

**AGREEMENT
FOR
TOTAL PROGRAM MANAGEMENT**

THIS AGREEMENT is made and entered into as of this ___ day of _____, 2007, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

firm

(hereinafter referred to as "Total Program Manager"),
whose principal place of business is

address

WHEREAS, SBBC desires to procure educational facilities including classrooms and related spaces at various locations; and

WHEREAS, SBBC is in need of professional management, architectural/engineering design services, and construction services for the procurement and construction of classrooms and related spaces; and

WHEREAS, SBBC has determined that Total Program Management Services as described in the State Requirements for Educational Facilities is the most expedient and suitable delivery method under the circumstances; and

WHEREAS, _____ is a professional firm qualified to furnish total program management services including architectural/engineering design and construction for the procurement of educational facilities including classrooms and related spaces at various locations.

NOW, THEREFORE, in consideration of the promises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals.** The Parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Basic Services.** Provide complete professional program management; architectural, engineering and/or other professional design services; and construction services; as set forth in the Florida Statutes, Florida Building Code, State Requirements for Educational Facilities, SBBC Design Criteria, and Exhibit 1 – Scope of Services; and all necessary personnel, equipment and materials to perform such services.

The services of the Total Manager shall include, but are not limited to, those described or specified herein. The services described or specified shall not be deemed to constitute a comprehensive specification having the effect of excluding services not specifically mentioned. The Total Program Manager shall also comply with all requirements of the Florida Building Code (FBC) and Florida Fire Prevention Code, in effect as of the date the building permit(s) is issued.

Total Program Manager shall furnish the services of soil engineers or other consultants if such services are necessary and required by applicable codes, standards, or law. 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.

2.02 **Schedule.** Prior to commencement of the Construction Phase, the Owner shall issue to the Total Program Manager, in writing, a Notice to Proceed (NTP) for the Construction Phase. The NTP shall include a project substantial completion date, a project final completion date and an Owner Occupancy date for completion of the project in accordance with the master project schedule in accordance with the GMP Addendum. The Total Project Manager agrees to complete the construction in accordance with the agreed upon substantial completion date and final completion date.

2.03 **Standard of Care.** The SBBC's engagement of the Total Program Manager is based upon the Total Program Manager's representations to the SBBC that: it is an organization of experienced management, design, and construction professionals, registered and licensed to do business in Florida; it is either qualified, willing and able to perform architect/engineer of record

[deliverable through a sub consultant] and general contractor of record services [deliverable through a subcontractor] for the Program; and that it has the past experience and ability to provide design and engineering services for Programs of similar size and scope which will meet the SBBC's objectives and requirements.

As to all services provided pursuant to this Agreement, the Total Program Manager shall furnish services by experienced personnel and under the supervision of experienced professionals licensed in South 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 and/or regulations. The Total Program Manager shall utilize the same personnel over the course of the Work and shall, if requested by the SBBC, replace personnel whom the SBBC has found to be incompetent or to whom the SBBC otherwise reasonably objects.

All professional design services and associated products or instruments of those services provided by the Total Program Manager shall be in accordance with all applicable codes, laws and regulations of each governmental entity including, but not limited to, Florida State Board of Education Regulations, Chapter 6A-2.0111 (Educational Facilities), Florida Building Code (FBC), Fire Prevention Code, (FPC) Americans With Disabilities Act (ADA), in effect at the time of execution of this Agreement, and its referenced codes and standards; SBBC Design Criteria and Design and Material Standards (these documents may be found at this website http://www.broward.k12.fl.us/facilities_construction/Design_Standards/SubmittalDocuments.asp); Crime Prevention Through Environmental Design (CPTED) (Broward Sheriff's Office), and all guidelines and regulations of the SBBC (provided same are not less stringent than applicable codes) with the SBBC serving as the interpreter of the intent and meaning of SREF, FBC or any other applicable code.

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.

The Total Program Manager further represents that it has visited the jobsite and examined its nature and location, prior to submission of the GMP, including without limitation: the surface conditions of the site and any structure or obstruction both natural or man-made; the surface water conditions and water ways of the site and surrounding area; the subsurface conditions of the land as disclosed by its soil test borings; and the location of electric and utility lines and water, sanitary, sewer and storm drain lines. The Total Program Manager has provided and reviewed the site geotechnical report and will respond as required by law.

2.04 **Penalty for Non-Conforming Design Documents.** Should the Total Program Manager 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 SBBC, for subsequent reviews after

the second submittal for that Phase shall be borne by the Total Program Manager and the SBBC will deduct such costs from the Total Program Manager's Basic Services Fee.

2.05 **Approval of Documents:** In order to expedite the design process documents for the proposed building units should be submitted to the SBBC Design Services Department at the earliest time possible for design and site location review and approval. Complete Phase III 100% Construction Documents for each location must be submitted to the Building Department for review and issuance of a building permit.

SBBC's approval of or comments on any of the documents submitted to SBBC by Total Program Manager shall not be deemed the approval of or by an other governmental authority having jurisdiction over the Program and Total Program Manager acknowledges that the aforesaid authorities may require modifications of any of the documents submitted by Total Program Manager. Such modifications shall be made at no cost to SBBC.

