

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: August 20, 2019

Consent Regular
 Workshop Public Hearing

Submitted By: Department of Airports

I. EXECUTIVE BRIEF





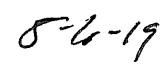
Motion and Title: Staff recommends motion to approve: The Construction Manager (CM) at Risk Contract with The Morganti Group, Inc. (Morganti) for a term of two years with three, one-year renewal options for CM at Risk Services for Miscellaneous Airport Improvements for Palm Beach County Department of Airports.

Summary: In order to complete certain capital improvement projects at the County's four Airports, the Department of Airports (Department) requires a CM at Risk contractor to provide preconstruction and construction services, which include conducting the procurement process for assigned tasks/work orders, project management and construction supervision. Morganti was one of two firms selected to provide these services. This solicitation for CM contractors was advertised on September 23, 2018 according to the Small Business Enterprise (SBE) Ordinance in place at the time, with a 15% SBE goal. Morganti is on notice that all Guaranteed Maximum Price (GMP) issued pursuant to this contract will be subject to the requirements of the Equal Business Opportunity (EBO) Ordinance, including requesting Affirmative Procurement Initiatives (API's) be set prior to bidding the subcontracts. Morganti has proposed teaming with Cooper Construction Management and Consulting, Inc. (Cooper), as its S/MBE partner, to provide S/MWBE outreach for assigned tasks/work orders, project management and construction supervision services in an amount not less than 15% of the fees paid by the County for such services in connection with this contract. Projects to be assigned under this contract may include the Air Handler Improvements Phase 2 (PBI), Maintenance Compound (PBI), Terminal Condensation Remediation (PBI), Replacement of Sound Baffles (PBI), Miscellaneous Interior Improvements (PBI), along with Miscellaneous Airport Apron, Taxiway or Roadway Improvements at any of the four airport facilities. The services under this contract are task/work order based. The specific projects that will be assigned under this contract will be determined at a later date and approved in accordance with PPM CW-F-050 with the appropriate bonds and insurance documents. Morganti is based in Danbury, Connecticut; however, the work will be directly managed by its southeast regional office in Palm Beach County. **Countywide (AH)**

Background and Justification: The Department issued a request for proposals for CM at Risk Services for Miscellaneous Airport Improvements on September 23, 2018. Ten (10) submittals were received on November 15, 2018. The Department shortlisted four (4) firms on February 14, 2019: The Whiting-Turner Contracting Company, The Morganti Group, Inc., Lebolo Construction Management, Inc., and Johnson Laux. On April 11, 2019, the Countywide Selection Committee selected The Morganti Group, Inc., and Lebolo Construction Management, Inc. to provide the required CM at Risk Services for Palm Beach County Department of Airports.

Attachments:

- 1. Contracts with The Morganti Group, Inc. - (3 originals)

Recommended By:   
Department Director Date
Approved By:  
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues (Grants)	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	* _____	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No X
 Does this item include the use of federal funds? Yes _____ No X

Budget Account No: Fund ___ Department ___ Unit ___ Object ___
 Reporting Category _____

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

*There is no Fiscal Impact for this item.

C. Departmental Fiscal Review: CM Simmer

III. REVIEW COMMENTS

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

Debra Rawson 7/30/19
 OFMB (2) 7/29

David J. Stewart 8/11/19
 Contract Dev. and Control 8/17/19 TW

B. Legal Sufficiency:

Anne Delgado 8-5-19
 Assistant County Attorney

C. Other Department Review:

 Department Director

REVISED 11/17

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



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
07/13/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Aon Risk Services Northeast, Inc. Boston MA Office 53 State Street Suite 2201 Boston MA 02109 USA		CONTACT NAME: PHONE (A/C. No. Ext): (866) 283-7122 FAX (A/C. No.): (800) 363-0105 E-MAIL ADDRESS:															
INSURED The Morganti Group, Inc. 1450 Centrepark Boulevard Suite 260 West Palm Beach FL 33401 USA		<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: Federal Insurance Company</td> <td style="text-align: center;">20281</td> </tr> <tr> <td>INSURER B: Chubb National Ins Co</td> <td style="text-align: center;">10052</td> </tr> <tr> <td>INSURER C: Executive Risk Indemnity Inc.</td> <td style="text-align: center;">35181</td> </tr> <tr> <td>INSURER D: Starr Indemnity & Liability Company</td> <td style="text-align: center;">38318</td> </tr> <tr> <td>INSURER E: American Guarantee & Liability Ins Co</td> <td style="text-align: center;">26247</td> </tr> <tr> <td>INSURER F: Berkley Assurance Company</td> <td style="text-align: center;">39462</td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Federal Insurance Company	20281	INSURER B: Chubb National Ins Co	10052	INSURER C: Executive Risk Indemnity Inc.	35181	INSURER D: Starr Indemnity & Liability Company	38318	INSURER E: American Guarantee & Liability Ins Co	26247	INSURER F: Berkley Assurance Company	39462
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COVERAGES
CERTIFICATE NUMBER: 570077511605
REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR VWD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
C	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			54309476	07/01/2018	12/31/2019	EACH OCCURRENCE \$2,000,000
				AOS	07/01/2018	12/31/2019	DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000
				54309475			MED EXP (Any one person) \$5,000
				CT			PERSONAL & ADV INJURY \$2,000,000
							GENERAL AGGREGATE \$4,000,000
							PRODUCTS - COMP/OP AGG \$4,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY			54309474	07/01/2018	12/31/2019	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
D	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB OCCUR <input type="checkbox"/> CLAIMS-MADE DED RETENTION			1000584535181	07/01/2018	12/31/2019	Primary \$5M EACH OCCURRENCE AGGREGATE \$5,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input checked="" type="checkbox"/> N		N/A	54309477	07/01/2018	12/31/2019	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE-EA EMPLOYEE \$1,000,000 E.L. DISEASE-POLICY LIMIT \$1,000,000
F	Env Prof (E&O)			PCADB50044350818	08/01/2018	12/31/2019	Professional/Claims Made SIR applies per policy terms & conditions Each Claim \$5,000,000 SIR \$250,000 Aggregate \$5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 RE: DOA18-13. Palm Beach County Board of Commissioners, a Political Subdivision of the State of Florida, it's Officers, Employees and Agents are included as Additional Insured in accordance with the policy provisions of the General Liability and Automobile Liability policies. General Liability, Automobile Liability and Excess Liability policies evidenced herein are Primary and Non-Contributory to other insurance available to an Additional Insured, but only in accordance with the policy's provisions. A Waiver of Subrogation is granted in favor of Palm Beach County in accordance with the policy provisions of the General Liability, Automobile Liability, Excess Liability and Workers' Compensation policies.

CERTIFICATE HOLDER Palm Beach County c/o Insurance Tracking Services, Inc. PO Box 20270 Long Beach CA 90801 USA	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Aon Risk Services Northeast, Inc.</i>
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Holder Identifier: 570077511605 Certificate No.: 570077511605



ADDITIONAL REMARKS SCHEDULE

AGENCY Aon Risk Services Northeast, Inc.		NAMED INSURED The Morganti Group, Inc.	
POLICY NUMBER See Certificate Number: 570077511605		EFFECTIVE DATE:	
CARRIER See Certificate Number: 570077511605	NAIC CODE		

ADDITIONAL REMARKS

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
 FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance**

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER	
INSURER	
INSURER	
INSURER	

ADDITIONAL POLICIES If a policy below does not include limit information, refer to the corresponding policy on the ACORD certificate form for policy limits.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
	EXCESS LIABILITY							
E				AEC038479801 \$5M xs \$5M	07/01/2018	12/31/2019	Aggregate	\$5,000,000
							Each Occurrence	\$5,000,000



CERTIFICATE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY)
07/13/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

PRODUCER Aon Risk Services Northeast, Inc. Boston MA Office 53 State Street Suite 2201 Boston MA 02109 USA	CONTACT NAME: PHONE (A/C. No. Ext): (866) 283-7122 FAX (A/C. No.): (800) 363-0105		
	E-MAIL ADDRESS: PRODUCER CUSTOMER ID #: 10755562		
INSURED The Morganti Group, Inc. 1450 Centrepark Boulevard Suite 260 West Palm Beach FL 33401 USA	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: The Travelers Indemnity Co of CT		25682
	INSURER B:		
	INSURER C:		
	INSURER D:		
	INSURER E:		

Holder Identifier:

COVERAGES **CERTIFICATE NUMBER:** 570077511606 **REVISION NUMBER:**
LOCATION OF PREMISES/ DESCRIPTION OF PROPERTY (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
RE: Location: 1450 Centre Park Blvd., Suite 260, West Palm Beach, FL 33401, DOA18-13.

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE		POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	COVERED PROPERTY	LIMITS	
A	<input checked="" type="checkbox"/>	PROPERTY	QT660221D2011TCT19	07/01/2019	12/31/2019	BUILDING		
		CAUSES OF LOSS				DEDUCTIBLES	PERSONAL PROPERTY	
	<input type="checkbox"/>	BASIC				BUILDING	BUSINESS INCOME	
	<input type="checkbox"/>	BROAD				CONTENTS	EXTRA EXPENSE	
	<input checked="" type="checkbox"/>	SPECIAL					RENTAL VALUE	
	<input type="checkbox"/>	EARTHQUAKE				BLANKET BUILDING		
	<input type="checkbox"/>	WIND				BLANKET PERS PROP		
	<input type="checkbox"/>	FLOOD				BLANKET BLDG & PP		
	<input checked="" type="checkbox"/>					Personal Property	\$50,000	
	<input type="checkbox"/>							
<input type="checkbox"/>	INLAND MARINE	TYPE OF POLICY						
<input type="checkbox"/>	CAUSES OF LOSS	POLICY NUMBER						
<input type="checkbox"/>	NAMED PERILS							
<input type="checkbox"/>	CRIME							
<input type="checkbox"/>	TYPE OF POLICY							
<input type="checkbox"/>	BOILER & MACHINERY / EQUIPMENT BREAKDOWN							

CERTIFICATE NUMBER: 570077511606

SPECIAL CONDITIONS / OTHER COVERAGES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER Palm Beach County c/o Insurance Tracking Services, Inc. PO Box 20270 Long Beach CA 90801 USA	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Aon Risk Services Northeast, Inc.</i>
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CERTIFICATE
(Corporation)

The undersigned hereby certifies that the following are true and correct statements:

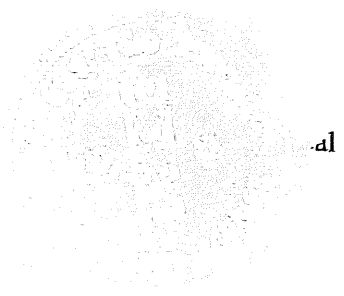
1. That Nabil Takla is the President of The Morganti Group, Inc., a Corporation organized and existing in good standing under the laws of the State of Connecticut, hereinafter referred to as the Corporation, and that the following Resolutions are true and correct copies of certain Resolutions adopted by the Board of Directors of the Corporation as of the 9th day of May, 2019, in accordance with the laws of the State of Connecticut, the Articles of Incorporation and the By-laws of the Corporation.

