

3H-1

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: March 11, 2014 [X] Consent [] Regular
[] Ordinance [] Public Hearing

Department: Facilities Development and Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve:

- A) Termination of a Community Development Block Grant (CDBG) Funding Agreement (R2010-2109) with the City of Pahokee;
- B) Approach to renovation of the Pahokee Gymnasium; and
- C) Delegation of authority to the County Administrator or his designee for execution for all contracts required for the project with a cumulative value not to exceed \$408,400.00 (Phase 1);

Summary: On December 21, 2010, the County entered into an Agreement (R2010-2109) with the City of Pahokee which was amended three times (R2011-1791 dated 11/15/11, R2012-1889 dated 12/8/12, R2013-0910 dated 7/16/13). The Agreement as amended provides \$587,561 in Community Development Block Grant (CDBG) funds for the renovation of the High School Gymnasium located at 360 East Main Street, Pahokee. The City has attempted to timely implement this project, however, the project has been delayed due to a lengthy asbestos abatement process, several changes in the scope of work in an effort to bring the cost within budget. The City has requested that the County's Facilities Development & Operations Department (FDO) implement the project using the \$490,318.00 remaining unexpended funds. Terminating this Agreement will allow the County to undertake the project on behalf of the City. These are Federal CDBG funds which require no local match, however, the County did approve an additional \$175,000 in ad valorem funds be allocated to this project as part of the FY 14 budget. FDO, together with the City, has developed an approach that will renovate the building envelope as Phase 1. This will provide for many recreational opportunities and facilitate public use in the shortest time while preserving the City's option to make additional interior modifications with the limited remaining funding and/or when additional funding is made available. The delegation of authority will allow the design and construct contracts to be awarded expeditiously with the goal of completing Phase 1 before September 2014. (FDO Admin) District 6 (JM)

Background and Justification: This project was determined by the Department of Economic Sustainability to be an eligible activity under the CDBG Program. An allocation of \$335,000 in CDBG funds to the City of Pahokee was approved by the Board of County Commissioners on July 21, 2009, through its approval of Palm Beach County's Action Plan for Fiscal Year 2009-2010 (R2009-1206). An additional allocation of \$195,000 in CDBG funds to the City of Pahokee was approved by the Board of County Commissioners on July 10, 2012, through its approval of Palm Beach County's Action Plan for Fiscal Year 2012-2013 (R2012-0942). An additional \$57,561 was allocated to the project as part of the County's 10th Amendment to the Fiscal Year 2012-2013 Action Plan. There is \$490,318 dollars remaining in the CDBG funding. Ad valorem funding in the amount of \$175,000.00 was budgeted in FY14.

Continued on Page 3

Attachments:

- 1. Location Map
- 2. Agreement (R2010-2109) with the City of Pahokee with Exhibits A to C
- 3. Letter from the City of Pahokee, dated January 22, 2014
- 4. Letter from FDO to City of Pahokee dated January 17, 2014
- 5. Letter from Palm Beach County terminating contract
- 6. "Contract Form"

Recommended By: Annemay Wolf Department Director Date: 2/12/14
 Approved By: [Signature] County Administrator Date: 2/24/14

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2014	2015	2016	2017	2018
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income					
In-Kind Match (County)					
NET FISCAL IMPACT					
# ADDITIONAL FTE POSITIONS (Cumulative)	-0-				

Is Item Included In Current Budget? Yes X No

Budget Account No.:

Fund 1101 Dept 143 Unit 1431 Object 8101 Program Code/Period BG43J/GY09: (\$237,757)

Fund 1101 Dept 143 Unit 1431 Object 8101 Program Code/Period BG43J/GY12: (\$252,561)


Fund 0001 Dept 743 Unit 7171 Object 8101 Program Code/Period : (\$175,000)

B. Recommended Sources of Funds/Summary of Fiscal Impact:

Approval to terminate this Agreement allows the remaining unexpended funds made available through the Agreement to be unencumbered and re-encumbered into an account for use by FDO. Additionally, this Board Item makes available \$175,000 in ad valorem funds budgeted in FY 14.

There is no fiscal impact associated with this item. All future expenses associated with this project will be from the accounts listed above.

C. Departmental Fiscal Review:


Larry Schaner, Fiscal Manager 2

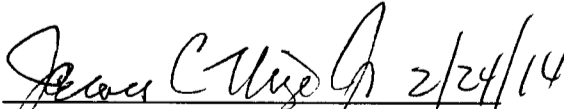
III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:


OFMB 2/14 2/18


Contract Development and Control 2/21/14

B. Legal Sufficiency:


Assistant County Attorney 2/24/14

C. Other Department Review:


Department Director

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

Page 3
Background and Justification

FDO and its consultants, structural engineers, roofers and general contractors evaluated the facility and made recommendations that are summarized in the FDO letter to the City dated January 17, 2014 and is Attachment 5 to this item. The evaluation confirms what has hindered this project's initiation and completion. As a result, the following phasing was suggested by FDO and accepted by the City.

PHASE 1:

- Lower roof replacements
- Wood deck overhangs
- Structural HVAC curbs for existing and future units.
- Electrical work associated with relocation of ac service lines only to complete roof work.
- Stucco repair replace plywood/stucco with metal framing.
- Weatherproofing to include surface crack patching, hi-build primer and final coat of paint.

At the end of Phase 1, the priority of sealing the building envelope would have been accomplished and many recreational opportunities would exist within the sealed structure. Additionally, this approach would facilitate public use in the shortest time while preserving the City's option to make additional interior modifications when additional funding is made available.

PHASE 2:

- HVAC. Engineering, procurement and replacement of the two (2) additional roof top units for the non-gym area.

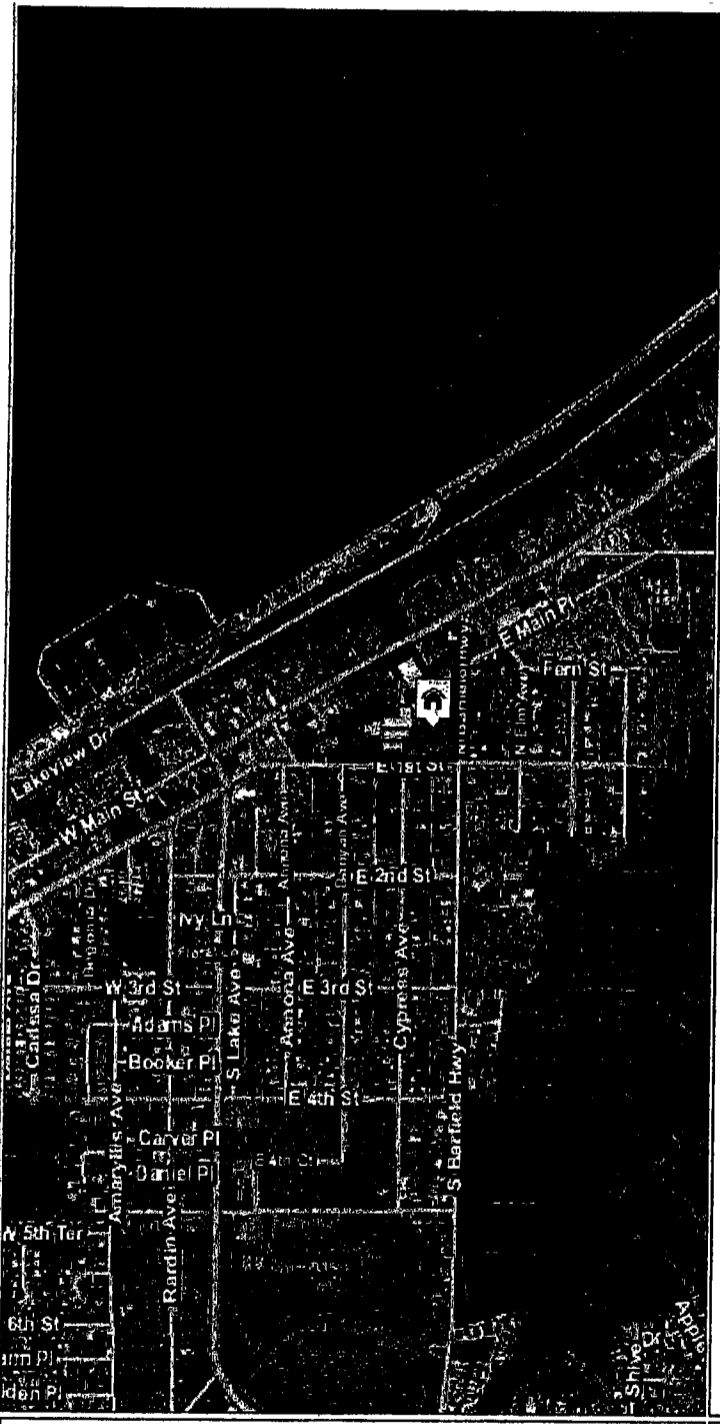
At the completion of Phase 2, there will likely be \$150,000 or less of the cumulative project budget of \$665,000 for interior modifications.

PHASE 3:

- Interior modifications to be determined based on budget availability..

ATTACHMENT 1

LOCATION MAP



Layer Information	
XY (Long,Lat)	XY: -80.6617775,26.8244408
Parcels Distance: 0 ft	
Parcel Number:	48374218180000053
Area(sqft):	377762.96
Acres:	8.67
Owner:	PAHOKEE CITY OF LESSOR
Location:	360 E MAIN ST
Mailing:	171 N LAKE AVE
City:	PAHOKEE
State:	FL
Zipcode:	33476
Roads Distance: 172 ft	
SegmentId:	29132
Left Range:	101 - 190
Right Range:	100 - 190
Street:	N Barfield Hwy
L/R Zipcode:	33476/33476
L/R Muni:	PAHOKEE/PAHOKEE
RESP_AUTH:	MUN
TFARE_ROW:	NA
Speed Limit:	25
Lanes:	2
CFCC:	A30

Pahokee High School Gymnasium
produced by: myGeoNav



ATTACHMENT 2

AGREEMENT BETWEEN PALM BEACH COUNTY

AND

CITY OF PAHOKEE

R2010 2109

THIS AGREEMENT, entered into this _____ day of DEC 21 2010, by and between Palm Beach County, a political subdivision of the State of Florida, for the use and benefit of its Community Development Block Grant Program, and the City of Pahokee, a municipality duly organized and existing by virtue of the laws of the State of Florida, having its principal office at 171 North Lake Avenue, Pahokee, Florida 33476.

WHEREAS, Palm Beach County has entered into an agreement with the United States Department of Housing and Urban Development for a grant for the execution and implementation of a Community Development Block Grant Program in certain areas of Palm Beach County, pursuant to Title I of the Housing and Community Development Act of 1974 (as amended); and

WHEREAS, Palm Beach County, in accord with the annual Action Plan, and the City of Pahokee, desire to provide the activities specified in Part II of this Agreement; and

WHEREAS, Palm Beach County desires to engage the City of Pahokee to implement such undertakings of the Community Development Block Grant Program.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, it is agreed as follows:

PART I

DEFINITION AND PURPOSE

1. DEFINITIONS

- (1) "County" means Palm Beach County.
- (2) "CDBG" means the Community Development Block Grant Program of Palm Beach County.
- (3) "HCD" means Palm Beach County Housing and Community Development.
- (4) "Municipality" means the City of Pahokee.
- (5) "HCD Approval" means the written approval of the HCD Director or his designee.
- (6) "U.S. HUD" means the Secretary of Housing and Urban Development or a person authorized to act on its behalf.
- (7) "Low and moderate income persons" means the definition set by U.S. HUD.

2. PURPOSE

The purpose of this Agreement is to state the covenants and conditions under which the Municipality will implement the Scope of Services set forth in Part II of this Agreement.

PART II

SCOPE OF SERVICES

The Municipality shall, in a satisfactory and proper manner as determined by HCD, perform the tasks necessary to conduct the program outlined in Exhibit "A" as attached hereto and made a part hereof.

PART III

COMPENSATION, TIME OF PERFORMANCE, METHOD, AND CONDITIONS OF PAYMENT

1. MAXIMUM COMPENSATION

The Municipality agrees to accept as full payment for services rendered pursuant to this Agreement the actual amount of budgeted, eligible, and HCD Director or designee-approved expenditures and encumbrances made by the Municipality under this Agreement, which shall not be unreasonably withheld. Said services shall be performed in a manner satisfactory to HCD. In no event shall the total compensation or reimbursement to be paid hereunder exceed the maximum and total authorized sum of \$335,000 for the period of December 21, 2010 through and including November 30, 2011. Any funds not obligated by the expiration date of this Agreement shall automatically revert to the County.

2. TIME OF PERFORMANCE

The effective date of this Agreement and all rights and duties designated hereunder are contingent upon the timely release of funds for this project by U. S. HUD under grant No. B-09-UC-12-0004. The effective date shall be the date of execution of this Agreement, and the services of the Municipality shall be undertaken and completed in light of the purposes of this Agreement. In any event, all services required hereunder shall be completed by the Municipality prior to November 30, 2011.

3. METHOD OF PAYMENT

The County agrees to make payments and to reimburse the Municipality for all budgeted costs permitted by Federal, State, and County guidelines. The Municipality shall not request reimbursement for payments made by the Municipality before the effective date of this Agreement, nor shall it request reimbursement for payments made after the expiration date of this Agreement, and in no event shall the County provide advance funding to the Municipality or any subcontractors hereunder. The Municipality shall request payments or reimbursements from the County by submitting to HCD proper documentation of expenditures consisting of originals of invoices, receipts, or other evidence of indebtedness, and when original documents cannot be presented, the Municipality may furnish copies if deemed acceptable by HCD. Each request for payment or reimbursement submitted by the Municipality shall be accompanied by a letter from the Municipality, provided on the Municipality's letterhead, referencing the name of the project funded herein, the date of this Agreement and/or its document number, and containing a statement requesting the payment or reimbursement and its amount, as well as the name and signature of the person making the request. Payment shall be made by the Palm Beach County Finance Department upon presentation of the aforesaid proper documentation of expenditures as approved by HCD. The Municipality may at any time after the expiration of this agreement request from the County reimbursement for payments made by the Municipality during the term of this Agreement by submitting to HCD the aforesaid proper documentation of expenditures, and the Palm Beach County Finance Department shall make payment as stated above, provided that HCD has determined that the funds allocated to the Municipality through this agreement are still available for payment, and provided that HCD approves such payment.

4. CONDITIONS ON WHICH PAYMENT IS CONTINGENT

(1) IMPLEMENTATION OF PROJECT ACCORDING TO REQUIRED PROCEDURES

The Municipality shall implement this Agreement in accordance with applicable Federal, State, County, and local laws, ordinances and codes and with the procedures outlined in HCD Policies and Procedures memoranda. The Federal, State, and County laws, ordinances and codes are minimal regulations supplemented by more restrictive guidelines set forth by HCD. No payments for projects funded by more than one funding source will be made until a cost allocation plan has been approved by the HCD Director or designee. Should a project receive additional funding after the commencement of this Agreement, the Municipality shall notify HCD in writing within thirty (30) days of receiving notification from the funding source and submit a cost allocation plan for approval by the HCD Director or designee within forty-five (45) days of said official notification.

CITY OF PAHOKEE

- (2) FINANCIAL ACCOUNTABILITY
The County may have a financial systems analysis and/or an audit of the Municipality, or of any of its subcontractors, by an independent auditing firm employed by the County or by the County Internal Audit Department at any time the County deems necessary to determine if the project is being managed in accordance with Federal, State, and County requirements.
- (3) SUBCONTRACTS
Any work or services subcontracted hereunder shall be specifically by written contract, written agreement, or purchase order. All subcontracts shall be submitted by the Municipality to HCD and approved by HCD prior to execution of any subcontract hereunder. All subcontracts shall be subject to Federal, State and County laws and regulations. This includes ensuring that all consultant contracts and fee schedules meet the minimum standards as established by the Palm Beach County Engineering Department and U.S. HUD. Contracts for architecture, engineering, survey, and planning shall be fixed fee contracts.
All additional services shall have prior written approval with support documentation detailing categories of persons performing work plus hourly rates including benefits, number of drawings required, and all items that justify the "Fixed Fee Contract." Reimbursables will be at cost. None of the work or services covered by this Agreement, including, but not limited to, consultant work or services, shall be subcontracted or reimbursed without prior written approval of the HCD Director or his designee.
- (4) PURCHASING
All purchasing for services and goods, including capital equipment, shall be made by purchase order or by a written contract and in conformity with the procedures prescribed by the Palm Beach County Purchasing Code, as well as Federal Management Circulars A-87, A-102, A-128, and 24CFR Part 85 (also known as the Common Rule), which are incorporated herein by reference.
- (5) REPORTS, AUDITS, AND EVALUATIONS
Payment will be contingent on the timely receipt of complete and accurate reports required by this Agreement, and on the resolution of monitoring or audit findings identified pursuant to this Agreement.
- (6) ADDITIONAL HCD, COUNTY, AND U.S. HUD REQUIREMENTS
HCD shall have the right under this Agreement to suspend or terminate payments if after 15 days written notice the Municipality has not complied with any additional conditions that may be imposed, at any time, by HCD, the County, or U.S. HUD.
- (7) PRIOR WRITTEN APPROVALS-SUMMARY
The following activities among others require the prior written approval of the HCD Director or designee to be eligible for reimbursement or payment:
- (a) All subcontracts and agreements pursuant to this Agreement;
 - (b) All capital equipment expenditures of \$1,000 or more;
 - (c) All out-of-county travel; (travel shall be reimbursed in accordance with Florida Statutes, Chapter 112.061);
 - (d) All change orders;
 - (e) All requests to utilize uncommitted funds after the expiration of this Agreement for programs described in Exhibit A; and
 - (f) All rates of pay and pay increases paid out of CDBG funds, whether for merit or cost of living.
- (8) PROGRAM-GENERATED INCOME
All income earned by the Municipality from activities financed in whole or in part by funds provided hereunder must be reported to HCD. Such income would include, but not be limited to, income from service fees, sale of commodities, and rental or usage fees. Such income shall only be used to undertake the activities authorized by this Agreement. Accounting and disbursement of such income shall comply with OMB Circular A-102 and other applicable regulations incorporated herein by reference.

