Manager in the Value Engineering at the end of Phases I and II (Schematic Design and Design Development), Constructability Reviews at the end of Phase III (Construction Documents), Statement of Probable Construction Cost at end of each phase, SIT Award Application and other additional basic services as provided in Article 2.1 through Article 2.8.
  - .4 The Owner may select certain projects for expediting using fast track construction. If this option is exercised, in writing by SBBC, the Project Consultant shall coordinate the work with the CM and Owner and prepare documentation / packages appropriate to this construction method.
- 2.1.2 Standard Of Care: The Owner's engagement of the Project Consultant is based upon the Project Consultant's representations to the Owner that:
- .1 It is an organization of experienced design professionals, registered and licensed to do business in Florida;
  - .2 It is qualified, willing and able to perform architect and engineer of record services for the Project; and that
  - .3 It has the past experience and ability to provide design and engineering services for projects of similar size and scope which will meet the Owner's objectives and requirements.
- 2.1.3 As to all services provided pursuant to this Agreement, the Project Consultant shall furnish services by experienced personnel and under the supervision of experienced professionals licensed in Florida, and shall exercise a degree of care and diligence in the performance of these services in accordance with the customary professional standards currently practiced by firms in Florida and in compliance with any and all applicable codes, laws, ordinances, etc. The Project Consultant shall utilize the same personnel over the course of the Work and shall, if requested by the Owner, replace personnel whom the Owner has found to be incompetent or to whom the Owner otherwise reasonably objects.
- 2.1.4 As to any and all drawings, plans, specifications or other contract documents or materials provided or prepared by Project Consultant or its Sub-Consultants, the Project Consultant agrees same:
- .1 Are sufficiently complete, accurate, and adequate for bidding, negotiating and constructing the Project and are consistent with the Owner's requirements and Owner approved recommendation of Construction Manager for the Project Budget and Project Schedule;
  - .2 Meet the Owner's and Construction Managers aesthetic, functional and operational objectives;
  - .3 Are sufficiently fit and proper for the purposes intended;
  - .4 Comply with all applicable laws, statutes, rules and regulations, building codes and Owner's guidelines or regulations, which apply to and govern the Project, and
  - .5 Will, if constructed in accordance with the Project Consultant's Design and Owner approved Construction Manager recommendations result in a complete and properly functioning facility. Any

defective drawings, specifications or other document furnished by Project Consultant shall be promptly corrected by the Project Consultant at no cost to Owner, without limitations to other remedies or rights of Owner. Owner's approval, acceptance or use of or payment for all or any part of Project Consultant's services hereunder or of the project itself shall in no way alter the Project Consultant's obligations or Owner's rights hereunder.

- .6 Further, any approval of drawings or construction documents by Owner and/or other governmental entities having jurisdiction which do not expressly comment and/or interpret a building code requirement shall not relieve the Project Consultant from its obligations to furnish design services pursuant to the applicable building codes nor be the basis for a waiver defense should Owner accept and/or approve any drawings and/or contract documents wherein an error or omission is not discovered during the design process.

2.1.5 All professional design services and associated products or instruments of those services provided by the Project Consultant shall:

- .1 Be in accordance with all applicable codes, laws and regulations of each governmental entity including, but not limited to, Florida Building Code (FBC), Florida Fire Prevention Code, Florida State Board of Education Regulations ("SREF"), Chapter 6A-2.0111 (Educational Facilities), the 1999 Florida Department of Education's State Requirements for Educational Facilities adopted pursuant to Rule 6A-2.0111, Florida Administrative Code, as may be amended from time to time, to the extent such requirements are not in conflict with Section 235.211, Florida Statutes 1995, Americans With Disabilities Act (ADA), in effect at the time of execution of this Agreement, and its referenced codes and standards; Crime Prevention Through Environmental Design (CPTED) (Broward Sheriff's Office), and all guidelines and regulations of the Owner (provided same are not less stringent than applicable codes) with the Owner serving as the interpreter of the intent and meaning of SREF or any other applicable code;
- .2 Be provided for the benefit of the Owner and Construction Manager and not for the benefit of any other party; and
- .3 Include all of the design services normally required for a project of this type as listed in the Project Scope (Attachment 2 to this Agreement).
- .4 Notwithstanding any other provisions of this Agreement to the contrary, any substantially affected person may appeal any building code dispute or interpretation of the Chief Building Official of the School Board of Broward County, Florida to the Florida Building Commission as set forth in Florida Statute 1013.37(2005) and the Florida Building Code, as amended.

2.1.6 The Project Manager shall schedule and conduct a bi-weekly project review meeting with representatives of the Project Consultant throughout Phases I through IV of the Project. At each of these meetings, the Project Consultant and Owner and Construction Manager shall review the Project's budget, schedule, and scope along with the Project Consultant's development and progress to date on the respective phases of the Project and any special problems related to the continuing progress of the project. The Project Consultant shall attend weekly meetings during Phase V (Construction) as required elsewhere in this Agreement. For each project review meeting, and as may be otherwise appropriate during any project phase, the Project Consultant shall provide progress sketches and other documents sufficient to illustrate progress and the issues at hand for the Owner's and Construction Managers review, which will be made so as to cause no delay to the Project Schedule.

- 2.1.7 The Project Consultant's services shall conform to Owner's specifications, including but not limited to, Owner's Design and Materials Standards Manuals, Design Criteria, Document Submittal Checklist for Plan Review and Owner's Forms for capital projects, provided, however, that in the event of conflict, the provisions of this Agreement shall govern.
- .1 **Non-Conforming Work:** If the Owner (by way of BCI's or other Owner personnel or consultant) or Construction Manager observes or otherwise becomes aware of any fault or defective Work in a project, or other non-conformance with the Contract Documents during the construction phases, the Owner or Construction Manager shall give prompt notice thereof to the Project Consultant. However, whether the Owner observes a defect or not, it is the Project Consultant's duty and responsibility to determine whether said Work is defective, faulty, or not in compliance with the Contract Documents. If the Project Consultant determines that the Work is defective, faulty or not in conformance with the Contract Documents, the Project Consultant shall advise the Owner and Construction Manager in writing and make recommendations to the Owner and Construction Manager concerning correction of the Work and require the Construction Manager to undertake such corrections as allowed by the Contract Documents. Final determination of whether the Work is defective, faulty or in compliance with the Contract Documents is to be determined by the Owner.
  - .2 **Penalty for Non-Conforming Design Documents:** Should the Project Consultant submit drawings, plans, specifications or other documents or materials for review as required herein that are deemed unacceptable as defined by the terms "Revise and Resubmit" by the plan review authority (Building Department, Design Services Department, Peer Plan Review Consultant) the costs as determined by the Owner, for subsequent reviews after the second submittal for that Phase shall be borne by the Project Consultant and the Owner will deduct such costs from the Project Consultant's Basic Services Fee.
- 2.1.8 The Project Consultant shall keep the Owner and Construction Manager informed of any proposed changes in requirements or in construction materials, systems or equipment as the drawings and specifications are developed. Proposed changes must be reviewed by the Owner and Construction Manager and approved in writing by Owner prior to incorporation into the design or construction documents.
- 2.1.9 The Project Consultant shall coordinate with Owner and Construction Manager by participating and taking a leadership role in, reviewing and commenting on Constructability and Value Engineering studies performed by Owner and Construction Manager, and attending meetings, where the content of design and construction contract documents will be coordinated and reconciled, scheduled during any phase of the project. In the event Owner accepts recommendations from Value Engineering and Constructability studies, the Project Consultant shall implement same, including providing revised drawings and specifications or other documents. In the event the Owner accepts such a recommendation from the Constructability and/or Value Engineering studies and requires substantial revisions by the Project Consultant, as determined at the discretion of the Owner, these revisions shall be considered Supplemental Services.
- 2.1.10 **Approval of Documents:** Owner's approval of or comments on any of the documents submitted to Owner by Project Consultant shall not be deemed the approval of or by an other governmental authority having jurisdiction over the project and Project Consultant acknowledges that the aforesaid authorities may require modifications of any of the documents submitted by Project Consultant. Subject to Article 2, such modifications shall be made at no cost to Owner.
- 2.1.11 **Construction Manager Deliverables/Project Consultants Duty to Review and Respond:**

- .1 In addition to any other obligations set forth elsewhere in this Agreement or the Contract Documents, the Project Consultant shall review and respond, in writing to reports or recommendations (“CM Deliverables”) of the Construction Manager as set forth in the Agreement between Owner and Construction Manager as follows:

**PRE-DESIGN PHASE**

- Article 3.2.1
- Article 3.2.2
- Article 3.2.3
- Article 3.2.4
- Article 3.2.5
- Article 3.2.6
- Article 3.2.7
- Article 3.2.8

**DESIGN PHASE**

- Article 3.3.2
- Article 3.3.3
- Article 3.3.4
- Article 3.3.6
- Article 3.3.7

**BIDDING AND AWARD PHASE**

- Article 3.4.2
- Article 3.4.4
- Article 3.4.5
- Article 3.4.6

**CONSTRUCTION PHASE**

- Article 3.5.3

**WARRANTY PHASE**

- Article 3.6.3

**GMP**

- Article 6.1

The Project Consultant shall review and comment on GMP proposal(s) submitted by CM including all qualifications and assumptions set forth therein.

- .2 The Project Consultant shall review and make recommendations to Owner on proposed CUD’s including initial determination of cause pursuant to Article 6.1.1 of the Agreement between Owner and Construction Manager.

**2.2 PHASE I - Schematic Design:**

- 2.2.1 The Project Consultant shall confer with representatives of the Owner and Construction Manager to verify and confirm the Program (as appropriate to the type of project), consisting of a detailed listing of all functions and spaces together with the square footage of each assignable space, gross square footage, and a description of the relationships between and among the principal programmatic elements. (If the project needs are so

unique that a special analysis of the requirements is necessary to establish a more detailed program, such services may be authorized as Supplemental Services).

- 2.2.2 The Project Consultant shall prior to commencing Phase I design activities, visit and inspect the site to verify if existing conditions conform to those portrayed on information as may have been provided by the Owner:
- .1 Take photographs and make written documentation, sketches, notes or reports to confirm and record the general condition and age of the existing equipment and site with particular attention to the following building/site elements as appropriate to the Project:
    - .1 All above ceiling areas.
    - .2 Power supplies, switch gear, breaker panels, electrical room, electrical vault, transformers and mechanical room.
    - .3 Major components of existing HVAC systems including chillers, cooling towers, air handling units, and primary ductwork runs.
    - .4 Roofing, waterproofing and building envelope systems.
    - .5 Site drainage systems and water retention characteristics.
    - .6 Determine age and condition of fixed equipment.
    - .7 Life safety, fire alarms, public address, generators and emergency lighting.
    - .8 ADA requirements.
  - .2 Site investigations and inspections and access to concealed areas should be non-destructive except where destructive investigations, tests or means of access are authorized in advance by the Owner.
- 2.2.3 In the event that the Project Consultant believes that the project scope, schedule or budget is not achievable, the Project Consultant shall immediately notify the Owner and Construction Manager in writing as to the reasons one or all of them are unreasonable or not achievable immediately upon discovery.
- 2.2.4 The Project Consultant shall review with Owner and Construction Manager alternative approaches to design and construction of the project; site use and improvements; selections of materials, building systems and equipment; potential construction methods; and, if requested, shall make a recommendation among such alternatives.
- 2.2.5 The Project Consultant shall prepare, submit and present to Owner and Construction Manager for approval by the Owner a Design Concept and Schematics Report, comprised of the SREF requirements for Schematic Design Documents and Schematic Design Studies, including an identification of any special requirement(s) affecting the Project, a Project Development Schedule, and a Statement of Probable Construction Cost, as defined below:
- .1 "Project Transmittal Form" as required by the Facilities and Construction Management Division's Design Services Department.



- .2 OEF form 208(a) "OEF Space Chart Form" formatted to follow the sequence of spaces listed in the SREF Size of Space and Occupant Design Criteria Table.
- .3 A hardcopy and electronic media copy of a site survey with the following information: the legal description of the site, acreage, points of the compass, contours, overall dimensions, vegetation, trees, hardscape elements, adjacent highways and roads, information about ownership and use of adjacent land, locations of on- and off-site utility connections, utility service point entry locations, parking areas, service areas, play areas, athletic fields, bus loop(s), parent drop off, existing buildings with height, mechanical cooling towers and chillers, floor elevations (related to base flood elevation as shown on Flood Insurance Rate Maps), and use. The site survey may be an update of informational surveys provided by the Owner but shall be prepared on electronic media and submitted in both hard and electronic media formats. (Attachment 3 to the Agreement).
- .4 **Schematic Drawings.** These documents shall be schematic drawings responding to the educational specifications and program requirements illustrating the general scope, scale, and relationship of project components. In addition to SREF requirements and information required by the Owner's document submittal checklist for phase I, the documents shall include the following:
  - .1 A site plan showing acreage, points of the compass, scale, contours and general topographical conditions, flood plain elevation and velocity zone, over-all dimensions, adjacent highways, roads, off-site improvements, emergency access, fire hydrants, power transmission lines, ownership and use of adjacent land, walks and paths, vehicle and bike parking areas, accessibility for the disabled, service areas, play areas, athletic fields, bus loop(s), parent drop off, existing buildings and use, location of proposed building(s) and future additions, portable classrooms and other relocatable or temporary structures, community use buildings, phased construction, preliminary soil borings. A statement shall be included on the site plan identifying the FEMA flood plane and velocity zone in which the project is located. The statement shall be signed and dated by the Project Consultant.
  - .2 Evidence, as jointly developed with the Owner, showing that required environmental studies have been completed and sensitive site areas have been identified as required by Florida Law or the Owner or any governmental entity having jurisdiction over the project site.
  - .3 Floor plans showing points of the compass, over-all dimensions, identity of each space, proposed door locations, accessibility for the disabled, Florida Inventory of School House (FISH) numbers, occupant load of each space, proposed passive design and low energy usage features, possible community service areas and instructional spaces that can be converted to community use areas, mechanical and electrical rooms, any existing buildings and use, future additions, and phased construction. Provide a life-safety plan delineating the necessity for and initial decisions concerning exits, accessibility for the disabled, fire walls, protected corridors, smoke partitions, fire alarm systems, fire sprinkler systems, room names and numbers, and any other life-safety features relevant to the facility.
  - .4 Provide elevations and sections of the building to fully illustrate and indicate the mass and character of the facility including fenestration, openings, walkways, preliminary material selections, and other building features and spatial relationships.
- .5 A Preliminary Project Description comprised of a narrative discussion of preliminary material selections, components, assemblies, and systems (including proposed landscape, civil, structural,

mechanical, and electrical design elements, components and systems) to be used in the project. Coordinate points of service and preliminary service requirements with Florida Power and Light (FPL), BellSouth, cable TV, water, sewer, storm drainage and other utility services as required by the Project's scope and program. Format Preliminary Project Descriptions to match that specified by the latest edition of the Construction Specification's Institute's "Manual of Practice".

