

CONSTRUCTION MANAGEMENT AT RISK CONTRACT TRAINING	
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<p>1.1 The Construction Manager (<a href="#">CM</a>) accepts the relationship of trust and confidence established between it and the Owner by this Agreement. It covenants with the Owner to furnish its best skill and judgment and to cooperate with the Project Consultant in furthering the interests of the Owner. It agrees to furnish efficient business administration and superintendence and use its best efforts to complete the project in the best and soundest way and in the most expeditious and economical manner consistent with the interest of the Owner.</p> <p>2.1 The Construction Manager shall perform all of the Work required by the Contract Documents and shall provide materials, supplies, tools, equipment, labor and services directly related to the Work. The CM shall perform the Work in a good and workmanlike manner with sufficient manpower to meet the time and quality requirements set forth in the Contract Documents, and shall provide and perform all other work and services necessary to complete the Work in strict accordance with the Contract Documents.</p>	<p>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.</p>
<p>1.2 <b>The Project Construction Team</b> - The Construction Manager, the Owner and the Project Consultant, called the Project Construction Team, shall work jointly during 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.</p>	<p>1.21 <b>The Project Construction Team-</b> 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.</p>
<p>1.4 This <b>Construction Management At Risk Contract</b>, along with the Contract Documents consisting of the Agreement Form, M/WBE goals as set forth in the Request for Qualifications, Documents contained in the Project Manual (including but not limited to Division 0 and 1) , a listing of which is attached to the GMP Addendum, General and Supplementary Conditions, Addenda, Drawings, Specifications, and modifications issued after execution of the Contract embodies the entire agreement between Owner and Construction Manager and supercedes all other writings, oral agreements, or representations.</p>	<p>4.1.8 <b>Standard Construction Bidding And Contract Documents:</b> 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</p>

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	<p>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.10.6.2 The following named referenced documents are made an <b>integral part of this Agreement</b></p> <p>10.6.2.1 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.</p>
<p>3.2.1 The Construction Manager shall review project requirements, educational specifications, on and off-site development, survey requirements, preliminary budget, and make value engineering and constructability recommendations for revisions to the Owner and Project Consultant in the form of a written report prior to final payment for this phase.</p> <p>3.2.3 Where the project includes renovation or expansion of an existing Facility, the Construction Manager will assist the Construction Team in, preparing an analysis package outlining the condition of the existing Facility, existing structure, existing finishes, and existing equipment, code deficiencies, energy use, and life expectancy of other building systems by providing constructability, value engineering and cost estimates recommendations. The package should contain the Construction Managers recommendations, cost estimates and preliminary schedules. Such information shall be provided to the Owner and Project Consultant in the form of a written report prior to final payment for this phase.</p>	<p>2.2.2.1 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</p> <p>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.</p>
<p>3.2.4 The Construction Manager shall prepare detailed <b>cost estimates</b> and recommendations to Owner and Project Consultant at S.D., (Schematic Design), D.D (Design Development) C.D. (50% and 100% Construction Documents) phases of the project. Such information shall be provided to the Owner and Project Consultant in the form of a written report prior to final payment for each phase.</p>	<p>2.2.3 In the event that the Project Consultant believes that the project scope, schedule or <b>budget</b> 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.</p>

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<p>3.3.1 The Construction Manager will be required to attend all project related <b>meetings</b> and include a summary of the meeting in its monthly report to the Owner as specified in Document 01310.</p>	<p>2.6 The Project Manager shall schedule and conduct a <b>bi-weekly project review meeting</b> 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.</p>
<p>3.3.2 The Construction Manager will periodically review to the best of their abilities all Contract documents for <b>constructability and compliance with applicable laws, rules, codes, design standards, and ordinances</b>. Such information shall be provided to the Owner and Project Consultant in the form of a written report in format as noted herein prior to final payment for this phase (Refer to exhibits G and H).</p> <p>3.3.4 The Construction Manager shall review all Contract documents for the new and existing buildings and/or building sites and provide <b>value engineering recommendations</b> to minimize the Owner's capital outlay and maximize the Owner's operational resources. Such information shall be provided to the Owner and Project Consultant in the form of a written report prior to final payment for this phase. All such recommendations shall be acknowledged and incorporated into the construction documents by the Project Consultant unless otherwise authorized by the Owner in writing.</p>	<p>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 <b>Constructability and Value Engineering</b> 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.</p> <p>2.1.1.3 Collaborate in the Owner's programs and cooperate with Construction Manager in the <b>Value Engineering</b> 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</p>

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	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.
<p>3.3.5 The Construction Manager will review construction documents and the new and existing buildings conditions and/or building site to reduce to the best of their abilities conflicts, errors and omissions and shall coordinate with the Project Consultant in order to <b>eliminate change orders due to errors, omissions and unforeseen conditions.</b></p> <p><b>3.3.8 AT COMPLETION OF THE CONSTRUCTION MANAGER'S REVIEW OF THE PLANS AND SPECIFICATIONS, EXCEPT ONLY AS TO SPECIFIC MATTERS AS MAY BE IDENTIFIED BY APPROPRIATE WRITTEN COMMENTS PURSUANT TO THIS SECTION, THE CONSTRUCTION MANAGER SHALL WARRANT, WITHOUT ASSUMING THE PROJECT CONSULTANT'S RESPONSIBILITIES, THAT THE PLANS AND SPECIFICATIONS ARE CONSISTENT, PRACTICAL, FEASIBLE AND CONSTRUCTIBLE. CONSTRUCTION MANAGER SHALL WARRANT THAT THE WORK DESCRIBED IN THE PLANS AND SPECIFICATIONS FOR THE VARIOUS BIDDING PACKAGES IS CONSTRUCTIBLE WITHIN THE SCHEDULED CONSTRUCTION TIME.</b></p>	<p>2.1.4.5 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 <b>defective drawings, specifications or other document furnished by Project Consultant</b> 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.</p>
<p>Construction Manager's Deliverables</p> <p>7.2.01 Pre-Design</p> <p>.1 Summary Report / Recommendations (Agreement 3.2.1)</p> <p>.2 Preliminary Master Project Schedule and monthly updates (Agreement 3.2.2)</p> <p>.3 Existing Facility Analysis package, out recommendations, Cost Estimates (Agreement 3.2.3)</p> <p>.4 Project Delivery options / packaging recommendations report (Agreement, 3.2.5)</p> <p>.5 Work Status Monthly Report (Agreement 3.2.6)</p> <p>.6 Project Manual (Agreement 3.2.7)</p>	<p><b>Construction Manager Deliverables/Project Consultants Duty to Review and Respond:</b></p> <p>2.1.11 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:</p> <p>PRE-DESIGN PHASE</p> <p>Article 3.2.1</p> <p>Article 3.2.2</p> <p>Article 3.2.3</p> <p>Article 3.2.4</p> <p>Article 3.2.5</p>