The Total Program Manager shall, with the SBBC's assistance, file the required documents for approval by governmental authorities having jurisdiction over the Program (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 Program) and obtain certifications of "permit approval" by reviewing authorities prior to the commencement of construction and early enough to ensure that the program is not delayed by permit processing by Broward County, a municipality or other jurisdictional agency. The Total Program Manager shall not be liable for delays in obtaining permits that are not directly attributable to the Total Program Manager. The Total Program Manager shall provide the original documents or reproducible copies as may be required for submittal to any and all governmental authorities. The Total Program Manager shall attend and provide representation at all review meetings, workshops, hearings and Commission/Council meetings concerning the Program as conducted by other jurisdictional agencies. Total Program Manager shall assure the SBBC that all mandatory requirements are complete prior to bidding, included, but not limited to, those that may have a financial impact on the Program.

2.06 **SBBC Responsibilities.** The SBBC shall furnish a legal description, as-built site drawings and a certified land survey of the site. When possible, the SBBC 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. SBBC shall furnish a Construction Budget which is the portion of the Project Budget allocated for the construction cost of a project in the program.

The SBBC will assign a team consisting of project management staff and professional consultants that will serve in the capacity of the District's Program Manager to provide oversight of the program, logistical support, existing site information, interface with other District departments, and facilitate the TPM activities.

2.07 **Payment For Basic Service and Construction.** 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 Total Program Manager. Said payments shall, in the aggregate, not exceed the total Basic Compensation indicated below for each Phase.

Pre-design	\$ _____
Design	\$ _____ *
Bidding and Award	\$ _____ *
Construction Phase Fee	\$ _____ *
Warranty	\$ _____ *
Overhead	\$ _____
Profit	\$ _____
General Conditions	\$ _____ **
 Total Fee	 \$ _____

Fee for Change-Orders _____ % (Total Program Manager's Overhead/Profit)
(Applicable to Cost of Work in Article 26 of the General
Conditions only)

* Breakout Fees - For application in the event of Reuse of the Design Documents and related services as per Article 2.13 of this Agreement.

Fees for professional Architectural/Engineering Services included in Pre-Design, Design, Bidding and Award above \$ _____

Fees for professional Architectural/Engineering Services included in Construction and Warranty Phase Fees above \$ _____

In the event of a reuse the terms and conditions in the SBBC Standard Professional Services Agreement for Architectural/Engineering Services as amended from time to time and in effect at the time of contract will govern.

** General Conditions include items of Labor, Materials, and Services set forth in General Conditions Article 25.02.01(l), excluding the cost of Builder's Risk Insurance.

Pre-Design and Design Phase - In the case where pre-design and design fee are agreed upon and the Total Program Manager's GMP is not accepted by the SBBC and the Agreement is terminated, the Total Program 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 Total Program Manager may request payment for that part of the Contract Price allocable to Contract requirements properly provided during the pre-design and design phase

The overhead and profit and general conditions expenses shall be paid proportionally to the ratio of the cost of the Work in place.

During the Pre-Design, Design, and Bidding and Award Phases the Total Program 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 including a record of hours worked indicating the date and specific activities performed. Such information shall be certified and included in a monthly report submitted with the Total Program Manager's invoice.

The Bidding and Award Phase fee shall be payable upon presentation of the Guaranteed Maximum Price (GMP) to SBBC by the Total Program Manager.

Construction Phase Fee and Payments - The Total Program 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 SBBC. During Construction, on or before the **15th** day of each month after commencement of performance, but no more frequently than once monthly, the Total Program Manager may submit an Application for Payment for the period ending the last day of the previous month or other pay period as mutually defined and agreed to by the Total Program Manager and SBBC. Said Application for Payment shall be in the format required in the Document 01290 and include whatever supporting information as may be required by the SBBC. Ten percent (10%) retainage shall be held on all payments of that part of the contract price allocable to Contract Requirements properly provided and labor, material and equipment properly incorporated in the project for that time period until the contract is fifty percent (50%) complete, except when approved by the SBBC certain suppliers and subcontractors may be paid the entire amount due when such payment is generally the practice of the industry. Retainage shall be withheld on all invoices, except fees, (to 100% completion) and may be released upon 100% completion of the project. At Substantial Completion of all of the work or an SBBC-Approved Phase of the Work, the SBBC may approve a reduction of the retainage from 10% to 5% at its discretion. Retainage shall not be withheld on fees. Multiple Schedules of Values, payments, and release of retainage shall be acceptable on a "per site" basis, also referred to as a "project".

Final payment constituting the unpaid balance of the Cost of Work and the Total Program Manager's fee, shall be due and payable as described in this Article after the SBBC has accepted occupancy of the project, provided that the Project be then finally completed, that the Total Program Manager has verified by his 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 Total Program Manager and the Total Program Manager shall list those items prior to receiving final payment and the SBBC may retain a sum equal to 200% of the estimated cost of completing any unfinished work and portion of the Total Program 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, SBBC shall pay to Total Program Manager, monthly, the amount retained for each incomplete item after each of said items is completed.

If the Owner should fail to pay the Total Program Manager within 30 days after the receipt of an approvable payment request from the Total Program Manager, then the Total Program Manager may, upon twenty-one (21) additional days written notice to the Owner stop the Project until payment of the amount owing has been received.