- .6 Mechanical Requirements Specific to Remodeling and Addition Projects: Provide a listing of capacities for existing HVAC equipment and the available tonnage for the new connected load. Provide a survey of the condition of the existing mechanical equipment.
- .7 Electrical Requirements Specific to Remodeling and Addition Projects: Provide an electrical load analysis for the existing facility for existing and new loads. Provide a survey of the condition of the existing electrical equipment and the communication equipment room.
- .8 **A Project Development Schedule:** The Project Consultant shall prepare a schedule of services (Project Development Schedule) in compliance with Project Schedule and for approval by the Owner. Such schedule shall show activities including but not limited to Project Consultant efforts and Owner and Construction Manager reviews and approvals required to complete services. This schedule shall initially be submitted to Owner and Construction Manager for approval within twenty-one (21) days of execution of this Agreement. As a condition of payment, Project Consultant will submit with each invoice a copy of the approved schedule showing progress (indicated by percentage complete) as of the invoice cutoff date and a forecast of when each phase of Project Consultant's work will be complete. No subsequent payment shall be made if Project Consultant has not obtained approval of his work schedule, the schedule is not updated, or a forecast is not submitted with each invoice (provided that Owner conducts its review promptly and does not withhold its approval unreasonably). The project development schedules shall set forth in detail the following:
  - .1 Include all activities known at this stage of the project's development including any projected or preliminary requirements for moving portables, relocating classrooms, removing and storing furniture, hazardous material abatement, work by the Owner, work by separate Construction Managers/Contractors, on-site utilities and equipment and any other activities that may impact construction of the project (including offsite work and related site reviews, permitting, etc.).
  - .2 Prepare in a bar chart format, or other format as required by the Owner, which may be further developed and updated for submittal during subsequent phases of the Basic Services.
  - .3 The Project Consultant shall not be permitted to deviate from the milestones indicated on the Project Schedule without specific written authorization from the Owner (Attachment 1 of this Agreement).
- .9 The Statement of Probable Construction Cost: The Consultant shall submit to Owner and Construction Manager for review and Owner's approval a schematic design phase estimate of probable construction cost prepared by an independent cost estimator approved by Owner and reviewed by the Construction Manager, itemized by major categories and projected to the expected time of bid. The Services of an independent cost estimator will be a supplemental service under the provisions of Article 2.9.1.6.
- .10 Twenty-five (25) copies of a Design Concept and Schematics Report which will be utilized to communicate the schematic design and shall include: Reduced color drawings (Site and building

plans, elevations, sections, sketch perspectives and miscellaneous diagramming), photographs of massing and building models, a facilities list (including the number of spaces, net/gross square footages, etc.), the Project Development Schedule, and a summary design statement indicating the general design intent, conceptual development, and preliminary material, assembly and system selections. Provide brochure with heavy stock covers and plastic comb or metal spiral binding. Additional copies of the Schematic Design Brochure if required by the Owner will be compensated as a reimbursable service approved in advance by the Owner.

- 2.2.6 The Project Consultant shall coordinate with the assistance of the Owner and Construction Manager to determine the municipal, county and other jurisdictional agency (such as the South Florida Water Management District, etc.) coordination required for the Project and, make applications for site plan and other review as appropriate to this phase of the project. The Project Consultant shall attend and provide representation at all review meetings, workshops, hearings and Commission/Council meetings concerning the project as conducted by any and all other agencies having jurisdiction over the project.
- 2.2.7 The Project Consultant shall submit seven (7) copies of all full size documents required under this Phase, and a completed document submittal checklist, without additional charge, for review by Owner and Construction Manager and approval by the Owner. The Project Consultant shall not proceed with the next Phase until the completion of all required presentations and reports and receipt of a written Authorization to Proceed with the next phase.
- 2.2.8 The Project Consultant shall provide presentations of the Schematic Design to the Owner's staff, Design Review Committee, Construction Manager and to The School Board of Broward County, Florida, as required.

### **2.3 Phase II - Design Development:**

- 2.3.1 After written Authorization to Proceed from Owner and based on the approved Schematic Design Documents and any adjustments authorized by Owner in the Project Scope, Project Schedule or Project Budget, the Consultant shall prepare, submit and present for review by Owner and Construction Manager and approval by the Owner, Design Development Phase documents, comprised of the SREF requirements for Design Development documents and the following:
  - .1 "Project Transmittal Form" as required by the Facilities and Construction Management Division's Design Section.
  - .2 OEF form 208 (a) "OEF Space Chart Form" formatted to follow the sequence of spaces listed in the SREF Size of Space and Occupant Design Criteria Table.
  - .3 **Documents:** These documents shall be design development drawings corresponding to the educational specifications and program requirements illustrating the general scope, scale, and relationship of project components. In addition to Phase I requirements, SREF requirements, and information required by the Owner's document submittal checklist for phase II, the documents shall include the following:
    - .1 Architectural and Civil site plan(s) showing, in addition to Phase I site survey requirements, landscaping, drainage, water retention ponds, sewage disposal and water supply system, chilled water supply and return piping and such physical features that may adversely affect or enhance the safety, health, welfare, visual environment, or comfort of the occupants.

- .2 A statement, signed and dated by the Project Consultant or his designated Sub-Consultant, included on the site plan identifying the number of existing trees, the number and size of required trees, and the number of new trees to be planted.
- .3 Soil testing results including a copy of the Geotechnical Engineer's report on the site. When unusual soil conditions or special foundation problems are indicated, submit the proposed method of treatment.
- .4 Plan(s) including, but not be limited to, the following:
  - .1 Floor plan drawn at an architectural scale that will allow the entire facility to be shown on one sheet, without breaklines and which indicates project phasing as applicable to the Project.
  - .2 Floor plans drawn at 1/8 inch or larger scale showing typical student occupied spaces or special rooms with dimensions, sanitary facilities, stairs, elevators, and identification of accessible areas for the disabled.
  - .3 Floor plans drawn at 1/4 inch or larger scale showing typical spaces or special rooms with dimensions, equipment and furnishing layouts.
  - .4 Floor plans for additions to an existing facility: Indicate the connections and tie-ins to the existing facilities, including all existing spaces, exits, plumbing fixtures and locations, and any proposed changes thereto. Distinguish between new and existing areas for renovation, remodeling, or an addition.
  - .5 Floor plans drawn at 1/4 inch or larger scale showing typical spaces or special rooms with dimensions, indicating door and window layouts.
  - .6 Reflected ceiling plans drawn at 1/4 inch or larger scale showing typical spaces or special rooms with dimensions, lighting equipment and ceiling panel layouts.
  - .7 Roof plans drawn at 1/4 inch or larger scale showing typical spaces or special rooms with dimensions, equipment layouts.
- .5 Life-safety plans to show exit strategy, rated doors, emergency wall openings, fire walls working stage protection, range and fume hoods, eye wash, emergency showers, ramps and vertical lifts.
  - .1 By symbol, indicate fire extinguishers, fire alarm equipment, smoke vents, master valves and emergency disconnects, emergency lighting, emergency power equipment, fire sprinklers, exit signs, smoke and fire dampers, and other life-safety equipment relevant to the facility.
  - .2 By symbol, indicate connections and tie-ins to existing equipment.
  - .3 For existing facilities where remodeled or renovated spaces are required and where an ADA and code conforming ramp cannot be utilized, document proposed vertical platform lifts or inclined wheelchair lifts and provide the following documents as part of or in addition to the required life safety plans:
    - .1
    - .2
    - .3

- .1 Sketches of proposed vertical platform lifts, including layout drawings showing the effect of the lift on existing spaces, corridor widths and exiting from the affected facility.
- .2 Sketches of proposed inclined wheel chair lift including layout drawings showing the effect of the lift on the stairway width in the folded and unfolded position, the upper and lower platform storage locations, and the effect on exiting from the effected areas of the facility.
- .6 When planning open space schools or administrative spaces, a floor plan shall be submitted showing the methods used to permanently define the means of egress, such as surface finish or color.
- .7 Plumbing fixture locations and fixture unit calculations.
- .8 All exterior building elevations and sufficient building sections as necessary to fully illustrate and indicate the scale and massing of the facility.
- .9 Typical building sections to show dimensions, proposed construction materials, and relationship of finished floor to finished grades.
- .10 Preliminary Structural Drawings including plans and sections indicating systems, connections and foundations. These drawings may be structural roughs.
- .11 Mechanical Drawings including reflected ceiling plans and a single line diagram of the duct layout, location of grease trap(s), LP gas tank location, natural gas pipe lay out, tie in to existing utilities. Enhance systems description to include a description of proposed HVAC system equipment including the chiller, pumps, AHU's, cooling tower, electric duct heaters, etc.
- .12 Electrical Drawings including reflected ceiling plans, lighting layouts for the outdoors and interior spaces, and a one line diagram of the electrical distribution showing electrical outlets for all systems in all spaces. Provide layout for energy management, computer networking and security systems. Location of all the main components of the electrical system such as transformers, panels, and main switch board, and emergency generator, location of the intercom console, ITV head end and tower, master clock, fire alarm panel. Also, show locations of mechanical equipment such as chillers, air handler units, etc. and their respective electrical connections.
- .13 **Equipment and Furnishing Schedules:** Indicating equipment and furnishing items that will be provided by the Construction Manager and those that will be provided by the Owner or others.
- .14 **Outline specifications:**
  - .1 Organized according to the Specification Section numbering system specified in the Construction Specifications Institute's current edition of Masterformat on the date of execution of the Contract.
  - .2 Formatted to conform to the formats for outline specifications as established by the Construction Specifications Institute.
  - .3 Complete for Divisions 2 through 16 giving general description of all finishes, materials, and systems including civil, structural, HVAC, electrical, plumbing, and specialty items, including fire sprinklers, alarm systems, electronic controls and computer networking components.

- .15 Office of Educational Facilities Life-Cycle Cost Analysis (LCCA). LCCA shall be submitted to the Owner for review and approval with the Phase II documents. LCCA shall be by a commercially available life-cycle cost analysis program, and as required by the Department of Education and the Owner.
- .16 Florida Energy Efficiency Code for Building Construction (FEEC). FEEC forms, including calculations for mechanical systems, documenting energy efficiency ratio rating of HVAC equipment, electrical systems, insulation, and building envelope shall be submitted to the Owner for review and approval with the Phase II documents.
- .17 The Project Consultant shall advise Owner of any adjustments to the Schematic Design Phase estimate of probable construction cost and shall submit to Owner a fully detailed Design Development Phase estimate, of probable construction cost, by an independent cost estimator approved by Owner, projected to the expected time of bid and containing sufficient detail to provide information necessary to evaluate compliance with the Project Budget set for this project. Format estimate and provide detail matching the organization and content of the project's Outline Specifications complete for Divisions 2 through 16 including all finishes, materials, and systems including civil, structural, HVAC, electrical, plumbing, and specialty items, including fire sprinklers, alarm systems, electronic controls and computer networking components.

Utilize the current edition of MasterFormat as published by the Construction Specifications Institute to organize the estimate. The Services of an independent cost estimator will be a supplemental service under the provisions of Article 2.9.1.6.
- .18 An updated Project Development Schedule reflecting development and anticipated schedules for all subsequent project activities.
- .19 A written response from the Project Consultant and each of the major technical disciplines and any necessary Sub-Consultants explaining how each previous review comment (as generated by the Owner and/or other reviewing agencies) concerning the project have been addressed and/or corrected.
- .20 A simplified single line floor plan of the project; a database format schedule reflecting the room numbers; the name of the room or space; the net square footage of the space and the capacity of the space on electronic media and on a single 24" x 36" sheet of vellum conforming to the Owner's standards for graphics and for electronic media submittals. This drawing and database information will be for use in preparing F.I.S.H. (Florida Inventory of School Houses) information. The Project Consultant shall coordinate with and utilize the Owner's F.I.S.H requirements for room numbers, room name assignments and electronic media (format, layering, etc.) prior to developing final documents for this submittal. Hardcopy graphics shall be suitable for clearly legible half size reductions. Comply with the Owner's requirements for electronic media specified below.
- .21 A letter indicating, after coordination with the Facilities and Construction Management Division's Environmental Section, the extent of any known or suspected asbestos containing materials or other potentially hazardous materials which might require mitigation by the Owner prior to or during construction of the Project. Establish and confirm responsibility for removing the asbestos or other hazardous materials in the design development documents and coordinate with Project Development Schedule, Statement of Probable Construction Cost and other documentation.