RESOLVED that the corporation shall enter into that certain Contract, DOA 18-13 CM at Risk Services for Airport Improvements for the Department of Airports Agreement between Palm Beach County, a political subdivision of the State of Florida and the Corporation (the Agreement), a copy of which is attached hereto: and be it

FURTHER RESOLVED, that Stephen Sines, the Vice President Operations, of the Corporation, is hereby authorized and instructed to execute such Agreement and such other instruments as may be necessary and appropriate for the Corporation to fulfill its obligations under the Agreement,

2. That the foregoing resolutions have not been modified, amended, rescinded, revoked or otherwise changed and remain in full force and effects as of the date hereof.
3. That the Corporation is in good standing under the laws of the State of Florida, and had qualified, if legally required, to do business in the State of Florida and has full power and authority to enter into such Agreement.

IN WITNESS WHEREOF, the undersigned has set his hand and affixed the Corporate Seal of the Corporation on the 18th day of July, 2019.



Nabil Takla
(Signature)

Stephen Sines
(Witness)

Subscribed and sworn before me by Nabil Takla this 18th day of July, 2019

Judith E. Annunziata
Notary Public

JUDITH E. ANNUNZIATA
NOTARY PUBLIC
MY COMMISSION EXPIRES OCT. 31, 2021



**CONTINUING CONTRACT FOR
CONSTRUCTION MANAGER AT RISK SERVICES
FOR MISCELLANEOUS IMPROVEMENTS
PALM BEACH COUNTY DEPARTMENT OF AIRPORTS**

This Contract is between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as "Owner" or "County" and **THE MORGANTI GROUP INCORPORATED**, Federal Tax ID Number 06-1149260 hereinafter referred to as the "Construction Manager", "Contractor" or "CM".

WITNESSETH:

That the said Construction Manager having been awarded the Contract for the:

**DOA 18-13 CM@RISK SERVICES for MISCELLANEOUS
IMPROVEMENTS PROJECTS on a CONTINUING CONTRACT BASIS**

And in accordance with the Contract Documents and for the promises and mutual consideration specified herein, the Construction Manager hereby covenants and agrees to undertake and execute all of the Work awarded hereunder in a good and workmanlike manner and further agrees 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 each project Task/Work Order or Amendment.

The parties agree that the Contract Documents consist of the following documents that are incorporated herein by reference:

- The Contract and any approved amendments (when executed);
- General Conditions to the Contract;
- Request for Proposal and Construction Manager's Proposal;
- GMP Amendment, Work Orders and Task Orders for each project and any Change Orders thereto;
- Special Conditions for each Task Order/Work Order/Amendment;
- Public Construction Bond and Form of Guarantee (when required) for each Work Order/Amendment;
- Insurance Certificates for each Work Order/Amendment;
- Technical Specifications, Addenda, Drawings/Plans and any revisions thereto for each Amendment or Work Order (the Construction Documents).
- EBO Schedules when completed and submitted.

The Construction Manager Acknowledges that the Work described by this Contract shall be authorized by Task Orders/Work Orders/Amendments and no minimum number or dollar value of Task Orders/Work Orders/Amendments is promised under this Contract.



ARTICLE 1

GENERAL TERMS

- 1.1 Definitions.** Terms used in this Contract shall have the following meanings:
- 1.1.1** "Amendment" means a written instrument approved and executed by the parties that modifies the Contract.
- 1.1.2** "Architect" means the Architect/Engineer of Record for each project which will be designated in the special conditions for each project assigned under this Contract.
- 1.1.3** "Basic Services" means the services described in Article II of this Contract for each project assigned under this Continuing Contract.
- 1.1.4** "Construction Documents" means the technical specifications, design documents whether preliminary or final, architectural drawings, construction drawings, plans, addenda and change orders for each project assigned under this Continuing Contract.
- 1.1.5** "Construction Team" means the Owner, the Architect and the Construction Manager.
- 1.1.6** "Contract" or "Continuing Contract" means the Contract as defined on page one hereof.
- 1.1.7** "Contractor" or "Construction Manager" or "CM" the terms will be used interchangeably and means the company named in the initial paragraph of page one of this Contract
- 1.1.8** "Contract Sum" means Guaranteed Maximum Price for each project assigned under this Continuing Contract, and the terms will be used interchangeably.
- 1.1.9** "Guaranteed Maximum Price" or "GMP" the terms will be used interchangeably, means the amount calculated in accordance with Article 6 hereof and accepted by the Owner for each project assigned under this Continuing Contract.
- 1.1.10** "GMP Amendment" means an amendment to this Contract that establishes the Guaranteed Maximum Price as described in Section 2.1.14 hereof for each project assigned under this Continuing Contract; the GMP Amendment may be issued as a Work Order or an Amendment depending on the value thereof.
- 1.1.11** "Owner" means Palm Beach County.
- 1.1.12** "Subcontractor" means Trade Contractor, and the terms will be used interchangeably.
- 1.1.13** "Task Order" means an Amendment to the Contract that assigns a project to the Construction Manager and authorizes pre-construction services for that project.

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1.1.14 "Trade Contractor" means the subcontractors hired by the CM to perform the Work for each project assigned under this Continuing Contract.

1.1.15 "Work" means all the preconstruction, the construction and other services required by the Contract and includes all labor, materials, equipment, supervision and services provided by the Construction Manager to fulfill its obligations under the Contract for each project assigned under this Continuing Contract.

1.1.16 "Work Order" means an Amendment to the Contract that authorizes construction services for a project assigned under the Contract.

1.2 Standard of Performance. The Construction Manager agrees to furnish its best skill and judgment and to cooperate with the Owner and Architect in furthering the interests of the Owner. The Construction Manager agrees to furnish efficient business administration and superintendence and to use its best efforts to complete each project assigned under this Continuing Contract in an expeditious and economical manner consistent with the interests of the Owner.

1.3 The Construction Team. The Construction Manager, the Owner, and the Architect (the "Construction Team") will cooperate together through construction completion for each project assigned under this Continuing Contract. The Construction Manager shall provide leadership to the Construction Team on all matters relating to construction. The Architect will provide leadership to the Construction Team on all matters relating to design. Nothing herein is intended to make the Owner liable for the acts or deeds of the Construction Manager.

1.4 General Warranties. By execution of this Contract, Owner and Construction Manager each represent and warrant to the other that they are authorized to enter into this Contract and that this Contract represents such party's legal, valid and binding obligation, enforceable according to the terms thereof.

1.5 Construction Manager's Warranties. Construction Manager covenants, represents and warrants to Owner that:

It is a business organization duly organized, validly existing and in good standing under the laws of the State of Florida, having full power and authority to engage in the business it presently conducts and contemplates conducting, and is and throughout the Work will be duly licensed or qualified and in good standing under the laws of said jurisdiction;

It has the required authority, ability, skills and capacity to perform, and shall perform, the Work in a manner consistent with sound engineering and construction principles, project management and supervisory procedures, and reporting and accounting procedures;

The execution, delivery and performance of this Contract will not conflict with any applicable laws or with any covenant, agreement or understanding to which it is a party or by which it or any of its properties or assets is bound or affected;

It has knowledge of all the applicable laws in effect on the effective date of the Contract and of all business practices in the jurisdiction within which the Work is located that must be followed in performing the Work.

1.6 Time is of the Essence.

Time is of the essence in this Contract, and the Construction Manager agrees to promptly perform its duties under the Contract and will give the Work as much priority as is necessary to cause the

Work to be completed on a timely basis in accordance with the Contract. All Work shall be performed strictly (not substantially) within the time limitations necessary to maintain the critical path and all deadlines established in the Contract Documents.

All dates and periods of time set forth in the Contract Documents, including those for the commencement, prosecution, interim milestones, milestones, and completion of the Work, and for the delivery and installation of materials and equipment, are included because of their importance to the County.

Construction Manager acknowledges and recognizes that the Work for each project assigned under this Continuing Contract must be performed in accordance with the project schedule developed for each project in accordance with Article 5 hereof and General Condition 47 of the Contract.

By signing this Contract, the Construction Manager agrees to the assessment of liquidated damages as provided in Article 5 hereof.

In agreeing to bear the risk of delays for completion of the Work, except for extensions approved in accordance with the Contract, the Construction Manager understands that, except and only to the extent provided otherwise in the Contract, the occurrence of events of delay within the Construction Manager's control shall not excuse the Construction Manager from its obligation to achieve full completion of the Work according to the project schedule, and shall not entitle the Construction Manager to an adjustment of the GMP. All parties under the control or in contract with the Construction Manager shall include but are not limited to Subcontractors, materialmen and laborers. If the Construction Manager has reason to believe that a delay on the part of a materialman or supplier was not within the Construction Manager's control, the Construction Manager may present such justification to the County for consideration of an extension in accordance with the General Conditions of the Contract.

1.7 Complete Functional Project. It is the intent of the parties to describe in the Contract Documents a functionally complete project to be constructed in accordance with the Contract and in accordance with all codes and regulations governing construction of each project. Any work, materials or equipment that may reasonably be inferred from the Contract as being required to produce the intended result shall be supplied by Construction Manager whether or not specifically called for. Where words, which have a well-known technical or trade meaning, are used to describe work, materials or equipment, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals, or codes of any technical society, organization or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code or laws or regulations in effect at the time of opening of bids and Construction Manager shall comply therewith. The County shall have no duties other than those duties and obligations expressly set forth within the Contract.

1.8 Governing Order. The Governing Order of the Contract is agreed to be as follows: The Contract includes various divisions, sections and conditions which are essential parts for the Work to be provided by the Construction Manager. A requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete project. In case of discrepancy, the following precedence will govern the interpretation of the Contract Documents as they apply to each project assigned:

1. This Contract and any amendments to this Contract including Task/Work

- Orders;
2. The RFP
3. Special Conditions
4. General Conditions
5. Insurance Certificates, Public Construction Bond and Guarantee
6. The Construction Documents (when approved)
7. The Construction Manager's Proposal

In the event that any conflicts cannot be resolved by reference to this Governing Order of Contract Documents provision, then Owner shall resolve the conflict in any manner which is acceptable to Owner and which comports with the overall intent of the Contract.