PART IV

GENERAL CONDITIONS1. OPPORTUNITIES FOR RESIDENTS AND CIVIL RIGHTS COMPLIANCE

The Municipality agrees that no person shall on the ground of race, color, disability, national origin, religion, age, financial status, familial status, marital status, sexual orientation, gender, or gender identity or expression, be excluded from the benefits of, or be subjected to discrimination under any activity carried out by the performance of this Agreement. Upon receipt of evidence of such discrimination, the County shall have the right to terminate this Agreement.

To the greatest extent feasible, lower-income residents of the project areas shall be given opportunities for training and employment; and to the greatest feasible extent eligible business concerns located in or owned in substantial part by persons residing in the project areas shall be awarded contracts in connection with the project. The Municipality shall comply with the Section 3 Clause of the Housing and Community Development Act of 1968.

2. OPPORTUNITIES FOR SMALL AND MINORITY/WOMEN-OWNED BUSINESS ENTERPRISES

In the procurement of supplies, equipment, construction, or services to implement this Agreement, the Municipality shall make a positive effort to utilize small business and minority/women-owned business enterprises of supplies and services, and provide these sources the maximum feasible opportunity to compete for contracts to be performed pursuant to this Agreement. To the maximum extent feasible these small business and minority/women-owned business enterprises shall be located in or owned by residents of the CDBG areas designated by Palm Beach County in the CDBG Annual Consolidated Plan approved by U.S. HUD.

3. PROGRAM BENEFICIARIES

At least fifty-one percent (51%) of the beneficiaries of a project funded through this Agreement must be low- and moderate- income persons. If the project is located in an entitlement city, as defined by U.S. HUD, or serves beneficiaries countywide, at least fifty-one percent (51%) of the beneficiaries directly assisted through the use of funds under this Agreement must reside in unincorporated Palm Beach County or in municipalities participating in the County's Urban County Qualification Program. The project funded under this Agreement shall assist beneficiaries as defined above for the time period designated in this Agreement. The Municipality shall provide written verification of compliance to HCD upon HCD's request.

4. EVALUATION AND MONITORING

The Municipality agrees that HCD will carry out periodic monitoring and evaluation activities as determined necessary by HCD or the County and that payment, reimbursement, or the continuation of this Agreement is dependent upon satisfactory evaluation conclusions based on the terms of this Agreement. The Municipality agrees to furnish upon request to HCD, the County, or the County's designees copies of transcriptions of such records and information as is determined necessary by HCD or the County. The Municipality shall submit status reports required under this Agreement on forms approved by HCD to enable HCD to evaluate progress. The Municipality shall provide information as requested by HCD to enable HCD to complete reports required by the County or HUD. The Municipality shall allow HCD, the County, or HUD to monitor the Municipality on site. Such visits may be scheduled or unscheduled as determined by HCD or HUD.

5. AUDITS AND INSPECTIONS

At any time during normal business hours and as often as HCD, the County, U.S. HUD, or the Comptroller General of the United States may deem necessary, there shall be made available by the Municipality to HCD, the County, U.S. HUD, or the Comptroller General for examination all its records with respect to all matters covered by this Agreement.

If during the year, the Municipality expends over \$500,000 of Federal awards, the Municipality shall comply with the provisions of OMB Circular A-133. The Municipality shall submit a single audit, including any management letter, made in accordance with the general program requirements of OMB Circulars A-110, A-122, A-133, and other applicable regulations within the earlier of, 30 days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period in which HCD-administered funds are expended. Said audit shall be made by a Certified Public Accountant of the Municipality's choosing, subject to the County's approval. In the event the Municipality anticipates a delay in producing such audit, the Municipality shall request an extension in advance of the deadline. The cost of said audit shall be borne by the Municipality. In the event the Municipality is exempt from having an audit conducted under A-133, the Municipality shall submit audited financial statements and/or the County reserves the right to conduct a "limited scope audit" of the Municipality as defined by A-133. The County will be responsible for providing technical assistance to the Municipality, as deemed necessary by the County.

CITY OF PAHOKEE

6. UNIFORM ADMINISTRATIVE REQUIREMENTS

The Municipality agrees to comply with the applicable uniform administrative requirements as described in Federal Community Development Block Grant Regulations 24 CFR 570.502.

7. REVERSION OF ASSETS

Upon expiration of this Agreement, the Municipality shall transfer to the County any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. Any real property under the Municipality's control upon expiration of this Agreement which was acquired or improved in whole or part with CDBG in the excess of \$25,000 must either be used to meet one of the national objectives in Federal Community Development Block Grant Regulations 24 CFR 570.508 for a period of five years after expiration of this Agreement (unless a longer period is specified elsewhere in this Agreement), or, the Municipality shall pay the County an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property.

8. DATA BECOMES COUNTY PROPERTY

All reports, plans, surveys, information, documents, maps, and other data procedures developed, prepared, assembled, or completed by the Municipality for the purpose of this Agreement shall be made available to the County by the Municipality at any time upon request by the County or HCD. Upon completion of all work contemplated under this Agreement copies of all documents and records relating to this Agreement shall be surrendered to HCD if requested. In any event the Municipality shall keep all documents and records for five (5) years after expiration of this Agreement.

Notwithstanding any other provision in this Agreement, all documents, records, reports and any other materials produced hereunder shall be subject to disclosure, inspection and audit, pursuant to the Palm Beach County Office of Inspector General Ordinance 2009-049, as may be amended.

9. INDEMNIFICATION

Each party to this Agreement shall be liable for its own actions and negligence and, to the extent permitted by law, the County shall indemnify, defend, and hold harmless the Municipality against any actions, claims, or damages arising out of the County's negligence in connection with this Agreement, and the Municipality shall indemnify, defend, and hold harmless the County against any actions, claims, or damages arising out of the Municipality's negligence in connection with this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statute, section 768.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligent, willful or intentional acts or omissions. The Municipality shall hold the County harmless and shall indemnify the County for funds which the County is obligated to refund the Federal Government arising out of the conduct of activities and administration of the Municipality. The provisions of this indemnification clause shall survive the termination of this Agreement.

10. INSURANCE

Without waiving the right to sovereign immunity as provided by Florida Statute, Chapter 768.28, the Municipality reserves the right to self-insure for General Liability and Automobile Liability under Florida's sovereign immunity statute with coverage limits of \$100,000 Per Person and \$200,000 Per Occurrence; or such monetary waiver limits that may change and be set forth by the legislature. In the event the Municipality maintains Commercial General Liability or Business Auto Liability, the Municipality agrees to maintain said insurance policies at limits not less than \$100,000 Per Person and \$200,000 Per Occurrence. The Municipality agrees to endorse Palm Beach County Board of County Commissioners as an "Additional Insured" to the Commercial General Liability, but only with respect to negligence other than County's negligence arising out of this project or Agreement. **This paragraph does not apply to liability policies which afford only indemnity based claims-bill coverage.**

The Municipality agrees to maintain, or self-insure, Worker's Compensation & Employer's Liability insurance in accordance with Florida Statute, Chapter 440.

The Municipality agrees to provide a statement, or Certificate of Insurance, evidencing insurance or self-insurance for the above required coverages, which the Municipality shall deliver to HCD at its office at 100 Australian Avenue, Suite 500, West Palm Beach, Florida 33406.

CITY OF PAHOKEE

The Municipality agrees its self-insurance or insurance shall be primary as respects to any coverage afforded to or maintained by County.

The Municipality agrees compliance with the foregoing insurance requirements is not intended to nor construed to relieve the Municipality of its liability and obligations under this Agreement.

11. MAINTENANCE OF EFFORT

The intent and purpose of this Agreement is to increase the availability of the Municipality's services. This Agreement is not to substitute for or replace existing or planned projects or activities of the Municipality. The Municipality agrees to maintain a level of activities and expenditures, planned or existing, for projects similar to those being assisted under this Agreement which is not less than that level existing prior to this Agreement.

12. CONFLICT OF INTEREST

The Municipality covenants that no person who presently exercises any functions or responsibilities in connection with the Project, has any personal financial interest, direct or indirect, in the target areas or any parcels therein, which would conflict in any manner or degree with the performance of this Agreement and that no person having any conflict of interest shall be employed by or subcontracted by the Municipality. Any possible conflict of interest on the part of the Municipality or its employees shall be disclosed in writing to HCD provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the statutory requirement that maximum opportunity be provided for employment of and participation of low and moderate-income residents of the project area.

13. CITIZEN PARTICIPATION

The Municipality shall cooperate with HCD in the implementation of the Citizen Participation Plan by establishing a citizen participation process to keep residents informed of the activities the Municipality is undertaking in carrying out the provisions of this Agreement. Representatives of the Municipality shall attend meetings and assist HCD in the implementation of the Citizen Participation Plan, as requested by HCD.

14. RECOGNITION

All facilities purchased or constructed pursuant to this Agreement shall be clearly identified as to funding source. The Municipality will include a reference to the financial support herein provided by HCD in all publications and publicity. In addition, the Municipality will make a good faith effort to recognize HCD's support for all activities made possible with funds made available under this Agreement.

15. AGREEMENT DOCUMENTS

The following documents are herein incorporated by reference and made a part hereof, and shall constitute and be referred to as the Agreement; and all of said documents taken as a whole constitute the Agreement between the parties hereto and are as fully a part of the Agreement as if they were set forth verbatim and at length herein:

- (1) This Agreement, including its Exhibits;
- (2) Office of Management and Budget Circulars A-87, A-102, A-133, and 24CFR Part 85;
- (3) Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Title II of the Americans with Disabilities Act of 1990;
- (4) Executive Orders 11246, 11478, 11625, 12432, the Davis Bacon Act, and Section 3 of the Housing and Community Development Act of 1968, and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended;
- (5) Executive Orders 11063, 12259, 12892, the Fair Housing Act of 1988, and Section 109 of the Housing and Community Development Act of 1974, as amended;
- (6) Florida Statutes, Chapter 112;
- (7) Palm Beach County Purchasing Code;
- (8) Federal Community Development Block Grant Regulations (24 CFR Part 570), and Federal Consolidated Plan Regulations (24 CFR Part 91), as amended;
- (9) The Municipality's personnel policies and job descriptions; and
- (10) The Municipality's Certificate of Insurance.

All of these documents will be maintained on file at HCD. The Municipality shall keep an original of this Agreement, including its Exhibits, and all amendments thereto, on file at its principal office.

CITY OF PAHOKEE

16. TERMINATION

In event of termination for any of the following reasons, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports prepared, and capital equipment secured by the Municipality with funds under this Agreement shall be returned to HCD or the County.

In the event of termination, the Municipality shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Agreement by the Municipality, and the County may withhold any payment to the Municipality for set-off purposes until such time as the exact amount of damages due to the County from the Municipality is determined.

(1) TERMINATION FOR CAUSE

If through any cause either party shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if either party shall violate any of the covenants, agreements, or stipulations of this Agreement, either party shall thereupon have the right to terminate this Agreement in whole or part by giving a fifteen (15) working day written notice of such termination to the other party and specifying therein the effective date of termination.

(2) TERMINATION FOR CONVENIENCE

At any time during the term of this Agreement, either party may, at its option and for any reason, terminate this Agreement upon ten (10) working days written notice to the other party. Upon termination, the County shall pay the Municipality for services rendered pursuant to this Agreement through and including the date of termination.

(3) TERMINATION DUE TO CESSATION

In the event the grant to the County under Title I of the Housing and Community Development Act of 1974 (as amended) is suspended or terminated, this Agreement shall be suspended or terminated effective on the date the U.S. HUD specifies.

17. SEVERABILITY OF PROVISIONS

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

18. AMENDMENTS

The County may, at its discretion, amend this Agreement to conform with changes required by Federal, State, County, or U.S. HUD guidelines, directives, and objectives. Such amendments shall be incorporated by written amendment as a part of this Agreement and shall be subject to approval of the Palm Beach County Board of County Commissioners. Except as otherwise provided herein, no amendment to this Agreement shall be binding on either party unless in writing, approved by the Board of County Commissioners and the governing body of the Municipality, and signed by both parties.

19. NOTICES

All notices required to be given under this Agreement shall be sufficient when delivered to HCD at its office at 100 Australian Avenue, Suite 500, West Palm Beach, Florida 33406, and to the Municipality when delivered to its address on page one (1) of this Agreement.

20. INDEPENDENT AGENT AND EMPLOYEES

The Municipality agrees that, in all matters relating to this Agreement, it will be acting as an independent agent and that its employees are not Palm Beach County employees and are not subject to the County provisions of the law applicable to County employees relative to employment, hours of work, rates of compensation, leave, unemployment compensation and employee benefits.

21. NO FORFEITURE

The rights of the County under this Agreement shall be cumulative and failure on the part of the County to exercise promptly any rights given hereunder shall not operate to forfeit or waive any of the said rights.

22. PUBLIC ENTITY CRIMES

As provided in F.S. 287.133 by entering into this Agreement or performing any work in furtherance hereof, the Municipality certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133 (3)(a).


CITY OF PAHOKEE

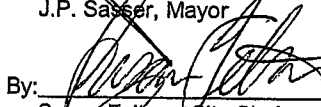
- 23. **PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL**
Pursuant to Ordinance No. 2009-049, Palm Beach County has established the Office of the Inspector General, which is authorized and empowered to review past, present and proposed County agreements, contracts, transactions, accounts and records. All parties doing business with the County and receiving County funds, including the Municipality, shall fully cooperate with the Inspector General. The Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and to audit, investigate, monitor, and inspect the activities of the Municipality, its officers, agents, employees, and lobbyists in order to ensure compliance with this Agreement and to detect waste, corruption and fraud.
- 24. **COUNTERPARTS OF THE AGREEMENT**
This Agreement, consisting of seventeen (17) enumerated pages which include the exhibits referenced herein, shall be executed in three (3) counterparts, each of which shall be deemed to be an original, and such counterparts will constitute one and the same instrument. A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.
- 25. **ENTIRE UNDERSTANDING**
This Agreement and its provisions merge any prior agreements, if any, between the parties hereto and constitutes the entire understanding. The parties hereby acknowledge that there have been and are no representations, warranties, covenants, or undertakings other than those expressly set forth herein.

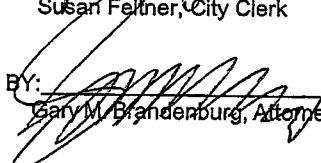
WITNESS our Hands and Seals on this _____ day of DEC 21 2010, 20__.

(MUNICIPALITY SEAL BELOW)

CITY OF PAHOKEE

BY: 
J.P. Sasser, Mayor

By: 
Susan Feltner, City Clerk

By: 
Gary M. Brandenburg, Attorney for Municipality


(COUNTY SEAL BELOW)

PALM BEACH COUNTY, FLORIDA, a
Political Subdivision of the State of Florida

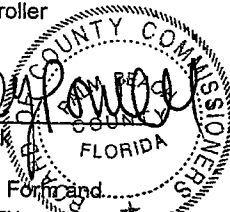
BOARD OF COUNTY COMMISSIONERS

By: 
Chair **Karen T. Marcus**
Board of County Commissioners


ATTEST: Sharon R. Bock,
Clerk & Comptroller

By: 
Deputy Clerk

Approved as to Form and
Legal Sufficiency



Document No.: R2010 2109

By: 
Tammy K. Fields
Senior Assistant County Attorney

Approved as to Terms and Conditions
Dept. of Housing and Community Development

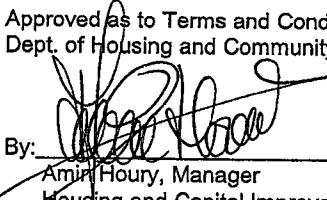
By: 
Amir Houry, Manager
Housing and Capital Improvements

EXHIBIT A
WORK PROGRAM NARRATIVE

I. THE MUNICIPALITY AGREES TO:

- A. **PROFESSIONAL SERVICES:** The Municipality shall advertise and procure the services of a design consultant (a Florida professional engineer or a Florida registered architect) for this project to provide design services to create plans and specifications for the below described restroom project located at Pahokee High School Gymnasium in the City of Pahokee. The consultant shall also prepare, obtain and review bids, prepare contract documents, inspect work in progress, recommend payment to contractors, and provide other professional services customarily provided by similar professionals for this type of project. The consultant shall also coordinate the design and construction work with the asbestos abatement contractor.