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<p>7.2.02 Design Phase</p> <p>.1 Monthly Summary of project meetings (Agreement 3.3.1)</p> <p>.2 Document Reviews / report at each phase (Agreement 3.3, .2, .4, .5). Refer also to attached procedures and CM review form. (Exhibits G and H).</p> <p>Schematic Design</p> <p>Design Development</p> <p>50% Construction Documents</p> <p>100% Construction Documents</p> <p>.3 Preliminary Master Project Schedule Updates (Agreement 3.3, .6)</p> <p>Schematic Design</p> <p>Design Development</p> <p>50% Construction Documents</p> <p>.4 Cost Estimate Updates (Agreement, 3.3,.7)</p> <p>Schematic Design</p> <p>Design Development</p> <p>50% Construction Documents</p> <p>100% Construction Documents</p> <p>.5 Market Analysis/sub-contractor report (Agreement, 3.2,.8)</p> <p>.6 Guaranteed Maximum Price (GMP) Manual (Agreement 3.3.10)</p>	<p>Article 3.2.6</p> <p>Article 3.2.7</p> <p>Article 3.2.8</p> <p>DESIGN PHASE</p> <p>Article 3.3.2</p> <p>Article 3.3.3</p> <p>Article 3.3.4</p> <p>Article 3.3.6</p> <p>Article 3.3.7</p> <p>BIDDING AND AWARD PHASE</p> <p>Article 3.4.2</p> <p>Article 3.4.4</p> <p>Article 3.4.5</p> <p>Article 3.4.6</p> <p>CONSTRUCTION PHASE</p> <p>Article 3.5.3</p> <p>WARRANTY PHASE</p> <p>Article 3.6.3</p> <p>GMP Article 6.1</p> <p>The Project Consultant shall review and comment on GMP proposal(s) submitted by CM including all qualifications and assumptions set forth therein.</p>
<p>7.2.03 Bidding and Award Phase</p> <p>.1 Proposed Subcontractor list with MWBE participation.</p> <p>.2 Bid Packages List (Agreement 3.4, .3)</p> <p>.3 Pre-bid conference attendance list and summary report (Agreement, 3.4, .4)</p> <p>.4 Recommendations for award (Agreement, 3.4, .6)</p> <p>.5 Bid advertisements (Agreement 3.4.5.1)</p> <p>.6 Schedule of Values (Agreement 8.1)</p> <p>.7 Fee due to the Construction Manager shall be payable.</p>	<p>.1 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.</p>
<p>7.2.04 Construction Phase</p> <p>.1 Monthly Schedule updates and reports (Agreement, 3.5, .3)</p>	

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<p>.2 Summary of all meetings (Agreement 3.3.1)</p> <p>.3 Preparation and submission of all close-out submittals (Agreement, 3.5.8)</p> <p>.4 Written verification of punchlist items completion, including BCI items (Agreement, 3.5.9)</p> <p>.5 Schedule of Values (Agreement 8.1).</p> <p>7.2.05 Warranty Phase</p> <p>.1 Warranty Summary Report at end of 6 months (50% of Warranty Phase fee) and 11 months (Balance of Warranty Phase Fee) Warranty Phase (Agreement 3.6, .3)</p>	
<p><b>PAYMENTS TO THE CONSTRUCTION MANAGER</b></p> <p>8.1.1 During the Pre-Design, Design, and Bidding and Award Phases the Construction Manager shall provide a Schedule of Values indicating the progress payment schedule and maintain payroll records for any and all staff assigned to the Work</p> <p>7.1.01 Pre-Design and Design Phase - In the case where pre-design and design fee are agreed upon and the Construction Manager's GMP is not accepted by the Owner and the Agreement is terminated, the Construction Manager shall be entitled to receive only that portion of the pre-design and design fee representing all Work performed to date relating to the project. The Construction Manager may request payment for that part of the Contract Price allocable to Contract requirements properly provided during the pre-design and design phase.</p> <p>7.1.02 Construction Phase Fee - The Construction Manager may request payment proportional to that of the contract price allocable to labor, materials and equipment for the project only after receiving a written Notice to Proceed (NTP) from the Owner.</p> <p>7.1.03 <u>Overhead and Profit For Construction Phase</u> - Except as may be expressly included in Article 26 of the General Conditions, the Construction Manager shall receive, in addition to Article 7.1.01 and 7.1.02, overhead and profit and</p>	<p>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.</p>

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<p>general expenses. The overhead and profit and general expenses shall be paid proportionally to the ratio of the cost of the Work in place. The overhead and profit and general expenses shall be approved in writing by the Owner as part of the GMP Addendum. Overhead and Profit shall be paid 100% at the time the project reaches final acceptance. The negotiated overhead and profit is inclusive of any contingency work performed.</p> <p>7.1.04 <u>General Conditions For Construction Phase</u> – The Construction Manager shall be paid for General Conditions proportionally to the ratio of the cost of the Work in place. However, insurance costs including builders risk, payment and performance bonds, required herein will be paid in it's entirety upon submission of proof of payment.</p> <p>7.1.05 <u>Fee for Change Orders</u> – In the event that the Owner approves an additive change in the work the Construction Manager shall receive from the Owner, as the amount for Construction Phase Fee, Overhead and Profit, and, bonds the percentage indicated above in Article 7.1. This amount shall be the Construction Manager's exclusive remedy for such changes in the Work.</p>	
<p>6.1 The Construction Manager shall submit a written Guaranteed Maximum Price (GMP) for Construction to the Owner <b><u>when the Construction Documents are 100% complete</u></b>, see Exhibit J to the Agreement.</p> <p>Work shall not commence prior to the issuance of a Building Permit by the Chief Building Official. This indicates that all mandatories have been met (defined as Building Department code requirements.)</p> <p>Further, the agreed upon comments are required to be incorporated into the drawings at this stage. When design review "approval" is withheld, the documents must be resubmitted.</p> <p>The GMP shall guarantee the maximum price for the construction cost of the project or designated part thereof, for phased projects, and shall be approved by the Owner. Such Guaranteed Maximum Price will be subject to modification for</p>	<p>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:</p> <p>.1 Approve the increase of Project costs and approve GMP or,</p> <p>.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</p> <p>.3 Suspend or abandon the Project, or</p> <p>.4 Bid out the project to another CM At Risk Construction Manager or General Contractor.</p>