1.9 Extent of Agreement. The Contract represents the entire agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements. This Contract may be amended only by written instrument signed by the Owner and the Construction Manager.

ARTICLE 2

CONSTRUCTION MANAGER'S BASIC SERVICES

2.0 Phases. The Construction Manager's Basic Services under this Contract include preconstruction phase services and construction phase services for each project assigned under this Continuing Contract.

2.0.1 Unless agreed to the contrary in writing by Owner, the Construction Manager shall provide continuity in the assignment of the Construction Manager's Project Manager during the pre-construction and construction phases for each project.

2.1 The Preconstruction Phase. It is the intent of the Construction Manager at Risk project delivery system to engage the Construction Manager as an active participant in the design process working with the Owner and Architect in maintaining the project budget and project scope for each project assigned under this Continuing Contract. The Construction Manager shall for each project assigned under this Continuing Contract:

2.1.1 Meet with the Architect and any other design team members to fully understand the program, the design documents, the project scope and all other pertinent aspects of each project assigned under this Continuing Contract.

2.1.2 Unless otherwise noted in the Task Order provide preconstruction deliverables consisting of One (1) hard copy and One (1) electronic copy of reports at schematic design, 100% design development, 50% Construction Documents, and 95% Construction Documents together with a Guaranteed Maximum Price proposal for each project assigned under this Continuing Contract. The reports shall include a complete discussion and summary of the services provided in accordance with the following subparagraphs including the schedule and a detailed cost estimate.

2.1.3 Review designs during their development as to constructability, including without



limitation bringing to the Owner's and Architect's attention any known observations in the design that appear to be ambiguous, confusing, conflicting or erroneous. With respect to each such issue, the Construction Manager shall submit a written report to both the Owner and the Architect. At a minimum, each such written report shall contain: (1) a description of the constructability issue with background information; (2) a summary of the Construction Manager's in-depth study/research; and, (3) written recommendations for addressing the issue. Proactively advise the Architect with regard to the most effective approach for designing the project regarding issues of onsite use and improvements, selection of materials, building systems and equipment. Provide recommendations on relative feasibility of construction methods, compliance with applicable laws, codes, (relating to installation only) design standards, and ordinances, availability of materials and labor, time requirements for procurement, installation and construction and factors related to cost including, but not limited to, costs of alternative designs or materials, preliminary budgets and possible economies, while maintaining the Owner's design objectives. Conduct the comparisons and reviews required by General Condition (GC) 19.

2.1.4 Attend regularly scheduled meetings with the Architect and consultants to advise them on matters relating to site use, improvements, selection of materials, building methods, construction details, building systems and equipment, phasing and sequencing. The Construction Manager shall provide written recommendations on construction feasibility.

2.1.5 After a complete review of the Schematic Design Phase, evaluate the design and obtain an understanding of the intent of the Owner and Architect, provide an initial value analysis and offer cost savings suggestions and best value recommendations to the Architect and Owner. All recommendations shall be in writing and must be fully reviewed with the Architect and approved by the Owner prior to implementation.

2.1.5.1. Value analysis efforts shall result in a design that is most effective in the first costs as well as long term operational costs relative to issues of energy use and facility maintainability. Value analysis studies shall include life cycle cost analysis, as may be required, to assist the Architect to achieve an appropriate balance between costs, aesthetics and function. Value analysis efforts shall also take into consideration applicable constructability issues. All value analysis studies shall be continuous as the design is being developed and must be provided on a timely basis within the design schedule.

2.1.6 Provide, for the Architect's and the Owner's review and acceptance, a schedule that details the Construction Manager's services, with the anticipated construction schedules for each project assigned under this Continuing Contract. The Construction Manager shall update such schedule periodically, as required, but not more frequently than once per month.

2.1.7 Based on design documents, prepare for the Owner's approval a detailed estimate of construction cost, developed by using estimating techniques which anticipate the various elements of the project, and based on design documents prepared by the Architect. Update and refine this estimate as the Architect prepares each design phase of the project (DDs, CDs). Advise the Owner and the Architect if it appears that the construction cost may exceed the project budget. Make recommendations for corrective action.

2.1.8 The Construction Manager shall review the drawings and specifications as they are being prepared, recommending alternative solutions whenever design details affect costs,

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construction feasibility or schedules. The Construction Manager shall notify the Architect in writing upon observing any known features in the plans or specifications, which appear to be ambiguous, confusing, conflicting or erroneous. All ambiguous, confusing, conflicting and/or erroneous features discovered in the plans or specifications by the Construction Manager during the review process shall be deemed to be corrected, and any associated costs shall be included in the Guaranteed Maximum Price (GMP).

2.1.8.1 The Construction Manager shall provide a thorough interdisciplinary coordination review of the construction drawings and specifications submitted for review to the agency having jurisdiction for plan review and building permits, before Trade Contractor bidding. This review shall be performed utilizing a structured and industry accepted process. The Construction Manager shall review the final documents to see that all comments have been incorporated.

2.1.9 The Construction Manager agrees that time is of the essence in maintaining the project schedule for each project assigned under this Continuing Contract. In an effort to achieve the project schedule, the Architect will rely upon the input and recommendations of the Construction Manager in preparing the project documents, recognizing that cost is one of a number of issues which will influence the selection of building components and systems.

2.1.10 It is incumbent upon the Construction Manager to advise the Architect of recommended building components and systems before the design professionals have comprehensively documented the materials, systems and equipment within each project.

2.1.11 Advise on the separation of the project into subcontracts for various categories of work. If separate contracts are to be awarded, review the drawings and specifications and make recommendations as required to provide that (1) the work of the separate contractors is coordinated with that of the Trade Contractors, (2) all requirements for the project have been assigned to the appropriate separate contract, (3) the likelihood of jurisdictional disputes has been minimized, and (4) proper coordination has been provided for phased construction.

2.1.12 Develop a project construction schedule providing for all major elements such as phasing of construction and times of commencement and completion required of each Trade Contractor. Provide the project construction schedule for each set of bidding documents. Develop a plan for the phasing of construction.

2.1.12.1 Establish a schedule for the purchase of materials and equipment requiring long lead time procurement, and coordinate the schedule with the early preparation of portions of the Construction Documents by the Architect. Expedite and coordinate delivery of these purchases.

2.1.13 Develop procedures which are acceptable to the Owner for the prequalification of Trade Contractors. Provide copies of draft bid documents to Owner. Review draft bid documents with Owner to ascertain that all required contract clauses have been included in draft bid documents. Finalize bid documents after Owner review. Develop Trade Contractor interest in the project and publicly advertise and conduct pre-bid conferences with interested bidders to review the documents. Take competitive bids on the Work (from at least three bidders) of the various Trade Contractors or, if authorized by the Owner in writing, negotiate for the performance of that

Work. The Construction Manager shall use its best efforts to encourage Palm Beach County Trade Contractors to bid on each project. The Construction Manager may require bidders to submit bid bonds or other bid security acceptable to the Construction Manager as a prerequisite to bidding on the Work. Analyze and evaluate the results of the various bids and their relationship to budgeted and estimated amounts, and prepare for review with the Owner and Architect a bid tabulation analysis and such other support data as necessary to properly compare the various bids and their responsiveness to the desired scope of work. Specifically, review the scope of work in detail with apparent low responsive bidders to determine that their bids are complete but do not include duplicate scope items. Maintain records of all pre-award interviews with apparent low bidders.

2.1.13.1 Equal Business Opportunity (EBO) Program.

a. Policy, Program and Enforcement. It is the policy of the Board of County Commissioners of Palm Beach County, Florida, (the Board) that all segments of its business population, including, but not limited to, small, local, minority and women owned businesses, have an equitable opportunity to participate in the County's procurement process, prime contract and subcontract opportunities. In pursuance of that policy, the Board adopted an Equal Business Opportunity (EBO) Ordinance which is codified in Sections 2-80.20 through 2-80.30 (as may be amended) of the Palm Beach County Code. The EBO Ordinance sets forth the County's requirements for the EBO program, and is incorporated herein and made part of this Contract. Non-compliance with the EBO Ordinance must be corrected within fifteen (15) days of notice of non-compliance. Failure to comply with the EBO Ordinance may result in any of the following penalties:

- Suspension of Contract;
- Withholding of funds;
- Termination of the Contract based upon a material breach of contract pertaining to the EBO Program compliance;
- Suspension or debarment of the Construction Manager from eligibility for providing goods or services to the COUNTY for a period not to exceed three (3) years; and
- Liquidated damages equal to the difference in dollar value of S/M/WBE participation as committed to in the Contract, and the dollar value of S/M/WBE participation as actually achieved.

b. Affirmative Procurement Initiatives (APIs) Applicable to Construction Phase of this Contract. The County's Goal Setting Committee will establish the APIs applicable to the construction phase of this Contract, including any mandatory SBE or M/WBE subcontracting goals, prior to the GMP Amendment; and such APIs shall be included in the GMP Amendment to this Contract. It is anticipated that at least a mandatory minimum SBE subcontracting goal of 15% will be applied to the construction phase of this project. However, depending on the availability of S/M/WBEs at the time of subcontractor bidding, the County's Goal Setting Committee may apply a higher mandatory SBE subcontracting goal or may apply a mandatory M/WBE subcontracting goal. If the Goal Setting Committee applies SBE or M/WBE subcontracting goal(s) to the project, the Construction Manager may apply an S/M/WBE price preference, for subcontracts less than \$1,000,000, where the subcontract will be awarded to the lowest responsive, responsible bidder unless a certified S/M/WBE's bid is within ten (10) percent of the lowest non-S/M/WBE bid, in which case the award shall be made to the certified S/M/WBE submitting the lowest responsive, responsible bid. For subcontracts \$1,000,000 or more, the Construction Manager may apply an S/M/WBE price preference where the subcontract will be

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awarded to the low bidder responsive to the S/M/WBE requirements provided that such bid does not exceed the lowest responsive bid by more than \$100,000 plus 3% of the total bid in excess of \$1,000,000.

c. API Waiver Requests/Good Faith Efforts. If Construction Manager is unable to comply with the API requirements established by the County's Goal Setting Committee for the bidding of the construction subcontracts, then the Construction Manager must request a waiver or partial waiver from the Office of EBO. Such waiver request shall be made on the required Office of EBO forms and include documentation that demonstrates good faith efforts were undertaken by Construction Manager to comply with the APIs on the construction subcontracts. Fillable pdfs of all EBO forms can be found on the OEBO website at <http://discover.pbcgov.org/oebo/Pages/Compliance-Programs.aspx>.

d. Required Documentation with GMP Amendment. The Construction Manager shall submit completed Schedule 1 (list of all subcontractors, including S/M/WBE participation) and Schedule 2s (Letter of Intent to perform as a subcontractor, including S/M/WBE subcontractors) on all construction subcontracts prior to the GMP Amendment. When completed and submitted, the Schedule 1 and Schedule 2(s) shall become material terms of this Contract. The Construction Manager understands that each S/M/WBE firm utilized on this Contract must be certified by Palm Beach County in order to be counted toward the S/M/WBE participation goal. Construction Manager agrees to provide any additional information requested by the County to substantiate participation.

e. VSS Registration Required. Construction Manager certifies that it has registered in the County's Vendor Self Service ("VSS") system at <https://pbcvssp.co.palm-beach.fl.us/webapp/vssp/AltSelfService>. Construction Manager must also ensure that all subcontractors are registered as vendors in VSS prior to the subcontractor beginning work. All subcontractor agreements must include a contractual provision requiring that the subcontractor register in VSS.

f. Required Documentation with Pay Application. Construction Manager is required to submit accurate progress payment information with each pay application regarding each of its subcontractors, including S/M/WBE subcontractors.