The procurement process of the consultant shall incorporate any sub-consultants which shall be funded as reimbursables under the consultant's contract for services. Reimbursement for sub-consultants shall be at cost. Such sub-consultants may include surveyors, testing services, or others as deemed necessary for the nature of the project. (Note: The consultant's compensation shall not be based on a percentage of construction costs, nor a cost plus percentage of cost).

- B. **PROJECT SCOPE:** The scope of this project subject to funding availability shall include the following renovation work at the old Pahokee High School Gymnasium building located at 360 East Main Street in the City of Pahokee:

The renovation work will include, but not be limited to, roofing, replacement of doors and windows, flooring, re-partitioning of walls, painting, plumbing, electrical, lighting, bathroom fixtures, air conditioning, repair of the exterior walls, compliance with ADA standards, and replacement of water and sewer lines serving the gymnasium building.

➤ The project does not include the purchase of appliances, furniture, or equipment.

The Municipality hereby acknowledges the presence of asbestos at various locations in the gymnasium building as communicated to the Municipality by HCD. The Municipality agrees to abate all asbestos containing materials that will be disturbed as a result of the renovation in accord with HCD's requirements which have already been provided to the Municipality. Funding for the above described renovation work shall be subject to the Municipality's completion of the asbestos abatement in a manner satisfactory to HCD.

NOTE 1: The Municipality assures the County that the amount of contract for the consultant's services it intends to procure in connection with this Agreement shall be less than \$50,000. Accordingly, the Municipality's procurement of the consultant shall be an informal competitive proposal process in compliance with the Palm Beach County Purchasing Code and other purchasing requirements contained herein. Should the cost of the consultant be \$50,000, or more, then the Municipality shall follow a formal competitive proposal process.

The Municipality understands that the aforesaid informal competitive proposal process for the procurement of its consultant is set forth as Request for Submittal (RFS) in the Palm Beach County Purchasing Code, and the Municipality agrees to procure these services according to the requirements contained therein.

Before seeking submittals from consultants, the Municipality shall submit the following to HCD and obtain HCD's approval to proceed with the solicitation of submittals: a copy of the RFS document that describes the project and the consultant's desired scope of work, that contains the public entity crimes statement if required by F.S. 287.133, and that specifies the factors to be used to evaluate respondents. At minimum, the solicitation shall seek a description of the respondents' approach and understanding of the project, and a description of the work proposed by the respondents to complete the project. The solicitation may seek work references from respondents, and a price for their services.

NOTE 2: After receiving and evaluating proposals, the Municipality shall obtain HCD approval prior to awarding the contract for consultant services to be funded through this Agreement. In this regard, the Municipality shall provide a letter to HCD transmitting the following: documentation showing how the solicitation was publicized, a list of firms that submitted proposals, documentation showing how the submittals were ranked, and a recommendation to as to which consultant is to be awarded the consultant services contract with a justification for the recommended award.

CITY OF PAHOKEE

NOTE 3: Should the Municipality use brand names in the bid package/drawings/specifications for the construction work to be undertaken for this project then these documents must:

- (a) Clearly note that the specified brand name is used for descriptive purposes only, and
- (b) State that "equal" equipment or materials will be accepted, and
- (c) Identify the minimum requirements to establish equality.

The Municipality understands that the use of more than one brand name shall not be regarded as having met the above requirements.

NOTE 4: The Municipality shall submit its bid package/drawings/specifications, and an itemized opinion of probable construction cost prepared by its consultant, to HCD and obtain a letter of approval prior to bidding the construction work. Prior to submitting its bid package/drawings/specifications to HCD, the Municipality shall assure that the City of Pahokee building department has reviewed the drawings/specifications and that these drawings/specifications comply with all applicable building and zoning codes. Furthermore, the Municipality shall obtain HCD approval prior to issuing any addenda to its bid documents for this project.

NOTE 5: The Municipality shall prioritize the work in the project, and shall bid such work in a manner that would allow the receipt of itemized costs from bidders which would then allow the award of items that can be funded by the budget provided that the extent of work awarded will result in a functioning facility in the opinion of HCD.

NOTE 6: The Municipality shall assure that neither the prime contractor nor any subcontractor shall be allowed to perform one hundred percent (100%) of their work on this project on nights, weekends, or County recognized holidays, and shall assure that the prime contractor and all subcontractors shall, at a minimum, perform work on this project for the duration of one regular working day. The Municipality may request HCD for a waiver to the above requirement should the nature of the project so necessitate, and in such instance, HCD may, at its discretion, grant the Municipality such waiver.

NOTE 6: The Municipality shall not award the construction contract for the project until sufficient funding is available to complete the established scope of work. All construction work shall be included in one contract. The Municipality shall obtain HCD approval prior to awarding the construction contract to be funded through this Agreement. After awarding such contract, the Municipality shall obtain HCD approval prior to executing any change orders to such contract.

NOTE 7: Should the construction contract amount for this project exceed the amount to be funded by the County for construction costs through this Agreement, then the Municipality shall fund all amounts in excess of the amount to be funded by the County. The Municipality may request the County to participate with a portion of the County's funding for construction costs first prior to participating with its funds. Under such a scenario, the Municipality would disburse an amount up to 75% of the County's funding amount made available for the project through this Agreement for construction costs and request reimbursement from the County for such amount, then disburse its portion of funding for the project (without being reimbursed by the County for such amount), and finally, the Municipality would disburse an amount equivalent to the County's remaining funding amount made available for the project through this Agreement for construction costs and request reimbursement from the County for such amount.

NOTE 8: The Municipality shall not request reimbursement from HCD for materials or equipment received and stored on the project site or elsewhere. The Municipality shall only request reimbursement for materials and equipment that have been installed.

The Municipality further agrees that HCD, in consultation with any parties it deems necessary, shall be the final arbiter on the Municipality's compliance with the above.

- C. **ASBESTOS REQUIREMENTS:** The Municipality shall comply with all applicable requirements contained in Exhibit C, attached hereto, for construction work in connection with the project funded through this Agreement.
- D. **DAVIS-BACON ACT:** The Municipality shall request the County to obtain a Davis-Bacon wage decision for the project prior to advertising the construction work. The Municipality shall incorporate a copy of the Davis-Bacon wage decision and disclose the requirements of the Davis-Bacon Act in its construction bid solicitation and contract.

CITY OF PAHOKEE

- E. **BONDING REQUIREMENTS:** The Municipality shall comply with the requirements of 24 CFR Part 85 in regard to bid guarantees, performance bonds, and payment bonds. For contracts exceeding \$100,000, the Municipality shall require a bid guarantee from each bidder equivalent to five percent (5%) of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified. In addition, for contracts exceeding \$100,000, the Municipality shall also require a performance bond on the part of the contractor for 100 percent (100%) of the contract price and a payment bond on the part of the contractor for 100 percent (100%) of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract. All bonds shall be executed by a corporate surety company of recognized standing, authorized to do business in the State of Florida. The Municipality may follow its own requirements relating to bid guarantees, performance bonds, and payment bonds for contracts of \$100,000, or less.
- F. **CONSTRUCTION PAYMENT RETAINAGE:** The Municipality shall apply a retainage of at least 5% on all construction draws which retainages shall be released in conjunction with the final draw upon satisfactory completion of the project. The Municipality agrees not to release such retainages until it has obtained approval from the County that the contractor and subcontractors have complied with the requirements of the Davis-Bacon Act.
- G. **FORMER PROJECTS:** The Municipality shall maintain all previously completed CDBG funded projects. Failure to do so will result in forfeiture of future CDBG funds and will delay funding for ongoing activities.
- H. **WORK SCHEDULE:** The time frame for completion of the outlined activities shall be November 30, 2011.

Procure the services of the consultant by	JAN	31, 2011
Award construction services contract by	FEB	28, 2011
Complete Design & Bid Documents by	MAY	15, 2011
Advertise & Accept Bids by	JUN	15, 2011
Award Contract by	JUL	15, 2011
Start Construction by	JUL	31, 2011
Complete Construction by	NOV	15, 2011
Submit Final Reimbursement Request by	NOV	30, 2011

- I. **REPORTS:** The Municipality shall submit to HCD detailed monthly progress reports in the form provided as Exhibit B to this Agreement. Each report must account for the total activity for which the Municipality is funded under this Agreement. The progress reports shall be used by HCD to assess the Municipality's progress in implementing the project.
- J. **USE OF THE PROJECT FACILITY:** The Municipality agrees in regard to the use of the facility/property whose acquisition or improvements are being funded in part or in whole by CDBG funds as provided by this Agreement, that for a period of ten (10) years after the expiration date of this Agreement (as may be amended from time to time):
 - (a) The Municipality may not change the use or planned use, or discontinue use, of the facility/property (including the beneficiaries of such use) from that for which the acquisition or improvements are made, unless the Municipality provides affected citizens with reasonable notice of, and opportunity to comment on, any such proposed change and either:
 - 1. The new use of the facility/property qualifies as meeting one of the national objectives defined in the regulations governing the CDBG program, and is not a building for the general conduct of government; or
 - 2. The requirements of paragraph (b) of this section are met.
 - (b) If the Municipality determines after consultation with affected citizens, that it is appropriate to change the use of the facility/property to a use which does not qualify under paragraph (a) (1) of this section or discontinue the use of the facility/property, it may retain or dispose of the facility for such use if the County is reimbursed in the amount of the current fair market value of the facility/property less any portion thereof attributable to expenditures of non-CDBG funds for acquisition of, or improvements to the facility/property. The final determination of the amount of any such reimbursement to the County under this paragraph shall be made by the County.

CITY OF PAHOKEE

- (c) Following the reimbursement of CDBG funds by the Municipality to the County pursuant to paragraph (b) above, the facility/property will then no longer be subject to any CDBG requirements.

The provisions of this clause shall survive the expiration of this Agreement.

- K. **SECTION 3 REQUIREMENTS:** The Municipality agrees to comply with all Section 3 requirements applicable to contracts funded through this Agreement. Information on Section 3 is available at HCD upon request. The Municipality shall include the following, referred to as the Section 3 Clause, in every solicitation and every contract for every Section 3 covered project:

Section 3 Clause

- (a) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U. S.C. 170 1u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's requirements in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers representative of the contractor's commitment under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- (d) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- (f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

THIS SPACE HAS BEEN INTENTIONALLY LEFT BLANK

CITY OF PAHOKEE

II. THE COUNTY AGREES TO:

- A. Provide funding for the above specified consultant services and improvements as described above in "Project Scope", during the term of this Agreement, in the amount of \$335,000. However, the County shall not provide any funding for the construction work until the Municipality provides documentation showing that sufficient funds are available to complete the project.
- B. Provide project administration and inspection to the Municipality to ensure compliance with U.S. HUD and the Department of Labor, and applicable State, Federal and County laws and regulations.
- C. Monitor the Municipality at any time during the term of this Agreement. Visits may be announced or unannounced as determined by HCD and will serve to ensure compliance with U.S. Department of HUD regulations, that planned activities are conducted in a timely manner, and to verify the accuracy of reporting to HCD on program activities.
- D. The County shall perform an environmental review of the project, and review and approve project design and bids submitted for the work. The County shall also perform Davis Bacon Act Labor Standards monitoring and enforcement. Environmental review costs incurred by the County may be charged to the project budget identified above.
- E. Allowable costs that may be paid by the County under this Agreement in addition to those stated in II.A above:
 - (a) Costs of asbestos surveys, asbestos abatement, and abatement monitoring.
 - (b) Costs of any other services customarily associated with projects of the nature of the project contemplated by this Agreement.

The County shall review requests by the Municipality for expenditures on the above items prior to undertaking the services associated with them, and approve any such expenditures it deems appropriate for this project.

CITY OF PAHOKEE

EXHIBIT B

PALM BEACH COUNTY HOUSING & COMMUNITY DEVELOPMENT

MONTHLY NARRATIVE REPORT

Report For:	Month: _____ Year: _____			
Subrecipient Name:	City of Pahokee			
Project Name:	Old Pahokee High School Gymnasium Renovation			
Report Prepared By:	<table border="0" style="width: 100%;"> <tr> <td style="width: 33%; border-bottom: 1px solid black;">Name</td> <td style="width: 33%; border-bottom: 1px solid black;">Signature</td> <td style="width: 33%; border-bottom: 1px solid black;">Date</td> </tr> </table>	Name	Signature	Date
Name	Signature	Date		

BUDGETING AND EXPENDITURES

Amounts Expended this Reporting Period: CDBG Funds:\$ _____ Other Funds:\$ _____

Amounts Expended to Date:

////////////////////////////////////	BUDGETED	EXPENDED	PERCENTAGE
CDBG Funds: _____	\$ _____	\$ _____	%
Other Funds: _____	\$ _____	\$ _____	%
Other Funds: _____	\$ _____	\$ _____	%
TOTAL:	\$ _____	\$ _____	%

Describe any changes in budgeted amounts during this reporting period and the source of funds:

Describe your efforts to obtain any additional funds for the project during this reporting period (if your project is underfunded):

PROJECT ACTIVITIES

Describe your accomplishments during the reporting period:

Describe any problems encountered during this reporting period:

Other comments:

Send report to: Amin Houry
 Department of Housing and Community Development
 100 Australian Avenue, Suite 500, West Palm Beach, FL 33406

S:\CapImprv\MUNICIPAL\PahokeeHighSchoolGymRenovation\AgmtMunf.wpd

EXHIBIT C

ASBESTOS REQUIREMENTS
SPECIAL CONDITIONS FOR DEMOLITION AND RENOVATION OF BUILDINGS

The provisions of this part apply to all demolition and renovation work contemplated in this Agreement and described in Exhibit A of this Agreement.

I. DEFINITIONS

ACBM: Asbestos Containing Building Materials
AHERA: Asbestos Hazard Emergency Response Act
EPA: Environmental Protection Agency
FLAC: Florida Licensed Asbestos Consultant
HCD: Palm Beach County Department of Housing and Community Development
NESHAP: National Emission Standards for Hazardous Air Pollutants
NRCA: National Roofing Contractors Association
NVLAP: National Voluntary Laboratory Accreditation Program
OSHA: Occupational Health and Safety Administration
PBCAC: Palm Beach County Asbestos Coordinator (in Risk Management)
TEM: transmission electron microscopy

II. ASBESTOS SURVEYS

All properties scheduled for renovation or demolition are required to have a comprehensive asbestos survey conducted by a Florida Licensed Asbestos Consultant (FLAC). The survey shall be conducted in accordance with AHERA guidelines. Analysis must be performed by a NVLAP accredited laboratory.

For Renovation Projects (projects which will be reoccupied):

- Point counting must be done for all asbestos containing building materials (ACBM) indicating less than 1% asbestos (to determine if any asbestos is present).
- Samples of vinyl floor tile indicating asbestos not detected must be confirmed by transmission electron microscopy (TEM).
- Joint compound shall be analyzed as a separate layer.
- Roofing material shall be sampled only if a renovation requires the roof to be disturbed (in lieu of sampling the roof, it may be presumed to contain asbestos).

For Demolition Projects:

- Point counting must be done for all "friable" asbestos containing building materials (ACBM), indicating less than 1% asbestos. This includes joint compounds (to be analyzed as a separate layer), and vinyl asbestos tile.
- Roof materials shall be presumed to be asbestos containing.

If the Municipality has a recent asbestos survey report prepared by a licensed asbestos consultant, a copy may be provided to HCD and PBCAC for review to determine if the survey is adequate to proceed with renovation/demolition work. If no survey is available, a survey may be initiated by the Municipality or requested by HCD. A copy of the completed survey will be forwarded to the Municipality. All asbestos surveys shall be forwarded to the PBCAC.

III. ASBESTOS ABATEMENT

A. RENOVATION

- (a) Prior to a renovation, all asbestos containing materials that will be disturbed during the renovation, must be removed by a Florida Licensed Asbestos Contractor under the direction of a FLAC. Exceptions may be granted by HCD prior to the removal, (such as asbestos containing roofs, transite pipe). The Municipality must obtain approval for all exceptions from HCD. HCD will request the PBCAC to review and approve all exceptions.
- (b) Asbestos Abatement work may be contracted by the Municipality or by HCD upon request.
- (c) If the Municipality contracts the asbestos abatement, the following documents are required to be provided to the HCD and the PBCAC.
 1. An Asbestos Abatement Specification (Work Plan), sealed by an FLAC.
 2. Pre and Post Job submittals, reviewed and signed by the FLAC.

CITY OF PAHOKEE

- (d) If the Municipality requests HCD to contract the asbestos abatement, HCD will initiate the request through the PBCAC who will contract the asbestos abatement. HCD will provide a copy of all contractor and consultant documents to the Municipality.
- (e) Materials containing <1% asbestos are not regulated by EPA/NESHAPS. However, OSHA compliance is mandatory. OSHA requirements including training, wet methods, prompt cleanup in leak tight containers, etc. The renovation contractor must comply with US Dept of Labor, Standard Interpretation (OSHA), Compliance requirements for renovation work involving material containing <1% asbestos, 11/24/2003. The renovation contractor must submit a work plan to HCD and the PBCAC prior to removal of the materials.