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<p>changes in the project as provided in Article 27 of the general conditions.</p> <p>However, the actual price paid for the Work by the Owner shall be the actual cost of all Work subcontracts, supply contracts, direct labor costs, <b>direct supervision costs</b>, and direct job costs as defined under Article 26 of the general conditions, plus the Construction Manager's fees or the GMP, <b>whichever is less when the Work is complete.</b></p> <p><b>OWNER SHALL NOT BE LIABLE FOR NOR SHALL IT PAY CONSTRUCTION MANAGER ANY SUMS IN EXCESS OF THE GUARANTEED MAXIMUM PRICE. CONSTRUCTION MANAGER AGREES THAT ANY AND ALL SAVINGS BELONG AND/OR REVERT BACK TO THE OWNER.</b></p> <p>6.1 At the time of submission of a GMP, the Construction Manager will verify the time schedule for activities and work which were adopted by the Construction Team and used to determine the Construction Manager's cost of Work. In addition to the cost of Work, the GMP will include an agreed upon sum as the construction contingency which is included for the purpose of accounting for unforeseen increases or decreases in the construction cost at the time bids are received and approved by the Construction Manager and Owner and/or unforeseen circumstances</p>	
<p>6.3 The Construction Manager shall submit the GMP Addendum on the Owner's approved form for approval by The School Board of Broward County, Florida.</p> <p><b>6.4 IF THE GMP PROPOSAL IS UNACCEPTABLE TO THE OWNER, OWNER MAY TERMINATE THE CONSTRUCTION MANAGER AS SET FORTH IN ARTICLE 36 OF THE GENERAL CONDITIONS.</b></p>	

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<p>3.4.1 At this stage the Construction Manager assumes the leadership responsibility for the project team. Upon obtaining all necessary approvals of the Construction Documents including a Building Permit as required by the FBC and Owner approval of the latest Statement of Probable Construction Cost, the Construction Manager shall obtain bids and commence 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, or as set forth in Article 26.03.08 in the General Conditions of this CM Agreement.</p>	<p>2.5.1 <b>Bid Documents Approvals and Printing:</b> 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.</p>
<p>3.4.2 The Construction Manager shall review the Owners records of pre-qualified contractors, including Minority/Women Business Enterprises (M/WBEs), and prepare a list of those recommended for work pursuant to this contract. The Owner reserves the right to reject any or all subcontractors recommended for approval. The Construction Manager shall maintain a list of all potential bidders, including M/WBEs and those who are approved as pre-qualified.</p>	
<p>3.4.3 The Construction Manager shall prepare and issue the bid packages to cover the scope of the Work for this contract.</p>	<p>2.5.2 The Construction Manager will issue the Bid Documents to prospective bidders and keep a complete "List of Bidders."</p>
<p>3.4.4 The Construction Manager, in coordination with the Owner, shall schedule pre-bid conferences as required and issue a written summary of the conference(s).</p>	<p>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.</p>
<p>3.4.5 Solicitation of Bids:</p> <p>3.4.5.1 The Construction Manager shall enter into Contracts with the firm who submits the –lowest, responsive and responsible bid. The Construction Manager shall advertise according to SBBC policies as amended from time to time for bids on Document 00101 at least three (3) times, seven (7) days apart, and with the third (3<sup>rd</sup>) advertisement prior to a pre-bid conference if applicable and at least seven (7) days prior to the bid opening.</p>	

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Written proposals based on drawings and/or specifications shall be submitted to the Construction Manager. The written proposals shall all be opened at the usual location for bid openings. A tabulation of the results shall be furnished by Construction Manager to the Owner.	
3.4.6 The Construction Manager and Owner, shall open at the Construction Manager location and evaluate at least three bids, if possible, for each portion of the Work solicited. The Construction Manager shall also make recommendations to the Owner for award to the lowest, responsive, and responsible bidder. A recommendation for award to other than the lowest bidder shall be justified in writing.	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.
	2.5.3 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. 2.5.5 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.
6.1 (CONTINUED) ...The Construction Manager will be required to furnish documentation evidencing expenditures charged to this contingency prior to the release of funds by the Owner. The use of the contingency shall be subject to School Board approval as noted in General Conditions Article 1, Paragraph 1.1.12, if the amount requested exceeds Fifty thousand dollars (\$50,000.00) prior to disbursement to Construction Manager.  The use of the contingency where the request does not exceed Fifty thousand dollars (\$50,000.00) shall be subject to the unanimous approval of the Deputy Superintendent, Facilities and Construction Management, Project Manager, Project Consultant, and Executive Director, Project Management, prior	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

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<p>to disbursement to Construction Manager. In the event that there is a disagreement amongst the Construction Manager and the aforementioned staff, the request for use of the contingency shall be determined by the Owner.</p> <p>Documentation for use of the Contingency shall be determined by the Owner, included in the Project Manual and displayed in the monthly applications for payment. The Project Consultant and Owner shall verify actual costs.</p> <p>If bids are received below the applicable line item of the GMP, the surplus shall be added to the contingency. –All CUD's arising from the same cause and conditions shall be combined into one (1) CUD whenever possible.</p>	<p>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.</p>
<p>6.2 When 100% of the Trade Contracts have been executed, the contingency within the GMP shall be decreased in proportion to the percent of the Work completed each month. In other words, if 10% of the Work has been completed and the Owner requests that the contingency within the GMP be adjusted, then 10% of the contingency within the GMP will be removed from the GMP by change order and will be moved to the Owners savings line item in the schedule of values. The Owner may utilize funds from the Owner saving line item in the Schedule of Values to fund added scope change orders.</p>	<p>.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.</p>
<p>6.3 If bids are received above the applicable line item in the GMP the deficiency will be taken from the contingency, however such event shall not be cause to increase the GMP. The Construction Manager will be required to furnish documentation evidencing expenditures charged to this contingency prior to the release of funds by the Owner.</p>	<p>.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.</p>