The Construction Manager shall submit a **Subcontractor Activity Form (Schedule 3)** and **Subcontractor Payment Certification Forms (Schedule 4)** with each payment application. **Failure to provide these forms may result in a delay in processing payment or disapproval of the pay application until they are submitted.** The Subcontractor Activity Form (Schedule 3) is to be filled out by the Construction Manager and the Subcontractor Payment Certification Form (Schedule 4) is to be executed by each subcontractor to verify receipt of payment.

Upon letter notification by the County that the payment tracking system is automated, the Construction Manager is required to input all subcontractor payment information directly into the County's contract information system prior to submitting a payment application.

Completed and submitted EBO forms are incorporated into and made a part of the Contract Documents.

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g. S/M/WBE Substitutions. Construction Manager will only be permitted to replace a certified S/M/WBE subcontractor who is unwilling or unable to perform. Such substitution must be done with other certified S/M/WBEs in order to maintain the S/M/WBE percentages submitted with the GMP Amendment. Requests for substitutions must be submitted to the County Representative and the Office of EBO for approval. **Any desired changes (including substitutions or termination and self-performance) must be approved in writing in advance by the Office of EBO.** Upon receiving approval of substitution for the S/M/WBE subcontractor, the Construction Manager must submit a completed and signed Schedule 2 by the proposed S/M/WBE subcontractor.

h. Records and Access. The Office of EBO has the right to review Construction Manager's records and interview Trade Contractors and Subcontractors in order to determine compliance with the County's EBO Program and contract requirements for up to four (4) years from contract completion or termination date.

2.1.13.2 Local Preferences. In accordance with the Palm Beach County Local Preference Code, a preference will be given to firms having a permanent place of business in Palm Beach County. The Construction Manger may apply this preference when evaluating subcontractor bids. Local preference means that if the lowest responsive, responsible Bidder is a non-local business, then all bids received from responsive, responsible local Bidders are decreased by 5%, to a maximum of \$100,000 difference. The original bid amount is not changed; the 5% decrease is calculated only for the purposes of determining the local preference. The \$100,000 is a cumulative value for all subcontractors under one project

Glades Local Preference. In addition, if a project is located in the Glades area as defined in the Ordinance, a preference will be given to Bidders having a permanent place of business in the Glades area or to a local bidder who utilizes a Glades subcontractor(s) for a minimum of 15% of the total bid price. If the lowest responsive, responsible Bidder is a non-Glades business, then all bids received from responsive, responsible Glades Bidders are decreased by 5%, to a maximum of \$100,000 difference. If the lowest responsive, responsible Bidder is a non-Glades business, then all bids received from responsive, responsible non-Glades, local Bidders that utilize Glades subcontractors for a minimum of 15% are decreased by 3%, and for a minimum of 30% are decreased by 4%, to a maximum of \$100,000 difference. The original bid amount is not changed; the decrease is calculated only for the purposes of determining the Glades local preference. The \$100,000 is a cumulative value for all subcontractors under one project

To receive a local preference, a business must have a permanent place of business in existence prior to the issuance of this Invitation for Bid. A permanent place of business means that the business' headquarters is located in Palm Beach County or for the Glades preference in the Glades area; or, the business has a permanent office or other site in Palm Beach County or Glades area where the business will produce a substantial portion of the goods or services to be purchased.

A valid business tax receipt issued by the Palm Beach County Tax Collector will be used to verify that the business had a permanent place of business prior to the issuance of this Invitation for Bid. A Palm Beach County business tax receipt is required unless specifically exempted by law.

The ranking of responsive Bidders pursuant to the SBE Ordinance which results in an award to a Bidder in compliance with the Ordinance shall not be re-ordered by the provisions of the Local Preference Ordinance to the extent that the application of local preference would result in an award to a non-SBE firm.

2.1.13.3 Living Wage Ordinance (for projects that exceed \$100,000). Projects, that exceed \$100,000 and that are not subject to the Davis-Bacon Act, must comply with the Palm Beach County Living Wage Ordinance.

Definition. Living wage means a minimum wage of \$12.31 per hour effective October 1, 2018, through September 30, 2019. The living wage is adjusted annually on October 1 as provided for in the ordinance. The Construction Manager and all subcontractors shall pay the living wage to all employees directly providing construction-related services.

Certification Required. Before entering any Work Order/Amendment under this Continuing Contract, the Construction Manager must provide a certificate to the Owner and each subcontractor must provide a certificate to the Construction Manager, stating that it will pay each employee no less than the living wage. A copy of the certificate must be made available to the public upon request. The certificate form is provided with the Contract Documents.

Notice and Posting. The Construction Manager and each subcontractor shall post a copy of the following statement at the work site in a prominent place where it can easily be seen by the employees: "NOTICE TO EMPLOYEES: If you are employed to provide certain services to Palm Beach County, your employer may be required by Palm Beach County law to pay you at least (insert the living wage hourly pay rate, as adjusted) per hour. If you are not paid this hourly rate, contact your supervisor and/or Palm Beach County Procurement and Project Implementation Group at (561) 233-2055." The preceding statement shall be printed in English, Spanish, and Creole, and shall be printed with black lettering on letter-size, white paper using a Times New Roman 14-point font, Courier New 14-point font, or Arial 14-point font. Posting requirements will not be required if the employer attaches a copy of the preceding statement to the employee's first paycheck, and to subsequent paychecks at least every six (6) months thereafter. Employers shall supply a copy of the preceding statement to any employee upon request within a reasonable time. Employers shall forward a copy of the requirements of this ordinance to any person or business submitting a bid for a subcontract on any project covered by this ordinance.

Maintenance of Payroll Records. Each employer shall maintain payroll records and basic records relating thereto for each employee, and shall preserve them for a period of three (3) years. The records shall contain: Each employee's name and address; Each employee's job title and classification; The number of hours worked each day by each employee; The gross wages and deductions made for each employee; and Annual wages paid to each employee.

Reporting Payroll. Every six (6) months each subcontractor shall certify and file with the Construction Manager certification that all employees who worked on each project during the preceding six (6) month period were paid the living wage in compliance with this ordinance. Upon the Owner's request, the employer shall produce for inspection and copying the payroll records for any or all of its employees for the prior three (3) year period.

2.1.14 Upon agreement of the Owner and Construction Manager, the Construction Manager's GMP may be submitted at any time after completion and approval of the design



development phase, but in no case later than 90 days after submission of the Construction Documents to the agency having jurisdiction for plans review and permitting. The Construction Manager will develop and provide to the Owner a GMP which will include all construction costs, and all other projected costs including without limitation the Construction Manager fees, the Construction Manager-GMP contingency and General Conditions allowance but not including the Owner's construction contingency. The GMP shall set out each anticipated trade contract amount; the Construction Manager's fixed fee; General Conditions reimbursable costs including on-site field staff, and all project related costs, i.e., bonds, personnel, payroll benefit, etc.

2.1.14.1 All assumptions made by the Construction Manager in the development of the GMP shall be specifically listed in the GMP proposal, and the GMP will not be adjusted due to assumptions made by the Construction Manager, but not included in the GMP proposal.

2.1.14.2 In the event that the GMP exceeds the project construction budget, the Owner reserves the right to direct the Construction Manager to (and the Construction Manager shall) work in conjunction with the Architect to redesign the project as necessary to maintain the project program and meet the project construction budget as follows:

- a. After consultation with the Owner, the Construction Manager shall coordinate and cooperate with the Project Team to alter and redraft the Construction Documents as necessary to accomplish the required reduction in cost.
- b. The Construction Manager shall develop and provide to the Owner a GMP in connection with the redrafted and altered Construction Documents to accomplish the necessary reductions in cost.
- c. The Construction Manager shall analyze the Architect's originally submitted and as altered and redrafted Construction Documents, and make recommendations to the Owner as to ways and methods to reduce the costs of constructing the project to a sum which does not exceed the project construction budget.

2.1.14.3 The Owner has the right to reject any GMP as originally submitted, or as adjusted. In addition, the Owner has the right to withhold, in its sole discretion, approval of the amendment of the Contract to reflect any GMP.

2.1.14.4 The Construction Manager's detailed construction cost estimates and GMP will be reviewed by the Architect and the Owner for reasonableness and compatibility with the project construction budget. Meetings and negotiations with the Construction Manager will be held to resolve questions and differences that may occur between the project construction budget and the Construction Manager's construction cost estimate and the corresponding GMP. If indicated by the project construction budget limitations or other circumstances, the Construction Manager shall work with the Owner to reach a mutually acceptable GMP.

2.1.14.5 If the GMP proposal is accepted, in writing, by the Owner, it will become an amendment to this Contract which will establish the GMP, contract time, and liquidated damages for that phase of the Work (the GMP Amendment) for each project assigned under this



Continuing Contract. A "Public Construction Bond and Form of Guarantee" on the Owner's standard forms shall be provided by the Construction Manager simultaneously with the GMP Amendment for each project assigned under this Continuing Contract.

2.2 Construction Phase. Unless otherwise authorized by the Owner, all Work shall be performed under trade contracts held by the Construction Manager. The Construction Manager shall not bid on any of the Trade Contractor work or perform such work with its own forces without the prior written consent of the Owner. The Construction Manager shall:

2.2.1 Administer the construction phase as provided in the Contract.

2.2.2 Commence the Work within 10 days after receipt of the executed Guaranteed Maximum Price amendment, all permits, and "Notice to Proceed" from the Owner.