To the extent that any portion of Article 2.07 of this Agreement is inconsistent with Section 218.70, as amended, Florida Statutes, Local Government Prompt Payment Act, Section 218.70 shall govern.

2.08 **Contract Bonds.** The Contract shall become effective and in full force only upon the execution of this agreement. The payment and performance bonds issued by a Surety Company acceptable to SBBC in its sole discretion, such Surety being qualified and rated in accordance with the General Conditions of the Contract, and approved by the United States Treasury Department and licensed to do business in the State of Florida shall be delivered with the executed GMP Addendum in Exhibit J. The GMP Addendum must be executed and signed by a resident agent having an office in Florida, representing such Surety Company, for one hundred per cent (100%) of the Contract price, said bond guaranteeing the performance of this Contract and as security for the payment of all persons performing labor and providing materials in connection with this Contract. The form of Bonds required is included elsewhere in the Contract Documents. This is in addition to any bonds of subcontractors or others as required herein.

2.09 **Solicitation of Bids:** The Total Program Manager shall comply fully with SREF, as amended, including but not limited to preparation and issuance of bid packages, opening and evaluation of bids from at least two bidders for each trade package, and provide recommendations to the SBBC. (SREF 1999 4.1(6)(B)(f)3.c) The Total Program Manager shall also comply with School Board Policy 7004 such that an advertisement is placed in at least two local newspapers (Sentinel and Herald) and one of the designated SBBC staff in Policy 7004 and two additional SBBC staff are present at the public bid opening. The requirement for two bids does not apply in the case of sole source manufactured buildings as set forth in the Total Program Manager's response to the RFP.

2.10 **Time for Completion and Liquidated Damages.**

Prior to commencement of the Construction Phase, the SBBC shall direct and issue to the Total Program Manager, in writing, a Notice to Proceed into the Construction Phase. A project substantial completion date, a project final completion date and an SBBC Occupancy date for completion of the project in accordance with the master project schedule, shall be established by the SBBC. The Total Program Manager agrees to complete the construction in accordance with the agreed upon substantial completion date, final completion date and SBBC Occupancy date. The Total Program Manager shall pay the SBBC the sum of _____ (\$_____) per day, , for each and every calendar day of unexcused delay in achieving Substantial Completion beyond ____ consecutive calendar days from ATP for Design Phase.

If the Total Program Manager fails to achieve final completion within ____ days of the date of Substantial Completion, Total Program Manager shall pay SBBC the sum of _____ dollars (\$_____) per day, per classroom for each and every calendar day of unexcused delay in achieving final completion.

Any sums due and payable hereunder by the Total Program Manager shall be payable, not as a penalty, but as liquidated damages representing a reasonable estimate of delay damages, inconvenience, additional overhead and costs likely to be sustained by the SBBC, estimated at or before the time of executing this Contract. When the SBBC reasonably believes that final completion will be inexcusably delayed, the SBBC shall be entitled, but not required, to withhold from any amounts otherwise due the Total Program Manager an amount then believed by the SBBC to be adequate to recover liquidated damages applicable to such delays. If and when in the Owner's discretion the Total Program Manager overcomes the delay in achieving Substantial Completion, or any part thereof, for which the Owner has withheld payment, the Owner shall promptly release to the Total Program Manager those funds withheld, but no longer applicable, as liquidated damages.

2.11 **Guaranteed Maximum Price for Construction.** The Total Program Manager shall submit a written Guaranteed Maximum Price (GMP) for Construction to the SBBC when the Total Program Manager has received bids for the construction Work under this agreement. A Notice to Proceed for Construction will be issued upon SBBC approval of the GMP and when Construction Documents are complete as determined by the Facilities and Construction Management Division staff having issued either "approved" status, and, issuance of a Building Permit by the Chief Building Official. This indicates that all mandatories have been met (defined as Building Department code requirements.) When design review "approval" is withheld, the documents must be resubmitted. The GMP shall guarantee the maximum price for the construction cost of work(s) or designated part thereof for each individual project in the program and shall be approved only by the SBBC. Such Guaranteed Maximum Price will be subject to modification for changes in the project(s) as provided in Article 27 of the general conditions except that the Total Program Manager's Overhead/Profit shall be as set forth herein. However, the actual price paid for the Work by the SBBC shall be the actual cost of all Work subcontracts, supply contracts, direct labor costs, direct supervision costs, and direct job costs as defined under Article 26 of the general conditions, plus the Total Program Manager's fees or the GMP, **whichever is less when the Work is complete. SBBC SHALL NOT BE LIABLE FOR NOR SHALL IT PAY TOTAL PROGRAM MANAGER ANY SUMS IN EXCESS OF THE GUARANTEED MAXIMUM PRICE. TOTAL PROGRAM MANAGER AGREES THAT ANY AND ALL SAVINGS BELONG AND/OR REVERT BACK TO THE SBBC.**

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

B. At the time of submission of a Guaranteed Maximum Price, the Total Program Manager will verify the time schedule for activities and work which were approved by the Owner and used to determine the Total Program 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 Total Program Manager and Owner and/or unforeseen circumstances. The Total Program Manager shall submit the GMP Addendum on the Owner's approved form for approval by The School Board of Broward County, Florida.