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6.4 If bids are not received for a portion of the Work at or below the applicable line item amount in the GMP, the Construction Manager reserves the right to perform that portion of the Work as acknowledged by the Owner or negotiate for its performance for the specified line item lump sum amount in the preliminary schedule of values referenced in the GMP or less. All uses of the authorized contingency shall be authorized by Contingency Use Directive approved by the Owner before the contingency use is implemented.	

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<p><u>AGREEMENT</u></p> <p>3.5.1 The Construction Manager shall fully comply with the provision of the Owner's Project Manual, including but not limited to Division 0 and 1, and the attached General Conditions of this contract. In the event of a conflict between this Agreement and such documents the agreement shall control.</p>	<p>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.</p>
<p>3.5.2 The Construction Manager shall provide the following minimum staffing level as set forth in Exhibit C-F for this project:</p>	<p>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.</p>
<p>3.5.3 The Construction Manager shall maintain and prepare monthly updates for all project schedules, including Critical Path elements, provide written progress reports, describe problems and corrective action plan(s) and conduct briefings as required by the Owner. Such information shall be provided to the Owner and Project Consultant in the form of a written report with progress payments requests.</p>	<p>2.6.3.1 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.</p>
<p>3.5.4 The Construction Manager may self perform certain construction work when it benefits the Owner, results in cost and time savings, and is pre-approved by</p>	

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the Owner in writing.	
3.5.5 The Construction Manager shall coordinate project close-out, operation, and transition to occupancy.	
3.5.6 The Construction Manager shall coordinate with the Project Consultant to provide complete project records including project manual, and electronic Computer Assisted Drafting (CAD) drawings corrected to show all construction changes, additions, and deletions. (Construction Manager shall note all changes on the as-builts for the Project Consultant to reflect on the drawings and CAD disc.)	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.
3.5.7 The Construction Manager shall coordinate with the Owner's staff to prepare the Certificate of Final Inspection.	
3.5.8 The Construction Manager shall obtain and review all warranties, operations and maintenance manuals and other such documents, for completeness, have them corrected if necessary and submit them to the Owner.	
3.5.9 The Construction Manager shall complete all punch list items generated by the Building Code Inspector (BCI), the Owner, the Project Consultant and any others having jurisdiction over the project, during its inspections.	
7.1.02 Construction Phase Fee - The Construction	

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Manager may request payment proportional to that of the contract price allocable to labor, materials and equipment for the project only after receiving a written Notice to Proceed (NTP) from the Owner.	
<p><u>7.1.03 Overhead and Profit For Construction Phase</u> - Except as may be expressly included in Article 26 of the General Conditions, the Construction Manager shall receive, in addition to Article 7.1.01 and 7.1.02, overhead and profit and general expenses. The overhead and profit and general expenses shall be paid proportionally to the ratio of the cost of the Work in place. The overhead and profit and general expenses shall be approved in writing by the Owner as part of the GMP Addendum. Overhead and Profit shall be paid 100% at the time the project reaches final acceptance. The negotiated overhead and profit is inclusive of any contingency work performed.</p>	
<p><u>7.1.04 General Conditions For Construction Phase</u> – The Construction Manager shall be paid for General Conditions proportionally to the ratio of the cost of the Work in place. However, insurance costs including builders risk, payment and performance bonds, required herein will be paid in it's entirety upon submission of proof of payment.</p>	
<p><u>7.1.05 Fee for Change Orders</u> – In the event that the Owner approves an additive change in the work the Construction Manager shall receive from the Owner, as the amount for Construction Phase Fee, Overhead and Profit, and, bonds the percentage indicated above in Article 7.1. This amount shall be the Construction Manager's exclusive remedy for such changes in the Work.</p>	
<p>7.2.04 Construction Phase Deliverables</p> <ul style="list-style-type: none"> <li>.1 Monthly Schedule updates and reports (Agreement, 3.5, .3)</li> <li>.2 Summary of all meetings (Agreement 3.3.1)</li> <li>.3 Preparation and submission of all close-out submittals (Agreement, 3.5.8)</li> <li>.4 Written verification of punchlist items completion, including BCI items (Agreement, 3.5.9)</li> <li>.5 Schedule of Values (Agreement 8.1).</li> </ul>	

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8.1.1 During the Pre-Design, Design, and Bidding and Award Phases the Construction Manager shall provide a Schedule of Values indicating the progress payment schedule and maintain payroll records for any and all staff assigned to the Work	
8.1.4 The Schedule of Values shall be presented with such detail, and supported with whatever information the Owner reasonably requests.	
8.1.5 The Construction Manager shall not imbalance its Schedule of Values nor artificially inflate any element thereof.	
8.1.6 The Construction Manager shall supply a Schedule of Values as reflected in his CPM schedule to the OWNER. The Schedule of Values shall be updated monthly, only to reflect all subcontracts, approved change orders and change directives.	
8.10 As a condition precedent to partial payment, the Construction Manager shall, as required elsewhere in the Contract Documents and as required by the Owner, also provide to the Owner documents relating to the Project, including but not limited to, updated schedules and daily logs, and/or properly executed documents reflecting that all subcontractors, materialmen, suppliers or others having rights, have acknowledged receipt of all sums due pursuant to all prior Payment Requests.	
8.12 Dollar Value/Time Graphs: Each of the Construction Manager's Application for Payment shall be accompanied by a graph, prepared by the Construction Manager, that consecutively tracks the percentage of completion of both the Application for Payment's dollar value attained and the contract time (calendar days) elapsed, all coinciding with the date of the Application for Payment.	
8.15 Final Payment: Final payment constituting the unpaid balance of the Cost of the Project and the Construction Manager's fee, shall be due and payable as described in this Article after the Owner has accepted occupancy of the project, provided that the	