- .22 Preliminary colorboards to review the color selections for all finish materials with the Owner.
  - .23 Twenty-five (25) copies of a Design Development Brochure which will be utilized to communicate the design as developed to date and shall include updated and enhanced contents of those brochures required at the Schematic Design Phase complete as necessary to illustrate the developed design, schedules, etc. Additional copies of the Design Development Brochure if required by the Owner will be compensated as a reimbursable service approved in advance by the Owner.
- 2.3.2 Staff from each of the Project Consultant's major technical disciplines, and Sub-Consultants as necessary shall attend coordination, review and presentation meetings with the Owner and Construction Manager to explain the design concept and technical resolution of their respective building or site systems.
  - 2.3.3 The Project Consultant shall submit seven (7) sets of all documents required under this Phase (except as otherwise indicated), without additional charge, for review by Owner and Construction Manager and approval by the Owner, and the Project Consultant shall not proceed with the next Phase until the completion of all required presentations and reports and receipt of a written Authorization to Proceed with the next phase.
- 2.4 Phase III - Construction Documents Development:**
- 2.4.1 After written Authorization to Proceed from Owner and based on the approved Design Development Phase documents and any adjustments in the scope or quality of the project or in the Fixed Limit of Construction Cost reviewed by Construction Manager and authorized by Owner, the Project Consultant shall prepare for approval by Owner and the Florida Department of Education, and in accordance with SREF requirements and the Owner's formats, Final Construction Documents setting forth in detail the requirements for the construction of the Project. The Project Consultant is responsible for the full compliance of the design with all applicable codes.
  - 2.4.2 **50% Construction Documents Submittal:** The Project Consultant shall make a 50% Construction Documents submittal, for review by Owner and Construction Manager and approval by the Owner, which shall include seven (7) sets of the following:
    - .1 "Project Transmittal Form" as required by the Facilities and Construction Management Division's Design Section.
    - .2 An updated OEF form 208(a) "OEF Space Chart Form" formatted to follow the sequence of spaces listed in the SREF Size of Space and Occupant Design Criteria Table.
    - .3 Updated Florida Energy Efficiency Code for Building Construction (FEEC) compliance forms. Submit seven (7) copies signed and sealed by a State of Florida registered design professional with 50% Contract Documents submittal.
    - .4 **Preliminary calculations:** Provide preliminary calculations for structural, mechanical and electrical systems.
    - .5 **Drawings:** These documents shall be 50% construction drawings corresponding to the educational specifications and program requirements illustrating the general scope, scale, and relationship of project components. In addition to Phase II requirements, SREF requirements, and information required by the Owner's document submittal checklist for phase III 50%, the documents shall include the following:

- .1 Site Plan(s) and detailing which, in addition to the Phase II requirements, indicate:
  - .1 Spot elevations, based on the civil grading plan, for the perimeter of the new additions, sidewalk, or any other areas pertinent to the drainage of rainwater.
  - .2 Location of storm water service for new additions roof drainage.
  - .3 Parking lot lighting poles location and type.
  - .4 Final location for manholes, handholes, pull boxes.
  - .5 Layout of underground distribution systems (normal power emergency power, fire alarm, master clock, intercommunication, television, telephone, security, control and spares).
  - .6 Locations of all site improvements, playground and athletic equipment, street furniture, planters and other features.
  - .7 Details of all curbing, typical parking spaces (regular and handicap accessible), handicap ramps, bus loop(s), parent drop-off, directional signage, site lighting, flagpole and fence foundations, and any other site conditions pertinent to the scope of work.
  - .8 Plans of new playcourts, tennis courts, tracks, event pads and other pertinent athletic, physical education or recreational areas provided with court markings and detailing for basketball goals, volleyball sleeves, tennis nets, and other playcourt equipment or accessories.
- .2 A plan to delineate staging areas, site barriers and other area designations to control and separate students, faculty, staff and the public from construction activities and traffic.
- .3 Landscape plans and detail including a plant list clearly noted and cross referenced, details for shrub and tree plantings, identification of plants and trees to remain, be removed or relocated, and other necessary documentation.
- .4 Irrigation plans and details delineating the entire area of the project, and addressing necessary connections, alteration, repair or replacement of any existing irrigation systems.
- .5 **Full floor plans including:**
  - .1 All dimensions and any cross references explaining the extent of Work, wall types, or other component, assembly or direction regarding the Construction.
  - .2 Note all chases and delineate all rainwater leaders.
  - .3 Show structural tie columns and coordinate with the floor plan.
  - .4 Cross referenced interior elevations.
  - .5 Delineate and note all built-in cabinetry or equipment.



- .6 Identify room (F.I.S.H.) and door numbers with all doors having individual numbers.
- .6 **Demolition Plans:** Indicate required demolition activities. as follows:
  - .1 Provide separate demolition plan(s) and other drawings (elevations, sections, etc.) as necessary if the scope of work includes demolition which is too excessive to indicate drawings depicting new construction.
  - .2 Indicate notes on the extent of the demolition: address dimensions at locations where partial walls are being removed or altered, existing room names and numbers, existing partitions, equipment, plumbing, HVAC or electrical elements.
  - .3 Include notes dealing with protection of existing areas as a result of demolition.
  - .4 Delineate any modifications to existing buildings involving structural elements within the structural documents rather than on the architectural.
- .7 Building elevations developed further than at Phase II and including delineation of building joints (including dimensionally located stucco control joints), material locations, elevation heights, and other building features.
- .8 Building and wall sections to establish vertical controls and construction types for the Project. Include clear graphics, and notes on construction assemblies and systems to be used, dimensions, heights. Provide associated detailing to delineate solutions for difficult connections. Specify details for any fire walls to be constructed.
- .9 Reflected ceiling plans indicating ceiling types, heights, light fixture types, mechanical diffuser locations, and sprinkler heads if area is sprinklered. Delineate and detail any dropped soffits or joint conditions between different materials. Ensure coordination with architectural, electrical, mechanical and plumbing disciplines and work of any applicable Sub-Consultants.
- .10 **Roof plans:**
  - .1 Indicating all roof penetrations, including drains, scuppers, mechanical exhaust fans, any other equipment on the roof, slopes of roof with elevations shown, type of roofing system to be used, expansion joints, typical parapet and flashing details.
  - .2 Dimensions to locate the items noted previously, and cross references shown.
- .11 Large scale building details as appropriate to this level of document development and as required to establish vertical controls for the Project. Include clear graphics, and notes on construction assemblies and systems to be used, dimensions, heights. Provide associated detailing to delineate solutions for difficult connections.
- .12 Interior elevations of all classroom designs including cross references of cabinetry details, dimensions and heights, notes indicating type of equipment (and whether equipment is in or out of contract), wall materials, finishes, and classroom equipment and accessories.

.13 Details of casework as necessary to appropriately delineate custom or pre-manufactured casework. Provide appropriate schedules referencing manufacturer's numbers or catalogs, finishes, hardware and other construction characteristics.

**.14 Details of the following:**

- .1 Door jamb, head and sill conditions.
- .2 Wall and partition types.
- .3 Window head, sill and jamb conditions, and anchorage methods shown, in lieu of referencing to manufacturer's standards.
- .4 Interior signage to include classroom and building identification, emergency exiting and equipment signs, and any other items pertinent to the identification of the project. Coordinate with electrical discipline.
- .5 Interior or exterior expansion control connections.
- .6 Any other specialized items necessary to clearly express the intent of the project design.

.15 Room finish and door schedules coordinated with the floor plans, developed beyond Phase II.

.16 Structural foundation and framing plans, with associated diagrams, schedules, notes, detailing and section drawings completed sufficiently to communicate the design intent and coordination with other disciplines.

**.17 Mechanical Drawings:**

- .1 Provide double line duct work layout and HVAC equipment layout drawings with related diagrams and schematic diagrams, schedules, notes, detailing and section drawings completed sufficiently to communicate the design intent and coordination with other disciplines.
- .2 Provide plumbing equipment and fixture layout drawings with related diagrams, schedules, notes, detailing and section drawings completed sufficiently to communicate the design intent and coordination with other disciplines.
- .3 Provide 1/2 inch scale plans, elevations and sections of the mechanical rooms showing service clearance, room openings, nominal equipment size, ceiling height, duct clearance between bottom of joist and top of ceiling and any ceiling mounted lighting fixtures, electrical equipment or other building assembly or component, etc.

**.18 Electrical:** Provide drawings for the following systems:

- .1 Lighting including circuiting and luminaire identification and switching. Also provide illuminance computer print out for all indoor typical indoor spaces and parking lots.

- .2 Convenience outlets and circuiting, special outlets and circuiting, television outlets, and power systems and equipment. Provide riser diagrams for all electrical systems including master clock, intercom, fire alarm, ITV, computer networking/telephone. Also, provide for emergency and normal power distribution. Provide luminaire schedule.
  - .3 Panel schedule may be in preliminary form but circuitry must be included.
  - .4 Applicable installation details.
  - .5 General legend and list of abbreviations.
  - .6 Voltage drop computation for all main feeders.
  - .7 Short circuit analysis
  - .8 Provide 1/2" scale floor plan and wall elevations for all electrical rooms.
  - .9 Indicate surge protector for main switchboard and electrical panels.
- .6 **Progress specifications:**
- .1 Provide preliminary Project Manual including front end documents. Completion of fill-in items in Bidding documents and other "Division 0" documents is not required.
  - .2 Provide a preliminary Division 1 based upon the standard documents provided by the Owner reviewed by Construction Manager and edited by the Project Consultant after consultation with the Owner and Construction Manager to establish project specific requirements.
  - .3 Include progress set of all other Sections in Divisions 2-16 with each section developed to demonstrate to the Owner and Construction Manager an understanding of the project and an appropriate level of developmental progress comparable to that of the drawings.
  - .4 Specification sections shall be organized to follow the Construction Specification Institute's (CSI) current edition of MasterFormat with each section developed to include CSI's standard 3-part section and page formats with full paragraph numbering.
- .7 An updated Project Development Schedule, formatted as a preliminary construction schedule reflecting continued Project development and illustrating anticipated schedules for all subsequent project activities including Construction Manager's input permitting and submittal coordination with all agencies having jurisdiction on the Project, project phasing, site mobilization, temporary facilities, general construction sequencing, anticipated substantial completion dates, Owner occupancy, and all other significant Project events. Format updated schedule as a Bar Chart (Gantt Chart) type schedule with milestones.
- .8 Colorboards illustrating color selections, finishes, textures and aesthetic qualities for all finish materials for final review by Owner and Construction Manager and approval by the Owner and to establish a final palette of material selections for development of subsequent specifications, schedules and other requirements for incorporation into the Contract Documents.

- .9 A letter from the Project Consultant and each of the major technical disciplines and any necessary Sub-Consultants or explaining how each previous comment concerning the project has been addressed and/or corrected.

### **2.4.3 100% Construction Documents Submittal:**

- .1 Upon 100% completion of the Construction Documents, the Project Consultant shall submit to the Owner and Construction Manager seven (7) copies of check sets of the Drawings, Specifications, reports, programs, a final up-dated Project Development Schedule, a final up-dated Statement of Probable Construction Cost and such other documents as reasonably required by Owner. The 100% construction documents shall conform to SREF requirements, all mandatory requirements cited by the Florida Department of Education (or the designated reviewer) and those listed below.

- .2 All documents for this phase shall be provided in both hard copy and in electronic media. The Owner and Construction Manager will review and the Owner will approve Phase III documents for submission to the Department of Education (or designated reviewing agency) for review and approval. The following Phase III contract documents shall be included with the Phase III submittal:

- .1 "Project Transmittal Form" as required by the Facilities and Construction Management Division's Design Section.
- .2 OEF form 208 "OEF Project Transmittal Form".
- .3 OEF form 208 (a) "OEF Space Chart Form" formatted to follow the sequence of spaces listed in the SREF Size of Space and Occupant Design Criteria Table.

#### **.4 General Requirements.**

- .1 **Record Set.** This submittal is the official record set and shall be the bid documents.
- .2 **Signed and Sealed/Statements of Compliance:** Only complete documents, properly signed and sealed by the Project Consultant and respective Sub-Consultants, will be accepted for review; in addition, these documents shall contain a statement of compliance by the architect or engineer of record that "To the best of my knowledge and belief these drawings and the project manual are complete, and comply with the State Requirements for Educational Facilities and all applicable and referenced building codes".
- .3 When requested by the Owner, engineering calculations for mechanical, electrical, and structural systems shall be submitted separately from drawings and the project manual.
- .5 **Drawings.** These documents shall be 100% construction drawings corresponding to the educational specifications and program requirements illustrating the general scope, scale, and relationship of project components. In addition to Phase III 50% requirements, SREF requirements, and information required by the Owner's document submittal checklist for phase III 100%, the documents shall include the following:

- .1 Site plans including, but not limited to, area location map, legal description of property, demolition, excavation, utilities, finish grading, landscaping, mechanical, electrical, civil/structural, and architectural site plans.
- .2 Plans and details including, but not limited to:
  - .1 Title sheets including listing of Project Consultant, Construction Manager, School Board of Broward County, a table of contents and statement of compliance by the architect or engineer of record. Each discipline shall have a list of abbreviations, schedule of material indications, and schedule of notations and symbols at the beginning of their section of the plans.
  - .2 Architectural sheets including floor plans, door, window and finish schedules, roof plans, elevations, sections, and details.
  - .3 Civil/Structural sheets including paving; bus loops; parent drop; service drive; parking; drainage; foundation plans; floor plans; roof plans; structural plans; sections; details; and, pipe, culvert, beam and column schedules.
  - .4 Mechanical sheets including floor plans; sections; details; riser diagrams; kitchen exhaust hoods; and, equipment, fan, and fixture schedules.
  - .5 Electrical sheets including floor plans; sections; details; riser diagrams; and, fixture and panel schedules.
  - .6 The drawings should indicate that the approved mechanical/electrical systems, from the Phase II FEEC/LCCA analysis, have been incorporated into the documents.
- .6 **Project Manual.** The Project Consultant, in its leadership capacity, shall review and coordinate with the Construction Manager and Owner regarding the preparation of the following:
  - .1 The necessary bidding information, the bidding forms, the conditions of the contract and Division 1 with respect to the foregoing documents and regarding any other Agreements necessary for construction of the project. However, in no case will Project Consultant amend or delete items from these documents without prior review by Owner and Construction Manager and written approval from Owner.
  - .2 A project specific set of Division 1 specifications based upon master documents provided by the Owner, including all schedules, lists and inventories as required to complete the Owner's master documents including Construction Manager's Submittal schedules, warranty schedules, salvage schedules, preliminary construction schedule, etc.
  - .3 Final specification sections for Divisions 2 through 16 organized and formatted as required for the set of Phase III, 50% progress specifications.
  - .4 Approved alternate bid items, if required by Owner and Construction Manager and authorized by the Owner, to bring the project within the Fixed Limit of Construction Cost (FLCC) which would permit Owner in its sole discretion to accept or reject portions of the

construction of the project. No additional compensation shall be provided for bid alternates if they are part of the original scope of work.