C. SBBC will issue a single GMP Addendum for the Total Program.

D. IF THE GMP PROPOSAL IS UNACCEPTABLE TO THE OWNER, OWNER MAY TERMINATE THE TOTAL PROGRAM MANAGER AS SET FORTH IN ARTICLE 36 OF THE GENERAL CONDITIONS.

E. The Total Program Manager may proceed to purchase [cost of buildings only] factory fabricated buildings [off site] prior to the Final GMP approval for the project(s) if the costs of the buildings are within the Owner approved construction budget(s) and the Deputy Superintendent, Facilities and Construction Management approves in writing.

F. 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.

G. Total Program Manager shall submit a GMP Manual with the proposed GMP Addendum which shall include at a minimum the following:

- 1) Transmittal Letter
- 2) Summary of GMP
- 3) List of Construction Documents
- 4) CPM Schedule
- 5) Schedule of Values

H. For all documents submitted pursuant to this section, the Total Program Manager shall submit five bound submittals consisting of the original documents plus four copies. One copy shall be distributed to the project consultant, one to the project manager and the remaining copies to the Contracts Department of the Owner.

2.12 Total Program Manager's Insurance.

General Insurance Requirements

The Total Program Manager shall not commence any work under this Agreement nor shall be paid any monies until the Total Program Manager has obtained all insurance required hereunder and such insurance policies have been approved and supplied to the SBBC.

All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida and provision of all required insurance policies is a condition precedent to any payments becoming due to the Total Program Manager. 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.

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 including Products Liability and shall include the SBBC's project number and full project title (including applicable facility name) on the Certificate. THE TOTAL PROGRAM MANAGER SHALL NOT RECEIVE ANY PAYMENTS UNDER THIS CONTRACT AS LONG AS AND UNTIL ALL INSURANCE POLICIES REQUIRED AT THAT TIME HAVE BEEN PROVIDED TO THE OWNER.

The Total Program Manager shall furnish certificates of insurance to the SBBC 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.

The Certificates shall clearly indicate that the Total Program Manager 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 Total Program Manager. No material change or cancellation of the insurance shall be effective without a thirty (30) day prior written notice to and approval by the SBBC.

Providing for all sums which the Total Program Manager shall be legally obligated to pay as damages for claims arising out of or relating to the services performed by the Total Program Manager or any person employed or acting on the Total Program Manager behalf (including but not limited to Sub-Contractors) in connection with this agreement. If Owner, at its sole discretion, agrees that such coverage is not commercially reasonably available, the Owner may, at its sole discretion, authorize the Total Program Manager to alter the coverage by substituting a lower aggregate and/or changing any other terms and conditions of the coverage (including but not limited to deductible amounts) based upon the scope of the project.

In the event that extended Professional Liability or other insurance coverage is required by the Contract, no additional fees or costs will be added.

Insurance Required

Automobile Liability Insurance: The Total Program Manager 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.

General Liability Insurance: The Total Program Manager 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.

Product Liability or Completed Operations Insurance: The Total Program Manager shall maintain Product Liability of Completed Operations Insurance with bodily injury limits of

liability of no less than One Million (\$1,000,000.00) Dollars per occurrence and One Million (\$1,000,000.00) Dollars aggregate.

Builder's Risk Coverage - The Total Program Manager shall take out and maintain during the life of its Agreement a Builder's Risk Policy completed value form as a cost of work, issued to provide coverages on an all risk basis including but not limited to perils of fire, vandalism, theft and those included in extended coverage in the amount of one hundred percent (100%) of the values at risk. This coverage shall not be lapsed or canceled because of partial occupancy by the Owner prior to final acceptance of the Project.

Workers' Compensation Insurance: The Total Program Manager shall maintain Workers' Compensation Insurance in compliance with Florida Statutes, Chapter 440.

Professional Liability (Errors and Omissions): The Total Program Manager's Architect 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:

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:

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.

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.

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.

The Total Program Manager shall provide the Risk Management Department with evidence that the Total Program Manager's Architect has procured Professional Liability insurance in the manner described above prior to the Total Program Manager's commissioning.

2.13 **Reuse of Design Documents.** It is understood that this agreement includes this provision for the Owner's optional re-use of drawings, specifications and other documents. If the Owner elects to re-use the drawings, specifications and other documents, in whole or in part, prepared for the program and/or individual projects for other projects on the subject or other sites, contingent upon acceptance by the Total Program Manager or its Architectural/Engineering consultant, the Total Program Manager or its Architectural/Engineering consultant will be paid a re-use fee, for Basic Services, pursuant to Section 287.055 (F.S. 2002) as amended:

Twenty (20%) percent of the original fee for Basic Services for Pre-Design, Design and Bidding and Award

Thirty-eight (38%) percent of the original fee for Construction and Warranty.

The scope of the reuse shall include only those fees for professional A/E services for design and contract administration during construction, as set forth in Article 2.07 of the Agreement according to the standard SBBC Professional Services Agreement as amended from time to time and existing at the time of the reuse of the design documents.

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, Code revisions and Code corrections made during the prior reuse(s), and, modifications normally required to suit the new site (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.

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.

2.14 **Indemnification.**

A. To the fullest extent permitted by law, the Total Program Manager shall indemnify and hold harmless the SBBC, 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 SBBC 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 Total Program Manager's negligent, reckless or intentional wrongful acts of omission, error, misconduct, or commission.