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<p>Project be then finally completed, that the Construction Manager has verified by its signature that it has completed all items specified, and that this Agreement has been finally performed. However, if there should remain work to be completed, the Construction Manager and the Project Consultant shall list those items prior to receiving final payment and the Owner may retain a sum equal to 200% of the estimated cost of completing any unfinished work and portion of the Construction Manager's retainage, provided that said unfinished items are listed separately and the estimated cost of completing any unfinished items are likewise listed separately. Thereafter, Owner shall pay to Construction Manager, monthly, the amount retained for each incomplete item after each of said items is completed.</p>	
<p>8.16 Prior to being entitled to receive final payment, and as a condition precedent thereto, the Construction Manager shall provide the Owner, in the form and manner required by Owner, if any, the following:</p> <ol style="list-style-type: none"> <li>.1 An affidavit that Construction Manager's obligations to all subcontractors, laborers, equipment or suppliers, or other third parties in connection with the Project, have been paid or otherwise satisfied;</li> <li>.2 Such other documents as required by the Project Manual from each subcontractor, lower tier subcontractor, laborer, supplier or other person or entity who has or might have a claim against the Owner including but not limited to final releases of lien;</li> <li>.3 All product warranties, operating manuals, instruction manuals and other documents customarily required of the Construction Manager or reasonably required by Owner, including but not limited to those required elsewhere in the Contract Documents, as part of its Project Closeout procedures;</li> </ol>	<p>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.</p>
<b>16.01 Background Screening – Construction Manager</b>	

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<p>agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and that Construction Manager, 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 Construction Manager or its personnel providing any services under the conditions described in the previous sentence. Construction Manager 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 Construction Manager and its personnel. The Parties agree that the failure of Construction Manager 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.</p>	
<p><u>GENERAL CONDITIONS</u></p> <p><u>1.1.02 Construction Manager</u> - The "party of the second part", of the Contract. The person, firm or corporation with whom a contract has been made with the Owner for the performance of the Work defined by the Contract Documents.</p>	
<p><u>1.1.12 Owner</u> - The School Board of Broward County, Florida. The School Board of Broward County, Florida, through its Board, must approve all Agreements, changes in the scope of work, change orders, fees, final acceptance of the project final payment and use of the contingency as set forth in Article 6.1 of the Agreement between Owner and Construction Manager.</p>	
<p><u>1.1.14 Owner's Construction Budget:</u> (See also 1.1.08) Owner's funds budgeted and requested for construction of the Project. The Owner's Construction Budget is identified in Exhibit B, including all contingency, Construction Manager fees, and costs of</p>	

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the work. This acknowledgment of the Owner's budgeted funds is not to be construed as the Construction Manager's Guaranteed Maximum Price. A Guaranteed Maximum Price will be offered by separate documentation as outlined in Article 6 of the Agreement between the Owner and Construction Manager.	
<u>1.1.16 Project Consultant</u> - The individual, partnership, corporation, association, joint venture, or any combination thereof, of properly registered professional architects, engineers or other design professionals 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, any additional services as may be required during the construction and warranty phase.	
<u>1.1.17 Project Manager</u> - An employee of The School Board of Broward County, Florida, who is designated by the Deputy Superintendent to provide direct interface with the Construction Manager with respect to the Owner's responsibilities.	
<u>1.1.24 Substantial Completion</u> - 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 of the work performed by Construction Manager 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. Occupancy may not be the sole factor in determining whether substantial completion has been achieved.	
<u>1.1.26 Superintendent or Construction Manager's Project Manager</u> - The executive representative for the Construction Manager present on the project at all times during progress, authorized to receive and fulfill instructions from the Owner and the Project Consultant, if applicable, and capable of superintending	

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the work efficiently as designated.	
<p>3.2.01 The Owner shall render interpretations necessary for the proper execution or progress of the Work with reasonable promptness on written request of the Construction Manager, and shall render written decisions, within a reasonable time, on all claims, disputes, change order requests, substitution requests, requests for interpretation and other matters in question relating to the execution or progress of the Work or the interpretation of the Contract Documents.</p>	<p>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.</p> <p>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.</p>
<p>8.1 The Construction Manager shall provide site personnel that are competent, English speaking and are able to communicate effectively.</p> <p>8.2 The Construction Manager shall remove within fifteen (15) days, at the written request of the Owner's project manager, and Deputy Superintendent, Facilities and Construction Management any of Construction Manager's project staff who are deemed detrimental to the efficient management and completion of the project.</p>	
<p>12.2 Educational facilities constructed by The School Board of Broward County, Florida are exempt from all county, district, municipal or local building codes and ordinances; therefore building permits will not be required. However, any and all other permits, bonds and/or other fees required for Work to be performed,</p>	

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including but not limited to Work in public right-of-ways and other Work otherwise outside the Owner's property line will be procured and paid for by the Construction Manager and will be considered part of the costs of the project.	
<p>17.1 The following requirements apply to all aspects of the Work where skilled crafts or trades are to be utilized:</p> <p>17.2 The ratio of journeymen utilized shall be two (2) journeymen to one other worker. When two (2) workers involved in the crafts are employed, the first employed shall be a journeyman, and the second may be either a journeyman or a worker.</p> <p>17.5 The Construction Manager shall post on the inside of the Construction Manager's on-site project office and maintain by monthly updating a current list, available for the Owner and Project Consultant's use, of the names, areas of specialty, and license or certificate numbers, or all journeymen, certified journeymen, and certified masters utilized for prosecution of the Work, including those used by Subcontractor.</p> <p>17.6 Work shall not commence in a particular trade or specialty until the Construction Manager's posted list has been updated to include that particular trade or specialty.</p>	
21.3 The Owner will have the authority to reject Work which does not conform to the Contract Documents and to require special inspection or testing. The Owner's authority to act under this Paragraph, nor any decision made by it in good faith either to exercise or not to exercise such authority, shall give rise to any duty or responsibility of the Owner to the Construction Manager, any Subcontractor, any of their agents or employees, or any other person performing any of the Work.	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