B. DEMOLITION

All "friable" ACBM must be removed by a Florida Licensed Asbestos Contractor under the direction of a FLAC prior to demolition. Friable materials include: resilient asbestos tile and mastic which is not intact, linoleum, asbestos containing joint compound, asbestos containing cement panels (e.g. transite), etc.

Intact resilient tile and asbestos roof materials may be demolished with adequate controls (e.g. wet method) by a demolition contractor provided the contractor is aware of the asbestos containing materials present and exercises adequate control techniques (wet methods, etc.). In all cases, demolition work should be monitored by a FLAC to insure proper control measures and waste disposal. Any exceptions to these guidelines may be requested through HCD prior to the removal, (such as asbestos containing roofs, transite pipe). Exceptions may be granted by HCD prior to the removal, (i.e. asbestos containing roofs, transite pipe). The Municipality must obtain approval for all exceptions from HCD and the PBCAC.

- (a) Asbestos Abatement work may be contracted by the Municipality or by HCD upon request.
- (b) If the Municipality contracts the asbestos abatement, the following documents must be provided to the PBC/HCD and reviewed by the PBCAC.
 - 1. An Asbestos Abatement Specification (Work Plan), sealed by an FLAC.
 - 2. Pre and Post Job submittals, reviewed and signed by the FLAC.
- (c) If the Municipality requests HCD to contract the asbestos abatement, HCD will initiate the request through the PBCAC who will contract the asbestos abatement. HCD will provide a copy of all contractor and consultant documents to the Municipality.
- (d) Recycling, salvage or compacting of any asbestos containing materials or the substrate is strictly prohibited.
- (e) In all cases, compliance with OSHA "Requirements for demolition operations involving material containing <1% asbestos is mandatory.
- (f) For all demolitions involving asbestos containing floor tile, asbestos containing roofing material and materials containing <1%, the Demolition Contractor shall submit the following documents to HCD. HCD will provide a copy of these documents to PBCAC.
 - 1. Signed statement that the demolition contractor has read and understood the requirements for complying with EPA, OSHA and the State of Florida Licensing regulations for demolition of structures with asbestos materials.
 - 2. Submit a plan for the demolition of asbestos containing roofing and floor tile. State if these materials are likely to remain intact. Include in the plan what shall occur if materials become "not intact".
 - 3. Submit a plan for compliance with OSHA requirements such as but not limited to: competent person, establishing a regulated area, asbestos training of workers, respiratory protection, use of disposable suits, air monitoring, segregation of waste, containerizing asbestos waste, waste disposal.
- (g) If materials are discovered that are suspect asbestos materials that were not previously sampled, stop all work that will disturb these materials and immediately notify HCD.

CITY OF PAHOKEE

IV. NESHAPS NOTIFICATION

A. RENOVATION

A NESHAP form must be received by the Palm Beach County Health Department at least ten working days prior to an asbestos renovation that includes regulated asbestos containing material greater than 160 square feet or 260 linear feet or 35 cubic feet. For lesser quantities, the Municipality (or its contractor) shall provide a courtesy notification to the Palm Beach County Health Department at least ten working days prior to an asbestos renovation. The removal of vinyl asbestos floor tile and linoleum shall be considered regulated. Asbestos roof removal requires a notification at least 3 working days prior to the removal.

B. DEMOLITION

A NESHAP form must be received by the Palm Beach County Health Department at least ten working days prior to the demolition.

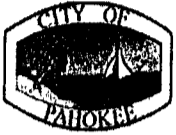
- C. The NESHAP notification shall be sent return receipt requested to the address shown below with a copy to HCD. HCD shall provide a copy to the PBCAC. All fees shall be paid by the Municipality.

Palm Beach County Department of Health
Asbestos Coordinator
800 Clematis Street
Post Office Box 29
West Palm Beach, Florida 33401

V. APPLICABLE ASBESTOS REGULATIONS/GUIDELINES

The Municipality, through its demolition or renovation contractor, shall comply with the following asbestos regulations/guidelines. This list is *not* all inclusive:

- (a) Environmental Protection Agency (EPA) NESHAP, 40 CFR Parts 61 Subpart M – National Emission standard for Asbestos, revised July 1991
- (b) Occupational Health and Safety Administration (OSHA) Construction Industry Standard, 29 CFR 1926.1101
- (c) EPA: A Guide to Normal Demolition Practices Under the Asbestos NESHAP, September 1992
- (d) Demolition practices under the Asbestos NESHAP, EPA Region IV
- (e) Asbestos NESHAP Adequately Wet Guidance
- (f) Florida State Licensing and Asbestos Laws
 1. Title XVIII, Chapter 255, Public property and publicly owned buildings.
 2. Department of Business and Professional Regulations, Chapter 469 Florida Statute, Licensure of Asbestos Consultants and Contractors
- (g) Resilient Floor Covering Institute, NRCI, Updated Recommended Work Practices and Asbestos Regulatory Requirements, September 1998.
- (h) Florida Roofing Sheet Metal and Air Conditioning Contractors Association, NRCA, June 1995
- (i) US Dept of Labor, Standard Interpretation (OSHA)
 1. Application of the asbestos standard to demolition of buildings with ACM in Place, 8/26/2002.
 2. Requirements for demolition operations involving material containing <1% asbestos, 8/13/1999.
 3. Compliance requirements for renovation work involving material containing <1% asbestos, 11/24/2003.



City of Pahokee

ATTACHMENT 3

CITY HALL • 207 BACOM POINT RD. • PAHOKEE, FLORIDA 33476 • PHONE (561) 924-5534 • FAX (561) 924-8140

Office of the
City Manager

January 22, 2014

Collin O. Walkes
Mayor

Felisia C. Hill
Vice Mayor

Keith W. Babb Jr.
Commissioner

Allie H. Biggs
Commissioner

Diane L. Walker
Commissioner

Derrek Moore
City Manager

Anika Sinclair
City Clerk

Gary Brandenburg
City Attorney

Alvin Johnson
Director
Public Services

Art Ivester
Director
Port Mayaca
Memorial Gardens
Cemetery

Erica Washington
Director
Community
Development

Ivory Brow-Paschal
Director
Parks and Recreation

Ebony Bruton
Director
Finance

Ed Lowery, Director
Department of Economic Sustainability
Palm Beach County Board of County Commissioners
100 South Australian Avenue, Suite 500
West Palm Beach, FL 33406

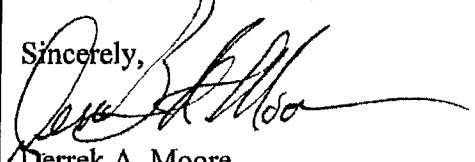
Mr. Lowery:

Subject: City of Pahokee's Gymnasium Project

Please be advised that I spoke with Mr. Chauncey Taylor II and Mr. Serrano about subject project earlier today. As we have previously discussed, the County has agreed to assist the City with this project by assuming management, control, authority and responsibility for the project, including the CDBG funds allocated towards same. Since the CDBG grant funds allocated towards this project are tied to this project's delivery, the City is respectfully requesting that the Department of Economic Sustainability release said CDBG funds to the County for the sole purpose of implementing and completing this project.

Thank you for your support, assistance and attention to this request.

Sincerely,


Derrek A. Moore
City Manager

cc: Chauncey Taylor II, PBC Director of Facilities Services
Ivory Paschal, Director of Parks & Recreation
Carlos Serrano, PBC Director of Strategic Planning & Operations
Joe Greco, PBC Contract Manager



Facilities Development &
Operations Department
Facilities Services
Division
2633 Vista Parkway
West Palm Beach, FL
33411-5067
(561) 233-0200
Fax: (561) 233-0206
www.pbcgov.com/fdo

■

**Palm Beach County
Board of County
Commissioners**
Priscilla A. Taylor, Mayor
Paulette Burdick, Vice
Mayor
Steven L. Abrams
Hal R. Valeche
Mary Lou Berger
Shelley Vana
Jess R. Santamaria

County Administrator
Robert Weisman

*"An Equal Opportunity
Affirmative Action
Employer"*

ATTACHMENT 4

January 17, 2014

Derrek Moore, City Manager
City of Pahokee
207 Bacom Point Road
Pahokee, FL 33476

Mr. Moore –

As you are aware, since November, 2013, the County has been engaged in a comprehensive assessment of the Pahokee Gymnasium. This collaborative effort included, but was not limited to, consultants, structural engineers, roofers, general contractors, as well as County staff.

While the sealing of the envelope of the facility was defined as the initial priority, the review also addressed underlying issues which impact both the scope of work and the budget in the initial phase as well as later phases. Please see the below observations/comments (and attached graphic) from our team as it relates to the overall condition of the facility.

ROOFS

From a visual inspection, the deck of the upper roof (gym) appears to be in good shape. There is minimum leak evidence, and the consultants are not recommending replacement at this time. The estimated costs for replacing this roof and deck (if required) are provided on the attached estimate for the City's planning purposes. .

The entire Lower Section, North and South, will have new modified-bitumen roofing installed over the insulated decks.

The Lower Roof Section is separated by two (2) different existing decking materials; gypsum deck in the north portion and lightweight over metal in the southern portion. The Lower North Section gypsum roof deck is completely deteriorated from water damage and requires replacement with a new metal deck and new insulation. The Lower South Section existing lightweight insulation is in good shape with few exceptions on the edges.

The wood deck overhangs over the entrances/exits are also in need of replacement.



HVAC

The existing A/C system consists of three (3) roof top units. However, only one (1) large unit, which serves the gym, is operational. This unit appears to have several productive years remaining. The extent of mechanical scope in this estimate is limited to only what is needed to keep the one (1) existing A/C unit operational. The two (2) non-operating units which serve the non-gym area will be disposed of as part of the project. However, the pricing includes updating the structural curbs for the future units on the non-gym area, but not for the replacement of the two (2) units themselves. Staff was unable to assign costs to the future replacement HVAC units without additional design input from a mechanical engineer. This phase of the project depends heavily on the recreational programming use envisioned by the City. City Staff should have the proposed programming completed prior to implementation of Phase 1 of the project so that the lower roof and deck is prepared to accept those units (curbs and electrical) in a future phase and so that the HVAC units themselves can be priced for implementation in Phase 2.

WEATHERPROOFING

The building has extensive settlement cracks throughout the exterior surfaces which require patching, a hi-build primer and final paint coat. The window bays on the south side of the gym are in dire need of repairs and show evidence of leaking and are allowing water intrusion under the insulation of the lower roof section. The proposed repairs require the existing stucco transitions for the A/C duct to be removed and replaced with metal framing and proper backing. The window bay design is mirrored on the north side, but there is less damage and no duct transitions on that side.

RECOMMENDED PHASING OF CONSTRUCTION:

PHASE 1: It is the consensus of the team that we should move forward immediately with the scope of work described below and the associated budget (attached). It should be noted that these are estimates for budgetary purposes which will be competitively quoted against our annual roofing contract to arrive at a hard number.

Letter to Derrek Moore, City Manager

January 17, 2014

Page 3 of 4



LOWER ROOF REPLACEMENTS

WOOD DECK OVERHANGS

STRUCTURAL HVAC CURBS. For existing and future units.

ELECTRICAL. Work associated with relocation of AC service lines only to complete roof work.

STUCCO REPAIR Replace plywood/stucco with metal framing.

WEATHERPROOFING – Scope of work includes surface crack patching, hi-build primer and final coat of paint.

PHASE 2:

HVAC. Engineering, procurement and replacement of the two (2) additional roof top units for the non-gym area.

PHASE 3:

INTERIOR MODIFICATIONS: TBD based on budget.

COMMENTS:

Staff's review of the project confirms what has hindered this project's initiation and completion. While committed to meeting the demands of renovating the facility the following must be conveyed. It is anticipated that a significant portion of the total project budget (including the \$175,000 added from ad valorem) will be exhausted as each phase of the construction is completed. Our internal assumptions (not based on hard numbers) suggest that by the completion of Phase 2 the original budget of approximately \$665,000.00 will be reduced to approximately \$150,000.00 or less. With that amount remaining, the City would need to adjust (maybe only temporarily) its programming accordingly.

Having stated that, the priority of sealing the building envelope would have been accomplished and many recreational opportunities would exist within the sealed structure. Additionally, this approach would facilitate public use in the shortest time while preserving the City's option to make additional interior modifications when additional funding is made available. You will recall that this was a crucial component to our original commitment.

Letter to Derrek Moore, City Manager
January 17, 2014
Page 4 of 4



RECOMMENDATION:

Staff requests the City's concurrence with the initiation and completion of Phase 1 of the project. This Phase of the project would first draw down the \$175,000.00 ad valorem funding. The additional funding needed to deliver Phase 1 would be from the CDBG grant allocated to the City. Since that grant tied the project's delivery to the City, the City would need to request that the Department of Economic Sustainability (DES) release the CDBG funds dedicated to the project to the County for the sole purpose of implementing the project.

TIMING:

With the City's concurrence within the next 2 weeks, the item would be presented to the Board of County Commissioners in March and if approved, then a contract award for Phase 1 in April. Due to the BCC agenda timing constraints, if we do not receive City concurrence by Feb 3, the start would be delayed accordingly.

A final comment would be that the County feels that this is the most viable and expeditious approach for the delivery of this much delayed project. We respectfully request that the City positively respond to our recommendation so that we can proceed as outlined.

Thanks and should you have questions please feel free to contact me personally at (561) 233-0221.

Respectfully,

A handwritten signature in cursive script that reads "Chauncey Taylor II".

Chauncey Taylor II, Director
Facilities Services

Attachments – Building graphic (2)
Estimate

C: Robert Weisman, County Administrator
Audrey Wolf, Director Facilities Development & Operations
John Chesher, Director Capital Improvements



P.O. Box 1989
West Palm Beach, FL 33402-1989
(561) 355-2001
FAX: (561) 355-3990
www.pbcgov.com



**Palm Beach County
Board of County
Commissioners**

Priscilla A. Taylor, Mayor
Paulette Burdick, Vice Mayor

Hal R. Valeche

Shelley Vana

Steven L. Abrams

Mary Lou Berger

Jess R. Santamaria

County Administrator

Robert Weisman

March 11, 2014

Mr. Colin Walkes, Mayor
City of Pahokee
207 Bacom Point Road
Pahokee, FL 33476

Re: **Community Development Block Grant Program (CDBG)
Gymnasium Project
Termination of Agreement (R2010-2109)**

Dear Mayor Walkes:

This letter is provided in response to the City's January 22, 2014 letter requesting Palm Beach County's Facilities Development & Operations Department (FDO) be assigned all functions related to the implementation of the planned improvements at the Pahokee Gymnasium.

In order for the project to move forward as requested by the City, Palm Beach County must undertake this procedural step and terminate the Agreement referenced above.

Accordingly, this letter shall serve as formal notice of Palm Beach County's intent to terminate the above Agreement with the City of Pahokee, as specified in Section 16 (2) of the Agreement. Therefore, pursuant to the contractual *Termination for Convenience* provision, you are hereby provided ten (10) working days notice which shall commence on the date of receipt of this letter.

If you have any additional questions, please contact Mr. Ed Lowery at 561-233-3600.

Sincerely,

Priscilla A. Taylor, Mayor
Palm Beach County

cc: Edward L. Lowery, Director, DES
Carlos Serrano, DES Director of Planning and Operations
Bud Cheney, Manager, DES/CIREIS Section
Betsy Barr, Director, DES/Contracts Section
Derrek Moore, City Manager, City of Pahokee

"An Equal Opportunity
Affirmative Action Employer"

ATTACHMENT 6

CONTRACT

THIS CONTRACT, made and entered into _____ between
(Date to be inserted by County)
PALM BEACH COUNTY, a political subdivision of the State of Florida, hereinafter referred to as
the "County" and _____,
hereinafter referred to as the "Contractor".

WITNESSETH:

That the said Contractor having been awarded the contract for the:

PAHOKEE GYMNASIUM
PROJECT NO. 14325

in accordance with the Bid therefore and for and in consideration of the promises and of the covenants and agreements, and of the payments herein specified, to be made and performed by the Contractor and the County, the Contractor hereby covenants and agrees to and with the County to undertake and execute all of the said named work, in a good, substantial and workmanlike manner, and to furnish and pay for all materials, labor, supervision, equipment, supplies, fees, expertise, and services necessary to fully complete all work in accordance with all requirements of the Contract Documents and in accordance with all applicable codes and governing regulations, within the time limit specified in the Bid Form. The Contract Documents consist of the following documents which are incorporated herein by reference.

- A - Invitation to Bid, Instructions to Bidders, Bid Form and Attachments 1 through 5.
- B - Completed Bonds, Guarantee and Insurance Forms.
- C - General Conditions.
- D - Special Conditions.
- E - Technical Specifications.
- F - Addenda.
- G - Drawings.

Contractor agrees to accept as full compensation for the satisfactory performance of this Contract the sum of:

_____ (\$ _____).

The prices named in the Bid are for the completed work and all expense, direct or indirect, connected with the proper execution of the work and of maintaining the same until it is accepted by the Board of County Commissioners. It is understood that the Contractor holds and will maintain current appropriate registration, certification, and/or license for the purpose of performing the specified work pursuant to this Contract. The time limit for the Substantial Completion of all work under this contract shall be as stated in the Bid Form. The date fixing the beginning of this period upon the calendar shall be established and stated in the Notice to Proceed.