2.2.3 Promptly award and execute trade contracts with approved Trade Contractors. Provide copies of fully executed trade contracts, insurance certificates and, if required, bonds to the Owner, when requested. The subcontractor buyout is to be completed within 60 days from NTP and the contingency reconciled with the savings/overage unless the Construction Manager requests and receives a time extension from the Owner.

2.2.4 Manage, schedule and coordinate the Work, including the work of the Trade Contractors, and coordinate the Work with the activities and responsibilities of the Owner, Architect and Construction Manager in order to complete the project in accordance with the Owner's objectives of cost, time and quality. Develop and maintain a program, acceptable to the Owner and Architect, to assure quality control of the construction. Supervise the work of all Trade Contractors so that the work conforms to the requirements of the plans and specifications. Provide instructions to each Trade Contractor when its work does not conform to the requirements of the plans and specifications so that the work conforms to the requirements of the plans and specifications, and continue to manage each subcontractor to ensure that corrections are made in a timely manner so as to not affect the progress of the Work. Should disagreement occur between the Construction Manager and the Architect over acceptability of Work and conformance with the requirements of the specifications and plans, the Owner shall be the final judge of performance and acceptability.

2.2.5 Maintain exclusively for each project a competent full-time staff at the project site to coordinate and direct the Work and progress of the Trade Contractors on each project. The Construction Manager shall maintain sufficient off-site support staff, and competent full time staff at the project site authorized to act on behalf of the Construction Manager to coordinate, inspect and provide general direction of the Work and progress of the sub-contractors and CM shall provide no less than those personnel during the respective phases of construction that are set forth in an exhibit to the GMP Amendment. The CM shall not change any of those persons unless mutually agreed to by the Owner and Construction Manager. In such case, the Owner shall have the right of approval of the qualifications of replacement personnel. All of the Construction Manager's on-site management and supervisory personnel shall be consistent with the Construction Manager's Proposal and its interview presentation and shall not be removed or replaced without the Owner's consent. Upon written notice and with reasonable justification, the Owner shall have the right to direct the Construction Manager to remove or replace any on-site personnel whose performance becomes unsatisfactory to the Owner. In such event, the



Construction Manager shall promptly replace such personnel, without consideration of additional compensation for the replacement.

2.2.5.1 Establish on-site organization and lines of authority in order to carry out the overall plans of the Construction Team. Identify an on-site staff member to represent the Construction Manager, on a daily basis, with authority to negotiate change orders and contract modifications on behalf of the Construction Manager. Make available such executive personnel as necessary to execute change orders or other contract modifications on behalf of the Construction Manager so as not to delay the progress of the Work.

2.2.6 Establish procedures for coordination among the Owner, Architect, Trade Contractors and Construction Manager with respect to all aspects of the Work. Implement such procedures, incorporate them into a project resource manual, and distribute manuals to the Construction Team.

2.2.6.1 Require of the various Trade Contractors such coordination drawings as may be necessary to properly coordinate the Work among the Trade Contractors.

2.2.6.2 In coordination with the Architect, establish and implement procedures for tracking and expediting the processing of shop drawings and samples, as required by the Contract Documents.

2.2.7 Schedule and conduct weekly progress meetings with Trade Contractors to review such matters as job procedures, job safety, construction progress, schedule, shop drawing status and other information as necessary. Attend team meetings with the Architect and Owner.

2.2.8 Review the schedule with the various Trade Contractors and review, or expand the level of detail to incorporate specific Trade Contractor input consistent with the overall completion requirements. Regularly monitor and update the project schedule and various sub-networks as construction progresses. Identify potential variances between scheduled and probable completion dates. Review schedule for Work not started, or incomplete, and make adjustments in the schedule to meet the scheduled completion date. Provide summary reports of each monitoring and document all changes in the schedule. Regular schedule updates and reporting shall be included as part of the monthly project report outlined herein.

2.2.9 Determine the adequacy of the Trade Contractors' personnel and equipment, and the availability of materials and supplies to meet the schedule. In consultation with the Owner and the Architect, take necessary corrective actions when requirements of a trade contract or a trade contract schedule are not being met.

2.2.10 Whenever Owner-Furnished Contractor-Installed (OFCI) materials or equipment are shipped to the project site, the Construction Manager shall notify the Owner and shall be responsible for their acceptance, proper storage, and incorporation into the Work provided the scope of the Owner-Furnished Contractor-Installed (OFCI) work is included within the Guaranteed Maximum Price.

2.2.11 Develop and maintain an effective system of project cost control which is satisfactory to the Owner. Revise and refine the initially approved project construction budget,



incorporate approved changes as they occur, and develop cash flow reports and forecasts as needed. Identify variances between actual and budgeted or estimated costs and advise Owner and Architect whenever projected costs exceed budgets or estimates. Cost control reports shall be included as part of the monthly project report outlined herein.

2.2.12 Maintain a consistent and accurate accounting system. The Construction Manager shall preserve all accounting records for a period of four (4) years after final payment of the Work or as otherwise requested in writing by the Owner. The Owner shall have access to all such accounting records at any time during the performance of the Work and for a period of four (4) years after final payment of the Work.

2.2.12.1 Administer direct tax savings purchase program (if provided).

2.2.13 Develop and implement a system for the preparation, review and processing of change orders. Without assuming any of the Architect/ Engineer's responsibilities for design, recommend necessary or desirable changes to the Owner and the Architect, review requests for changes and submit recommendations to the Owner and Architect.

2.2.13.1 When requested by the Owner or Architect, promptly prepare and submit estimates of probable cost for changes proposed in the Work including similar estimates from the Trade Contractors. If directed by the Owner, promptly secure formal written change order proposals from such Trade Contractors.

2.2.14 Be responsible for initiating, maintaining and supervising effective safety programs and require similar programs of the Trade Contractors and Sub-subcontractors. The OSHA guidelines shall serve as the basis for the construction safety program.

2.2.14.1 Promptly notify the Owner and, where applicable, the Owner's Insurance Administrator, in writing, upon receiving notice of filing of any charge of non-compliance from OSHA, or upon receiving notification that a federal or state inspector shall visit or is visiting the project site.

2.2.14.2 At progress meetings with Trade Contractors, conduct a review of job safety and accident prevention, and prepare minutes of such meetings that will be available to the Owner's Representative on request. The minutes of job safety and accident prevention portion of such progress meetings shall be made available to the Owner's Insurance Administrator, where applicable, upon request.

2.2.15 Make provisions for project security acceptable to the Owner, to protect the project site and materials stored off-site, or on-site, against theft, vandalism, weather, fire and accidents, damage, or injury to person(s) or property, etc., as required by job and location conditions.

2.2.16 Record the progress of each project. Submit written monthly progress reports to the Owner and the Architect including information on the Trade Contractors' work, the percentage of completion, current estimating, computerized updated monthly "Critical Path Method" scheduling and project accounting reports, including estimated time to completion and estimated cost to complete. Keep a daily log available to the Owner and the Architect. Report and record such additional information related to construction as may be requested by the Owner.



2.2.17 The Construction Manager shall be responsible for the coordination of removal, encapsulation, transportation and disposal of any hazardous material, including, without limitation, any asbestos or asbestos-related products as may be required in connection with the Work. Handling and removal will be performed, if necessary, under separate contract with Owner. However, hazardous material, described by federal guidelines brought onsite by the Construction Manager or the Trade Contractors shall remain their responsibility for proper disposal. Any hazardous material not specifically shown on the Construction Documents shall be considered a concealed condition and may be the responsibility of the Construction Manager in a change order increasing the Guaranteed Maximum Price for any additional costs incurred. Such change order shall be submitted in as timely a manner as is reasonably possible after discovery of the concealed condition.

2.2.18 Construction Manager shall comply with all requirements of funding agreements which apply to all or a part of the Work including preparing such reports and making such certifications and representations as may be required by Owner.

ARTICLE 3

ADDITIONAL SERVICES

Upon the mutual agreement of the Owner and the Construction Manager, and upon written authorization from the Owner, the Construction Manager shall provide additional services which are beyond the scope of the Basic Services described in Article 2 herein. The Construction Manager shall be compensated for such additional services by a fee to be negotiated by the Owner and the Construction Manager at the time of the additional service request.

ARTICLE 4

OWNER'S RESPONSIBILITIES

4.1 Owner's Representative. The Owner will designate a representative to act on its behalf (the Owner's Representative) for each project assigned under this Continuing Contract. This representative, or his/her designee, will receive progress reports of the Work, serve as liaison with the Construction Manager and the Architect, receive and process communications and paperwork, and represent the Owner in the day-to-day conduct of the project. The Construction Manager will be notified in writing of the representative and of his/her designee or any changes thereto.

4.2 Inspector. The Owner may retain a "threshold building" special inspector, if required by Chapter 553, Florida Statutes.

4.3 Review of CM Deliverables. The Owner will review and approve or take other appropriate action on the Construction Manager's preconstruction deliverables in a timely manner.

ARTICLE 5

SCHEDULE

5.1 Preconstruction Phase. The Construction Manager shall submit the pre-construction reports required under Article 2 hereof within 14 days and the Guaranteed Maximum Price proposal within 90 days after the Construction Documents have been made available to the Construction Manager unless otherwise authorized by the Owner.

5.2 Construction Phase. The number of days for performance of the Work under the construction phase of each project awarded under this Contract shall be established in the Guaranteed Maximum Price Amendment to this Contract for each project.

5.3 Critical Dates Established. At the time a Guaranteed Maximum Price (GMP) is established, as provided for in Article 6, a project substantial completion date, a project final completion date and an Owner occupancy date in accordance with the master project schedule, shall also be established by the Construction Team for each project awarded under this Contract. The Construction Manager agrees to complete the construction in accordance with the agreed upon substantial completion date, final completion date and Owner occupancy date for each project. The Construction Manager acknowledges that failure to complete a project within the construction time set forth in the approved schedule will result in substantial damages to the Owner. Liquidated

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damages as provided for in the GMP Amendment shall be assessed at a rate to be determined by the Owner.