- .7 A threshold building inspection plan, prepared by the Project Consultant, and the name of a certified threshold building inspector, as set forth in Section 553.79(5), Florida Statutes (2004) as amended from time to time, shall be submitted to the Owner and the Department of Education (as applicable) for review and approval with Phase III documents. Threshold building inspection plan documents shall be submitted for:
  - .1 Any building greater than three (3) stories or fifty (50) feet in height, or
  - .2 Any building with an assembly space that exceeds five thousand (5000) square feet in area, and an occupant load of five hundred (500) or more persons.
- .8 An Updated Statement of Probable Construction Cost as indicated by time factor, changes in requirements, or general market conditions. The Services of an independent cost estimator will be a supplemental service under the provisions of Article 2.9.1.6
- .9 A letter from the Project Consultant and each of the major technical disciplines and any necessary Sub-Consultants explaining how each previous review comment (as generated by the Owner and/or other reviewing agencies) concerning the project has been addressed and/or corrected.
- .3 If the Latest Statement of Probable Construction Cost exceeds the Fixed Limit of Construction Cost for construction, the Project Consultant shall review the materials, equipment, component systems and types of construction included in the Contract Documents with the Owner and Construction Manager and may recommend changes in such items and/or reasonable adjustments in the scope of the Project (to be made at no additional cost to the Owner).
- .4 The Project Consultant shall make all required changes or additions and resolve all questions on the documents. The 100% complete Check Set shall be returned to the Owner and Construction manager. Upon final review by Owner and Construction Manager and approval by the Owner the Project Consultant shall furnish seven (7) copies, signed and sealed of all Drawings and Specifications to the Owner and Construction Manager without additional charge.
- .5 The Project Consultant shall, with the Owner's and Construction Manager's assistance, file the required documents for approval by governmental authorities having jurisdiction over the Project (including Broward County and municipalities and their constituent departments, the South Florida Water Management District, and other state, local or federal agency with jurisdictional authority over some aspect of the Project) and obtain certifications of "permit approval" by reviewing authorities prior to the commencement of Phase IV and early enough to ensure that the Construction Manager and eventual contractors is not delayed by permit processing by Broward County, a municipality or other jurisdictional agency. The Project Consultant shall provide the original documents or reproducible copies as may be required for submittal to any and all governmental authorities. The Project Consultant shall attend and provide representation at all review meetings, workshops, hearings and Commission/Council meetings concerning the project as conducted by other jurisdictional agencies. Project Consultant shall assure the Owner that all mandatory requirements are complete prior to the Construction Manager's bidding and development of the GMP, included, but not limited to, those that may have a financial impact on the Project.

- .6 Staff from each of the Project Consultant's major technical disciplines and Sub-Consultants as necessary shall attend coordination, review and presentation meetings with the Owner and Construction Manager to explain the development of the design concept and technical resolution of their respective building or site systems for both the Phase III, 50% and Phase III, 100% Submittals.
  - .7 The Owner's and Construction Manager's review and approval of the drawings, specifications, calculations and other construction documents shall not relieve the Project Consultant of any responsibility for their accuracy, adequacy and completeness.
- 2.4.4 The Project Consultant shall make all changes to the documents as required by the Owner's and Construction Manager's review of the documents by issuing a written recommendation to the Owner, at no additional cost and resolve initially all questions of constructability, code compliance, compliance with Owner standards, or other issues raised by the Owner or Construction Manager during their reviews of the documents. The Owner and Construction Manager will retain the documents submitted at this phase.

## **2.5 Phase IV - Bidding and Award of Contract**

- 2.5.1 **Bid Documents Approvals and Printing:** At this stage the Construction Manager assumes the leadership responsibility for the project team. This however, shall not relieve the Project Consultants responsibilities as they relate to this contract for this phase and subsequent phases. Upon obtaining all necessary approvals of the Construction Documents, and review by Construction Manager and Owner approval by the Owner of the latest Statement of Probable Construction Cost, the Project Consultant shall assist the Construction Manager in obtaining bids and awarding construction contracts. The Owner will have the drawings and specifications printed for bidding purposes, either through its open Agreements with printing firms or as a reimbursable service through the Project Consultant.
- 2.5.2 The Construction Manager will issue the Bid Documents to prospective bidders and keep a complete "List of Bidders."
- 2.5.3 The Project Consultant shall render initial interpretations and clarifications of the drawings and specifications in a written format, supplemented by appropriate graphics. The Owner shall make all final determinations and/or interpretations as it relates to building code issues.
- 2.5.4 The Project Consultant shall attend a pre-bid conference as scheduled by Construction Manager and requested by the Owner and Construction Manager.
- 2.5.5 The Project Consultant shall prepare addenda, if any are required, for the Owner to issue to all prospective bidders. No addenda shall be issued without the Construction Manager's review and Owner's approval and if dimensional changes or extensive graphic changes are required the drawing sheets shall be revised and issued as addendum drawings as directed by Owner.
- 2.5.6 The Project Consultant shall be present at the bid opening with the Owner's staff.
- 2.5.7 The Project Consultant shall participate with Owner in evaluating the bids and shall provide a written recommendation for bid award.

- 2.5.8 If the Guaranteed Maximum Price received from the Construction Manager (as that term is defined in the Agreement between Owner and Construction Manager) exceeds the Fixed Limit of Construction Cost the Owner will either:
- .1 Approve the increase of Project costs and approve GMP or,
  - .2 Direct the Project Consultant to revise the Project scope or quality, or both, as approved by the Owner, and the Construction Manager will rebid the Project, or
  - .3 Suspend or abandon the Project, or
  - .4 Bid out the project to another CM At Risk Construction Manager or General Contractor.
- 2.5.9 Under Article 2.5.6.2 above, the Project Consultant shall, without additional compensation, modify the Construction Documents as necessary to bring the project within the Fixed Limit of Construction Cost. The providing of such service shall be the limit of the Project Consultant's responsibility in this regard and having done so, the Project Consultant shall be compensated in accordance with this Agreement. The Owner and Construction Manager may recognize exceptional construction market cost fluctuations before exercising the option provided in Article 2.5.6.2 above. The Owner agrees to discuss this issue with the Project Consultant and Construction Manager prior to exercising this option.
- 2.5.10 If an estimate or cost analysis is required by the Owner for this phase, the Project Consultant shall utilize the previously established independent cost estimator, or a replacement acceptable to the Owner, to analyze bids and to assist in the preparation of any modified bidding documents or re-bid documents that may be required to ensure successful bidding within the Fixed Limit of Construction Cost.

## **2.6 Phase V - Administration of the Construction Contract:**

- 2.6.1 The Construction Administration Phase will begin with the approval of the GMP and Construction Manager Agreement by the Owner and will end when the Construction Manager's final Payment Certificate is approved by the Owner "and after the one (1) year warranty period has expired". During this period, the Project Consultant shall provide Administration of the Construction Contract as set forth in the construction contract documents (hereafter referred to and defined as the "Contract Documents") between the Owner and the Construction Manager, as basic services.
- 2.6.2 The Project Consultant, as a representative of the Owner during the Construction Phase, shall advise and consult with the Owner and Construction Manager within the limits established by this Agreement and the Contract Documents. The Project Consultant shall contemporaneously provide Owner and Construction Manager with copies of all communications between Project Consultant and Construction Manager and others concerning matters material to the cost, time, sequence, scope, performance or requirements of the project.
- 2.6.3 The Project Consultant and the Project Consultant's respective Sub-Consultants shall attend all key construction events as necessary to ascertain the progress of the Project and to determine in general if the Work is proceeding in accordance with the Contract Documents and the Project Schedule. A minimum of at least one site visit per week will be required by the Project Consultant. The Sub-Consultant will be required to visit the site at least once a week when their respective portion of the work is in progress.
- .1 The Project Consultant shall visit the site at least once per week to become familiar with the progress and quality of the Work and to determine if the Work is proceeding in accordance with the Contract



Documents and Project Schedule. The Project Consultant shall coordinate the timing of these visits with the Owner's Representative and Construction Manager so as to permit joint observations of the progress of the Work and discussions about project issues. On the basis of on-site observations as a Consultant, the Project Consultant shall keep Owner and Construction Manager informed of the progress and quality of the Work. The Project Consultant shall promptly submit to Owner and Construction Manager a detailed written report of the results of each visit to the site, and copies of all field reports and notes of meetings with Construction Manager, subcontractors of any tier or suppliers.

- .2 The Project Consultant shall, based upon its on-site visits, promptly report to Owner and Construction Manager any defects and deficiencies in the Work coming to the attention of Project Consultant and shall endeavor to guard the Owner against defects and deficiencies in the Work. This obligation is not reduced or limited by the fact that others, such as the UBCI, are undertaking inspection for or on behalf of the Owner. The Project Consultant shall make on-site observations utilizing the same personnel over the course of the Work. The Project Consultant shall assist the Owner in determining the cost of reinspections due to the Contractor's failure to perform. Any changes in personnel must be in writing and issued to the Owner and Construction Manager.
  - .3 The Project Consultant shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work.
- 2.6.4 The Project Consultant shall at all times have access to the Work where ever it is in preparation or progress. The Project Consultant and the Sub-Consultants shall review and advise the Owner and Construction Manager as to whether the Construction Manager is making timely, accurate, and complete notations on the "Project Record Documents" and maintaining various other administrative records as required by the Contract Documents. In addition the Owner may at its discretion require the Project Consultant and all Sub-Consultants to submit additional written materials or forms to the Owner and Construction Manager relating to or regarding the Project or its progress. Complete notations to the "as built" drawings shall include, but not be limited to all changes due to RFI's, ASI's, COD's, and CO's, in addition to the changes recorded by the Contractor, as noted above.
- 2.6.5 The Project Consultant shall initially interpret matters and provide recommendations concerning performance of Owner and Construction Manager under requirements of the Contract Documents on written request of either Owner or Construction Manager. The Project Consultants response to such requests shall be made with reasonable promptness and within any time limits agreed upon. The Project Consultant shall render written advisory decisions, only upon the Owner's request, within a reasonable time, on all claims, disputes and other matters in question between Owner and Construction Manager relating to the execution or progress of the Work or the interpretation of the Contract Documents.
- 2.6.6 All initial interpretations and advisory decisions of the Project Consultant shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. In the capacity of interpreter the Project Consultant shall endeavor to secure faithful performance by both the Owner and Construction Manager, and shall not show partiality to either. The Owner shall be the final interpreter of any and all matters pertaining to the performance of the Project Consultant and Contractor.
- 2.6.7 The Project Consultant shall have authority to recommend rejection of Work which does not conform to the Contract Documents. The Project Consultant shall not have authority to stop the Work without approval of the Owner. Whenever, in the Project Consultant's reasonable opinion, it is necessary or advisable for the

implementation of the intent of the Contract Documents, Project Consultant may recommend special inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work be then fabricated, installed or completed, but Project Consultant shall take such action only after consultation with Owner. The Project Consultant's monitoring of such additional special testing or inspections is a part of the Basic Services. Owner shall furnish all such tests, inspections and reports that are required by law or by the Contract Documents or that it has previously approved in writing, without waiving its right to reimbursement from Construction Manager. However, neither this authority of the Project Consultant nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty of responsibility of the Project Consultant to Construction Manager or other third parties performing portions of the Work.

- 2.6.8 The Project Consultant shall promptly review, and take other appropriate action upon Construction Manager's submittals such as shop drawings, product data and samples, but only for conformance with the design concept of the Contract Documents. Such action shall be taken within fourteen (14) days of receipt by Project Consultant unless Owner, Construction Manager and Project Consultant otherwise mutually agree. Project Consultant's review shall not constitute review or approval of safety precautions or of construction means, methods, techniques, sequences or procedures. Project Consultant shall maintain a log of all submittals made and shall compare the submittals with Construction Manager's progress schedule. The Consultant shall not approve changes to the contract or substitutions through the regular submittal process but will utilize those respective methods specified in the Contract Documents. The Project Consultant shall be compensated for reviewing re-submittals after the first re-submittal of a respective submittal as a reimbursable expense with the Owner reimbursed by the Construction Manager under provisions of the Contract Documents.
- 2.6.9 The Project Consultant shall coordinate with the Owner and Construction Manager concerning the Owner's and Construction Manager's required review of Request for Proposals, Change Orders and Construction Change Directives. The Project Consultant shall:
- .1 Meet with the Owner's Project Manager and Cost Estimator and Construction Manager prior to the preparation and execution of Request for Proposals, Contingency Use Directives and Change Order items to ensure that proposed changes comply with the intent of the Project's scope and construction schedule and whether the Construction Manager is entitled to additional sums or contract time for the proposed Work.
  - .2 Reconcile the Project Consultant's analysis of Request for Proposals, Contingency Use Directives and Change Order amounts with an analysis provided by the independent cost estimator and provide the Owner and Construction Manager with a recommendation concerning the respective cost studies.
  - .3 Submit written and graphic information documenting proposed changes for formal review by the Owner's Project Manager and Cost Estimator and Construction Manager prior to the issuance to the Construction Manager.
  - .4 Review and indicate concurrence through signing Request for Proposals for Owner's authorization in accordance with the Contract Documents, shall have authority to order minor changes in the Work not involving an adjustment in the contract sum or an extension of the contract time and which are not inconsistent with the intent of the Contract Documents. Such minor changes shall be effected by written order issued through Owner. The Basic Services shall include providing recommendations concerning Request for Proposals, Contingency Use Directives and Change Orders, and the preparation, permitting and processing of Request for Proposals, Change Orders and Construction Change Directives. This Article shall not supersede Articles 2.9.1.14 or 2.9.1.16.