B. In any and all claims against the SBBC by any employee of the Total Program Manager, or anyone for whose acts the Total Program Manager may be liable, the obligations for Total Program Manager to indemnify SBBC 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 Total Program Manager under workman's compensation acts, disability acts, or other employee benefit acts.

C. In the event that any claims are brought or actions filed against the SBBC with respect to the indemnity contained herein, the Total Program Manager agrees to defend against any such claims or actions regardless of whether such claims or actions are rightfully or wrongfully brought or filed. The Total Program Manager agrees that the SBBC may select the attorneys to appear and defend such claims or actions on behalf of the SBBC. The Total Program Manager further agrees to pay, at the sole expense of the Total Program Manager, the attorney's fees and cost incurred by those attorneys selected by the SBBC to appear and defend such claims or actions on behalf of the SBBC. However, if the claims or actions are covered by insurance and such coverage is acknowledged by the insurance company in writing to the SBBC, 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 SBBC 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 SBBC 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 SBBC.

D. The Total Program Manager recognizes the nature of the indemnification obligations imposed under this contract and voluntarily makes these covenants. The obligation imposed upon the Total Program Manager under this Indemnification Agreement shall survive termination of this contract.

ARTICLE 3 – MISCELLANEOUS TERMS

3.01 **No Waiver of Sovereign Immunity.** Nothing contained in this Agreement is intended to serve as a waiver of sovereign immunity by any agency to which sovereign immunity may be applicable.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **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.

3.04 **Termination.** See attached general conditions.

3.05 **Records.** Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, as amended, and any resultant award of attorney's fees of non-compliance with that law.

3.06 **Entire Agreement.** This Agreement between the Owner and the Total Program Manager supersedes any prior negotiations, representations or agreements. When drawings, specifications and other descriptive documents defining the Work to be included in the Guaranteed Maximum Price (GMP) is completed pursuant to Article 2.11, an Addendum to the Agreement shall be signed by the Owner and Total Program Manager, acknowledging the GMP amount and the drawings, specifications and other descriptive documents upon which the GMP is based. When drawings, specifications and other descriptive documents defining the Work to be included under a Notice to Proceed are completed pursuant to Article 2.11, they shall be identified in the Notice to Proceed issued by the Owner's Project Manager. To expedite the preparation of this GMP Addendum by the Owner, the Total Program Manager shall provide three (3) sets of signed, sealed and dated drawings, specifications and other documents upon which the GMP is based to the CBO. The Total Program Manager shall acknowledge, by signature, on the face of each document of each set that it is the set upon which the Total Program Manager based the GMP and shall send one set of the documents to the Owner's Project Manager along with his GMP proposal, while keeping one set for himself and returning one set to the Building Department.

This Agreement, along with the Contract Documents consisting of the Agreement Form, M/WBE goals as set forth in the Request for Proposals, 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 Total Program Manager and supercedes all other writings, oral agreements, or representations.

The parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein.

No changes, amendments or modifications of any of the terms or conditions of the contract shall be valid unless reduced to writing and signed by both parties.

3.07 **Amendments.** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.08 **Preparation of Agreement.** The parties acknowledge that they have sought and obtained whatever competent advise and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.09 **Waiver.** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

3.10 **Compliance with Laws.** Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.11 **Governing Law.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.12 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.13 **Assignment.** Neither this Agreement or any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from The School Board of Broward County, Florida.

3.14 **Force Majeure.** Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other

labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense (“Force Majeure”). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.15 **Place of Performance.** All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.16 **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, unlawful, unenforceable or void in any respect, the invalidity, illegality, unenforceability or unlawful or void nature of that provision shall not effect any other provision and this Agreement shall be considered as if such invalid, illegal, unlawful, unenforceable or void provision had never been included herein.

3.17 **Notice.** When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. 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 this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

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

With a Copy to: Michael Garretson, Deputy Superintendent
The School Board of Broward County, Florida
1700 S.W. 14th Court
Fort Lauderdale, FL 33312

To TPM: *Name*
Address
City, State

3.18 **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.

3.19 **Excess Funds.** Any party receiving funds paid by The School Board of Broward County, Florida (SBBC) under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC with interest calculated from the date of the erroneous payment or overpayment. Interest shall be calculated using the interest rate

for judgments under Section 55.03, Florida Statutes, applicable at the time the erroneous payment or overpayment was made by SBBC.

3.20 **Authority.** 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.

3.21 **Background Screening.** Total Program Manager agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and that Total Program 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 Total Program Manager or its personnel providing any services under the conditions described in the previous sentence. Total Program 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 Total Program Manager and its personnel. The Parties agree that the failure of Total Program 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.

Total Program Manager 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 Total Program Manager'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 Total Program Manager pursuant to Article 2.14 of this Agreement and the laws of Florida.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

ATTEST THE SCHOOL BOARD OF
BROWARD COUNTY, FLORIDA

Superintendent of Schools
James F. Notter

Chair
Beverly A. Gallagher

Approved as to Form:

School Board Attorney

FOR TOTAL PROGRAM MANAGER

(Corporate Seal)

ATTEST
TOTAL PROGRAM MANAGER

Principal

Secretary

Project Consultant's
Registration Number

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF _____

COUNTY OF _____

The foregoing instrument was subscribed and sworn to by _____
before me this _____ day of _____, 20____.