5.4 Acceleration of Schedule. In the event the Owner desires to accelerate the schedule for any portion of the Work, the Owner shall notify the Construction Manager in writing. As soon as possible but not later than 21 days after the Owner request, the Construction Manager shall give the Owner a revised Guaranteed Maximum Price for the acceleration which shall become a change order upon acceptance. The Owner may then direct the Construction Manager to increase its staff and require its Trade Contractors to increase their manpower, or to work such overtime hours as may be necessary to accomplish the required acceleration in accordance with the approved change order. In such event the Owner shall reimburse the Construction Manager for the costs of such acceleration subject to the Guaranteed Maximum Price. In no event shall the Construction Manager be entitled to compensation in excess of the adjusted Guaranteed Maximum Price. The Construction Manager shall require accurate daily records of all costs of the required acceleration and shall secure the Owner's approval of such records.

5.5 Use or Occupancy Ahead of Schedule. The Owner shall have the right to occupy, or use, any portion of the Work ahead of schedule. If use or occupancy ahead of schedule affects the cost of the project or the schedule for the Work, the Construction Manager shall so notify the Owner in writing and the use or occupancy will be treated as a change to the Work in accordance with Article 9 herein.

ARTICLE 6

GUARANTEED MAXIMUM PRICE

6.1 Cost of the Work. The Guaranteed Maximum Price (GMP) includes the Cost of the Work required by the Contract as defined in Article 8 of this Contract, and the Construction Manager's lump sum fee as defined in Paragraph 6.4 of this Contract. The GMP for each project will be established based on Construction Documents prepared by the Architect. The GMP is subject to modification for Owner changes in the Work as provided in Article 9, herein.

6.2 Taxes. The GMP will only include those taxes in the Cost of the Work which are legally enacted at the time the GMP is established.

6.3 Construction Contingency. In addition to the Cost of Work, the GMP will include an agreed upon sum as the construction contingency which is included for the purpose of defraying the expenses due to unforeseen circumstances relating to construction. The Construction Manager will be required to furnish documentation evidencing expenditures charged to this contingency prior to the release of funds by the Owner. Documentation for use of the contingency shall be determined by the Owner. If trade contracts are executed below the applicable line items in the GMP, the surplus will be added to the contingency. If trade contracts are above the applicable line item in the GMP, the deficiency will be taken from the contingency, however such events shall not be cause to increase the GMP. The contingency is included to adjust the estimate for eventualities which have not been taken into precise account in the establishment of the GMP, including (1) documented scope gaps between trade contractors unless work is shown on drawings, (2) contract default by trade contractors, (3) reconciliation of allowances and sales tax savings estimate and (4) unforeseen field conditions. The contingency shall not be used for design errors

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and omissions which a prudent Construction Manager should reasonably have detected during the Construction Manager's pre-construction duties and reasonable due diligence by the Construction Manager.

If bids are not received for a portion of the Work at or below the applicable line item amount in the GMP, the Construction Manager may negotiate for its performance for the specified line item lump sum amount or less.

6.4 CM Fee. Construction Manager's Fee during the Construction Phase includes the following:

6.4.1 The cost of its home or branch office employees or consultants not at the project site, including the cost of all benefits, insurance, and taxes attributable to wages and salaries and other company overhead expenses for said home office employees.

6.4.2 The cost of its field employees identified in Subparagraph 2.2.5 herein, or their approved replacements, including the cost of all benefits, insurance, and taxes attributable to wages and salaries for said field employees.

6.4.3 General operating expenses of the Construction Manager's principal and branch offices, other than the field office.

6.4.4 Construction Manager's capital expenses.

6.4.5 Overhead and profit, or other general expenses, except as may be expressly included in Article 8, herein, as the "Cost of the Work".

6.4.6 Travel and per diem costs of Construction Manager's employees and consultants if calculated in accordance with F.S. 112.061.

6.4.7 Those services set forth in Article 2.2

6.4.8 Expenses such as long distance telephone calls, telephone, water (including drinking water), and electrical service at the Construction Manager's field office at the site, postage, office supplies, expressage, and similar items in connection with the Work.

6.4.9 Cost of equipment such as field office typewriters, cameras, radios, computers, pagers, copiers, facsimile equipment, telephones, cell phones, trailers, field personnel safety equipment (vests safety glassed, hard hats etc.) vehicles and furniture purchased or rented by the Construction Manager.

6.5 Payment Requests. Request for compensation for services shall be submitted in detail as requested by Owner in order to approve the fee.

6.6 Certification. By submitting payment requests to Owner, the Construction Manager certifies that all factual unit costs supporting the fees allowable under this Contract are accurate, complete and current at the time of submission; and that any other factual unit costs that may be furnished to the Owner in the future to support any additional fees that may be authorized will also

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be accurate, complete, reasonable. The fees allowable under this Contract and any additional fees that may be authorized in the future shall be adjusted to exclude any sums by which the Owner determines the fee was increased due to inaccurate, incomplete, or non-current factual unit costs.

6.7 No Inconsistent Positions. The Construction Manager's role in providing preconstruction services has allowed/caused the Construction Manager to formulate positions with respect to specific scope of work and contract interpretation issues. In that the Construction Manager is familiar with aspects of the scope of work and the Contract for the project during the preconstruction phase, the Construction Manager agrees not to request an increase in the GMP for any substantially similar issue based upon a theory of recovery which is inconsistent with written advice or consultation previously discussed pursuant to the aforesaid preconstruction services.

6.8 GMP Adjustments. Adjustments to the GMP will be made as described in the General Conditions to the Contract.

6.9 No Overhead and Profit on Construction Contingency. When summarizing the cost of the GMP, the overhead and profit factor shall not be calculated on the construction contingency nor will the Construction Manager be due any additional overhead and profit on the use of the construction contingency.

6.10 Cost Savings. All cost savings for the not-to-exceed value of the GMP shall be returned to the Owner as part of the net aggregate savings established when final accounting is submitted upon final completion of the Work, or at such earlier time as agreed to by the Owner and the Construction Manager. "Cost savings" are the net difference obtained by deducting from the Adjusted GMP, the expended portions of the documented Construction Manager's Fee, the construction contingency balance and the actual expenditures representing the "Cost of the Work" as defined in Article 8 herein. Liquidated damages, if any, are different from, and are not a part of, this calculation.

ARTICLE 7

PAYMENTS TO CONSTRUCTION MANAGER

7.1 Payments. In consideration of the performance of the Contract, the Owner agrees to pay the Construction Manager, as compensation for its services an amount as set forth below:

7.1.1 For preconstruction services, unless otherwise negotiated, the amount established in the Task Order for such services which will be paid in installments at the satisfactory completion of the following phases:

100% Schematic Design – 20%
100% Design Development – 20%
50% Const. Docs. – 25%
Accepted GMP- 35%

7.1.2 Upon acceptance of the GMP for a project, the amount established in the GMP Amendment to this Contract for each project, which includes the "Construction Manager's Fee" as described in Paragraph 6.4 and the "Cost of the Work" as described in Article 8, is to be paid monthly as described in the Contract. The overhead and the profit lump sum included in the GMP

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will be paid proportionally on a percent complete basis of the Work in place, less retainage.

If Work is authorized only for a part of a project, the overhead and profit fee shall be proportionate to the amount of Work authorized.

The Construction Manager's Fee other than the overhead and profit shall be paid in equal monthly payments based upon the duration of construction.

7.1.2.1 Construction Manager shall provide Trade Contractors hired by Construction Manager with a written notice of disputed invoice within 5 business days after receipt of invoice which clearly states the reasons for the disputed invoice. As required by Section 218.735, F.S., within ten (10) working days from receipt of payment from the Owner, the Construction Manager shall pay each Trade Contractor out of the amount paid to the Construction Manager on account of such Trade Contractor's work, the amount to which said Trade Contractor is entitled reflecting the percentage actually retained, if any, from payments to the Construction Manager on account of said Trade Contractor's work. The Construction Manager shall, by appropriate agreement with each Trade Contractor, require each Trade Contractor to make payments to its subcontractors in a similar manner.

7.1.3 Pay requests for preconstruction services and for construction shall be documented in accordance with the General Conditions of the Contract and submitted in detail sufficient for a proper audit thereof.

ARTICLE 8

COST OF THE WORK

8.1 Definition. The term "Cost of the Work" shall mean costs including "general conditions" costs, incurred in the Work as described and defined in Paragraph 8.2, below, and paid or incurred by the Construction Manager, which are not included in Paragraph 6.4, less any reimbursement for scrap value and cash or trade discounts, subject to Article 10, herein. The term "wages" as used herein shall include the straight time and overtime pay and the cost of associated employee benefits. Employee benefits include, but are not limited to, unemployment compensation, social security, compensated absences, and other mandatory and customary contributions and fringe benefits insofar as such costs are based on wages, salaries, or other remuneration paid to employees of the Construction Manager.

8.2 Cost Items. Cost of the Work includes and is limited to actual expenditure for the following cost items:

8.2.1 Subject to prior approval by the Owner, wages paid for labor in the direct employ of the Construction Manager, other than those provided under Paragraph 6.4 herein as a part of the Construction Manager's Fee, in the performance of the Work.

8.2.2 The cost of all materials, supplies and equipment incorporated in the Work or stored on site, including cost of transportation and storage thereof. At the Owner's sole discretion, the Owner may make payment for materials, supplies and/or equipment stored off-site and bonded.



8.2.3 Payments made by the Construction Manager to Trade Contractors for their work performed pursuant to trade contracts with the Construction Manager.

8.2.4 Cost of the premiums for all insurance or bonds including Trade Contractor bonds which the Construction Manager is required to procure by this Contract, or other insurance or bonds subsequently deemed necessary by the Construction Manager, and agreed upon by the Owner.

8.2.5 Sales, use, gross receipt, or similar taxes related to the Work imposed by any governmental authority and for which the Construction Manager is liable.

8.2.6 Building and operating permit fees, inspection and filing fees, sewer and water fees, and deposits lost for causes other than the Construction Manager's own negligence.

8.2.7 Cost of removal and disposal of all debris including clean-up and trash removal.

8.2.8 Cost incurred due to an emergency affecting the safety of persons and/or property.

8.2.9 Subject to prior written approval by Owner, legal costs reasonably and properly resulting from prosecution of the Work for the Owner; provided, however, that they are not the result of the Construction Manager's own negligence or malfeasance. Legal costs incurred in connection with disputes solely between the Construction Manager and the Owner or incurred in connection with disputes solely between the Construction Manager and Trade Contractors are the responsibility of the Construction Manager and shall not be included in the Cost of the Work.

8.2.10 Cost of temporary electric power, lighting, water, sanitary facilities, and heat required for the performance of the Work, or required to protect the Work from weather damage, not including construction manager's office trailers.