- .5 Process, prepare and issue contract modification documents, Request for Proposals, Contingency Use Directives and Change Orders, in a timely manner and not allow the period required for evaluation, preparation or to issue such documents to exceed fourteen (14) days. The Project Consultant shall provide written notification to the Owner and Construction Manager concerning those modification documents requiring more than fourteen (14) days processing time with an attached explanation of the circumstances requiring longer processing time.
  - .6 All final decisions with respect to substitutions, Request for Proposals, Change Orders, and other contract modifications shall be at the sole determination of the Owner.
- 2.6.10 The Project Consultant shall conduct thorough site observations, make recommendations and otherwise assist Owner and Construction Manager in determining the dates of Substantial Completion and Final Completion, shall review, approve and forward to Owner for Owner's review, written warranties and related documents required by the Contract Documents and assembled by Construction Manager, and shall certify a final certificate for payment. At substantial completion, the Project Consultant shall prepare a punch list of observed items requiring correction, completion or replacement by Construction Manager. The Project Consultant shall administer the Construction Manager's submittal of various closeout submittals including warranty documents, operations and maintenance materials, extra materials, and other closeout submittals as required by the Contract Documents. The Project Consultant and the Sub-Consultants shall verify and confirm the Construction Manager's successful demonstration of equipment and systems and the training of the Owner's personnel as required by the Contract Documents. Project Consultant shall inspect the Project upon final completion to determine compliance with the Contract Documents and, upon so determining, prepare and execute the required forms and other documents indicating that the Work is completed in compliance with the Contract Documents.
- 2.6.11 The Project Consultant shall within sixty (60) days of final acceptance provide the Owner with prints and electronic media copies of the original drawings, which the Project Consultant has revised to conditions based on information furnished by the Construction Manager as Project Record Documents. These prints and electronic media copies shall become the property of the Owner. Submittal of these documents to the Owner is a condition of final payment of construction support fees to the Project Consultant.
- 2.6.12 The Project Consultant shall assist Owner in determining amounts owing to Construction Manager based on observation at the site and an evaluation of Construction Manager's applications for payment and shall certify Certificates for Payment of such amounts as provided in the contract documents and in such forms as the Owner may request. The certification of the Certificate for Payment shall constitute the representation by Project Consultant to Owner based on Project Consultant's observation at the site and the data comprising Construction Manager's applications for payment, that the work has progressed to the point indicated; the quality of the work is in substantial accordance with the contract documents (subject to an evaluation of the work for substantial conformance with the contract documents upon substantial completion, to the results of any subsequent test by or performed under the contract documents, to minor deviations from the contract documents cited prior to completion, and to any specific qualification stated in the Certificate for Payment); and that the Construction Manager is entitled to the amount certified. However, the certification of the Certificate of Payment shall not be a representation that Project Consultant has made any examination, other than information which has come to Project Consultant's attention, to ascertain how and for what purpose Construction Manager has used the monies paid by the Owner.

## **2.7 Phase VI - Warranty Administration:**

2.7.1 For one year following substantial completion of the construction project, the Project Consultant shall assist Owner, without additional compensation, in securing correction of defects, and shall in the sixth and eleventh months make inspections of the project with the Owner and Construction Manager and report observed discrepancies to Owner and Construction Manager.

## **2.8 Other Basic Services:**

2.8.1 The Project Consultant shall render to Owner without additional compensation, any proper and reasonable assistance which Owner may require as a result of any claim or any action brought relating to Project Consultant's services. Preparation of detailed analysis or documentation (if requested by Owner) shall be a supplemental service under Article 2.9.1.21.

## **2.9 Supplemental Services**

2.9.1 The services listed below are normally considered to be beyond the scope of Basic Services as defined in this Agreement, and if authorized in advance by an appropriate written authorization, will be compensated for as provided under Articles 5.7 and 6.2:

- .1 Providing special analyses of the Owner's needs, and special detailed programming requirements for a project.
- .2 Providing financial feasibility, or other special studies.
- .3 Providing planning surveys, site evaluations, or comparative studies of prospective sites.
- .4 Providing services relative to future facilities, systems and equipment which are not intended to be constructed as during the construction phase.
- .5 Providing services to make measured drawings of the existing site or facilities.
- .6 Providing the services of a cost estimating firm. The choice of the firm, qualifications of the firm and the terms of employment of the firm shall be approved in writing in advance by the Owner.
- .7 Providing interior design services required for or in connection with the selection of furniture or furnishings, except equipment included in the Construction Contract and identified in the educational specifications.
- .8 Providing investigations and making detailed appraisals and valuations of existing facilities, and surveys or inventories required in connection with construction performed by the Owner.
- .9 Providing any additional or special professional services as may be required for the project.
- .10 Providing the services of one or more full-time Construction Inspector during construction; including the services of a Special Threshold Inspector.
- .11 Providing extended assistance beyond that provided under Basic Services for the initial start-up, testing, adjusting and balancing of any equipment or system; extended training of Owner's personnel in operation and maintenance of equipment and systems, and consultation during such training; and

- preparation of operating and maintenance manuals, other than those provided by the Construction Manager, subcontractor, or equipment manufacturer.
- .12 Providing consultation concerning replacement of any Work damaged or built inconsistent with the Contract Drawings, providing the cause is found by the Owner to be other than by fault of the Project Consultant.
  - .13 Providing consultation concerning replacement of any Work damaged by fire or other cause during construction, and furnishing services as may be required in connection with the replacement of such Work.
  - .14 Preparing revisions of Schematic Design, Design Development, and Construction Document Phase Documents previously approved in writing by Owner, when so directed in writing by Owner, provided, however, that no compensation for Supplemental Services shall be paid for revisions which may be required when due to errors or omissions by the Consultant or when due to the fact that the lowest Bona Fide construction bid exceeds the "fixed limit of construction cost".
  - .15 Providing services made necessary by the default of the Construction Manager, or any major unanticipated defects or deficiencies in the Work of the Construction Manager or any Construction Manager not attributable in any way to an Error and/or Omission of the Project Consultant.
  - .16 Preparing change orders and related documents provided the changes are significant changes (whether increases or decreases) in the scope of the project and are requested by the Owner and not for any changes due to any other reasons such as error or omission of the Project Consultant.
  - .17 Providing revisions in drawings, specifications or other documents required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents.
  - .18 Preparing to serve or serving as an expert witness in connection with any public hearing, arbitration proceeding or legal proceeding.
  - .19 Providing services after certification to the Owner of that Final Certificate for payment, and said payment has been made to the Construction Manager except those services that are a result of errors, omissions, or conflicts in documents prepared by the Project Consultant or are warranty related services.
  - .20 Any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted architectural practice related directly to design and construction.
  - .21 Review of extensive claims by the Construction Manager or others relating to the Project. However, there shall be no additional charges to Owner from Project Consultant in the event the claims are not extensive or in the event the claims are determined by the Owner to be based upon the failure of the Project Consultant or Sub-Consultant to properly perform its services or to comply with the provisions of this Agreement.

### **ARTICLE 3   SUB-CONSULTANTS**

#### **3.1   Sub-Consultants' Relations**

- 3.1.1 All services provided by the Sub-Consultant shall be pursuant to appropriate Agreements between the Project Consultant and the Sub-Consultants which shall contain provisions that preserve and protect the rights of the Owner and the Project Consultant under this Agreement. All such Agreements shall provide that the Project Consultant may assign or transfer to Owner any and all claims or causes of action which the Project Consultant has or may have against a Sub-Consultant as a result of or relating to any acts of omission or commission of that Sub-Consultant.
- 3.1.2 Nothing contained in this Agreement shall create any contractual relationship between the Owner and the Sub-Consultants. However the Project Consultant is at all times liable for any and all negligent acts of omission or commission of its Sub-Consultants relating to or regarding this Agreement or the Project which is the subject of this Agreement. The Owner may, at any time, require the Project Consultant to assign or transfer to the Owner any claims or causes of action which Project Consultant has or may have against one or more of its Sub-Consultants as it relates to these contract obligations regarding or relating to this Project. Upon such request, the Project Consultant shall execute a written assignment or transfer in a form to be provided by the Owner. In the event the Owner requires the Project Consultant to assign or transfer said claims or causes of action then the Owner agrees to indemnify and hold the Project Consultant harmless from any claim or cause of action brought by a Sub-Consultant against the Project Consultant directly related to the claim of cause of action brought by the Owner against a Sub-Consultant as a result of such assignment.

### **3.2 Proposed Sub-Consultants**

- 3.2.1 The Project Consultant proposes to utilize the following Sub-Consultants:  
Per Attachment 5 (Project Team Members)
- 3.2.2 The Project Consultant shall not change any Sub-Consultant without written prior approval by the Owner.
- 3.2.3 The Project Consultant, not later than ten (10) calendar days after the date of this Agreement, shall submit a list of contact information for Sub-Consultants which includes contact names, firm addresses, phone and fax numbers and internet (or other internet e-mail service provider) e-mail addresses.

## **ARTICLE 4 THE OWNER'S RESPONSIBILITIES**

### **4.1 Information, Documents, And Services**

- 4.1.1 Owner shall consult with Project Consultant and provide such information regarding requirements for the project, including a Project Scope, Budget and Schedule which shall set forth Owner's contemplated design objectives, constraints and criteria, including educational specifications, facilities lists, space requirements and relationships, flexibility and expandability, special equipment and site requirements as are reasonably necessary for Project Consultant to perform its services.
- 4.1.2 The Owner shall furnish a legal description and a certified land survey of the site. When possible, the Owner shall supply the certified land survey in hardcopy and electronic media formats. The certified land survey shall provide boundary dimensions, locations of existing structures and/or trees, the grade and line of street, pavement and adjoining properties, the rights, restrictions, easements, boundaries, topographic data and information relative to sewer, water, gas and electrical services.
- 4.1.3 Owner shall furnish the services of soil engineers or other consultants if such services are necessary and requested in writing by Project Consultant. Such services may include test borings, test pits, soil bearing values, percolation tests, air and water pollution tests, ground corrosion and resistivity tests, including

necessary operations for determining subsoil, air and water conditions, tests for hazardous materials, chemical, mechanical, structural or other tests with reports and appropriate professional recommendations.

- 4.1.4 Owner shall furnish a Project Schedule for the project showing all activities and critical dates necessary to complete the project within the allotted time.
- 4.1.5 Owner shall furnish a Construction Budget which is the portion of the Project Budget allocated for the construction cost of a project and will be based upon the Fixed Limit of Construction Cost with an appropriate contingency factor. This contingency factor includes but is not limited to the demolition, destructive testing and repairs, directed by the Project Consultant, to adequately investigate and document the existing conditions of the facility.
- 4.1.6 **As-Built Documentation:** Drawings and other available documents which were purported to represent "as-built" conditions at the time of original construction will be furnished to the Project Consultant; however, they are not warranted to represent conditions as of this date. The Project Consultant shall perform non-destructive field investigations as necessary to obtain sufficient information to perform his services and as required by field conditions, or the Owner to verify wall assemblies, construction types or other basic information as required to develop the design and documentation necessary for the project. The demolition and repairs associated with the destructive testing shall be compensated as a reimbursable expense. The Owner encourages the use of destructive testing techniques (with prior approval) to retrieve information that can be utilized by the Project Consultant to clearly indicate the disposition of the existing facility and incorporate this information into the Contract Documents.
- 4.1.7 **District Standards and Submittal Checklist**
- .1 **Design And Material Standards:** The Owner will furnish an electronic copy of Design and Material standards for the Project Consultant's use in developing designs and documentation for the project. The se documents are technical specifications and the intent of these documents is to convey basic Owner preferences to the Project Consultant. The Project Consultant shall review the content of the Design and Material Standards provided by the Owner and may consult with the Owner concerning discrepancies, errors or suggestions for the improvement of the provided documents. The Project Consultant remains responsible for the technical content and accuracy of documents produced under the terms of this Agreement.
  - .2 **Design Criteria:** The Owner will furnish an electronic copy of the Design Criteria for the Project Consultant's use in developing designs for the project. These criteria are guidelines, which address owner related issues; including but not limited to, ease of maintenance, life cycle costing, and functionality of the facility.
  - .3 **Document Submittal Checklist:** The checklist is a guideline indicating minimum requirements for the submittal of contract documents for each phase of the design process. The completed checklist form will be required with each submission for all applicable disciplines.
- 4.1.8 **Standard Construction Bidding And Contract Documents:** The Owner shall furnish the Project Consultant with sample bidding and contract requirements and general requirements containing the basic provisions and requirements of Owner. These documents are comprised of the Bidding Requirements, Contracting and Construction Manager Requirements, and Division 1 Specification Sections that will be utilized by the Project Consultant to develop the construction contract documents required under the terms of this Agreement. The Project Consultant acknowledges that these Owner Standard Documents will be made available by the Owner and shall be reviewed and analyzed by the Project Consultant and that these documents shall serve as the

basis for the Project Consultant's development of bidding documents for the Owner and Construction Manager.

- 4.1.9 Construction Manager shall arrange and pay for the required advertisements for bid.
- 4.1.10 Construction Manager, assisted by Project Consultant and Owner, shall issue the bid documents to bidders, maintain the planholders list, and issue addenda.
- 4.1.11 Owner shall be responsible for issuance of formal notices to proceed (if any) to the successful Construction Manager.