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	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.
<p>24.3 The general form of Subcontract Agreement used by the Construction Manager within thirty (30) days of execution of the GMP Addendum.</p> <p>24.4 Updated listings of Subcontractors denoting changes to the list submitted within ten (10) days of said change.</p> <p>24.5 Copies of executed Subcontractor Contracts within ten (10) days of their execution.</p> <p>24.6A complete accounting of all payments made to Subcontractors and the balances owed to the Subcontractors with each Application For Payment submitted by the Construction Manager.</p> <p>24.7 All contracts with Subcontractors shall incorporate by reference the terms and conditions of the Contract Documents.</p>	
<p>24.14 All subcontracts shall provide:</p> <p>.1 LIMITATION OF REMEDY - NO DAMAGES FOR DELAY</p> <p>.2 That the subcontractor's exclusive remedy for delays in the performance of the contract caused by events beyond its control, including delays claimed to be caused by the Owner or Project Consultant or attributable to the Owner or Project Consultant and including claims based on breach of contract or negligence, shall be an extension of its contract time.</p> <p>.3 In the event of a change in the work the subcontractor's claim for adjustments in the contract sum are limited exclusively to its actual costs for such changes plus no more than 15% for overhead and profit and bond costs.</p>	

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<p>25.1.2 The Construction Manager shall be paid an additional fee should the duration of the construction stipulated herein for Final Completion extend beyond the approved final completion date <u>(insert Final comp Months)</u> months after the Notice-To-Proceed, due to no fault of the Construction Manager. The Construction Manager's Additional Construction Phase Fee and General Conditions set forth in Article 7.01 of the Agreement will be (insert <u>AddConPhaseFee</u>) per consecutive calendar day, for each day or portion thereof. The Construction Manager's staff during such time extensions shall be that shown in Exhibit <u>E</u> and F.</p>	<p>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:</p> <p>.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.</p> <p>.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.</p> <p>.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.</p> <p>.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.</p>
<p>25.1.3 The Construction Manager will not be due any Overhead and Profit on increases in the Guaranteed Maximum Price (GMP) that do not exceed \$100,000. Should the GMP be increased by more than \$100,000 under the terms of Article 27 hereinafter due to no fault of the Construction Manager, the Construction Manager's Overhead and Profit for the Construction Phase will be the negotiated amount in Article 7.1 of the Agreement and indicated as a percent in "Fee for Change Orders", of that portion of the cumulative increases in the GMP that exceed the GMP by more</p>	

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than \$100,000.	
25.1.4 The Construction Manager shall not be paid overhead and profit on any additional cost item of work, not included in GMP, for which the Construction Manager to the best of its ability should have reasonably discovered in their review of Contract documents (see also Paragraph 3.3.2 and exhibits G and H), review of other project documentation and existing site conditions.	
<p><u>25.2.1 Costs and Expenses Included in Fee</u> - The following (a non-exclusive list) are included in the Construction Manager's fee for services during the Construction Phase and not included in the cost of the project.</p> <p>.a Salaries or other compensation of the Construction Manager's employees at the Project site or Broward Office.</p> <p>.b The Construction Manager's personnel to be assigned during the construction phase, their duties and responsibilities to this project and the duration of their assignments are shown on Exhibits E and F.</p> <p>.c General operating expenses related to this project at the Construction Manager's Broward offices.</p> <p>.d The costs of all data processing staff.</p> <p>.e General operating expenses incurred in the management and supervision of the project, except as expressly included in Article 26 of the General Conditions.</p> <p>.f Those services set forth in Article 3 of the Agreement between Owner and Construction Manager.</p> <p>.g Job office supplies - includes paper, pencils, paper clips, file folders, staples, etc., and other supplies.</p> <p>.h Direct tax saving purchase program. The Board has implemented a Direct Tax Savings Purchase Program (DOPP) as per Board Policy 3320. The Construction Manager shall administer the DOPP according to the</p>	

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terms included in Document 01295 attached to this agreement.	
<p><u>26.1 Definition</u> - The term Cost of the Project shall mean costs necessarily incurred in the Project during the Construction Phase for Construction services and paid by the Construction Manager which are not included in Article 25. Such costs shall include the items set forth below in this Article.</p> <p><b>THE OWNER AGREES TO PAY THE CONSTRUCTION MANAGER FOR THE COST OF THE PROJECT AS DEFINED IN THIS ARTICLE. SUCH PAYMENT SHALL BE IN ADDITION TO THE CONSTRUCTION MANAGER'S FEES STIPULATED IN ARTICLE 25 OF THE GENERAL CONDITIONS.</b></p>	
Articles 26 and 27	See above for project consultant provisions

26.2 Direct Cost Items

- 26.2.02 Cost of all materials, supplies and equipment incorporated in the Project, including costs of transportation and storage thereof.
- 26.2.03 Payments due to subcontractors from the Construction Manager or made by the Construction Manager to subcontractors for their work performed pursuant to contract under this Agreement. This includes any sub-contractor bonds the Construction Manager is required to procure.
- 26.2.04 Cost including transportation and maintenance of all materials, supplies, equipment, temporary facilities and hand tools not owned by the workmen, which are employed or consumed in the performance of the work-
- 26.2.05 Rental charges on all necessary machinery and equipment, exclusive of hand tools used at the site of the Project, including installation, repairs and replacements, dismantling, removal, costs of lubrication, transportation and delivery costs thereof which are used in the support of a sub-contractor or the Construction Manager's own forces in the performance of the work, at rental charges consistent with those prevailing in the area.
- .a Proposed rental rates and related fair market values for Contractor owned (affiliate owned, subsidiary owned, or related party owned) equipment shall be submitted to and approved by Owner prior to being used in connection with the Work. The projected usage for each piece of

equipment proposed to be rented, and estimated total rentals shall be submitted for approval in advance in a form satisfactory to Owner so that an appropriate lease versus buy decision can be made.