My Commission Expires:

Signature – Notary Public

(SEAL)

Printed Name of Notary

Notary's Commission No.

STATE OF _____

COUNTY OF _____

The foregoing instrument was subscribed and sworn to by _____
before me this _____ day of _____, 20____.

My Commission Expires:

Signature – Notary Public

(SEAL)

Notary's Printed Name

Notary's Commission No.

Exhibit 1 – Scope of Services

1. Pre-design activities:

- a. Provide or 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 in the form of a written report prior to the final payment for this phase.
- b. Prepare project schedule, including critical path elements, responsibilities of the owner, TPM, architect, contractor, and outside agencies, and update monthly throughout the duration of the contract.
- c. Where the program includes expansion, renovation or remodelling of existing facilities, prepare an analysis package outlining the condition of existing infrastructure and other building systems. The package should contain recommendations, cost estimates and preliminary schedules for accommodation of the expansion, renovation or remodeling. Such information shall be provided to the Owner in the form of a written report prior to final payment for this phase.
- d. Provide project delivery options for the design, bid, and bid packaging of projects for efficient scheduling, cost control and financial resource management.
- e. Procure design services from qualified design professionals.
- f. Utilize an information and reporting system to provide the board with accurate and current cost control, work status, including but not limited to work narrative, work completed/anticipated, short term and long term schedules, estimated expenditures, and project accounting systems of the project at all times. Such information shall be provided to the Owner in the form of a written report prior to final payment for this phase.
- g. Provide a project manual which shall describe, as a minimum, the work plan, job responsibilities, and written procedures for reports, meetings, inspections, changes to the project, etc.
- h. Provide market analysis and motivation for contractor interest for the publicly opened bids, and recommendations for minority business participation.
- i. Spot Surveys related to the location of the new buildings, site improvements, utilities and other construction shall be provided by the Total Program Manager during the Pre-Design Phase.

2. Design phase:

- a. Provide value engineering recommendations to maximize the board's capital outlay and operations resources.
- b. Attend all project-related meetings and record proceedings.
- c. Periodically review all design documents for constructability and compliance with applicable laws, rules, codes, design standards, and ordinances.
- d. Periodically update cost estimates and make recommendations to keep the project within the budget.
- e. Periodically update the project schedule and make recommendations for recovery of lost time.
- f. Secure and monitor the review and approval process of governing authorities.
- g. Provide documents in compliance with Exhibit 3 – Electronic Media Submittals.

3. Bid and award phase:

- a. Maintain a list of potential bidders and subcontractors and solicit bidders, including minority participation.
- b. Monitor and review all addenda and coordinate code review compliance.
- c. Prepare and issue bid packages, open or assist in the opening and evaluation of bids from at least two bidders for each trade package, and provide written recommendations.
- d. Receive and review pre-contract documents as required.
- e. Review the schedule-of-values for balance of tasks vs. dollars and compliance with the project schedule.
- f. Review contracts and make recommendations.
- g. Provide guaranteed maximum price for Board Approval.
- h. Provide value engineering during subcontractor bidding phase.
- i. Hold contracts and subcontracts; provide bonding for projects.

4. Construction phase:

- a. Schedule, conduct, and/or attend the preconstruction conference.
- b. Provide contract administration and approval of payments; monitor and record the construction progress; review and approve as-builts and maintenance and warranty manuals from all subcontractors; provide limited construction services; and keep a log of all site visits and observations.
- c. Develop and implement procedures to monitor, record, review, and approve all submittals, shop drawings, change orders, pay requests, and field orders for budget and schedule impact, and compliance with the contract documents.
- d. Provide inspection of all work, materials, and tests prior to wall installation, including substantial completion and occupancy inspections by appropriately certified inspectors.
- e. Ensure that as-builts are being kept up to date by the contractor.
- f. Make recommendations for correction of nonconforming or substandard work.
- g. Coordinate ordering and delivery of owner supplied equipment.
- h. Coordinate the testing, inspections and approvals of project, delivery of instructions for operating all building systems, including training of maintenance staff for the owner.
- i. Prepare final project accounting and provide written evaluation of the A/E, general contractor and major subcontractors.
- j. TPM may perform construction services if approved by board and upon justification of benefits to contract such as savings in cost, in time, improved quality or other issues relevant to delivery of the project within terms of the contract. TPM may perform construction services as authorized by law in cases of emergency under procedures approved by the board.
- k. An As-Built Survey including the location of the new buildings, site improvements, utilities and other construction shall be provided by the Total Program Manager at Substantial Completion.

5. Minimum One-Year Warranty:

- .1 The Total Program Manager shall provide a minimum one (1) year warranty and shall coordinate and supervise the completion of warranty Work during the warranty period. Total Program Manager shall participate with the Owner in conducting of warranty inspections held on the sixth (6th) and eleventh (11th) months after occupancy. Total Program Manager shall deliver as-built drawings, warranties and guaranties to the Owner.