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida, has made and executed this Contract on behalf of the said County and caused the seal of the said County to be affixed hereto, and the Contractor has hereunto set his hand and seal the day and year written. The Contractor represents that it is authorized to execute this contract on behalf of itself and its Surety.

ATTEST:

BOARD OF COUNTY COMMISSIONERS,
BY ITS COUNTY ADMINISTRATOR

By: _____

By: _____
Robert Weisman, P.E.

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

Assistant County Attorney

Director, Facilities Development &
Operations

(witness signature)

CONTRACTOR
By: _____
(Corporate Name)

(witness name printed)

a _____ corporation
(insert state of corporation)

(witness signature)

By: _____
(signatory)

(witness name printed)

(print signatory's name)

Its' _____
(print title)

Corporate Seal

PALM BEACH COUNTY

PAHOKEE GYMNASIUM

CONTRACT CONDITIONS

PROJECT NO. 14325

**GENERAL CONDITIONS
TABLE OF CONTENTS**

ARTICLE

- GC-1 ENTIRE AGREEMENT
- GC-2 INDEPENDENT CONTRACTOR
- GC-3 AUTHORIZED REPRESENTATIVES
- GC-4 NOTICES
- GC-5 LAWS AND REGULATIONS
- GC-6 STANDARDS AND CODES
- GC-7 CODE RELATED INSPECTIONS
- GC-8 GOVERNING LAW
- GC-9 RIGHTS AND REMEDIES
- GC-10 COMMERCIAL ACTIVITIES
- GC-11 COOPERATION WITH OTHERS
- GC-12 FORMS & DOCUMENTS
- GC-13 PUBLICITY AND ADVERTISING
- GC-14 TAXES
- GC-15 FEES
- GC-16 UTILITIES
- GC-17 SUCCESSORS, ASSIGNS AND ASSIGNMENT
- GC-18 EXAMINATION OF CONTRACTOR'S RECORDS
- GC-19 COORDINATION AND CORRELATION OF DRAWINGS AND SPECIFICATIONS
- GC-20 PERMIT DRAWINGS AND SPECIFICATIONS
- GC-21 CONTRACT INTERPRETATION

GC-22 DISPUTES

GC-23 SUSPENSION

GC-24 DECLARATION OF DEFAULT

GC-25 TERMINATION FOR DEFAULT

GC-26 OPTIONAL TERMINATION

GC-27 EXTENSION OF TIME/NO DAMAGES FOR DELAY

GC-28 WARRANTY

GC-29 PATENT INDEMNITY

GC-30 INDEMNITY

GC-31 INSURANCE

GC-32 SITE CONDITIONS

GC-33 DIFFERING CONDITIONS

GC-34 ACCESS TO WORK AREAS

GC-35 CONTRACTOR INGRESS AND EGRESS

GC-36 PRECONSTRUCTION CONFERENCE

GC-37 CONTRACTOR MEETINGS

GC-38 DELIVERY, UNLOADING AND STORAGE

GC-39 CONTRACTOR'S WORK AREA

GC-40 CONTRACTOR'S PLANT, EQUIPMENT AND FACILITIES

GC-41 CONTRACTOR-FURNISHED MATERIALS, EQUIPMENT AND WORKMANSHIP

GC-42 SUBSTITUTIONS

GC-43 EXPEDITING

GC-44 RESPONSIBILITY FOR WORK SECURITY

GC-45 PROTECTION OF WORK IN PROGRESS, MATERIALS AND EQUIPMENT

GC-46 PROTECTION OF EXISTING PROPERTY

GC-47 LABOR

GC-48 EQUAL EMPLOYMENT OPPORTUNITY

GC-49 SAFETY & PROTECTION OF PERSONS & PROPERTY

GC-50 EXPLOSIVES & HAZARDOUS MATERIALS

GC-51 INSPECTION: REJECTION OF MATERIALS AND WORKMANSHIP

GC-52 CHANGES

GC-53 PAYMENT

GC-54 NOT USED

GC-55 FINAL INSPECTION AND ACCEPTANCE

GC-56 NOT USED

GC-57 CRIMINAL HISTORY RECORDS CHECK ORDINANCE

GENERAL CONDITIONS

GC 1 ENTIRE AGREEMENT

This Contract embodies the entire agreement between Owner and Contractor and supersedes 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.

GC 2 INDEPENDENT CONTRACTOR

Contractor represents that it is fully experienced and properly qualified to perform the class of work provided for herein, and that it is properly licensed, equipped, organized and financed to perform such work. Contractor shall act as an independent contractor and not as the agent of Owner in performing the Contract, maintaining complete control over its employees and all of its suppliers and subcontractors. Nothing contained in this Contract or any subcontract awarded by Contractor shall create any contractual relationship between any such supplier or subcontractor and Owner. Contractor shall perform all work in accordance with its own methods subject to compliance with the Contract. Contractor represents that all subcontractor agreements entered into shall incorporate by reference the terms and conditions of this Contract, and further warrants that the Owner is an **intended express third party beneficiary** of any such subcontract. Except as specifically and expressly provided for herein, no provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement.

GC 3 AUTHORIZED REPRESENTATIVES

Before starting work, Contractor shall designate a competent, authorized representative acceptable to Owner to represent and act for Contractor and shall inform Owner in writing, of the name and address of such representative together with a clear definition of the scope of his authority to represent and act for Contractor and shall specify any and all limitations of such authority. At the Preconstruction Conference, Contractor shall provide resumes of key personnel for Owner's approval. Contractor shall keep Owner informed of any subsequent changes in the foregoing. Such representative shall be present or duly represented at the site of work at all times when work is actually in progress. During periods when work is suspended, arrangements for an authorized representative acceptable to Owner shall be made for any emergency work which may be required. All notices, determinations, instructions and other communications given to the authorized representatives of the Contractor shall be binding upon Contractor. Nothing contained herein shall be construed as modifying the Contractor's duty of supervision and fiscal management as provided for by Florida law. The Owner shall designate an authorized representative who will have limited authority to act for the Owner. The Owner will notify the Contractor in writing of the name of such representative(s). The Owner's representative will be a member of the Facilities Development and Operations Department. Facility Users are not authorized Owner representatives. Any work performed by the Contractor without proper authorization or at the sole direction of a User, is performed at the Contractor's risk, and the County shall have no obligation to compensate the Contractor for such work. The Owner has the right to assign various responsibilities of the Owner to the Architect/Engineer of Record, and can do so at any time during the duration of this Contract

with written notice to the Contractor. The Architect/Engineer of Record will provide answers to RFIs, issue Field Bulletins and Field Instructions, and other related duties, and the Contractor agrees to cooperate with the Architect/Engineer.

The Authorized Representative, Qualifying Agents, Project Managers, Superintendents and Supervisors are all subject to prior and continuous approval of the Owner. If, at any time during the term of the Contract, any individual nominally performing any of the positions named above, is, for any reason, unacceptable to the Owner, Contractor shall replace the unacceptable personnel with personnel acceptable to the Owner.

GC 4 NOTICES

Any notices provided for hereunder shall be in writing and may be served either personally on the authorized representative of the receiving party at the jobsite or by certified mail to that party at the addresses shown below:

OWNER: Palm Beach County
2633 Vista Parkway
West Palm Beach, FL 33411

CONTRACTOR: (To be identified after award)

These addresses may be changed by either of the parties by written notice to the other.

GC 5 LAWS AND REGULATIONS

Contractor and its employees and representatives shall at all times comply with all applicable laws, codes, ordinances, statutes, rules or regulations in effect at the time work is performed under this contract.

If, during the term of this Contract, there are any changed or new laws, ordinances or regulations not known or foreseeable at the time of signing this Contract which become effective and which affect the cost or time of performance of the Contract, Contractor shall immediately notify Owner in writing and submit detailed documentation of such effect in terms of both time and cost of performing the Contract. Upon concurrence by Owner as to the effect of such changes, an adjustment in the compensation and/or time of performance will be made.

If any discrepancy or inconsistency should be discovered between the Contract and any law, ordinance, regulation, order or decree, Contractor shall immediately report the same in writing to Owner who will issue such instructions as may be necessary.

However, it shall not be grounds for a Change Order that the Contractor was unaware of or failed to investigate the rules, codes, regulations, statutes, and all ordinances of all applicable governmental agencies having jurisdiction over the Project or the work.

Owner shall not be liable for any costs, delays or damages which Contractor incurs as a result of the actions or orders of any other governmental entity or agency.

GC 6 STANDARDS AND CODES

Wherever references are made in the Contract to standards or codes in accordance with which work is to be performed or tested, the edition or revision of the standards or codes current on the effective date of this Contract shall apply, unless otherwise expressly set forth. Unless otherwise specified, reference to such standards or codes is solely for implementation of the technical portions of such standards and codes. In case of conflict among any referenced standards and codes or between any referenced standards and codes the Owner will determine which shall govern. Contractor acknowledges that compliance with code requirements represents minimum standards for construction and is not evidence that the work has been completed in accordance with the Contract Documents.

GC 7 CODE RELATED INSPECTIONS

The Contractor recognizes that the Palm Beach County Department of Planning, Zoning, and Building (PZ&B) is a separate department within the County that is charged with the inspection of improvements to real property for code compliance. The improvements to be made by the Contractor pursuant to this contract may be subject to inspection by PZ&B. The Contractor agrees that it will not assert, as a County caused delay or as a defense of any delay on the part of the Contractor, any good faith action or series of actions on the part of PZ&B, including, but not limited to PZ&B's refusal to accept any portion of the Contractor's work.

GC 8 GOVERNING LAW

The Contract shall be governed by the laws of the State of Florida and venue of any action shall be in Palm Beach County, Florida.

GC 9 RIGHTS AND REMEDIES

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

Except as specifically and expressly provided for herein, no provision of this Contract is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Contract.

GC 10 COMMERCIAL ACTIVITIES

Contractor shall not establish any commercial activity or issue concessions or permits of any kind to third parties for establishing commercial activities on lands owned or controlled by Owner. Contractor shall not allow its employees to engage in any commercial activities on the site.

GC 11 COOPERATION WITH OTHERS

Owner and other contractors and subcontractors may be working at the site during the performance of this Contract. Contractor shall fully cooperate with the Owner, Owners designated Representative, and other contractors to avoid any delay or hindrance of their work. Owner may

require that certain facilities be used concurrently by Contractor and other parties and Contractor shall comply with such requirements.

If any part of the Contractor's work depends on proper execution or results from any work performed by the Owner or any separate contractor, the Contractor shall, prior to proceeding with the work, promptly report to the Owner any apparent discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of the Contractor to report such discrepancies or defects shall constitute an acceptance of the Owner's separate contractors' work as fit and proper to receive his work, except as to defects which may subsequently become apparent in such work performed by others. Any costs caused by defective or ill-timed work of others shall be borne by the Contractor unless Contractor gives written notice to Owner, if reasonably possible, prior to proceeding with the work and in any event within three days of commencement of work. In no event shall the Owner be liable to the contractor for delay damages, except as provided for in the Contract Documents.

GC 12 FORMS AND DOCUMENTS

The below listed documents are to be used by the Contractor & Owner during the administration of this contract. Additional administrative forms may supplement this list upon written notice by the Owner (or Owner's project representative). Owner reserves the right to modify these forms as it deems necessary.

- A. Request for Information
- B. Field Instruction
- C. Field Bulletin
- D. Construction Change Proposal
- E. Change Order
- F. Construction Change Directive
- G. Submittal Transmittal
- H. Deficiency Report
- I. Non-Conformance Report
- J. Contractor's Daily Report
- K. Substitution Request Form
- L. SBE - M/WBE Schedule 3
- M. SBE - M/WBE Schedule 4

GC 13 PUBLICITY AND ADVERTISING

Contractor shall not make any announcement or release any information or publish any photographs concerning this Contract or the project or any part thereof to any member of the public, press or any official body, unless prior written consent is obtained from Owner.

GC 14 TAXES

Contractor shall pay all taxes, levies, duties and assessments of every nature which may be applicable to any work under this Contract. The Contract Sum and any agreed variations thereof shall include all taxes imposed by law. Contractor shall make any and all payroll deductions required by law. Contractor herein indemnifies and holds the Owner harmless from any liability on account of any and all such taxes, levies, duties, assessments and deductions.

GC 15 FEES

Owner will be responsible for the following fees associated with this project: utility connection fees, utility installation fees (including FPL), and water meter charges except for fees associated with Contractor mobilization which have not been waived by Owner. Contractor shall advise Owner ten (10) days in advance of requirement for the fee. Water and/or sanitary sewer service capacity charges will also be paid directly by the Owner. There are no impact fees pursuant to Palm Beach County's Impact Fee Ordinance associated with this project.

GC 16 UTILITIES

Owner will provide electrical power to the project site.

GC 17 SUCCESSORS, ASSIGNS AND ASSIGNMENT

The Owner and the Contractor each binds itself, its officers, directors, qualifying agents, partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Contract. It is agreed that the Contractor shall not assign, transfer, convey or otherwise dispose of the contract or its right, title or interest in or to the same or any part thereof, or allow legal action to be brought in its name for the benefit of others, without previous consent of the Owner and concurred to by the sureties.

GC 18 EXAMINATION OF CONTRACTOR'S RECORDS

The Owner shall, until the expiration of four years after final payment under this Contract, have access to, and the right to examine any directly pertinent books, documents, papers and records of the Contractor involving transactions relating to this Contract, and to make copies, excerpts and transcriptions thereof.

GC 19 COORDINATION AND CORRELATION OF DRAWINGS AND SPECIFICATIONS

The Contractor represents that the Contractor, Subcontractors, material and equipment suppliers have compared all Drawings and Specifications that Contractor has determined are applicable to, or which may impact, Contractor's work and have compared and reviewed all general and specific details on the Drawings and that all conflicts, discrepancies, errors and omissions, which are within the commonly accepted knowledge base of similarly situated contractors, subcontractors, trades persons, manufacturers or other parties required to carry out the Work involved in this Contract, have been either corrected or clarified prior to execution of this Contract.

The Contractor represents that the Contract Sum represents the total cost for complete and functional systems and therefore, the Contractor's review and comparison of all Drawings has taken into consideration the total and complete functioning of all systems.

GC 20 PERMIT DRAWINGS AND SPECIFICATIONS

To the extent that any of Contractor's work is required to be permitted, Contractor shall provide the Owner with a complete set of the permitted drawings, documents, and addendum within five (5) days of issuance by the appropriate Building Official. If the permitted set of drawings

changes the scope of the work to be performed, the Contractor shall notify the Owner, and Architect/Engineer of Record within thirty (30) days of receipt of the permitted Drawings and such notification shall contain a written description of the change, the cost and time, if any. Failure to provide such notice within thirty (30) days shall be a complete waiver by the Contractor of all additional cost and time and the Contractor shall perform the work at his expense and complete the work in accordance with the Schedule and in no event shall Contractor recover delay or consequential damages.

GC 21 CONTRACT INTERPRETATION

All claims of Contractor and all questions the Contractor may have concerning interpretation or clarification of this Contract or its acceptable fulfillment shall be submitted immediately in writing to Owner for resolution. Owner, or its representatives, will render its determination concerning such resolution, which determination shall be considered final and conclusive unless Contractor files a written protest pursuant to GC 22 "Disputes". The Contractor's protest shall state clearly and in detail the basis thereof. Owner will consider Contractor's protest and render its decision thereon within twenty-one (21) calendar days. If Contractor does not agree with the Owner's decision, the Contractor shall immediately deliver written notice to that effect to the Owner.

Contractor is solely responsible for requesting instructions or interpretations and is solely liable for any cost and/or expenses arising from its failure to do so. Contractor's failure to protest Owner's determinations, instructions, clarifications or decisions within fourteen (14) calendar days after receipt thereof shall constitute a waiver by Contractor of all its rights to further protest, judicial or otherwise.

GC 22 DISPUTES

Any dispute relating to a question of fact arising under this Contract shall be resolved through good faith efforts upon the part of Contractor and Owner or its representatives. At all times, Contractor shall carry on the work and maintain his progress schedule in accordance with the requirements of the Contract and the determination of the Owner or its representatives, pending resolution of any dispute. Any dispute that is not disposed of by mutual agreement shall be decided by the Owner or its representatives who shall reduce such decision to writing. The decision of the Owner or its representatives shall be final and conclusive.

GC 23 SUSPENSION

Owner may, at its sole option, decide to suspend at any time the performance of all or any portion of work to be performed under the Contract. Contractor will be notified of such decision by Owner in writing. Such notice of suspension of work may designate the amount and type of plant, labor and equipment to be committed to the work. During the period of suspension, Contractor shall use its best efforts to utilize its plant, labor and equipment in such a manner as to minimize costs associated with suspension.