- b. Each piece of equipment to be rented shall have hourly, daily, weekly, and monthly rates submitted to and approved by Owner in advance before equipment rental charges will be considered reimbursable.
- c. The reimbursable equipment rental rates shall not exceed 75% of the published rates based on the latest edition of "Rental Rates and Specifications" published by the Associated Equipment Distributors (AED). If the AED publication does not contain information related to the type of equipment rented, the Owner and Contractor will use the applicable portions of the latest edition of the Army Corps of Engineers equipment rental rate guide (Construction Equipment Ownership and Operating Expense Schedule exclusive of the costs for fuel, filters, oil and grease) to mutually agree in advance on hourly, daily, weekly, and monthly rental rates to use during the project. If these two reference sources do not contain specific listings for pieces of equipment to be rented, the two parties may mutually agree to reimburse the Contractor up to 75% of the current competitive rental rates from local third party equipment rental companies.
- d. The aggregate rentals chargeable for each piece of Contractor owned tools or equipment shall not exceed 75% of the fair market value of such equipment at the time of its commitment to the Work. The original purchase price and date of purchase of the equipment will be documented with a copy of the purchase invoice and submitted to the Owner along with a proposed fair market value in accordance with the procedure outlined above. The fair market values to be used for purposes of this contract clause will be subject to advance written approval of the Owner. Such aggregate limitations will apply and no further rentals shall be charged even if a piece of equipment is taken off the job and is later replaced by a similar piece of equipment. For purposes of computing the aggregate rentals applicable to aggregate rental limitations, rental charges for like pieces of equipment will be combined if the pieces of equipment were not used at the same time.
- e. Fair market value for used material and equipment as referred to in this contract shall mean the estimated price a reasonable purchaser would pay to purchase the used material or equipment at the time it was initially needed for the job. Note: This is usually lower than the price a reasonable purchaser would pay for similar new construction material or construction equipment.
- f. Rental charges for equipment which is not owned by Contractor or any of its affiliates, subsidiaries, or other related parties and is rented from third parties for use in proper completion of the Work shall be considered reimbursable, will be reimbursable at actual costs, as long as rental rates are consistent with those prevailing in the locality. For any lease/purchase arrangement where any of the lease/purchase rental charges were charged to Owner as reimbursable job costs, appropriate credit adjustments to job cost will be made for an appropriate pro rata share of the fair market value of the equipment at the time it was last used on the job.
- g. All losses resulting from lost, damaged or stolen tools and equipment shall be the sole responsibility of the Contractor, and not the Owner, and the cost of such losses shall not be reimbursable under this contract except as covered by insurance procured for the work
- h. The Contractor shall be required to maintain a detailed equipment inventory of all job-owned

equipment (either purchased and charged to job cost or job-owned through aggregate rentals) and such inventory shall be submitted to the Owner each month. For each piece of equipment, such inventory should contain at a minimum (1) original purchase price or acquisition cost (2) acquisition date (3) approved FMV at the time the piece of equipment was first used on the job and (4) final disposition. At the completion of the project, the Contractor shall transfer title and possession of all remaining job-owned equipment to the Owner, or at Owner's option, Contractor may keep any such equipment for an appropriate credit to job cost, which will be mutually agreed to by Owner and Contractor.

- i. All costs incurred for minor maintenance and repairs shall be reimbursed at actual cost. Such costs include routine and preventative maintenance, minor repair and other incidental costs. Repairs and/or replacement of a capital nature are considered to be covered by the rental rates. Major repairs and overhauls are not considered routine and ordinary, consequently such costs are not reimbursable and are intended to be covered by the rental rates.

- 26.2.06 Cost of the premiums for all insurance and cost of premiums for all bonds which the Construction Manager is required to procure by this Agreement specifically for the construction project. 26.2.07  
Sales, use, gross receipts or similar taxes related to allowable direct costs of the Project imposed by any governmental authority, and for which the Construction Manager is liable.
- 26.2.08 No costs shall be paid by the Owner to the Construction Manager for any expenses made necessary to correct defective workmanship or to correct any work not in conformance with the Plans and Specifications or to correct any deficiency or damage caused by negligent acts by the Construction Manager.
- 26.2.09 Minor expenses at the site, such as telegrams, long distance telephone calls, telephone service, expressage, postage, and similar petty cash items in connection with the Project to be billed at cost.
- 26.2.10 Costs for trash and debris control and removal from the site.
- 26.2.11 Cost incurred due to an emergency affecting the safety of persons and property.
- 26.2.12 If approved by the Owner, the Construction Manager, when qualified, may perform all or a portion of the work for any item listed on the estimate or GMP Schedule of Values breakdown where it is deemed advantageous due to schedule or economic benefit.
- 26.2.13 Transportation greater than 100 miles from the site for Construction Manager's personnel employed directly for the project. Such transportation must be approved in advance by the Owner, and may be in accordance with the Construction Manager's standard personnel policy but not exceeding the limits established by Florida Statutes 112.061.
- 26.2.14 Costs for watchman and security services for the project.
- 26.2.15 Costs for efficient logistical control of the site, including horizontal and vertical transportation of materials and personnel. Also, costs for adequate storage and parking space.

- 26.2.16 Costs for such temporary facilities at the Project site during construction, as approved by the Owner, including temporary water, heat, power, sanitary facilities and telephones.
- 26.2.17 Wages paid for labor (as opposed to wages paid to management or supervisory personnel) in the direct employ of the Construction Manager in the performance of its work under the Agreement, times a multiple of (Multiplier) to cover fringe benefits. The Multiplier shall be defined as the employer's net actual cost of payroll taxes (FICA, Medicare, UITA, FUTA), net actual cost for employer's cost of union benefits (or other usual and customary fringe benefits if the employees are not union employees), and net actual cost to employer's worker's compensation insurance taking into consideration adjustments for experience modifiers, premium discounts, dividends, rebates, expense constants, assigned risk pool costs, net cost reductions due to policies with deductibles for self-insured losses, assigned risk rebates, and other variables. The Construction Manager shall reduce his standard payroll tax percentages to properly reflect the effective cost reduction due to the estimated impact of the annual maximum wages subject to payroll taxes. The percentage used for the multiplier will be examined at the conclusion of the project and an adjustment shall be made if it is determined that actual percentage should have been more or less than the percentage used.
- 26.2.18 Wages shall not be paid for holidays not worked and shall exclude bonuses and other similar extraordinary benefits.
- 26.3 **COSTS NOT TO BE REIMBURSED**
- 26.3.01 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the Project site office.
- 26.3.02 Expenses of the Construction Manager's principal office and offices other than the Project site office.
- 26.3.03 Construction Manager's capital expenses, including interest on Construction Manager's capital used for the Work.
- 26.3.04 Any cost not specifically and expressly described in subsection 26.2 above.
- 26.3.05 Cost which would cause the GMP to be exceeded (other than adjustments pursuant to the terms herein for Change Orders and Construction Change Directives).
- 26.3.06 Cost of the Construction Manager's home office computer services or other outside computer processing services shall be considered overhead and general expense. Accordingly, the Construction Manager should not plan to perform any such computer related services or alternatives at the field office when such service or functions can be performed at the Construction Manager's home or branch offices, or other outside service locations.
- 26.3.07 Any personal computer applications and related costs or remote job entry data functions and related costs which will be incurred by personnel at the job site must receive advance written approval from the Owner to be considered a reimbursable cost, otherwise the associated cost will not be paid.
- 26.3.08 Costs of all reproductions used for bidding or information purposes required by the project to directly benefit the project will only be reimbursed with prior written approval of the project manager.