**4.2 Owner Furnished Items**

- 4.2.1 The services, information, surveys and reports specified by Article 4.1 shall be furnished at the Owner's expense, and the Project Consultant shall be entitled to rely upon the accuracy and completeness thereof. However, if the Project Consultant reviews all of the information provided by the Owner (such as surveys, soil borings and "as-built" documentation) and determines additional information and/or testing is required to properly design the project, the Project Consultant shall request same from the Owner.
- 4.2.2 When documents, services, or other materials furnished by the Owner for the Project Consultant's use are deemed by the Project Consultant as inappropriate, inaccurate, or otherwise unreasonable, the Project Consultant shall notify the Owner and Construction Manager immediately upon discovery of same. Failure of the Project Consultant to so notify the Owner and Construction Manager shall result in the Project Consultant's being responsible for any costs, expenses, or damages incurred by the Owner or Construction Manager and forfeiture of claims for damages, delays or other compensation related to the use of those Owner furnished materials.
- 4.2.3 The Owner shall furnish the above information or authorize the Project Consultant to provide it, as a supplemental service (except where otherwise stipulated), as expeditiously as possible for the orderly progress and development of the Project.

**ARTICLE 5 BASIS OF COMPENSATION**

**5.1 Professional Service Fees:**

- 5.1.1 The Owner agrees to pay the Project Consultant, and the Project Consultant agrees to accept for services rendered pursuant to this Agreement a fixed fee (as computed by the Fixed Fee method below) of:  
\_\_\_\_\_ Dollars. (\$ \_\_\_\_\_ .00)

**5.2 Fixed Fee:**

- 5.2.1 The Fixed Fee listed above is based on the scope of services for a project of this scope, size, complexity and Fixed Limit of Construction Cost (FLCC) of Construction of the project.
- 5.2.2 If the Owner authorizes a significant increase or decrease in the scope of the project, the Fixed Fee may be adjusted as mutually agreed upon. Changes in the FLCC, or, a Construction Contract awarded by the Owner in excess of the FLCC, shall not entitle the Project Consultant to additional Basic Services Fees, and, a Construction Contract awarded by the Owner that is less than the FLCC shall not entitle the Owner to a decrease in Basic Services Fees.



### **5.3 Multiple of Direct Personnel Expense (D.P.E.):**

5.3.1 Where this contract indicates a fee computed on the basis of a Multiple of Direct Personnel Expense, such fees shall be a multiple of two point two five (2.25) times the Direct Personnel Expense as defined in Article 5.5, not to exceed one hundred twenty-five dollars (\$125) per hour by Principals and one hundred dollars (\$100) per hour by other employees.

5.3.2 The following Principals may be employed on a project:

- .1 Personnel directly engaged on a project by the Project Consultant may include architects, engineers, designers, job captains, draftsmen, specification writers, field accountants and inspectors engaged in consultation, research and design, production of drawings, specifications and related documents, construction inspection, and other services pertinent to a project during all phases thereof.
- .2 Should overtime work be necessary for work compensated by this fee method, the Project Consultant's authorization and compensation for such work shall be approved by the Deputy Superintendent, in writing and stated in an Authorization to Proceed (ATP).

### **5.4 Fee for Additive Alternates:**

5.4.1 The design of alternates within the Owner's total allocated funds for construction will be a Basic Service.

5.4.2 The design of additive alternates, not included in the original project scope, in excess of Fixed Limit of Construction Cost of Construction must be authorized by the Deputy Superintendent, and will be considered supplemental services.

5.4.3 Fees for the design of additive alternates, not included in the original project scope, will be negotiated. The Owner will pay one hundred (100%) percent of the negotiated fee for alternates accepted and only pay for the design portions of the (Phases I through III) for alternates rejected.

### **5.5 Direct Personnel Expense and Raw Labor:**

5.5.1 Direct Personnel Expense is defined as the salary rate, as determined from salaries reported to the Director of Internal Revenue, of the personnel engaged directly on a project, and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions and similar contributions and benefits, not to exceed one point two five (1.25) times raw labor.

5.5.2 Raw Labor is defined as the salary rate, as determined from salaries reported to the Director of Internal Revenue, of the personnel engaged directly on a project.

### **5.6 Fees for Reimbursables**

5.6.1 Reimbursables are those items preapproved in writing and authorized by the Owner in addition to the Basic and Supplemental Services and consist of actual expenditures made by the Project Consultant and the Project Consultants' employees and Sub-Consultants in the interest of the Work.

- 5.6.2 Authorized travel outside the Dade, Broward and Palm Beach County area, lodging and meals in connection with a project (subject to the limitations imposed by Chapter 112.061, Florida Statutes (2004) as amended); long distance communications (except for long distance charges for calls placed to the normal architectural, civil, structural, mechanical, electrical or landscape architectural Project Consultants living outside the Project Consultant's local calling area), and fees paid for securing approval of authorities having jurisdiction over the Work; reproductions (with prior approval), postage and handling of Drawings, Specifications and other documents, excluding reproductions for the office use of the Project Consultant and check sets required by the Owner; data processing and photographic production techniques when used in connection with Supplemental Services; and if authorized in advance by the Owner, expense of overtime work requiring higher than regular rates.
- 5.6.3 The Owner will reimburse the Project Consultant for authorized Reimbursables as verified by appropriate bills, invoices or statements.
- 5.6.4 Any authorized reimbursable shall not include charges for office rent or overhead expenses of any kind, including but not limited to local telephone and utility charges, office and drafting supplies, depreciation of equipment, professional dues, subscriptions, etc., reproduction of drawings, and specifications, mailing, stenographic, clerical, or other employees time or travel and subsistence not directly related to a project. For all reimbursables, except those for professional liability insurance, the Project Consultant will apply the multiplier of one and five hundredths (1.05) times the amount expended by the Project Consultant, with the exception of the Project's Insurance Policy. Authorized reproductions in excess of sets required at each phase of the work will be a Reimbursable.

## **5.7 Fees for Supplemental Services**

- 5.7.1 The Consultant may be authorized to perform Supplemental Services described under Article 2.9. The fee for such services will be based upon a Cost Plus with a Guaranteed Maximum based on a Multiple of Direct Personnel Expense. Where a mutually agreeable Cost Plus with a Guaranteed Maximum based on Direct Personnel Expense cannot be arrived at, the Owner may secure services from an independent source or from the Owner's resources. The Consultant shall provide any information and/or copies of project documentation necessary to facilitate the provision of said supplemental services by others.

## **ARTICLE 6 PAYMENTS TO THE PROJECT CONSULTANT**

### **6.1 Payment For Basic Services**

- 6.1.1 Payments for Basic Services may be requested monthly in proportion to services performed during each Phase of the Work and provision of all required insurance policies is a condition precedent to becoming due any such payments to the Project Consultant. Said payments shall, in the aggregate, not exceed the percentage of the estimated total Basic Compensation, or 90% for Phases I, II, or II prior to approval of the submitted design documents, indicated below for each Phase:
- .1 Fifteen (15%) percent of the total fee upon completion and approval of Phase I.
  - .2 Fifteen (15%) percent of the total fee upon completion and approval of Phase II.
  - .3 Twenty (20%) percent of the total fee upon submittal and approval of 50% of Phase III.
  - .4 Fifteen (15%) percent of the total fee upon completion and approval of Phase III.

- .5 Five (5%) percent of the total fee upon 100% completion of Phase IV.
  - .6 Twenty-eight (28%) percent of the total fee upon completion of Phase V and two (2%) percent of the total fee upon completion of Phase VI (Warranty) and approval of all Work and audit of account, as per Article 5.
- 6.1.2 Partial payments may be made in Phase V (but not in excess of ninety (90%) percent of the aggregate of Phase V) in monthly increments which are proportioned to match the Work's percentage complete reflected by the Construction Manager's monthly Applications for Payment. If the Owner's required Substantial Completion date for Phase V is extended through no fault of the Project Consultant, the Project Consultant shall be reasonably compensated for any required professional services and/or expenses not otherwise compensated for in connection with such time extension(s), in accordance with Article 6.2. If the Owner's required Substantial Completion date for Phase V is extended due to an action or inaction of the Project Consultant to the detriment of the Owner and/or Construction Manager, no additional payments or time shall be due to Project Consultant.
  - 6.1.3 If the project reaches Final Completion (as defined by the Construction Contract Documents) prior to the expiration of the Anticipated Construction Time, then full payment shall be made at that time provided the Project Consultant has completed all obligations for submittals and other services (including Project Record Documents) as required by this Agreement.
  - 6.1.4 No payments shall be due to Project Consultant unless and until all materials, forms and documents required by this Agreement have been provided by Project Consultant and its Sub-Consultant to Owner, Construction Manager, or others whom are to receive same. The Owner retains the right to withhold payment from the Project Consultant for non-performance of the Project Consultant during any phase of the Project.
  - 6.1.5 The Project Consultant shall submit invoices in the Owner's required invoice format as provided.
  - 6.1.6 All Submitted invoices shall have copies of referenced ATP's attached.
  - 6.1.7 During project Phases I through IV, the Project Consultant shall submit an updated Project Schedule reflecting the Project Consultant's scheduled and actual progress with each submitted invoice. As an attachment to the Project Schedule, the Project Consultant shall provide a progress report giving percentage of completion of the Project development.
  - 6.1.8 Project Consultant shall submit a monthly MWBE Sub-Consultant Utilization Report with the monthly request for payment, on forms provided by the Owner.
  - 6.1.9 Payments are due and payable thirty (30) days from receipt of the Project Consultant's invoice provided it is in accord with the requirements of this Agreement.
- 6.2 Payment For Supplemental Services/Reimbursables**
- 6.2.1 Payment for Supplemental Services and/or Reimbursables may be requested monthly (on the Owner's standard invoice format) in proportion to the services performed. When such services are authorized, the Project Consultant shall submit for approval by the Deputy Superintendent, a duly certified invoice, attaching to the invoice all supporting data for payments made to Sub-Consultants engaged on the project or task.

6.2.2 Payments are due and payable thirty (30) days from receipt of the Project Consultant's invoice.

### **6.3 Project Suspension**

6.3.1 If the project is suspended for the convenience of the Owner for more than three months or terminated in whole or in part, during any Phase, the Project Consultant shall be paid for services authorized by an Authorization To Proceed which were performed prior to such suspension or termination, together with the cost of Reimbursable Services and expenses then due.

6.3.2 If the Project is resumed after having been suspended for more than three months, the Project Consultant's further compensation shall be adjusted by the addition of Project Resumption Expenses. Project Resumption Expenses are in addition to compensation for Basic and Supplemental Services, and are full compensation for all damages and expenses which are directly or indirectly attributable to resumption of the Project Consultant's services after a Project Suspension. Project Resumption Expenses are applicable only to a Project Suspension by the Owner and shall be computed as a percentage of the total compensation for Basic Services and Supplemental Services earned to the time of termination, as follows:

- .1 Two (2%) percent of the total compensation for Basic and Supplemental Services earned to the date of Project Suspension for the respective schematic or design development Phase only, if Project Suspension occurs before or during the design development design phase; or
- .2 Five (5%) percent of the total compensation for Basic and Supplemental Services earned to the date of Project Suspension for the construction documents phase only, if Project Suspension occurs during the construction documents phase development phase; or
- .3 Five (5%) percent of the total compensation for Basic and Supplemental Services scheduled for the construction contract administration phase only, if Project Suspension occurs during the construction support phase.

## **ARTICLE 7 REUSE OF DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS**

### **7.1 Scope Of Services**

7.1.1 It is understood that all Professional Service Agreements for design and other services include the provision for the Owner's optional re-use of drawings, specifications and other documents (including Phase V of Basic Services described in Article 2); and that the Project Consultant agrees to such re-use in accordance with this provision and Section 287.055 (10) F.S. (2004), as amended.

7.1.2 If the Owner elects to re-use the drawings, specifications and other documents, in whole or in part, prepared for the project for other projects on other sites, the Project Consultant will be paid a re-use fee, for Basic Services described in Article 2 for Phases I through VI, in the amounts of:

- .1 Twenty (20%) percent of the original fee for Basic Services for Phases I through III.
- .2 Thirty-eight (38%) percent of the original fee for Basic Services for Phases IV, V and VI.  
(or) The Owner agrees to pay the Project Consultant, and the Project Consultant agrees to accept for services rendered pursuant to this Agreement a reuse fee (based upon the reuse of <project> <Project number> <facility>:  
***(Fee Written Out) \$XX,XXX***

- 7.1.3 For each re-use the Project Consultant shall review the final as-built design of any prior reuse or reuses and shall include all Basic Services rendered under the reuse(s) and incorporate all modifications to the drawings, specifications and other documents resulting from Change-Orders, Errors and Omissions, Code revisions and Code corrections made during the prior reuse(s), and, modifications normally required to suit the new site. (This does not include preparation of reverse plans, changes to the program, subsequent code revisions or exceptional site conditions). The stipulations and conditions of this Agreement shall remain in force for each re-use project, unless otherwise agreed. Reuse fees do not include preparation of documents for offsite improvements.
- 7.1.4 If a reuse project commences in excess of three years from the acceptance of the design development documents by the Owner then Owner shall negotiate the fees to be paid to Project Consultant.