8.2.11 Cost of temporary safety-related protection related to the work including barricades and safety equipment, temporary roads and parking, dust control, pest control, installation and operation of temporary hoists, scaffolds, ladders and runways, and temporary project signs and costs of permits and fees pursuant to the General Conditions of the Contract.

8.2.12 Cost of watchmen or similar security services.

8.2.13 Cost of surveys, measurements and layout work reasonably required for the execution of the Work or the requirements of the Contract.

8.2.14 Cost of preparation of shop drawings, coordination plans, or as-built documents not included in trade contracts.

8.2.15 All costs for reproduction of documents to directly benefit the Work.

8.2.16 Costs directly incurred in the performance of the Work and not included in the Construction Manager's Fee as set forth in Paragraph 6.4, herein.

8.2.17 Cost, including transportation and maintenance, of all materials, supplies,



equipment, temporary facilities not owned by the workmen which are employed or consumed in the performance of the Work.

8.2.18 Rental charges of all necessary machinery and equipment, including hand tools used in the performance of the Work, whether rented from the Construction Manager or others, including installation, repairs and replacements, dismantling, removal, costs of lubrication, transportation and delivery costs thereof.

8.2.19 Costs associated with setting up and demobilizing tool sheds, temporary fences, temporary roads, and temporary fire protection.

8.3 Defective Work. No costs shall be paid to the Construction Manager for any expense related to correcting defective workmanship or work not in conformance with the plans or specifications.

ARTICLE 9

CHANGES IN THE WORK

The Owner, without invalidating this Contract, may order changes in the Work within the general scope of this Contract consisting of additions, deletions, or other revisions. All changes in the Work shall be authorized as described in the General Conditions of the Contract. Except in cases of emergency endangering life or property, the Construction Manager shall allow no changes in the Work without the prior written approval of the Owner.

ARTICLE 10

DISCOUNTS

All quantity discounts shall accrue to the Owner. All trade discounts, rebates and refunds, and all returns from the sale of surplus materials and equipment shall be credited to the Owner.

ARTICLE 11

INSURANCE

The Construction Manager shall provide insurance as required by the General Conditions of the Contract.

ARTICLE 12

PERIOD OF SERVICE

The period of service and contract term shall commence upon the approval and execution of this Contract by both parties and continue for a period of two (2) years, with three renewal options of one (1) year at the sole discretion of the County, and additionally it shall continue until completion of all phases of the Work for each project assigned under this Contract, unless otherwise terminated as provided for in the Contract.

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ARTICLE 13

INSPECTOR GENERAL

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 – 2-440, as may be amended. The Inspector General’s authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and audit, investigate, monitor, and inspect the activities of the Construction Manager, its officers, agents, employees, and lobbyists in order to ensure compliance with contract specifications and detect corruption and fraud. All contractors and parties doing business with the County and receiving County funds shall fully cooperate with the Inspector General including receiving access to records relating to any bid, proposal or any resulting contract.

ARTICLE 14

SCRUTINIZED COMPANIES

14.1 As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, the Construction Manager certifies that it, its affiliates, trade contractors, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725.

14.2 When contract value is greater than \$1 million: As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, the Construction Manager certifies that it, its affiliates, trade contractors, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to F.S. 215.473 or is engaged in business operations in Cuba or Syria.

14.3 If the County determines, using credible information available to the public, that a false certification has been submitted by the Construction Manager, this Contract may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of this Contract shall be imposed, pursuant to F.S. 287.135. Said certification must also be submitted at the time of Contract renewal, if applicable.

ARTICLE 15

NON-DISCRIMINATION/CIVIL RIGHTS

15.1 County Non-Discrimination Requirements. As a condition of entering into this Contract, the Construction Manager represents and warrants that it will comply with the County’s Commercial Nondiscrimination Policy as described in Resolution 2017-1770 as amended. As part of such compliance, the Construction Manager shall not discriminate on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information in the solicitation, selection, hiring or commercial treatment of subconsultants, subcontractors, vendors, suppliers, or commercial



customers, nor shall the Construction Manager retaliate against any person for reporting instances of such discrimination. The Construction Manager shall provide equal opportunity for subconsultants, subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the County's relevant marketplace in Palm Beach County. The Construction Manager understands and agrees that a material violation of this clause shall be considered a material breach of contract and may result in termination of the contract, disqualification or debarment of the Construction Manager from participating in County contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

15.2 General Civil Rights Provisions (FAA A5.3.2). The Construction Manager agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision binds the Construction Manager and subcontractors from the bid solicitation period through the completion of the Contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964. Construction Manager shall include the aforementioned provision in all subcontracts.

15.3 Title VI Solicitation Notice (FAA A1.1.1). Construction Manager shall include the following notice in all solicitations issued under this Contract:

Palm Beach County, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

15.4 Title VI Clauses for Compliance with Nondiscrimination Requirements (FAA A.6.4.1). During the performance of this Contract, the Construction Manager, for itself, its assignees, and successors in interest agrees as follows:

Compliance with Regulations: The Construction Manager (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities (as hereinafter defined), as they may be amended from time to time, which are herein incorporated by reference and made a part of this Contract.

Nondiscrimination: The Construction Manager, with regard to the work performed by it during this Contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Construction Manager will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

Solicitations for Subcontracts, including Procurements of Materials and Equipment:

In all solicitations, either by competitive bidding or negotiation made by the Construction Manager for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Construction Manager of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

Information and Reports: The Construction Manager will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Owner or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Construction Manager will so certify to the Owner or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

Sanctions for Noncompliance: In the event of the Construction Manager's noncompliance with the non-discrimination provisions of this Contract, the Owner will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- i. Withholding payments to the Construction Manager under the contract until the Construction Manager complies; and/or
- ii. Cancelling, terminating, or suspending a contract, in whole or in part.

Incorporation of Provisions: The Construction Manager will include the provisions of section in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Construction Manager will take action with respect to any subcontract or procurement as the Owner or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Construction Manager becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Construction Manager may request the Owner to enter into any litigation to protect the interests of the Owner. In addition, the Construction Manager may request the United States to enter into the litigation to protect the interests of the United States.

15.5 Title VI List of Pertinent Nondiscrimination Acts and Authorities (FAA A6.4.5).

During the performance of this contract, the Construction Manager, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities (referred to herein as the "Title VI List of Pertinent Nondiscrimination Acts and Authorities" or "Nondiscrimination Acts and Authorities"), including, but not limited to:

Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);

49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 *et seq.*).

ARTICLE 16

SPECIAL TERMS APPLICABLE TO CONTINUING CONTRACTS

16.1 Magnitude of Work. Construction Manager acknowledges that the Board of County Commissioners does not commit under this Continuing Contract to award any specific amount of work during the contract period.

The County reserves the right to award and use multiple contracts for this work.

The County reserves the right to limit the amount of awards based on the projected need of the County.

16.2 Method of Assigning Work under Continuing Contract. The County will issue Task Orders/Work Order/Amendments against the Continuing Contract on an as needed basis. Projects will be assigned to the construction managers holding continuing contracts by the Director, Capital Improvements based on work load, expertise, and familiarity with the facility or location of work and other relevant factors.

16.3 Location of Work. The locations of the projects will vary and may be at any one of the four airports in Palm Beach County.

16.4 Public Construction Bond. For all projects less than \$200,000, the Public Construction Bond may be waived provided Construction Manager complies with Palm Beach County Resolution R-89-1178 and Palm Beach County Policies and Procedures relative to the Bond Waiver Program. Copies of the requirements of the Bond Waiver Program may be obtained from the Department of Airports

16.5 Performance during Public Emergency. Construction Manager agrees and promises that during, and after, a public emergency, disaster, hurricane, flood or other act of God, the County shall be given "first priority" for all services under this Continuing Contract. Construction Manager agrees to provide all services to County throughout the emergency/disaster on the terms and conditions provided in the Contract Documents and with a priority above, and a preference over, work to the private sector. Construction Manager shall furnish a 24-hour phone number to the County in the event of an emergency. Failure to provide the stated priority/preference during an emergency/disaster shall constitute a breach of the Continuing Contract.

16.6 Project Close-Out and Final Payment. As a condition to final payment for each project assigned under this Continuing Contract, Construction Manager shall furnish to the County's Authorized Representative the following documents each in a form acceptable to the County:

- Final Releases of Claim from all trade contractors, subcontractors and suppliers, as may be applicable;
- Consent of Surety to Final Payment on the project, if project was bonded;
- Documentation of required notifications to federal, state, county, and municipal agencies;
- Release of Claim from the Construction Manager ;
- All Warranties.

16.7 General Conditions. Construction Manager shall refer to the General Conditions of the Contract for detailed information on payment, prosecution of the Work, warranty, indemnity, insurance, confidential information, substantial completion, final acceptance and other matters. When the General Conditions refer to requirements under the Contract or Contract Documents that are applicable to the Project; the Work; the site; the Contract Sum/Price; the schedule; the Contract Time or Completion Date; the General Conditions shall be read to mean the requirement applies to a project; work; site; the compensation; the schedule, time or completion date under each individual Amendment issued pursuant to the Continuing Contract.

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

ATTEST:
SHARON R. BOCK, Clerk & Comptroller

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

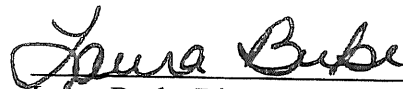
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By _____
Mack Bernard, Mayor


APPROVED AS TO FORM AND LEGAL
SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS


Laura Beebe Director, Department of Airports

Assistant County Attorney

CONSTRUCTION MANAGER:

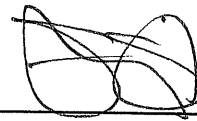


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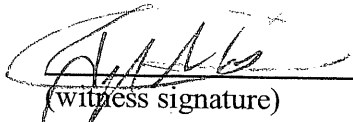
By: The Morganti Group, Inc.
(Name)

JON LOWKE

(witness name printed)

By: 

(signatory)



(witness signature)

Stephen Sines

(print signatory's name)

Joseph A. Caporaso

(witness name printed)

It's Vice President of Operations
(print title)

_____, 2019
(Date of execution)

CONTRACT EXHIBIT A

CONTRACT AMENDMENTS
(Place holder for future Amendments)

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**CONTRACT EXHIBIT B
REQUEST FOR PROPOSALS
Place holder.**

(The Request for Proposal dated November 5 2018 is incorporated by reference).