- 26.3.09 Costs of subcontractors bonds not required by this agreement or approved in writing by Owner.
- 26.3.10 Deductibles paid by Construction Manager on any insurance claim will not be reimbursed unless the loss could not have been reasonably avoided by Construction Manager and/or all subcontractors had it reasonably performed all contractual safeguards. Deductibles will otherwise be reimbursed to CM.

#### **ARTICLE 27. CHANGE ORDERS AND CONSTRUCTION CHANGE DIRECTIVES**

- 27.1 The Owner, without invalidating this Agreement, may order Changes in the Project within the general scope of this Agreement consisting of additions, deletions or other revisions, the GMP, and the Construction Completion Date, being adjusted accordingly. All changes in the Project shall be authorized by Change Order (CO) or Construction Change Directive (CCD) signed by the Owner before the change is implemented.
- 27.2 A Change Order or Construction Change Directive is a written order to the Construction Manager signed by the Owner issued after the execution of this Agreement, authorizing a Change in the Project, the Construction Manager's fees, or the Construction Completion date. Each adjustment in the GMP resulting from a change order shall clearly separate the amount attributable to the Cost of the Project.
- 27.3 The increase or decrease in the cost of the work as a component of the Guaranteed Maximum Price resulting from a change in the Project shall be determined in one or more of the following ways.
- .a by mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation by the Owner;
  - .b by unit prices stated in the Agreement or subsequently agreed upon;
  - .c by cost as defined in Article 26 of the General Conditions, the stipulated percentage for overhead and profit [subject to the \$100,000 threshold set forth in Article 25.01.3 of the General Conditions] set forth in Article 7.1 of the Agreement and, if time for performance of the construction phase of the work is extended, additional construction phase fees and general conditions set forth in Article 25. 1.2 of the General Conditions; or
  - .d by the method provided in Subparagraph 27.4.
27. 4 If none of the methods set forth in Clause 27.3, a, b, or c, is agreed upon, the Construction Manager, provided he receives a Construction Change Directive signed by the Owner, shall promptly proceed with the Work involved. The cost of such Work shall then be determined on the basis of the reasonable expenditures and savings of those performing the Work attributed to the change. However, in the event a Construction Change Directive is issued under these conditions, the Project Consultant will establish an estimated cost of the work and the Construction Manager shall not

perform any work whose cost exceeds that estimate without prior written approval by the Owner. In such case, and also under Article 27.3 above, the Construction Manager shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data of the increase in the Cost of the Project as outlined in Article 26 of the General Conditions. The amount of decrease in the Guaranteed Maximum Price to be allowed by the Construction Manager to the Owner for any deletion or change which results in a net decrease in cost will be the amount of the actual net decrease.

- 27.5 If unit prices are stated in the Agreement or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order and/or Construction Change Directive that application of the agreed unit prices to the quantities of Work proposed will cause substantial inequity to the Owner or the Construction Manager, the applicable unit prices and Guaranteed Maximum Price shall be equitably adjusted.
- 27.6 Should concealed conditions encountered in the performance of the Work below the surface of the ground or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Drawings, Specifications, or Owner furnished information or should unknown physical conditions below the surface of the ground or should concealed or unknown conditions in an existing structure of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement, be encountered, the Guaranteed Maximum Price and the Construction Completion date shall be equitably adjusted by Change Order upon a request for Change Order in accordance with Article 27 of the General Conditions.
- 27.7 Claims For Additional Construction costs or Time - All claims for additional costs or time shall be made by request for a change order submitted as provided in Article 27 of the General Conditions. **ADDITIONAL TIME SHALL BE CONSIDERED ONLY IF THE APPROVED CPM (CRITICAL PATH) IS IMPACTED BY THE CHANGE.**
- 27.7.01 If the Construction Manager is delayed at any time in the progress of the work by any act or neglect of the Owner or the Project Consultant or of any employee of either or by any separate Construction Manager employed by the Owner or by any changes ordered in the work by labor disputes, fire, or unusual delay in transportation, unavoidable casualties or any causes beyond the Construction Manager's control or by delay authorized by the owner pending resolution of disputes, and such delay extends the completion date, the Substantial Completion shall be extended by Change Order for such time as the Owner may reasonably determine.
- 27.7.02 Only delays which are determined to extend the critical path for the schedule for constructing the project will result in a time extension. Neither the Owner nor the Construction Manager shall be considered to own the schedule float time.
- 27.8 Minor Changes In The Project - The Facilities Project Manager will have authority to order minor changes in the Project not involving an adjustment in the Guaranteed Maximum Price or an extension of the Construction Completion Date and not inconsistent with the intent of the Drawings and Specifications. Such changes shall be effected by written order.

27.9 Emergencies - In any emergency affecting the safety of persons or property, the Construction Manager shall act at his discretion, to prevent threatened damage, injury or loss. Any increase in the Guaranteed Maximum Price or extension of time claimed by the Construction Manager on account of emergency work shall be determined as provided in Article 27 of the General Conditions.