- .2 Where any Work is performed by the Total Program Manager's own forces or by subcontractors under contract with the Total Program Manager, the Total Program Manager shall warrant that all materials and equipment included in such Work will be new except where indicated otherwise in Contract Documents, and that such Work will be free from improper workmanship and defective materials and in conformance with the Drawings and specifications. With respect to the same Work, the Total Program Manager further agrees to correct all work found by the Owner to be defective in material and workmanship or not in conformance with the Drawings and Specifications for a period of one year from the Date of Owner Occupancy of the Project or a designated portion thereof or for such longer periods of time as may be set forth with respect to specific warranties contained in the trade sections of the Specifications or by Florida Law. The Total Program Manager shall collect and deliver to the Owner any specific written warranties given by others as required by the Contract Documents.
- .3 The Total Program Manager shall provide a Warranty Summary Report at the end of the 6-month warranty period and 11-month warranty period. This report shall provide at a minimum;
 - (1) Description of each warranty item during the period.
 - (2) Date item reported to Total Program Manager.
 - (3) Date item corrected. If more than one trip required, document each.
 - (4) Description of action taken to cure warranty item.
 - (5) Obtain signature of school principal or designee acknowledging warranty items have been completed.
 - (6) Other pertinent information, if applicable.
- .4 Assist in the transfer of the project to the maintenance department including the delivery of as-builts warranties, guaranties, and operating instructions.

6. Total Program Manager's Deliverables

- .1 Pre-Design
 - a) Summary Report / Recommendations
 - b) Preliminary Master Project Schedule and monthly updates
 - c) Existing Facility Analysis package, out recommendations, Cost Estimates
 - d) Project Delivery options / packaging recommendations report
 - e) Work Status Monthly Report

f) Project Manual

.2 Design Phase

Monthly Summary of project meetings

Document Reviews / report at each phase (Agreement Exhibit 1). Refer also to attached procedures and TPM review form. (Exhibits G and H).

- Schematic Design
- Design Development
- 50% Construction Documents
- 100% Construction Documents

Preliminary Master Project Schedule Updates

- Schematic Design
- Design Development
- 50% Construction Documents

Cost Estimate Updates

- Schematic Design
- Design Development
- 50% Construction Documents
- 100% Construction Documents

Market Analysis/sub-contractor report

Guaranteed Maximum Price (GMP) Manual

.3 Bidding and Award Phase

Proposed Subcontractor list with MWBE participation.

Bid Packages List

Pre-bid conference attendance list and summary report

Recommendations for award

Bid advertisements

Schedule of Values

Fee due to the Total Program Manager shall be payable.

.4 Construction Phase

Monthly Schedule updates and reports

Summary of all meetings

Preparation and submission of all close-out submittals

Written verification of punchlist items completion, including BCI items

Schedule of Values

.5 Warranty Phase

Warranty Summary Report at end of 6 months (50% of Warranty Phase fee) and 11 months (Balance of Warranty Phase Fee) Warranty Phase (Agreement Exhibit 1, Section 5)

.6 Other Deliverables

Insurance Policies

Payment Applications

Dollar Value / Time graphs

Agreement Execution and Contract Bonds

Closeout documents as set forth in the Contract Documents.

.7 Final Payment

Payment affidavits, release of lien and other requirements

Exhibit 2 – Schedule

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Exhibit 3 - Electronic Media Submittal Requirements

The School Board of Broward County, Florida utilizes electronic media as the principal way it develops, communicates and archives information concerning its various construction programs. To that end, the Board's standard Professional Services Agreements for consultant services require submittal of documents produced on electronic media. Requirements for that media are presented below.

ELECTRONIC MEDIA

A. General Requirements:

1. All Work, including surveys drawings, maps, details or other drawing and information to be provided on electronic media by the Consultant. Work under contract shall be accomplished and developed using computer-aided design and drafting (CADD) software and other related software and procedures conforming to the following criteria.
2. The School Board of Broward County, Florida contracts with one or more Internet bid advertising and distribution services and intends to advertise accordingly in addition to other media. Requirements for conversion to read-only electronic documents will be necessary and the project consultant must comply with such requirements. The file formats include Adobe Acrobat Reader and WHIP! Viewer conversions. **E-COMMERCE IS A RAPIDLY EVOLVING ENVIRONMENT AND THE PROJECT CONSULTANT MUST BE AWARE OF EMERGING DEVELOPMENTS. BE ADVISED OF THIS IMPORTANT AND DEVELOPING FORMATTING REQUIREMENT.**

B. Graphic Format:

1. Provide all CADD files with .dwg format using AutoDesk, Inc.'s AutoCAD 2004 version for Windows.
2. It is the responsibility of the consultant to ensure that all electronic files and data deliverables are compatible with owner's target system.
3. Any non-graphical database delivered with prepared drawings: provide in relational database format compatible with Microsoft's Visual Foxpro, most current version of Microsoft Access, or other compatible SQL format database.
4. Maintain all linkages of non-graphical data with graphic elements, relationships between database tables, and report formats.

5. All database tables: conform to the structure and field-naming guidance provided upon request by the Owner.

C. CADD Standards:

1. Standard plotted drawing size: 24 inch x 36 inch or 30 inch x 42 inch sheets.
2. Consultant shall coordinate with the Owner and provide the standard file naming protocol to be utilized.
3. Layering:
 - a. Conform to the most up-to-date guidelines defined by the American Institute of Architects (AIA) standard document, "CAD Layer Guidelines."
 - b. Provide an explanatory list of which layer is used at which drawing and an explanatory list of all layers which do not conform to the standard AIA CAD Layer Guidelines including any user definable fields permitted by the guidelines.
 - c. Layering for Florida Inventory of Schoolhouses (F.I.S.H.) documents: Obtain latest F.I.S.H. layering scheme from Owner prior to production of documents.
4. No deviations from the Owner's established project submittal and checklist standards will be permitted unless prior written approval of such deviation has been received from the Owner.