CONTRACT EXHIBIT C
CONSTRUCTION MANAGER'S PROPOSAL
Contractors Preconstruction and Construction Management Fees (Exhibit D of the RFP)

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**RFP EXHIBIT D
PRICE PROPOSAL FORM
(PROPOSER MUST COMPLETE, SIGN AND RETURN WITH PROPOSAL)
Page 1 of 5**

Pricing Component Years 1 and 2

Pre-Construction Phase Fee (see note 1)	% of estimated construction cost (which will be converted to a <u>lump sum fee</u> when a task order/amendment is issued see note 1)
Projects estimated < \$500,000	1.5 %
Projects estimated \$500,000 - <\$1,000,000	1 %
Projects estimated \$1,000,000 - \$3,000,000	1 %
Projects estimated >\$3,000,00 - \$5,000,000	1 %
Projects estimated >\$5,000,00	.75 %

Construction Phase Management Fee (see note 2)	\$\$ Per Month (Assume Full-Time Rate for each category of field employees listed) (which will be converted to a <u>lump sum fee</u> when a task order/amendment is issued see note 2)
Home Office Employees (see sections 6.4.1, 6.4.3, & 6.4.4 of the Sample Contract)	\$ 21,150
Senior Project Manager	\$ 16,700
Project Manager	\$ 15,400
Assistant Project Manager	\$ 10,900
Superintendent	\$ 17,400
Project Coordinator/Admin	\$ 8,800
Field Office (trailer) (see note 4)	\$ 2,500
	\$\$ Per Occurrence
Field Office move in/set up/move out	\$ 3,000

Overhead and Profit (see note 3)	% of GMP (which will be converted to a <u>lump sum fee</u> when GMP is approved, before construction begins, see note 3)		
	Overhead	Profit	Total
Projects estimated < \$500,000	2 %	3 %	5 %
Projects estimated \$500,000 - <\$1,000,000	2 %	3 %	5 %
Projects estimated \$1,000,000 - \$3,000,000	2 %	3 %	5 %
Projects estimated >\$3,000,00 - \$5,000,000	2 %	3 %	5 %
Projects estimated >\$5,000,00	2 %	3 %	5 %

Fees proposed above will remain in effect for years 1 and 2 of the Contract.

Proposer: The Morganti Group, Inc.

Signature: 

Print Name: Stephen Sines



PRICE PROPOSAL FORM

Page 2 of 5

Pricing Component Year 3

Pre-Construction Phase Fee (see note 1)	% of estimated construction cost (which will be converted to a <u>lump sum fee</u> when a task order/amendment is issued see note 1)
Projects estimated < \$500,000	1.5 %
Projects estimated \$500,000 - <\$1,000,000	1 %
Projects estimated \$1,000,000 - \$3,000,000	1 %
Projects estimated >\$3,000,00 - \$5,000,000	1 %
Projects estimated >\$5,000,00	.75 %

Construction Phase Management Fee (see note 2)	\$\$ Per Month (Assume Full-Time Rate for each category of field employees listed) (which will be converted to a <u>lump sum fee</u> when a task order/amendment is issued see note 2)
Home Office Employees (see sections 6.4.1, 6.4.3, & 6.4.4 of the Sample Contract)	\$ 22,200
Senior Project Manager	\$ 17,500
Project Manager	\$ 16,200
Assistant Project Manager	\$ 11,500
Superintendent	\$ 18,200
Project Coordinator/Admin	\$ 8,800
Field Office (trailer) (see note 4)	\$ 2,600
	\$\$ Per Occurrence
Field Office move in/set up/move out	\$ 3,300

Overhead and Profit (see note 3)	% of GMP (which will be converted to a <u>lump sum fee</u> when GMP is approved, before construction begins, see note 3)		
	Overhead	Profit	Total
Projects estimated < \$500,000	2%	3%	5%
Projects estimated \$500,000 - <\$1,000,000	2%	3%	5%
Projects estimated \$1,000,000 - \$3,000,000	2%	3%	5%
Projects estimated >\$3,000,00 - \$5,000,000	2%	3%	5%
Projects estimated >\$5,000,00	2%	3%	5%

Fees proposed above will remain in effect for year 3 of the Contract.

Proposer: The Morganti Group, Inc.

Signature: 

Print Name: Stephen Sines



PRICE PROPOSAL FORM

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Pricing Component Year 4

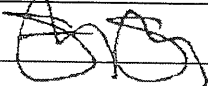
Pre-Construction Phase Fee (see note 1)	% of estimated construction cost (which will be converted to a <u>lump sum fee</u> when a task order/amendment is issued see note 1)
Projects estimated < \$500,000	1.5 %
Projects estimated \$500,000 - <\$1,000,000	1 %
Projects estimated \$1,000,000 - \$3,000,000	1 %
Projects estimated >\$3,000,00 - \$5,000,000	1 %
Projects estimated >\$5,000,00	.75 %

Construction Phase Management Fee (see note 2)	\$\$ Per Month (Assume Full-Time Rate for each category of field employees listed) (which will be converted to a <u>lump sum fee</u> when a task order/amendment is issued see note 2)
Home Office Employees (see sections 6.4.1, 6.4.3, & 6.4.4 of the Sample Contract)	\$ 23,300
Senior Project Manager	\$ 18,400
Project Manager	\$ 17,000
Assistant Project Manager	\$ 12,000
Superintendent	\$ 19,000
Project Coordinator/Admin	\$ 9,200
Field Office (trailer) (see note 4)	\$ 2,700
	\$\$ Per Occurrence
Field Office move in/set up/move out	\$ 3,600

Overhead and Profit (see note 3)	% of GMP (which will be converted to a <u>lump sum fee</u> when GMP is approved, before construction begins, see note 3)		
	Overhead	Profit	Total
Projects estimated < \$500,000	2 %	3 %	5 %
Projects estimated \$500,000 - <\$1,000,000	2 %	3 %	5 %
Projects estimated \$1,000,000 - \$3,000,000	2 %	3 %	5 %
Projects estimated >\$3,000,00 - \$5,000,000	2 %	3 %	5 %
Projects estimated >\$5,000,00	2 %	3 %	5 %

Fees proposed above will remain in effect for year 4 of the Contract.

Proposer: The Morganti Group, Inc.

Signature: 

Print Name: Stephen Sines



PRICE PROPOSAL FORM

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Pricing Component Year 5

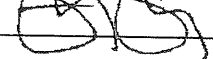
Pre-Construction Phase Fee (see note 1)	% of estimated construction cost (which will be converted to a <u>lump sum fee</u> when a task order/amendment is issued see note 1)
Projects estimated < \$500,000	1.5 %
Projects estimated \$500,000 - <\$1,000,000	1 %
Projects estimated \$1,000,000 - \$3,000,000	1 %
Projects estimated >\$3,000,00 - \$5,000,000	1 %
Projects estimated >\$5,000,00	.75 %

Construction Phase Management Fee (see note 2)	\$\$ Per Month (Assume Full-Time Rate for each category of field employees listed) (which will be converted to a <u>lump sum fee</u> when a task order/amendment is issued see note 2)
Home Office Employees (see sections 6.4.1, 6.4.3, & 6.4.4 of the Sample Contract)	\$ 24,500
Senior Project Manager	\$ 19,300
Project Manager	\$ 17,800
Assistant Project Manager	\$ 12,600
Superintendent	\$ 19,800
Project Coordinator/Admin	\$ 9,600
Field Office (trailer) (see note 4)	\$ 2,800
	\$\$ Per Occurrence
Field Office move in/set up/move out	\$ 3,900

Overhead and Profit (see note 3)	% of GMP (which will be converted to a <u>lump sum fee</u> when GMP is approved, before construction begins, see note 3)		
	Overhead	Profit	Total
Projects estimated < \$500,000	2 %	3 %	5 %
Projects estimated \$500,000 - <\$1,000,000	2 %	3 %	5 %
Projects estimated \$1,000,000 - \$3,000,000	2 %	3 %	5 %
Projects estimated >\$3,000,00 - \$5,000,000	2 %	3 %	5 %
Projects estimated >\$5,000,00	2 %	3 %	5 %

Fees proposed above will remain in effect for year 5 of the Contract.

Proposer: The Morganti Group, Inc.

Signature:  Print Name: Stephen Sines



OEBO SCHEDULE 1

LIST OF PROPOSED CONTRACTOR/CONSULTANT AND SUBCONTRACTOR/SUBCONSULTANT PARTICIPATION

SOLICITATION/PROJECT/BID NAME: DOA 18-13 CMAR Services for Misc. Airport Imp.
 NAME OF PRIME RESPONDENT/BIDDER: The Morganti Group, Inc.
 CONTACT PERSON: Stephen Sines
 SOLICITATION OPENING/SUBMITTAL DATE: _____

SOLICITATION/PROJECT/BID No.: DOA18-13
 ADDRESS: 1450 Centrepark Blvd., Suite 260
 PHONE NO.: 561.689.0200 E-MAIL: ssines@morganti.com
 DEPARTMENT: _____

PLEASE LIST THE DOLLAR AMOUNT OR PERCENTAGE OF WORK TO BE COMPLETED BY THE PRIME CONTRACTOR/CONSULTANT ON THIS PROJECT. PLEASE ALSO LIST THE DOLLAR AMOUNT OR PERCENTAGE OF WORK TO BE COMPLETED BY ALL SUBCONTRACTORS/SUBCONSULTANTS ON THE PROJECT.

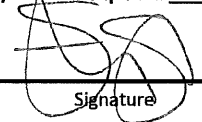
Name, Address and Phone Number	(Check all Applicable Categories)			DOLLAR AMOUNT OR PERCENTAGE OF WORK				
	Non-SBE	M/WBE	SBE	Black	Hispanic	Women	Caucasian	Other (Please Specify)
		Minority/Women Business	Small Business					
1. Cooper Construction Management & Consulting, Inc. 354 Hiatt Drive, Suite 140 Palm Beach Gardens, Florida 33418 561.841.6150	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>X</u>	_____	_____	_____	_____
2.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	_____	_____	_____
3.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	_____	_____	_____
4.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	_____	_____	_____
5.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	_____	_____	_____

(Please use additional sheets if necessary)

Total _____

Total Bid Price \$ TBD Total SBE - M/WBE Participation 15% of CM Fee

I hereby certify that the above information is accurate to the best of my knowledge: _____


Signature

Vice President of Operations
Title

- Note:**
1. The amount listed on this form for a Subcontractor/subconsultant must be supported by price or percentage listed on the properly executed Schedule 2 or attached signed proposal.
 2. Firms may be certified by Palm Beach County as an SBE and/or an M/WBE. If firms are certified as both an SBE and/or M/WBE, please indicate the dollar amount under the appropriate category.
 3. Modification of this form is not permitted and will be rejected upon submittal.