- A. Upon receipt of any such notice, Contractor shall, unless the notice requires otherwise:
1. immediately discontinue work on the date and to the extent specified in the notice;
 2. place no further orders or subcontracts for material, services, or facilities with respect to suspended work other than to the extent required in the notice;

3. promptly make every reasonable effort to obtain suspension, upon terms satisfactory to Owner, of all orders, subcontracts and rental agreements to the extent they relate to performance of work suspended;
4. continue to protect and maintain the work including those portions on which work has been suspended, and
5. take any other reasonable steps to minimize costs associated with such suspension.

B. As full compensation for such suspension, Contractor will be reimbursed for the following verifiable costs (without profit), without duplication of any item, to the extent that such costs directly result from such suspension of work:

1. A standby charge to be paid to Contractor during the period of suspension of work which standby charge shall be sufficient to compensate Contractor for keeping, to the extent required in the notice, its organization and equipment committed to the work in a standby status;
2. All reasonable costs associated with mobilization and demobilization of Contractor's plant, forces and equipment;
3. An equitable amount to reimburse Contractor for the cost of maintaining and protecting that portion of the work upon which work has been suspended; and
4. If as a result of any such suspension of work the cost to Contractor of subsequently performing work is increased or decreased, an equitable adjustment will be made in the cost of performing the remaining portion of work.

In no event shall the Contractor be entitled to assert a claim for home office overhead in accordance with the Eichleay Formula or otherwise, in the event of an Owner suspension. Upon receipt of notice to resume suspended work, Contractor shall immediately resume performance of the suspended work to the extent required in the notice. Any claim on the part of Contractor for time and/or compensation arising from suspension shall be made within twenty-one (21) calendar days after receipt of notice to resume work and Contractor shall submit for review a revised construction schedule. No adjustment shall be made for any suspension to the extent that performance would have been suspended, delayed, or interrupted by any Contractor's non-compliance with the requirements of this Contract.

GC 24 DECLARATION OF DEFAULT

The failure of the Contractor to supply enough properly skilled workers or material, or to make prompt payment to Subcontractors or for materials or labor or to obey laws, ordinances, rules, regulations or orders of public agencies having jurisdiction, or to comply in any way with the Contract Documents, shall be sufficient grounds for the Owner to find the Contractor in substantial default and that sufficient cause exists to terminate the Contract and to withhold payment or any part thereof until the cause or causes giving rise to the default has been eliminated by the Contractor and approved by the Owner. If a finding of default is made, the Contractor and its Surety shall remain responsible for performance of the requirements of the Contract Documents unless and until the Owner terminates the Contract. Upon a finding of default, the Owner shall set a reasonable time within which the Contractor and its Surety shall eliminate the cause or causes of default. When the basis for finding of default no longer exists, the Owner shall notify the Contractor and its Surety in writing that the default has been corrected and that the Contractor is no longer in default. If the Contractor fails to correct the default within the time allowed, the Owner

may terminate the Contract and the employment of the Contractor, without otherwise waiving its rights against the Contractor or its Surety.

GC 25 TERMINATION FOR DEFAULT

Notwithstanding any other provisions of this Contract, Contractor shall be considered in default of its contractual obligation under this contract if it:

- A. Performs work which fails to conform to the requirements of this Contract;
- B. Fails to meet the contract schedule or fails to make progress so as to endanger performance of this Contract;
- C. Abandons or refuses to proceed with any or all work including modifications directed pursuant to the clause entitled "CHANGES"; or
- D. Fails to fulfill any of the terms of this Contract.

Upon the occurrence of any of the foregoing, Owner or its project representatives shall notify Contractor in writing of the nature of the failure and of Owner's intention to either terminate the Contract for default, or to declare the contractor to be in default and make demand upon its Surety to perform, at its sole option.

If Contractor or its Surety(ies) does not cure such failure within three (3) calendar days from receipt of notification, or sooner if consideration of safety to persons is involved, or if Contractor or its Surety(ies) fails to provide satisfactory evidence that such default will be corrected, Owner may, without notice to Contractor's Surety(ies), if any, terminate in whole or in part Contractor's right to proceed with work by written notice and prosecute the work to completion by contract or by any other method deemed expedient. Owner may take possession of and utilize any materials, plant, tools, equipment, and property of any kind furnished by Contractor and necessary to complete the work.

Contractor and its sureties, if any, shall be liable jointly and severally for all costs in excess of the contract price for such terminated work reasonably and necessarily incurred in the completion of the work as scheduled, including cost of administration of any contract awarded to others for completion and for Liquidated Damages.

Upon termination for default Contractor shall:

- A. immediately discontinue work on the date and to the extent specified in the notice and place no further purchase orders or subcontracts to the extent that they relate to the performance of work terminated;
- B. inventory, maintain and turn over to Owner all materials, plant, tools, equipment, and property furnished by Contractor or provided by Owner for performance of work;
- C. promptly obtain cancellation upon terms satisfactory to Owner of all purchase orders, subcontracts, rentals, or any other agreements existing for performance of the terminated work or assign those agreements to Owner as directed;
- D. cooperate with Owner in the transfer of information and disposition of work in progress so as to mitigate damages;
- E. comply with other reasonable requests from Owner regarding the terminated work; and

- F. continue to perform in accordance with all of the terms and conditions of the Contract such portion of work that is not terminated.

If, upon termination pursuant to this clause, it is determined for any reason that Contractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the clause entitled "OPTIONAL TERMINATION".

GC 26 OPTIONAL TERMINATION

Owner may, at its option, terminate the Contract, in whole or in part at any time by written notice thereof to Contractor, whether or not Contractor is in default. Upon any such termination, Contractor hereby waives any claims for damages from the optional termination, including loss of anticipated profits, on account thereof, but as the sole right and remedy of Contractor, Owner shall pay Contractor in accordance with Subparagraphs below, provided, however, that those provisions of the Contract which by their very nature survive final acceptance under the Contract shall remain in full force and effect after such termination.

- A. Upon receipt of any such notice, Contractor and its Surety shall, unless the notice requires otherwise:
1. Immediately discontinue work on the date and to the extent specified in the notice;
 2. Place no further orders or subcontracts for materials, services, or facilities, other than as may be necessary or required for completion of such portion of work under the Contract that is not terminated;
 3. Promptly make every reasonable effort to obtain cancellation upon terms satisfactory to Owner of all orders and subcontracts to the extent they relate to the performance of work terminated or assign to Owner those orders and subcontracts and revoke agreements specified in such notice;
 4. The Contractor agrees to assign all Subcontracts required for performance of this Contract to the Owner;
 5. The Contractor shall include in all Subcontracts, equipment leases and purchase order, a provision requiring the subcontractor, equipment lessor or supplier, to consent to the assignment of their Subcontract to the Owner;
 6. Assist Owner, as specifically requested in writing, in the maintenance, protection and disposition of property acquired by Owner under the Contract; and
 7. Complete performance of any work which is not terminated.
- B. Upon any such termination, Owner will pay to Contractor an amount determined in accordance with the following (without duplication of any item):
1. All amounts due and not previously paid to Contractor for work completed in accordance with the Contract prior to such notice, and for work thereafter completed as specified in such notice.
 2. The reasonable cost of settling and paying claims arising out of the termination of work under subcontracts or orders as provided in Subparagraph A.3. above.
 3. The verifiable costs incurred pursuant to Subparagraph A.5. above.
 4. Any other reasonable costs which can be verified to be incidental to such termination of work.

The foregoing amounts will include a reasonable sum, under all of the circumstances, as profit for all work satisfactorily performed by Contractor.

Contractor shall submit within 30 days after receipt of notice of termination, a proposal for an adjustment to the contract price including all incurred costs described herein. Owner shall review, analyze, and verify such proposal, and negotiate an equitable adjustment, and the Contract shall be amended in writing accordingly.

GC 27 EXTENSION OF TIME/NO DAMAGES FOR DELAY

If the Contractor's performance of this Contract is delayed, which delay is beyond the reasonable control and without the fault or negligence of the Contractor or its subcontractors, or by changes ordered in the Work and in either event where such delay or change in the work impacts the CRITICAL PATH, then the Contract time shall be extended by Change Order as determined by the Owner.

The Contractor must request the extension of time in writing and must provide the following information within the time periods stated hereafter. Failure to submit such information and in compliance with the time requirements hereinafter stated, shall constitute a waiver by the Contractor and a denial of the claim for extension of time:

- A. Nature of the delay or change in the work;
- B. Dates of commencement/cessation of the delay or change in the work;
- C. Activities on the progress schedule current as of the time of the delay or change in the work affected by the delay or change in the work;
- D. Identification and demonstration that the delay or change in work impacts the CRITICAL PATH (submittal of CPM schedule);
- E. Identification of the source of delay or change in the work;
- F. Anticipated impact extent of the delay or change in the work; and
- G. Recommended action to minimize the delay.

The Contractor acknowledges and agrees that the evaluation of time extensions will be based upon the following criteria:

All schedule updates, submittals and other requirements of this General Condition have been met;

The delay must be beyond the control of the Contractor and subcontractors and due to no direct or indirect fault of the Contractor;

The delay which is the subject of the time extension must result in a direct delay to the Critical Path;

The schedule must clearly display that the Contractor has used, in full, all the float time. Float time is not for the exclusive use of either the Contractor or the Owner; and

If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be submitted within thirty (30) days of occurrence and shall be documented by data substantiating that weather conditions were abnormal for the period of time required for completion of the Work, could not have been reasonably anticipated, and that weather conditions had an adverse effect on the scheduled construction.

The Owner's determination as to the total number of days of contract extension will be based upon the computer produced construction schedule current at the time of the delay event.

The Contractor shall not be entitled to any extension of time for delays resulting from any cause unless it shall have notified the Owner in writing within twenty-four hours (24) after the commencement of such delay or 96 hours of knowledge of a potential delay, whichever is earlier. In any event, within seven (7) days of commencement of the delay, the Contractor shall provide in writing the information stated above.

The Contractor shall not be entitled to and hereby waives, any and all damages which it may suffer by reason of Act of God, unforeseen condition, delay, acceleration, cardinal changes, loss of efficiency or any other impacts to the work or time of performance and further, hereby waives all damages which it may suffer by reason of these events, including, but not limited to lost profits, overhead (whether determined by the Eichleay Formula or otherwise), increased insurance costs, loss of bonding capacity or lost profits on alternate or unperformed contracts, supervision, or home office expense. Contractor hereby affirms that the extension of time granted herein is the Contractor's sole and exclusive remedy. Apart from extension of time, no payment of claim for damages shall be made to the Contractor as compensation for damages for any delays or hindrances from any cause whatsoever in the progress of the work whether such delay be avoidable or unavoidable.

For all changes in the Work in which the Contractor claims entitlement to a time extension, the Contractor shall provide to the Owner the same information as required above within seven (7) days of the issuance of the request for change order or direction to change the scope of the work and the Contractor's failure to provide such information shall constitute a waiver by the Contractor and a denial of any time extension for that change in the work. Further, upon execution by the Owner of any Change Order where no time extension has been requested and/or granted, that Change Order shall constitute a complete waiver of all claims for dollars or for any extension of time related to that work, or any work impacted by the change.

GC 28 WARRANTY

Unless otherwise provided elsewhere in the Contract, all materials and equipment incorporated into any work covered by the Contract shall be new and, where not specified, of the highest grade of quality for their intended use, and all workmanship shall be in accordance with construction practices acceptable to Owner. Unless otherwise provided in the Contract, Contractor warrants all equipment, materials, and labor furnished or performed under this Contract, against defects in design, materials and workmanship for a period of twelve months (unless longer guarantees or warranties are provided for elsewhere in the Contract in which case the longer periods of time shall prevail) from and after substantial completion work under the Contract, regardless of whether the same were furnished or performed by Contractor or by any of its subcontractors of any tier. In the event that the Owner assumes partial utilization of portions of the work prior to completion of all Work, the Warranty for that portion shall also extend for twelve months from substantial completion of that portion of the Work, if and only if the Owner has exclusive use of the area. If the Owner does not have exclusive use of the area, the warranty period shall extend for twelve months from substantial completion of the last portion of the Work.

during the applicable warranty period, due to defective design, materials or workmanship, the affected item or parts thereof shall be redesigned, repaired or replaced by Contractor at a time and in a manner acceptable to Owner.

Contractor warrants such redesigned, repaired or replaced work against defective design, materials and workmanship for a period of twelve months from and after the date of acceptance thereof. Should Contractor fail to promptly make the necessary redesign, repair, replacement and tests, Owner may perform or cause to be performed the same at Contractor's expense.

Contractor shall perform such tests as Owner may require verification that such redesign, repairs and replacements comply with the requirements of this Contract. All costs incidental to such redesign, repair, replacement and testing, including the removal, replacement and reinstallation of equipment and materials necessary to gain access, shall be borne exclusively by Contractor.

Contractor and its surety or sureties shall be liable for the satisfaction and full performance of the warranties as set forth herein and any damage to other parts of the Work caused by the Contractor's failure to perform pursuant to this general condition.

The Contractor shall commence work to remedy or replace the defective, deficient work within twelve (12) hours of notification, or by 7:00 a.m. whichever is earlier, and Contractor shall complete the repairs in an expeditious manner befitting the nature of the deficiency. The Contractor shall immediately pay the expenses incurred by the Owner for remedying the defects. If the Owner is not paid within ten (10) calendar days, the Owner may pursue any and all legal remedies it may have against the Contractor.

The Contractor is required to provide a designated telephone number for warranty related emergencies which occur outside the normal workday. The Contractor is solely responsible for ensuring that all warranty work is completed in the manner described above. If the Owner agrees, in writing, a subcontractor may be the point of contact for notices regarding warranty items, but such agreement shall not absolve the Contractor of his responsibility.

GC 29 PATENT INDEMNITY

Contractor hereby indemnifies and shall defend and hold Owner and its representatives harmless from and against all claims, losses, costs, damages, and expenses, including attorney's fees, incurred by Owner and its representatives, respectively, as a result of or in connection with any claims or actions based upon infringement or alleged infringement of any patent and arising out of the use of the equipment or materials furnished under the Contract by Contractor, or out of the processes or actions employed by, or on behalf of Contractor in connection with the performance of the Contract.

Contractor shall, at its sole expense, promptly defend against any such claim or action unless directed otherwise by Owner or its representatives; provided that Owner or its representatives shall have notified Contractor upon becoming aware of such claims or actions, and provided further that Contractor's aforementioned obligations shall not apply to equipment, materials, or processes furnished or specified by Owner or representatives. Contractor shall have the right, in order to avoid such claims or actions, to substitute at its expense non-infringing equipment, materials, or processes, or to modify such infringing equipment, materials and processes so they become

non-infringing, or obtain the necessary licenses to use the infringing equipment, material or processes, provided that such substituted and modified equipment, materials and processes shall meet all the requirements and be subject to all the provisions of this Contract.

GC 30 INDEMNITY

Contractor shall indemnify and hold harmless the Owner and its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Contractor and person employed or utilized by the indemnifying party in the performance of this contract.

Contractor further agrees to hold harmless and indemnify Owner for any fines, citations, court judgments, insurance claims, restoration costs or other liability resulting from Contractor's activities on the project, whether or not Contractor was negligent or even knowledgeable of any events precipitating a claim or arising as a result of any situation involving Contractor's activities. Said indemnification by Contractor shall be extended to include all deliverers, suppliers, or anyone acting for, on behalf of, or at the request of Contractor. Contractor recognizes the broad nature of this indemnification and hold harmless clause and voluntarily makes this covenant. This clause shall survive termination of this Agreement.

GC 31 INSURANCE

Unless otherwise specified in this Contract or granted by County's Risk Management Department, the Contractor shall, at its sole expense, maintain in full force and effect at all times during the life of this contract or the performance of work hereunder, insurance coverage as described herein at limits, including endorsements, set forth in the Insurance Coverage & Limit Table below. Contractor shall deliver to Owner Certificate(s) of insurance evidencing that such policies are in full force and effect, not later than fourteen (14) calendar days after receipt of Notification of Intent to Award, but in any event, prior to execution of the Contract by Owner and prior to commencement of work on the project. Such certificate(s) shall adhere in every respect to the conditions set forth herein.

The requirement contained herein as to types and limits, as well as County's approval of insurance coverage to be maintained by Contractor are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Contractor under the Contract.

COMMERCIAL GENERAL LIABILITY: Contractor shall agree to maintain a standard ISO version Commercial General Liability policy form, or its equivalent providing coverage for, but not be limited to, Bodily Injury and Property Damage, Premises/Operations, Products/Completed Operations, Independent Contractors, Contractual Liability, Broad Form Property Damage, X-C-U Coverage (if applicable), Severability of Interest including Cross Liability, and be in accordance with all of the limits, terms and conditions set forth herein. Contractor agrees this coverage shall be provided on a primary basis.

BUSINESS AUTOMOBILE LIABILITY: Contractor shall agree to maintain a standard ISO version Business Automobile Liability coverage form, or its equivalent, providing coverage for all owned, non-owned and hired automobiles, and in accordance with all of the limits, terms and conditions set forth herein. Contractor agrees this coverage shall be provided on a primary basis.

Notwithstanding the foregoing, should the Contractor not own any automobiles, the business auto liability requirement shall be amended to allow the Contractor to agree to maintain only Hired & Non-Owned Auto Liability. This amended coverage requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto Coverage form.