D. Non-Graphic Format:

1. Provide word processing files in Microsoft Word for Windows compatible file formats including all fonts, typefaces, bit-map and vector graphics and other information necessary for remote printing.
2. Provide spreadsheet files in Microsoft Excel for windows compatible file formats including all fonts, typefaces, bit-map and vector graphics and other information necessary for remote printing.
3. Provide database files in relational database format compatible with Microsoft's Visual Foxpro, Microsoft Access, or other compatible SQL format database including all tables, form and report formats, fonts, typefaces, bit-map and vector graphics and other information necessary for remote printing. Ensure integrity of relational database structure.

E. Delivery Media And Format:

1. Submit copies of all CADD files, data and other electronic files developed under this contract on appropriate electronic digital media as required for project phase

- submittals.
2. The electronic digital media shall be in the format that can be read and processed by the Owner's target CADD system.
 3. The external label for each electronic digital media shall contain, as a minimum, the following information:
 - a. The Project Number, Project Title and date.
 - b. The Facility Name
 - c. The format and version of operating system and software.
 - d. The name and version of utility software used for compression/decompression and copying files to the media.
 - e. List of filenames.
 4. Before a CADD file is placed on the delivery electronic digital media, the following procedures shall be performed:
 - a. Purge all files and remove all extraneous graphics outside the border area and set the active parameters to a standard setting or those in the Owner-furnished seed file.
 - b. Make sure all reference files are attached without device or directory specifications.
 - c. Compress all project electronic files using WINZIP or other compatible file compression/decompression software approved by the Owner.
 - d. All required project files both graphic and non-graphic, shall include color tables, pen tables, font libraries, block libraries, user command files, plot files, etc. All project related blocks must be provided to the Owner as a part of the electronic digital deliverables.
 - e. Make sure that all support files such as those listed above are in the same directory and that references to those files do not include device or directory specifications.

F. Submittal:

1. Submit as Project Record Documents specified above and as required for project phase submittals and project record documents.
2. Submit electronic media with a transmittal letter containing, as a minimum, the following information:

- a. The information included on the external label of each media unit along with the total number being delivered, and a list of the names and descriptions of the files on each one.
- b. Brief instructions for transferring the files from the media.
- c. Certification that all delivery media are free of known computer viruses. The release or version date of the virus-scanning software shall be the current version, which has detected the latest known viruses at the time of delivery of the digital media.
- d. The following "Plot File Development and Project Documentation Information" shall be submitted as an enclosure or attachment to the transmittal letter provided with each electronic digital media submittal.
 - 1) Documentation of the plot file for each drawing which will be needed to be able to duplicate the creation of the plot file by the Owner at a later date. This documentation shall include the plotter configuration (e.g., name and model of plotter), pen settings, drawing orientation, drawing size, and any other special instructions.
 - 2) Instructions concerning how to generate plotted, or hard copy, drawings from the provided plot files.
 - 3) List of all symbols and blocks created for the project.
 - 4) List of any non-IGES crosshatch/patterns used.
 - 5) List of all database files associated with each drawing, as well as a description and documentation of the database format.
 - 6) Recommended modifications which will be necessary to make the data available for GIS use.

G. Ownership:

1. The School Board of Broward County, Florida shall have unlimited rights under the Professional Services Agreement of which this document is a part to all information and materials developed under these and other contractual requirements and furnished to the Owner and documentation thereof, reports, and listings, and all other items pertaining to the work and services pursuant to this agreement including any copyright.
2. Unlimited rights under this contract are rights to use, duplicate, or disclose text, data, drawings, and information, in whole or in part in any manner and for any

purpose whatsoever without compensation to or approval from the Consultant except where otherwise limited within the Contract.

3. The Owner will at all reasonable times have the right to inspect the work and will have access to and the right to make copies of the above-mentioned items.
4. All text, electronic digital files, data, and other products generated under this contract shall become the property of the Owner except where otherwise limited within the Contract.

H. Materials To the Construction Contractor:

1. The Owner and Consultant may make various electronic information available to the Contractor during the Construction phase of the Project. To this end, the Consultant shall make the following information available to the Contractor in electronic format:
 - a. Where electronic media submittals of final site surveys are required: Provide electronic copies of any existing site survey data already on electronic media.
 - b. Where Electronic Project Record Documents are required, the Consultant will provide the Contractor one set of AutoCAD (.dwg) electronic file format contract drawings, to be used for as-built drawings at the Contractor's option. Make electronic file drawings available on the appropriate electronic media.

I. Other Digital Information:

1. A variety of digital information may be generated and used by participants in the design process including the Owner, the Consultant, sub-consultants, Contractor, subcontractors, the Owner's commissioning authority, local jurisdictional authorities etc.
2. The Consultant shall facilitate and participate wherever possible in this digital exchange of information by conforming to the standards expressed above.