## **ARTICLE 8 INDEMNIFICATION CLAUSE**

### **8.1 Indemnification**

- 8.1.1 To the fullest extent permitted by law, the Project Consultant shall indemnify and hold harmless the Owner, its members, officers, employees and agents (hereinafter collectively "Related Parties") from and against any and all liability, claims, causes of action (by whomever brought or alleged and regardless of the legal theories upon which the liability, claims or causes of action are based), losses, damage, costs, expenses and fees (including but not limited to reasonable fees of attorneys, expert witnesses and other consultants), which are or may be imposed upon, incurred by or asserted against Owner and/or the Related Parties to the extent said liability, claims, causes of action, losses, damages, costs, expenses and/or fees are caused by the Project Consultant's negligent, reckless or intentional wrongful acts of omission, error, misconduct, or commission.
- 8.1.2 In any and all claims against the Owner by any employee of the Project Consultant, or anyone for whose acts the Project Consultant may be liable, the obligations for Project Consultant to indemnify Owner under this contract shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Project Consultant under workman's compensation acts, disability acts, or other employee benefit acts.
- 8.1.3 In the event that any claims are brought or actions filed against the Owner with respect to the indemnity contained herein, the Project Consultant agrees to defend against any such claims or actions regardless of whether such claims or actions are rightfully or wrongfully brought or filed. The Project Consultant agrees that the Owner may select the attorneys to appear and defend such claims or actions on behalf of the Owner. The Project Consultant further agrees to pay, at the sole expense of the Project Consultant, the attorney's fees and cost incurred by those attorneys selected by the Owner to appear and defend such claims or actions on behalf of the Owner. However, if the claims or actions are covered by insurance and such coverage is acknowledged by the insurance company in writing to the Owner, then, in that case, the insurance company shall choose counsel, direct the defense and be the judge of the acceptability of any compromise or settlement of any such claims or actions against the Owner which are within the insurance policy limits and are paid by the insurance company solely. Otherwise, if the claims or actions are not covered by insurance, then, at its sole option the Owner shall have the sole authority for the direction of the defense, and shall be the sole judge of the acceptability of any compromise or settlement of any claims or actions asserted against the Owner.
- 8.1.4 The Project Consultant recognizes the nature of the indemnification obligations imposed under this contract and voluntarily makes these covenants. The obligation imposed upon the Project Consultant under this Indemnification Agreement shall survive termination of this contract.

## **ARTICLE 9   INSURANCE**

### **9.1    General Insurance Requirements**

- 9.1.1    The Project Consultant shall not start work under this Agreement until the Project Consultant has obtained all insurance required hereunder and such insurance has been approved by the Owner.
- 9.1.2    All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. All insurance companies providing policies required under this Agreement shall have at least an “A-” rating and a financial rating of no less than VI in the current A. M. Best Manual or hold a Moody’s Investors Service Financial Strength of “Aa3” or better.
- 9.1.3    Insurance policies required under this Agreement shall be endorsed to be primary of all other valid and collectible coverages maintained by The School Board of Broward County, Florida. The School Board of Broward County, Florida, shall be named as an additional insured under the General Liability policy and shall include the Owner’s project number and full project title (including applicable facility name) on the Certificate.
- 9.1.4    The Project Consultant shall furnish certificates of insurance to the Owner for review and approval at the time of execution of this Contract and shall maintain same at all times during the term of this Agreement.
- 9.1.5    The Certificates shall clearly indicate that the Project Consultant has obtained insurance of the type, amount and classification required by these provisions, in excess of any pending claims at the time of contract award to the Project Consultant. No material change or cancellation of the insurance shall be effective without a thirty (30) day prior written notice to and approval by the Owner.
- 9.1.6    Certificates of Insurance must clearly list any and all deductibles by coverages.

### **9.2    Insurance Required:**

- 9.2.1    Automobile Liability Insurance: The Project Consultant shall maintain Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with this Agreement in amounts not less than One Million (\$1,000,000) Dollars per occurrence for bodily injury and property damage combined single limit.
- 9.2.2    Professional Liability (Errors and Omissions): The Project Consultant shall procure Professional Liability Insurance in the manner described herein. The deductible shall not be more than Fifty Thousand (\$50,000) Dollars for each policy and must be indicated on the certificate of insurance. The insurance policy shall be non-cancelable and the limits of the Professional Liability Insurance Policy shall be as follows:
  - 9.2.2.1    Not used.
  - 9.2.2.2. Projects require a practice policy with a per claim/annual aggregate in accordance with the specifications delineated below relative to the cumulative construction value of all projects:
    - .1        One Million (\$1,000,000) Dollars on a per claim/One Million (\$1,000,000) Dollars annual aggregate basis for Project Consultants whose cumulative construction value for all Board contracts is less than Five Million (\$5,000,000) Dollars.

- .2 One Million (\$1,000,000) Dollars on a per claim/Three Million (\$3,000,000) Dollars annual aggregate basis for Project Consultants whose cumulative construction value for all Board contracts is between Five Million One (\$5,000,001) Dollars to Ten Million (\$10,000,000) Dollars.
- .3 One Million (\$1,000,000) Dollars on a per claim/Five Million (\$5,000,000) Dollars annual aggregate basis for Project Consultants whose cumulative construction value for all Board contracts is greater than Ten Million One (\$10,000,001) Dollars.

The Project Consultant shall be required to maintain the practice policy in accordance with the above specifications for a period commencing with execution of this contract and terminating three years after final completion of said projects. In addition, the project consultant shall provide information regarding the total claims against said practice policy on an annual basis for the term of the contract upon and terminating three years after final completion of the project (Claims/Loss history should be forwarded to the Risk Management Department), as The School Board of Broward County, Florida, deems appropriate.

The Professional Liability insurance must provide for all sums which the Project Consultant shall be legally obligated to pay as damages for claims arising out of or relating to the negligent services performed by the Project Consultant or any person employed or acting on the Project Consultant's behalf (including, but not limited to, Sub-Consultants) in connection with this Agreement. If the Owner, at its sole discretion, agrees that such coverage is not commercially reasonably available, the Owner may, at its discretion, authorize the Project Consultant to alter the coverage by substituting a lower aggregate or changing any other terms and conditions of the coverage (including but not limited to deductible amounts) based upon the scope of the project.

- 9.2.3 **Workers' Compensation Insurance:** The Project Consultant shall take out and maintain during the life of this Agreement Worker's Compensation Insurance for all its employees connected with the work of this project and, in any case work is sublet, the Project Consultant shall require the sub-consultant similarly to provide Worker's Compensation Insurance for all the latter's employees unless such employees are covered by the protection afforded by the Project Consultant. Such insurance shall comply with the Florida Workers' Compensation Law, Florida Statutes, Chapter 440. In case any class of employees engaged in hazardous work under this contract at the site of the project is not protected under the Worker's Compensation statute, the Project Consultant shall provide adequate insurance, satisfactory to the Owner, for the protection of the employee not otherwise protected.
- 9.2.4 **General Liability Insurance:** The Project Consultant shall maintain General Liability Insurance, including Contractual Liability to cover the "Hold Harmless Agreement" set forth herein, with bodily injury limits of not less than One Million (\$1,000,000) Dollars per occurrence combined single limit for bodily injury and property damage and not less than the Two Million (\$2,000,000) General Aggregate.

## **ARTICLE 10 GENERAL PROVISIONS**

### **10.1 Performance**

- 10.1.1 **Performance and Delegation:** The services to be performed hereunder shall be performed by the Project Consultant's and Sub-Consultant's own staff, unless otherwise approved by the Owner in writing. Said

approval shall not be construed as constituting an Agreement between the Owner and said other person or firm.

- 10.1.2 **Term of Agreement:** The term of this Agreement shall start upon execution by the parties hereto and extend until the completion of Phase VI (Warranty) activities as set forth above except as may be otherwise agreed to in writing by the parties hereto, or as provided further herein under Article 10 and Article 7.
- 10.1.3 **Time for Performance:** The Project Consultant agrees to start all work hereunder upon receipt of an Authorization To Proceed issued by the Deputy Superintendent of Facilities and Construction Management or his designee and to complete each Phase within the time stipulated in the Authorization To Proceed and as required by the Project Schedule (Attachment 1 to this Agreement). The Project Consultant acknowledges that failure to perform timely may cause the Owner to sustain loss and damages and will be responsible for same.
- 10.1.4 **Time Extensions:** A reasonable extension of time for completion of various Phases may be granted by the Owner should there be a delay on the part of the Owner in fulfilling its obligations pursuant to this Agreement. Such extension shall not be the basis or cause for any claims or causes of action by the Project Consultant for additional or extra compensation. Under no circumstances shall the Project Consultant be entitled to additional compensation or payment as a result of or relating to delays on the Project.
- 10.1.5 Time is of the essence with regard to the performance of this Contract.
- 10.1.6 **Excess Funds:** Any party receiving funds paid by the School Board of Broward County, Florida under this Agreement agrees to promptly notify the School Board of Broward County, Florida of any funds erroneously received from the School Board of Broward County, Florida of upon the discovery of such erroneous payment or overpayment. Interest shall be calculated using the interest rate for judgments under Section 55.03, Florida Statutes, as amended, applicable at the time the erroneous payment or overpayment was made by the School Board of Broward County, Florida. The erroneous payment and/or overpayment will be promptly transmitted and returned to the School Board of Broward County, Florida with applicable interest as set forth herein.

## 10.2 Termination Of Agreement

- 10.2.1 **Right to Terminate:** The Owner has the right to terminate this Agreement for its own convenience on seven days written notice. Upon termination of this Agreement, the Project Consultant shall be paid in accordance with Article 10.2.5. To receive payment, all charts, sketches, studies, drawings, and other documents or other materials related to work authorized under this Agreement, whether finished or not, must be turned over to the Owner.
- 10.2.2 The Consultant may terminate this Agreement only for a material breach of the Agreement and provided the Project Consultant has given the Owner written notice of the material breach and ten (10) days to cure that breach. In the event of any dispute regarding or relating to performance pursuant to this Agreement, or payment hereunder, then in that event, the Project Consultant is obligated to continue performance in accordance with the terms of this Agreement unless instructed by the Owner to suspend or delay performance.
- 10.2.3 Owner may terminate this Agreement for cause, which shall include, but not be limited to, failure of Project Consultant to comply with any of its material obligations under this Agreement. In such event Project Consultant shall not be entitled to any additional payments and may be liable to Owner for any damages or losses incurred or suffered as a result of Project Consultant's failure to properly perform pursuant to the terms of this Agreement. In the event it is later determined that the Owner was not justified in terminating the Agreement for cause, then it shall be deemed to be a termination for convenience pursuant to Article 10.2.1



above, and the Project Consultant's sole compensation shall be compensation in accordance with that paragraph.

10.2.4 Whether or not this Agreement is so terminated, Project Consultant shall be liable to Owner for any damage or loss resulting from such failure or violation by Project Consultant, including, but not limited to, costs in addition to those agreed to herein for prosecuting professional services to completion and delay damages paid or incurred by Owner. The rights and remedies of Owner provided by this paragraph are cumulative with and in addition to any other rights and remedies provided by law or this Agreement.

10.2.5 **Termination Expenses:** Termination Expenses are in addition to compensation for Basic and Supplemental Services, and are full compensation for all damages and expenses which are directly or indirectly attributable to termination. Termination Expenses are applicable only to a termination for convenience by Owner and shall be computed as a percentage of the total compensation for Basic Services and Supplemental Services earned to the time of termination, as follows:

- .1 Twenty (20%) percent of the total compensation for Basic and Supplemental Services earned to the date of termination, if termination occurs before or during the schematic design phase; or
- .2 Ten (10%) percent of the total compensation for Basic and Supplemental Services earned to the date of termination, if termination occurs during the design development phase; or
- .3 Five (5%) percent of the total compensation for Basic and Supplemental Services earned to the date of termination, if termination occurs during any subsequent phase.

10.2.6 **Annulment:** The Project Consultant warrants that no one has been employed or retained other than an employee working solely for the Project Consultant, to solicit or secure this Agreement; and that the Project Consultant has not paid, nor agreed to pay, any company or other person any fee, commission, gift or other consideration contingent upon the making of this Agreement. For breach or violation of this warranty, the Owner has the right to annul this Agreement without liability.

10.2.7 **Fixed Fees Exceeding \$50,000:** For all Fixed Fees or other "lump-sum" fees for professional service Agreements over Fifty Thousand (\$50,000) Dollars the Project Consultant shall execute a truth-in-negotiations certificate as in accordance with 287.05 and all required language set forth therein. Requirements of Florida Statute 287.055 (2004), as amended, are incorporated herein by reference.

### **10.3 Project Consultant's Accounting Records And Right To Audit Provisions**

10.3.1 Project Consultant's records which shall include but not be limited to accounting records, payroll time sheets, audited and unaudited financial statements to substantiate overhead rates, written policies and procedures, Sub-Consultant files (including proposals of successful and unsuccessful Sub-Consultants), original estimates, estimating worksheets, computer records, disks and software, videos, photography, correspondence, change order files (including documentation covering negotiated settlements), and any other supporting evidence necessary to substantiate charges related to this contract (all the foregoing hereinafter referred to as "records") shall be open to inspection and subject to audit and/or reproduction, during normal working hours, by Owner's agent or its authorized representative to the extent necessary to adequately permit evaluation and verification of any invoices, payments or claims submitted by the Construction Manager or any of his payees pursuant to the execution of the contract. Such records subject to examination shall also include, but not be limited to, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations), fees, reimbursable services, etc. as they may apply to costs, matters or items associated with this contract.

- 10.3.2 For the purpose of such audits, inspections, examinations and evaluations, the Owner's agent or authorized representative shall have access to said records from the effective date of this contract, for the duration of the work, and until five (5) years after the date of final payment by Owner to Project Consultant pursuant to this contract. All costs which the Consultant is unable to provide support or documentation to substantiate that it was incurred as represented by the original estimated breakdown of costs or found not to be in compliance with provisions of this contract, shall be reimbursed to the Owner.
- 10.3.3 Owner's agent or its authorized representative shall have access to the Project Consultant's facilities, shall have access to all necessary records, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with this article. Owner's agent or its authorized representative shall give auditees reasonable advance notice of intended audits.
- 10.3.4 Project Consultant shall require all Sub-Consultants and insurance agents, to comply with the provisions of this article by insertion of the requirements hereof in any written contract Agreement. Failure to obtain such written contracts which include such provisions shall be reason to exclude some or all of the related costs from amounts payable to the Project Consultant pursuant to this contract.
- 10.3.5 If an audit inspection or examination in accordance with this article, discloses overcharges (of any nature) by the Project Consultant to the Owner in excess of two (2%) percent of the total contract billings, the actual cost of the Owner's audit shall be paid by the Project Consultant. If the audit discloses contract billings or charges to which Project Consultant is not contractually entitled, Project Consultant shall pay over the Owner said sum within twenty (20) days of the receipt of a written demand unless otherwise agreed to by both parties in writing.