WORKER'S COMPENSATION & EMPLOYER'S LIABILITY: Contractor shall agree to maintain Worker's Compensation Insurance & Employers Liability, including Federal Act endorsement for U.S. Longshoremen's and Harbor Workers Act when any work is on or contiguous to navigable bodies of U.S. waterways and ways adjoining, covering all of its employees on the work site. This coverage shall be accordance with all of the limits, terms and conditions set forth herein. Exemptions for a Contractor in or doing work in the Construction Industry, or proof of worker's compensation coverage provided by an employee leasing arrangement shall not satisfy this requirement. If any work is sublet Contractor shall require all subcontractors to similarly comply with this requirement unless such subcontractors employees are covered by Contractor's Worker's Compensation insurance policy. Contractor agrees this coverage shall be provided on a primary basis.

ADDITIONAL REQUIRED INSURANCE WHEN WORK INVOLVES: The Contractor shall agree to maintain the following additional required insurance coverage with respect to any work involving property, operations, or type of equipment for which each insurance coverage described below have been designed specifically to provide coverage for:

WATERCRAFT LIABILITY: With respect to any of the work hereunder involving watercraft owned, hired, or borrowed, the Contractor shall agree to maintain Protection and Indemnity, or similar Watercraft Liability. Coverage shall be included either way of endorsement under the Commercial General Liability or by separate watercraft liability insurance and be in accordance with all of the limits, terms and conditions set forth herein. Contractor agrees this coverage shall be provided on a primary basis.

AIRCRAFT LIABILITY: With respect to any of the work involving (fixed wing or helicopter) aircraft owned, hired, or borrowed, the Contractor shall agree to maintain Aircraft Liability. Passenger Liability shall be included when persons other than the pilot and crew are occupying the aircraft. Coverage shall be in accordance with all of the limits, terms and conditions set forth herein. Contractor agrees this coverage shall be provided on a primary basis.

BUILDER'S RISK: With respect to any of the work involving the construction of real property (buildings and improvements other than buildings) during the construction project, the Contractor shall maintain Builders Risk insurance providing coverage for the entire work at the project site, and will also cover portions of work located away from the site but intended for use at the site, and will also cover portions of the work in transit.

The Contractor shall be responsible for policy deductibles of \$25,000 on all perils with the exception of the deductible for a named windstorm event which will be the responsibility of the County.

INLAND MARINE/TRANSIT INSURANCE: With respect to property with values in excess of \$100,000 which is rigged, hauled or situated at the site pending installation, the Contractor shall agree to maintain inland marine property/transit insurance provided the coverage is not afforded

by a Builders Risk policy. Coverage shall be provided in accordance with all of the limits, terms and conditions set forth herein. Contractor agrees this coverage shall be provided on a primary basis. The Contractor agrees and understands the County shall not provide any inland marine nor transit insurance on behalf of Contractor for loss or damage to work, or to any other property of owned, hired, or borrowed by the Contractor.

SATISFYING LIMITS UNDER AN UMBRELLA POLICY: If necessary, the Contractor may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under an Umbrella or Excess Liability. The underlying limits may be set at the minimum amounts required by the Umbrella or Excess Liability provided the combined limits meet at least the minimum limit for each required policy. The Umbrella or Excess Liability shall have an Annual Aggregate at a limit not less than two (2) times the highest per occurrence minimum limit required above for any of the required coverage. The County shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability, unless the Umbrella or Excess Liability provides continuous coverage to the underlying policies on a complete "Follow-Form" basis without exceptions and stated as such on the Certificate of Insurance.

ADDITIONAL INSURED: The Contractor agrees to endorse the County as an Additional Insured on each insurance policies required to be maintained by the Contractor, except for Worker's Compensation and Business Auto Liability. The CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, shall be endorsed to the Commercial General Liability. other policies, when required, such as for watercraft, aircraft, builder's risk or transit insurance, shall provide a standard Additional Insured endorsement offered by the insurer providing coverage with respect to liability arising out of the operations of the Contractor. The endorsement shall read "Palm Beach County Board of County Commissioners". The Contractor shall agree the Additional Insured endorsements provide coverage on a primary basis. Endorsement shall be in accordance with all of the limits, terms and conditions set forth herein.

LOSS PAYEE: The Contractor shall agree to endorse the County as a Loss Payee on the Builder's Risk and Inland Marine/Transit Insurance, when required to be maintained by the Contractor. The Loss Payee endorsement shall read "Palm Beach County Board of County Commissioners." Endorsement shall be in accordance with all of the limits, terms and conditions set forth herein. The Contractor shall agree the Loss Payee endorsement provides coverage on a primary basis.

WAIVER OF SUBROGATION: The Contractor shall agree by entering into this Contract to a Waiver of Subrogation for each required policy providing coverage during the life of this Contract. When required by the insurer or should a policy condition not permit an Insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then the Contractor shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should the insured enter into such an agreement on a pre-loss basis. The Waiver of Subrogation shall be in accordance with all of the limits, terms and conditions set forth herein.

RIGHT TO REVIEW & ADJUST: The Contractor shall agree, notwithstanding the foregoing, the County, by and through its Risk Management Department, in cooperation with the PAHOKEE GYMNASIUM
Last Update: 7/25/13

Department, reserves the right to periodically review, reject or accept all required policies of insurance, including limits, coverage, or endorsements, hereunder from time to time throughout the life of this Contract. Furthermore, the County reserves the right to review and reject any insurer providing coverage because of poor financial condition or because it is not operating legally. In such event, County shall provide Contractor written notice of such adjusted limits and Contractor shall agree to comply within thirty (30) days of receipt thereof and to be responsible for any premium revisions as a result of any such reasonable adjustment.

NO REPRESENTATION OF COVERAGE ADEQUACY: The coverage and limits identified in the table have been determined to protect primarily interests of the County only, and the Contractor agrees in no way should the coverage and limits in the table be relied upon when assessing the extent or determining appropriate types and limits of coverage to protect the Contractor against any loss exposures, whether as a result of the construction project or otherwise.

CERTIFICATE OF INSURANCE: Certificates of Insurance must provide clear evidence that Contractor's Insurance Policies contain the minimum limits of coverage and terms and conditions set forth herein. A minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage shall be identified on the Certificate.

In the event the County is notified that a required insurance coverage will cancel or non-renewed during the period of this Contract, the Contractor shall agree to furnish at least thirty (30) days prior to the expiration of such insurance, an additional certificate of insurance as proof that equal and like coverage for the balance of the period of the Contract and any extension thereof is in effect. Contractor shall agree not continue to work pursuant to this Contract unless all required insurance remains in effect. The County shall have the right, but not the obligation, of prohibiting Contractor or any subcontractor from entering the project site until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and accepted by the County. The County reserves the right to withhold payment, but not the obligation, to Contractor until coverage is reinstated. If the Contractor fails to maintain the insurance as set forth herein, the County shall have the right, but not the obligation, to purchase said insurance at Contractor's expense.

ADDITIONAL REQUIREMENTS FOR CERTIFICATES OF INSURANCE

1. Shall clearly identify Palm Beach County, a political subdivision of the State of Florida, its officers, agents and employees as Additional Insured for all required insurance coverage, except Workers Compensation and Business Auto Liability.
2. Shall clearly indicate project name and project number to which it applies.
3. Shall clearly indicate a minimum ten (10) day endeavor to notify requirement in the event of cancellation or non-renewal of coverage.
4. Evidence of renewal coverage must be provided at least fourteen (14) days in advance of any policy that may expire during the term of this Contract.
5. Shall clearly identify Palm Beach County, Board of County Commissioners endorsed as a Loss Payee on the Builders Risk and any Inland Marine coverage.
6. Contractor shall deliver original Certificate(s) of Insurance to the following Certificate Holder address:

Palm Beach County
 Capital Improvements Division/PPIG
 2633 Vista Parkway
 West Palm Beach, FL 33411

DEDUCTIBLES, COINSURANCE PENALTIES, & SELF-INSURED RETENTION: The Contractor shall agree to be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, coinsurance penalty, or self-insured retention.

SUBCONTRACTOR'S INSURANCE: The Contractor shall agree to cause each subcontractor employed by Contractor to purchase and maintain insurance of the type specified herein, unless the Contractor's insurance provides coverage on behalf of the subcontractor. When requested by the County, the Contractor shall agree to obtain and furnish copies of certificates of insurance evidencing coverage for each subcontractor.

INSURANCE COVERAGE & TABLE The Contractor shall agree to maintain the coverage, endorsements, and limits of liability in accordance with and set forth by the Insurance Coverage & Table below:

INSURANCE COVERAGE & LIMIT TABLE		
TYPE OF COVERAGE	CONTRACTS LESS THAN \$500,000	CONTRACTS \$500,000 OR MORE
<u>COMMERCIAL GENERAL LIABILITY:</u> Limit of Liability not less than: Additional Insured endorsement required:	\$500,000 per occurrence Yes	\$1,000,000 per occurrence Yes
<u>COMPREHENSIVE AUTO LIABILITY:</u> Limit of Liability not less than:	\$500,000 per occurrence	\$1,000,000 per occurrence
<u>WORKERS COMPENSATION & EMPLOYER'S LIABILITY:</u> Coverage not less than: Employers Liability Limits:	Statutory \$100/500/100	
<u>WATERCRAFT LIABILITY:</u> Limit of Liability not less than: Additional Insured endorsement required:	\$5,000,000 per occurrence Yes	

INSURANCE COVERAGE & LIMIT TABLE	
<u>AIRCRAFT LIABILITY:</u> Limit of Liability not less than:	\$5,000,000 per occurrence
When used to carry passengers (excluding aircraft's crew) coverage for Passenger Liability not less than: Additional Insured endorsement required:	\$1,000,000 per passenger Yes
<u>BUILDERS RISK:</u> Limit not less than: Endorsement to waive coverage termination from Occupancy Clause. Endorsement coverage until final acceptance of the project by Certificate of Occupancy by the Owner. Additional Insured & Loss Payee endorsements required:	The total project completed construction value as well as subsequent modifications to that sum. Yes Yes Yes
<u>INLAND MARINE COVERAGE:</u> Limit not less than: Additional Insured & Loss Payee endorsements required:	Highest value exposed during the construction project. Yes

GC 32 SITE CONDITIONS

Contractor shall have the sole responsibility of satisfying itself concerning the nature and location of work and the general and local conditions, and particularly, but without limitation, with respect to the following: those affecting transportation, access, disposal, handling and storage of materials; availability, quantity and quality of labor, physical conditions of existing construction, equipment and facilities needed preliminary to and during performance of the Contract; and all other matters which can in any way affect performance of the Contract, or the cost associated with such performance. The failure of Contractor to acquaint itself with any applicable condition will not relieve it from the responsibility for properly estimating either the difficulties or the costs of successfully and timely performing the Contract.

GC 33 DIFFERING CONDITIONS

Contractor shall notify Owner, within 24 hours of discovery, in writing and before proceeding with any work which Contractor believes constitutes a differing condition with respect to: (1) latent physical conditions at the jobsite differing materially from those indicated in this contract; or (2) unknown physical conditions at the jobsite, which conditions could not have been discovered during Contractor's efforts to comply with GC 32, and which are of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this contract.

Owner will, as promptly as practicable, investigate such conditions and if it determines that such conditions do materially so differ and cause an increase or decrease in Contractor's cost of or the time required for performance of any part of any work under this contract, an equitable adjustment will be made and the contract modified in writing accordingly. No claim of Contractor under this clause will be allowed unless Contractor has given the required notice.

GC 34 ACCESS TO WORK AREAS

Owner, and his duly authorized representatives and employees, and all duly authorized representatives of governmental agencies having jurisdiction over work areas or any part thereof shall, at all reasonable times, for the purpose of determining compliance with Contract requirements and permits, have access to such areas and the premises used by Contractor. Contractor shall also arrange for Owner, his said representatives and employees, to have access at all reasonable times to all places where equipment or materials are being manufactured, produced, or fabricated for use under the Contract.

Contractor's accesses to the site and storage areas shall be as shown on the plans and as designated by the Owner or shall be agreed upon in writing by Contractor and Owner. Access routes may also be used by County employees, the public and other contractors. No other access points shall be allowed unless approved by the Owner. All contractor traffic authorized to enter the site shall be experienced in the route or guided by contractor personnel. The Contractor is responsible for immediate cleanup of any debris deposited along the access route as a result of his construction traffic.

GC 35 CONTRACTOR INGRESS AND EGRESS

Contractor's access to the work area will be permitted only through approaches which will be designated by Owner, and then only in such manner that contractor's traffic will not interfere with Owner's operations. Contractor shall, at all times, maintain free unimpeded ingress and egress at the site. Contractor personnel are not to enter into any areas of the jobsite other than work areas and areas of designated access.

GC 36 PRECONSTRUCTION CONFERENCE

As soon as practicable after award of this Contract, a pre-construction conference will be arranged by the Owner. In attendance at said conference will be Owner and any of its representatives as may be deemed advisable. The purpose of said conference is to determine procedures related to the smooth progress of the project and for processing and distribution of all documents and

correspondence related to the Contract will be established. A schedule of values must be submitted to the Owner no later than the time and date of the pre-construction conference.

GC 37 CONTRACTOR MEETINGS

The Contractor shall, at its expense, as requested by Owner, attend any and all meetings called by Owner to discuss the work under the Contract.

GC 38 DELIVERY, UNLOADING AND STORAGE

Contractor shall, at its expense, receive, unload, store in a secure place, and deliver from storage to the construction site all materials, plant and equipment required for the performance of the Contract. The storage facilities, methods of storing and security provisions shall meet Owner's approval and manufacturer's recommendations. Materials and equipment subject to degradation by outside exposure shall be stored in a weather tight enclosure provided by Contractor at its expense.

GC 39 CONTRACTOR'S WORK AREA

All Contractor's work areas on the jobsite will be assigned by Owner. Contractor shall confine its office, shops, storage, assembly and equipment and vehicle parking to the areas so assigned.

GC 40 CONTRACTOR'S PLANT, EQUIPMENT AND FACILITIES

Contractor shall provide and use on any work only such construction plant and equipment as are capable of producing the quality and quantity of work and materials required by the Contract and within the time or times specified in the Contract.

GC 41 CONTRACTOR-FURNISHED MATERIALS, EQUIPMENT AND WORKMANSHIP

Only new, unused items of recent manufacture, of designated quality, but in no event less than the standard quality for the improvements, free from defects, will be accepted. Rejected items shall be removed immediately from the work and replaced with items of specified quality. Failure by Owner to order removal of rejected materials and equipment shall not relieve Contractor from responsibility for quality of the materials supplied nor from any other obligation under the Contract Documents.

Contractor shall continuously check architectural and structural clearances for accessibility of equipment and mechanical and electrical systems. No allowance of any kind will be made for Contractor's negligence to foresee means of installing equipment into position inside structures.

No work defective in construction or quality, or deficient in meeting any requirement of the contract drawings and specifications will be acceptable regardless of Owner's failure to discover or to point out defects or deficiencies during construction; nor will the presence of field representatives at the work or the satisfaction of the Work meeting applicable code requirements relieve Contractor from responsibility for the quality and securing progress of work as required by the Contract Documents. The Owner shall notify the Contractor of defective or unacceptable work if the Owner discovers such. Defective work revealed within the time required by

warranties (whether expressed or implied) shall be remedied in accordance with the GENERAL CONDITIONS Section entitled, WARRANTY. No payment, whether partial or final, shall be construed as an acceptance of defective work or improper materials.

Contractor shall waive "common practice" and "common usage" as construction criteria wherever details and specifications or governing codes and ordinances require greater quantity or better quality than common practices and common usage would require. Contractor shall order and schedule delivery of materials in reasonable time to avoid delays in construction. Delays in delivery of equipment or material purchased by the Contractor or its Subcontractors shall not be considered as a cause for an adjustment of the Contract Time or a basis for damages or compensation. The Contractor shall be fully responsible for the timely ordering, scheduling, expediting, delivery, and installation of all equipment and materials. If an item is found to be unavailable, Contractor shall notify Owner immediately of recommended substitute(s) to permit Owner's selection of a suitable substitute.

Owner will exercise sole authority for determining conformance of workmanship, materials, equipment and systems with the requirements of the Contract. Review and approval of all items proposed by Contractor for incorporation into the work will be by Owner. This function by Owner will apply both to approvals for the Contract as initially signed, and to approvals for changes to Contract by modifications during progress of the work.

When materials, equipment, or systems are specified by performance only, without reference to specific manufacturer's brands or models, Contractor shall submit its own choice for Owner's review and approval, supported by sufficient evidence of conformity with the Contract Documents.

GC 42 SUBSTITUTIONS

Prior to proposing any substitute item, Contractor shall satisfy itself that the item proposed is, in fact, equal or better to that specified, that such item will fit into the space allocated, that such item affords comparable ease of operation, maintenance and service, that the appearance, longevity and suitability for the climate are comparable, and that by reason of cost savings, reduced construction time, or similar demonstrable benefit, the substitution of such item will be in Owner's interest, and will in no way impact detrimentally upon the project completion date and schedule.

The burden of proof of equality of a proposed substitution for a specified item shall be upon Contractor. Contractor shall support its request with sufficient test data and other means to permit Owner to make a fair and equitable decision on the merits of the proposal. Contractor shall submit drawings, samples, data and certificates and additional information as may be required by the Owner for proposed substitute items.