#### **10.4 Ownership Of Documents**

- 10.4.1 The Schematic Design and Design Development documents developed under this Contract shall become and be the sole property of the Owner whether the Project for which they were developed is executed or not. The Project Consultant may maintain copies thereof for its records and for its future professional endeavors although the Owner shall bear no liability or any responsibility whatsoever for such use of said documents by the Project Consultant. All or part of the Schematic Design and Design Development documents prepared by the Project Consultant for this project may be used as a prototype for other facilities by the Owner. Any reuse of Schematic Design or Design Development documents developed under this Contract by the Owner or others as permitted by the Owner shall be at the sole discretion of the Owner and at the Owner's sole risk.
- 10.4.2 Provided the Project Consultant has complied with the terms of this Agreement, construction working drawings, specifications and other documents or materials developed after the completion of the design development phase are and shall remain the property of the Project Consultant whether the Project for which they are made is executed or not.
- 10.4.3 The Owner shall be permitted to retain copies, including reproducible and electronic media copies, of drawings, specifications and other documents or materials developed after the Design Development Phase for various informational and reference purposes related to management, maintenance and operation of facilities, establishing construction standards, and various other archival functions without limitation and without subsequent notice to the Project Consultant.
- 10.4.4 The drawings and specifications may be used by the Owner on other projects, or for any other purpose included, but not limited to, for completion of the Project's construction in the event the Project Consultant's services are terminated as per other provisions of this Contract.

- 10.4.5 Submission 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 Project Consultant's rights.
- 10.4.6 In the event of the Project Consultant's termination under other provisions of this Agreement, the Owner shall receive all original documents prepared to the date of termination and shall have the right to use those documents and any reproductions in any way necessary to complete the Project, or for any other purpose.
- 10.4.7 In the event Owner requests any such documents or materials referred to in this Article and Project Consultant fails to provide same as requested by Owner, then Project Consultant acknowledges that Owner will be irreparably harmed and subject to an injunction to provide same.
- 10.4.8 The Owner will not modify or distribute the documents, including electronic media versions, to third parties except for those purposes listed above without the expressed permission and consent of the Project Consultant. The Owner will delete any title blocks or other marks identifying the originating Project Consultant from any materials so distributed. The Owner will indemnify the Project Consultant against any claims that result from the modification of data and disks by the Owner.

## **10.5 Electronic Media**

- 10.5.1 Where this Agreement or referenced provisions in the Contract Documents require the Project Consultant to provide information or documents in either electronic or magnetic media, the preparation and format of that media shall conform to the Owner's Electronic Media Submittal Requirements (Attachment 3 to this Agreement).

## **10.6 Attachments And References**

- 10.6.1 The following named attachments are made an integral part of this Agreement:

- .1 Attachment 1: Project Schedule
- .2 Attachment 2: Project Scope
- .3 Attachment 3: Electronic Media Submittal Requirements
- .4 Attachment 4: Project Consultant's Invoice Format, Reimbursable and Supplemental Services Format
- .5 Attachment 5: List of Project Team Members
- .6 Attachment 6: Authorization to Proceed (ATP) Form  
Professional Services Required – page 1 of 3  
Project Schedule – page 2 of 3  
Professional Fee – page 3 of 3
- .7 Attachment 7: Document Submittal Checklist
- .8 Attachment 8: Document 00455 – Background Screening
- .9 Attachment 9: IRS Form W-9
- .10 Attachment 10: Truth in Negotiations Certificate

- 10.6.2 **References:** The following named referenced documents are made an integral part of this Agreement:

1. Owner's standard "front end" documents includes, but is not limited to Bidding Requirements (Instructions to Bidders), Contracting Requirements (General Conditions, Supplementary Conditions), and Division 1 specification sections current as of the date of this Agreement.

2. To the extent that inconsistencies exist between the Owner's standard "front end" documents, Division 1 and the Agreement, the Agreement shall govern.

### **10.7 Extent Of Agreement:**

- 10.7.1 This Agreement represents the entire and integrated Agreement between the Owner and the Project Consultant and supersedes all prior negotiations, representations or agreements, written or oral.
- 10.7.2 This Agreement may not be amended, changed, modified, or otherwise altered in any particular, at any time after the execution hereof, except by resolution of The School Board of Broward County, Florida.
- 10.7.3 This Agreement is for the benefit of the parties to the Agreement and are not for the benefit of any other parties nor shall it create a contractual relationship with any other party.
- 10.7.4 This Agreement shall be governed by the laws of the State of Florida Venue of any action arising out of this Agreement shall be in Broward County, Florida. The parties are encouraged to participate in mediation of any dispute before engaging in litigation.

### **10.8 Strict Performance:**

- 10.8.1 The failure of either party to insist upon or enforce strict performance by the other party of any of the provisions of this Agreement or to exercise any rights under this Agreement shall not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon any such provisions or rights in that or any other instance.

### **10.9 Prompt And Satisfactory Correction:**

- 10.9.1 The Owner, at its sole discretion, may direct the Project Consultant, at no additional cost to the Owner, to promptly and satisfactorily correct any services found to be defective or not in compliance with the requirements of this Agreement or the requirements of any governmental authority, law, regulations or ordinances.

### **10.10 Successors And Assigns:**

- 10.10.1 The performance of this Agreement shall not be delegated or assigned by the Project Consultant without the written consent of the Owner.
- 10.10.2 The Project Consultant and the Owner each binds one another, their partners, successors, legal representatives and assigns to the other party of this Agreement and to the partners, successors, legal representatives and assigns of such party in respect to all covenants of this Agreement.

### **10.11 Certification Regarding Debarment, Suspension, Ineligibility or Voluntary Exclusion:**

- 10.11.1 **Lower Tier Covered Transactions:** Executive Order 12549 provides that, to the extent permitted by law, Executive departments and agencies shall participate in a governmentwide system for nonprocurement debarment and suspension. A person who is debarred or suspended shall be excluded from Federal financial and non-financial assistance and benefits under Federal programs and activities. Except as provided in § 85.200, Debarment or Suspension, § 85.201, Treatment of Title IV HEA participation, and §85.215, Exception provision, debarment or suspension of a participant in a program by one agency shall have governmentwide effect. A lower tier covered transaction is, in part, any transaction between a participant

[SBBC] and a person other than a procurement contract for goods or services, regardless of type, under a primary covered transaction; and any procurement contract for goods or services between a participant and a person, regardless of type, expected to equal or exceed the Federal procurement small purchase threshold fixed at 10 U.S.C. 2304(g) and 41 U.S.C. 253(g) (currently \$100,000) under a primary covered transaction. A participant may rely upon the certification of a prospective participant in a lower tier covered transaction that it and its principals are not debarred, suspended, proposed for debarment under 48 CFR part 9, subpart 9.4, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. Each participant shall require participants in lower tier covered transactions to include the following certification for it and its principals in any proposal submitted in connection with such lower tier covered transactions.

#### 10.11.2 Certification

- .1 The lower tier participant (Project Consultant) certifies, by entering this Agreement, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- .2 Where the lower tier participant (Project Consultant) is unable to certify to any of the statements in this certification, such participant shall provide an explanation to the Owner.

#### 10.12 Non-Discrimination

- 10.12.1 **Non-Discrimination** - The School Board of Broward County, Florida prohibits any policy or procedure which results in discrimination on the basis of age, color, disability, gender, national origin, marital status, race, religion or sexual orientation.

#### 10.13 Captions

- 10.13.1 **Captions** – The captions, section numbers, article numbers, title and headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

#### 10.14 Authority

- 10.14.1 **Authority Provision:** Each person signing this agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

#### 10.15 Notice

- 10.15.1 **Notice Provision:** When any of the parties desire to give notice to the other, such notice must be in writing, sent by US Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of the paragraph. For the present, the parties designate the following as the respective places for giving notice.

To School Board:

James F. Notter, Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, FL 33301

With a copy to:

Michael C. Garretson, Deputy Superintendent  
The School Board of Broward County, Florida  
1700 S.W. 14<sup>th</sup> Court  
Fort Lauderdale, FL 33312

Project Consultant:

With a Copy to:

## **10.16 Background Screening**

**10.16.1 Background Screening.** Project Consultant agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and that Project Consultant, its agents, subconsultants and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of Project Consultant or its personnel providing any services under the conditions described in the previous sentence. Project Consultant will bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to Project Consultant and its personnel. The Parties agree that the failure of Project Consultant to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement.

Project Consultant agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from Project Consultant's failure to comply with the requirement of this Section or Section 1012.32 and Section 1012.465, Florida Statutes in addition to any other indemnification obligations that may be imposed upon Project Consultant pursuant to Article 8 of this Agreement and the laws of Florida.

**IN WITNESS WHEREOF**, The School Board of Broward County, Florida, has caused this Agreement to be executed by the undersigned and the seal of the School Board to be set hereto; and the said Project Consultant has caused this Agreement to be executed by the undersigned and the seal of the Project Consultant set hereto on this day and year first above written.

**THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA**

(SEAL)

**ATTEST THE SCHOOL BOARD OF  
BROWARD COUNTY, FLORIDA**

\_\_\_\_\_  
Superintendent of Schools  
James F. Notter

\_\_\_\_\_  
Chair  
Robin Bartleman

Approved:

\_\_\_\_\_  
School Board Attorney

**DELETE THE SIGNATURE SECTIONS NOT USED**

**WHEN THE PROJECT CONSULTANT IS A CORPORATION OR PROFESSIONAL ASSOCIATION**

(Corporate Seal)

(ATTEST)

(Type Name of Firm Here)  
Legal Name of Corporation

\_\_\_\_\_  
Secretary, (Type Name Here)

By: \_\_\_\_\_  
(Type Name Here)

Its President

(Type Registration Number Here)  
Project Consultant's  
Registration Number

**WHEN THE PROJECT CONSULTANT IS AN INDIVIDUAL OR PARTNERSHIP**

(ATTEST)

\_\_\_\_\_  
Witness (Type Name Here)

\_\_\_\_\_  
Legal Name of Individual or Partnership

\_\_\_\_\_  
Witness (Type Name Here)

By: \_\_\_\_\_  
Signature (Type Name Here)

\_\_\_\_\_  
Project Consultant's  
Registration Number

**WHEN THE PROJECT CONSULTANT IS A JOINT VENTURE**

(Corporate Seal)

(Corporate Seal)

\_\_\_\_\_  
Firm's Legal Name

\_\_\_\_\_  
Firm's Legal Name

By: \_\_\_\_\_  
Signature (Type Name Here)

By: \_\_\_\_\_  
Signature (Type Name Here)



\_\_\_\_\_  
Project Consultant's  
Registration Number

(ATTEST)

\_\_\_\_\_  
Witness (Type Name Here)

\_\_\_\_\_  
Witness (Type Name Here)

\_\_\_\_\_  
Witness (Type Name Here)

\_\_\_\_\_  
Witness (Type Name Here)

**ACKNOWLEDGEMENT**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was subscribed and sworn to by \_\_\_\_\_  
before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

My commission expires:

(SEAL)

\_\_\_\_\_  
Signature – Notary Public

\_\_\_\_\_  
Printed Name of Notary

\_\_\_\_\_  
Notary’s Commission No.

The School Board of Broward County, Florida

Professional Services Agreement  
ATTACHMENT 1:

Project Schedule

Project No:  
Project Title:  
Facility Name:

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The required project schedule milestones for this project are presented below. Items marked undetermined require additional development and submittal of the Consultant's Project Development Schedule as required by the Professional Services Agreement for this project.

ACTIVITY	DATE REQUIRED OR ESTIMATED TIME PERIOD
<b>Phase I: Schematic Design:</b>	Start: _____ <input type="checkbox"/> Undetermined Finish: _____
<b>Plan Review - Phase I Schematic Design:</b> 60 Days	Start: _____ <input type="checkbox"/> Undetermined Finish: _____
<b>Phase II: Design Development</b>	Start: _____ <input type="checkbox"/> Undetermined Finish: _____
<b>Plan Review - Phase II: Design Development</b> 60 Days	Start: _____ <input type="checkbox"/> Undetermined Finish: _____
<b>Phase III: Construction Documents Development</b>	
<b>50% Construction Documents</b>	Start: _____ <input type="checkbox"/> Undetermined Finish: _____
<b>Plan Review - 50% Construction Documents</b> 60 Days	Start: _____ <input type="checkbox"/> Undetermined Finish: _____
<b>100% Construction Documents</b>	Start: _____ <input type="checkbox"/> Undetermined Finish: _____
<b>Plan Review - 100% Construction Documents</b> 60 Days	Start: _____ <input type="checkbox"/> Undetermined Finish: _____
<b>Phase IV: Bidding and Award of Contract</b>	Start: _____ <input type="checkbox"/> Undetermined Finish: _____
<b>Bid Opening Date:</b>	_____ <input type="checkbox"/> Undetermined
<b>Phase V: Administration of the Construction Contract</b>	_____

Start: \_\_\_\_\_  Undetermined  
Finish: \_\_\_\_\_

**Substantial Completion Date:**

\_\_\_\_\_  Undetermined

**Final Completion Date:**

\_\_\_\_\_  Undetermined

**Phase VI: Warranty**

Start: \_\_\_\_\_  Undetermined  
Finish: \_\_\_\_\_

**The School Board of Broward County, Florida**

**Professional Services Agreement  
ATTACHMENT 2:**

**PROJECT SCOPE**

Project No:  
Project Title:  
Facility Name:

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**The following design services will be provided by the Project Consultant as a normal part of its Basic Services for the Project listed above:**

<b>Item</b>	<b>Discipline</b>	<b>Special Description (if any)</b>
1.		
2.		