Any item by a manufacturer other than those specified or of brand name or model number or of generic species other than those specified will be considered a substitution. Owner will be the sole judge of whether or not the substitution is equal in quality, utility and economy to that specified. Contractor shall allow an additional 15 days for Owner's review of substitution. All requests for substitutions with submittal data must be made at least fifty (50) days prior to the time Contractor must order, purchase or release for manufacture or fabrication. Materials and methods proposed as substitutions for specified items shall be supported by certification of their approval

for use by all governmental agencies having jurisdiction over use of specific material or method. Substitutions may not be permitted in those instances where the products are designed to match artistic design, specific function or economy of maintenance. Approval of a substitution shall not relieve Contractor from responsibility for compliance with all requirements of the Contract. Contractor shall coordinate the change with all trades and bear the expense for any changes in other parts of the work caused by any substitutions.

If owner rejects Contractor's substitute item on the first submittal, Contractor may make only one additional request for substitution in the same category. On the second request, and all future requests, the Contractor shall be invoice the expenses (including Owner, and Design Professionals cost and overhead) involved in reviewing submittal data.

GC 43 EXPEDITING

The equipment and material furnished under this Contract may be subject to expediting by Owner. Owner shall be allowed reasonable access to the shops, factories, and other places of business of the Contractor and its subcontractors and suppliers, for expediting purposes. As required by Owner, Contractor shall supply schedules and progress reports for Owner's use in expediting and Contractor shall cooperate with Owner and require its subcontractors and suppliers to cooperate with Owner in such expediting. Any expediting performed by Owner shall not relieve Contractor of its sole and primary responsibility for timeliness of delivery of the equipment and material to be furnished under this Contract.

GC 44 RESPONSIBILITY FOR WORK SECURITY

Contractor shall, at its expense, at all times conduct all operations under the Contract in a manner to avoid the risk of loss, theft or damage by vandalism, sabotage or other means to any property. Contractor shall promptly take all reasonable precautions which are necessary and adequate against any conditions which involve a risk of loss, theft or damage to its property, at a minimum. Contractor shall continuously inspect all its work, materials, equipment and facilities to discover and determine any such conditions and shall be solely responsible for discovery, determination and correction of any such condition.

Contractor shall prepare and maintain accurate reports of incidents of loss, theft or vandalism and shall furnish these reports to Owner within three days of each incident.

GC 45 PROTECTION OF WORK IN PROGRESS, MATERIALS AND EQUIPMENT

Contractor shall be responsible for and shall bear any and all risk of loss or damage to work in progress, all materials delivered to the site, and all materials and equipment involved in the work until completion and final acceptance of work under this Contract. Excluded from Contractor's responsibility is any loss or damage which results from the sole active negligence of the Owner or its representatives.

GC 46 PROTECTION OF EXISTING PROPERTY

Contractor shall so conduct its operations as not to damage any other property. If facilities are closed, obstructed, damaged or rendered unsafe by Contractor's operations, Contractor shall, at its

expense, make such repairs and provide temporary guards, lights and other signals as necessary or required for safety and as will be acceptable to Owner and/or its Insurance Representative.

GC 47 LABOR

Contractor shall employ only competent and skilled personnel to perform the work. Contractor shall, if requested to do so by Owner, remove from the jobsite any personnel of Contractor whom Owner determines unfit or acting or working in violation of any provision of this contract.

The Contractor and subcontractors shall be bound by and comply with all Federal, State and local laws with regard to minimum wages, overtime work, hiring, and discrimination. All work necessary to be performed after regular working hours, on Sundays or legal holidays, shall be performed without additional expense to the Owner. The Contractor shall comply with the Copeland Anti-Kick Back Act (19 U.S.C. 874) as supplemented in the Department of Labor Regulations (29 CFR Part 3). This act provides that each Contractor or Subcontractor shall be prohibited from inducing by any means, any person employed in the construction, completion or repair of public work, to give up any part of the compensation to which he is otherwise entitled.

GC 48 EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this Contract, the Contractor agrees as follows:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, disability, sex, age, national origin, ancestry, marital status, sexual orientation, gender identity or expression, familial status or genetic identity. The Contractor will take affirmative action to ensure that applicants and employees are treated during employment without regard to their race, color, religion, disability, sex, age, national origin, ancestry, marital status, sexual orientation, gender identity or expression, familial status or genetic identity. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Owner setting forth provisions of this nondiscrimination clause.
- B. The Contractor will, in all solicitations or advertisements for employees placed for, by, or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, sexual orientation, gender identity or expression, familial status or genetic identity.
- C. The Contractor will comply, in all respects, with any and all applicable Executive Orders regulating equal employment opportunities.
- D. All regulations, guidelines, and standards lawfully adopted under the governing statutes.

GC 49 SAFETY & PROTECTION OF PERSONS & PROPERTY

RESPONSIBILITY FOR SAFETY AND HEALTH

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work to be performed under the terms of the Contract ("Work"). The Contractor shall take all precautions and follow all procedures for the safety of, and shall provide all protection to prevent injury to, all persons involved in any way in the Work and all other persons, including, without limitation, the employees, agents, guests, visitors, invitees and licensees of the Owner and Users who may be affected thereby.

All Work, whether performed by the Contractor, its Sub-Contractors or Sub-subcontractors, or anyone directly or indirectly employed by any of them, and all equipment, appliance, machinery, materials, tools and like items incorporated or used in the Work, shall be in compliance with, and conform to:

- A. all applicable laws, ordinances, rules, regulations and orders of any public, quasi- public or other authority relating to the safety of persons and their protection against injury, specifically including, but in no event limited to, the Federal Occupational Safety and Health Act of 1970, as amended and all State, Local, City and County rules and regulations now or hereafter in effect; and
- B. all codes, rules, regulations and requirements of the Owner and its insurance carriers relating thereto. In the event of conflicting requirements, the more stringent shall govern.

The Contractor shall defend, indemnify and hold the Owner, Design Professional, the Owner's Representative and their respective officers, directors, agents, employees and assigns, harmless from and against any and all liability, public or private, penalties, contractual or otherwise, losses, damages, costs, attorneys' fees, expenses, causes of action, claims or judgments resulting either in whole or in part from any failure of the Contractor, its Subcontractors or Sub-subcontractors or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, to comply with the provisions of this General Condition.

The Contractor shall not raise as a defense to its obligation to indemnify under this General Condition any contributing negligence of any of those indemnified hereunder, it being understood and agreed that no such contributing negligence shall relieve the Contractor from its liability to so indemnify nor entitle the Contractor to any contribution, either directly or indirectly, by those indemnified hereunder.

GC 50 EXPLOSIVES & HAZARDOUS MATERIALS

Contractor shall comply with, and shall have and maintain all applicable permits and licenses required by, Federal, State and local laws, codes, rules, regulations or ordinances related to the safe and proper handling, transporting, storage and use of any explosive or hazardous materials brought onto or encountered within the site, and at its expense, shall make good any damage caused by its handling, transporting, storage and use. The Contractor will notify the Owner immediately if explosive or hazardous materials are encountered on the site. Transporting explosive or hazardous materials onto the site will require prior written approval from the Owner. The

Contractor shall maintain and Post as necessary Material Hazard Data Sheets for all applicable Hazardous Materials used in the course of his work.

In the event that hazardous material is improperly handled or stored by the Contractor, its subcontractors, any sub-sub contractors, or any employee or agent of any of the aforementioned which results in contamination of the site, Contractor shall immediately notify the Owner and the appropriate governmental authority and shall take whatever action is necessary or desirable to remediate the contamination at the Contractor's sole cost and expense. Further, Contractor shall indemnify and hold harmless from any and all cost, expense, action, or liability whatsoever resulting from such contamination and/or remedial activities.

GC 51 INSPECTION: REJECTION OF MATERIALS AND WORKMANSHIP

If any material, equipment or workmanship is determined by Owner, either during performance of the work or on final quality surveillance, or during any applicable warranty period (expressed or implied), to be defective or not complying with the requirements of this contract, Owner shall notify Contractor in writing that such material, equipment or work is rejected and the Owner reserves the right to withhold payment on any such item. Thereupon, Contractor shall, at its own expense, immediately remove and replace or correct such defective material, equipment or work by making the same comply strictly with all requirements of the Contract.

GC 52 CHANGES

County may, at any time, without invalidating the Contract and without notice to the Surety(ies), make changes in the work by issuing a Change Order. The County will issue written orders to Contractor for any changes except that in the event of an emergency which the County determines endangers life or property, County may issue oral orders to Contractor for any work required by reason of such emergency. Such orders will be confirmed in writing as soon as practicable. Written orders may also be issued by the County to the Contractor to complete work which, if not accomplished, could adversely affect a critical path activity. Such orders, whether written or oral, may be accompanied by drawings and data as are necessary to show the extent of such ordered work.

Unless otherwise required, Contractor shall, within four (4) calendar days following receipt of a change request from the County, submit in writing to the County a Change Proposal for accomplishing such change, which proposal shall reflect the increase or decrease, if any, in cost to the County of performing the change under the Contract.

The proposal shall state the Contractor's added and/or deleted compensation, based solely on the unit price contained in the Bidders Response to the ITB. Unit prices are to be all inclusive including OH&P and all other markups.

No additional percentage markup in connection with any change will be allowed.

No change order shall be valid until approved and signed by the County. If a proposed change is deemed beneficial to the project and is within the limits set forth in the contract, the County may cause to be issued an appropriate change order to the Contract with or without the Contractor's signature.

GC 53 PAYMENT

Before commencing the work, Contractor shall provide to County a certified copy of the recorded bond (on bonded projects only). County will not make any payment to Contractor until Contractor has complied with this requirement.

Payment will be made by the County after commodities/services have been received, accepted and properly invoiced as indicated in the contract.

In the event any dispute with respect to any payment or pay request cannot be resolved between the Contractor and Owner's project staff, Contractor may, in accordance with the alternative dispute resolution requirements of Florida Statute section 218.72, et seq, demand in writing a meeting with and review by the department (agency) director. In the absence of the department director, a deputy director may conduct the meeting and review. Such meeting and review shall occur within ten (10) business days of receipt by the Owner of Contractor's written demand. The department (agency) director, or deputy director, shall issue a written decision on the dispute within ten (10) business days of such meeting. This decision shall be deemed the Owner's final decision for the purposes of the Local Government Prompt Payment Act.

Each application for payment shall be accompanied by the following:

1. A notarized "Affidavit of Disbursement of Previous Periodic Payments to Subcontractors" from the General Contractor for the portion of work up to the date of that particular pay application.
2. SBE-M/WBE Construction Activity Report (Schedule 3).
3. SBE-M/WBE Payment Certification (Schedule 4).
4. An Owner approved construction schedule update

If one or more "Notice of Non-Payment" is received by the Owner, no further payments will be approved until non-payment(s) have been satisfied and an original "Release of Claim" for each "Notice" has been submitted to the Owner. Upon request, Contractor shall furnish acceptable evidence that all such claims or liens have been satisfied. On bonded projects only, the Owner may allow, with consent of Surety and indemnification of the County against any claims, payment for work which there is an outstanding Notice of Non-Payment.

Any amount otherwise payable under the Contract may be withheld, in whole or in part if:

1. Any claims are made against Contractor by Owner or third parties, or if reasonable evidence indicates the probability of the making of any such claim; or
2. Contractor is in default of any Contract condition; or
3. There is reasonable doubt that this Contract can be completed within the time specified or for the balance then unpaid.
4. Defective work or material is not remedied;
5. Contractor persistently fails to carry out the work in accordance with the Contract Documents;
6. Contractor fails to submit the information required by this Contract; or
7. Contractor fails to submit an owner approved updated Schedule with each Application for Payment.

If claims or liens filed against Contractor or property of Owner connected with performance under this Contract are not promptly removed by Contractor after receipt of written notice from Owner to do so, Owner may remove such claims or liens and all costs in connect with such removal shall be deducted from withheld payments or other monies due Contractor under the Contract is insufficient to meet such cost, or if any claim or lien against Contractor is discharged by Owner after final payment is made, Contractor and its surety or sureties shall promptly pay Owner all costs (including attorney's fees) incurred thereby regardless of when such claim or lien arose.

GC 54 NOT USED

GC 55 FINAL INSPECTION AND ACCEPTANCE

When the Contractor considers that all work under the Contract is complete, Contractor shall so inform Owner in writing. When the Owner is satisfied that all work under the Contract is completed and is in accordance with the requirements of this Contract, Owner shall notify Contractor in writing of final acceptance of its work under this Contract and will make final payment to Contractor.

GC 56 NOT USED

GC 57 CRIMINAL HISTORY RECORDS CHECK ORDINANCE

If Contractor's employees or subcontractors' employees are required under this contract to enter a "critical facility" as identified in Resolution R2003-1274, those employees shall undergo a criminal history record check in order to be granted access pursuant to the latest version of Chapter 2, Article IX of the Palm Beach County Code. In addition, for access to a Palm Beach County Sheriff's Office facility, an additional criminal history records check will be required.

Prior to commencement of work within a critical facility, the Contractor shall make arrangements through the County's Electronic Services and Security Division/Access Section for its employees and those of its subcontractors to have finger print based criminal history record checks performed. Those employees clear of disqualifying offenses will be granted an ID badge which must be worn at all times. A list of disqualifying offenses is available upon request. Any person found to have a disqualifying criminal offense will be denied unescorted access to the project. The Contractor will be charged a nominal fee for lost cards.

Although County agrees to pay for all applicable FDLE/FBI fees required for criminal history record checks, the Contractor shall be solely responsible for all direct and indirect costs associated with complying with Ordinance 2003-030.

**SPECIAL CONDITIONS
TABLE OF CONTENTS**

SC - 1 SPECIAL CONDITIONS

SC - 2 PROJECT TEAM

SC - 3 LOCATION OF WORK

SC - 4 WORK CONSTRAINTS

SC - 5 MEETING SPACE

SC - 6 CONCURRENT WORK

SC - 7 PESTICIDES AND HERBICIDES APPLICATION

SC - 8 NPDES PERMIT FOR STORM WATER DISCHARGE

SC- 9 CRIMINAL HISTORY RECORDS CHECK

SC 1 SPECIAL CONDITIONS

The following supplements modify, change, delete from or add to the General Conditions of this Contract. Where any paragraph or subparagraph is modified or deleted by these supplements, the unaltered provision of that paragraph, subparagraph or clause shall remain in effect.

SC 2 PROJECT TEAM

Key members of the Project Team as referenced in the specifications are defined as follows:

1. Owner: Palm Beach County Board of County Commissioners.
2. Architect/Engineer:
3. User:
4. Owner's Project Representative:
5. Governmental and Regulatory agencies having jurisdiction over this project include:
6. Utility companies providing service to the project include Florida Power & Light (Electrical), AT&T (Telephone), _____
(Sewer & Water) and Solid Waste Authority (Refuse).

SC 3 LOCATION OF WORK

SC 4 WORK CONSTRAINTS

Work shall normally be accomplished during daylight hours on weekdays. The County and Architect/Engineer of Record must be provided 48 hour notice of any work to be performed after daylight hours or on weekends. All care must be maintained for public safety.

SC 5 MEETING SPACE

Contractor shall provide an air conditioned space with chairs and a table in order to conduct progress meeting with the County and Architect/Engineer.

SC 6 CONCURRENT WORK

The following work, under separate Contract to the County, is anticipated to occur during the

contractual time frames of the project:

1. Installation of Electrical Primary Service By Florida Power & Light.
2. Installation of Telephone Service By AT&T and by Contractor to be selected by the County.
3. Installation of Data/Communication wiring.

The foregoing in no way limits the County's rights to execute additional work on the site under separate contract.

SC 7 PESTICIDES AND HERBICIDES APPLICATION

Provide evidence to County of proper certification of applicators of pesticides or herbicides prior to the application of those products on County property.

SC 8 NPDES PERMIT FOR STORM WATER DISCHARGE

On projects where construction activities disturb one acre of land or more, the Contractor will be required to comply with the County's NPDES General Permit which includes implementation of a storm water pollution prevention plan (SWPPP) during construction.

SC 9 CRIMINAL HISTORY RECORDS CHECK

If Contractor's employees or subcontractors' employees are required under this contract to enter a "critical facility" as identified in Resolution R2003-1274, those employees shall undergo a criminal history record check in order to be granted access pursuant to the latest version of Chapter 2, Article IX of the Palm Beach County Code. In addition, for access to a Palm Beach County Sheriff's Office facility, an additional criminal history records check will be required.

Prior to commencement of work within a critical facility, the Contractor shall make arrangements through the County's Electronic Services and Security Division/Access section for its employees and those of its subcontractors to have finger print based criminal history record checks performed. Those employees clear of disqualifying offenses will be granted an ID badge which must be worn at all times. A list of disqualifying offenses is available upon request. Any person found to have a disqualifying criminal offense will be denied unescorted access to the project. The Contractor will be charged a nominal fee for lost cards.

Although County agrees to pay for all applicable FDEL/FBI fees required for criminal history record checks, the Contractor shall be solely responsible for all direct and indirect costs associated with complying with Ordinance 2003-030.