

**Construction Manager at Risk Agreement  
Between Polk County and Construction Manager  
For the Caloosa Lake Fire Station**

This Construction Manager At Risk Agreement ("Agreement") is entered into as of the Effective Date (hereinafter defined) by and between Polk County, a political subdivision of the State of Florida, 330 W. Church Street, Bartow, Florida 33830 (hereinafter designated as the "County") and Miller Construction Management, LLC a Florida Limited liability company, 3970 S Pipkin Rd., Lakeland, FL 33881, whose Federal Identification Number is: 71-0867456 (hereinafter designated as the "Construction Manager").

**WITNESSETH:**

**WHEREAS**, the County requires certain Construction Manager at Risk services to be performed in Polk County; and,

**WHEREAS**, the County has solicited for these professional services via RFP 21-425, an advertised request for proposals, and has received numerous responsive proposals thereto; and

**WHEREAS**, after review and consideration of all responsive proposals, the County intends to retain the Construction Manager identified above to provide such professional services under this Agreement; and

**WHEREAS**, the Construction Manager remains agreeable to providing the County the professional services and represents that it is capable and prepared to do so.

**NOW, THEREFORE**, in consideration of the promises contained herein, the County and the Construction Manager (collectively, the "Parties") hereby agree, as follows:

**ARTICLE 1**

**THE CONSTRUCTION TEAM, EXTENT OF AGREEMENT AND DEFINITIONS**

The Construction Manager accepts the relationship of trust and confidence established between him and the County by this Agreement. The Construction Manager covenants with the County to furnish his best skill and judgment in furthering the interest of the County. The Construction Manager agrees to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Services in the best way and the most expeditious and economical manner, consistent with the interests of the County, and the terms and conditions of the Contract Documents. Further, the Construction Manager acknowledges that (i) he has represented to the County that it has specific expertise in the planning, reviewing, management and construction of projects of similar size, cost and complexity and (ii) that such representation is a material inducement to the County to enter into this Agreement.

**1.1     The Construction Team:**

The Construction Manager, the County and the Architect/Engineer, collectively called the "Construction Team", shall work jointly during the Pre-Construction Phase and the Construction Phase. The Architect/Engineer and the Construction Manager shall communicate through the County's Representative, except as may otherwise be provided in this Agreement. The Construction Manager shall copy the County's Representative on all correspondence sent to or received from the Architect/Engineer or any of its consultants of which the County's Representative was not copied. The specific representatives of the Construction Team shall be identified further in the Pre-Construction Addendum and the GMP Addendum.

## 1.2 Extent of Agreement:

This Agreement, between the County and the Construction Manager, supersedes any prior negotiations, representations or agreements. This Agreement shall not be superseded by any provisions/revisions of the Construction Documents and may be amended only by Change Order or through a duly executed amendment as authorized herein.

## 1.3 Definitions:

- 1.3.1 Project – the design and construction of the Caloosa Lake Fire Rescue Station, as further described in RFP 21-425, including all attachments and addenda, and this Agreement. Pre-Construction Services of the Project shall include coordination of all architectural, landscaping and engineering design and other pre-construction services, including, without limitation, the preparation of a proposed GMP, necessary to provide a complete and usable facility in accordance with this Agreement. Construction Phase of the Project shall include the construction of the facility, along with project management and coordination and quality assurance services necessary to complete the Project to the County's satisfaction.
- 1.3.2 Services – shall include: (1) all professional services described in the County's Request for Proposals RFP 21-425, including all attachments and addenda; (2) all services described in the Construction Manager's response thereto (collectively, "RFP 21-425" is attached hereto as a composite Exhibit "A" and made a part of this Agreement); (3) all services described in Article 2 herein (but as may be specifically excluded by the County in the Pre-Construction Addendum); and (4) all Pre-Construction Phase Services and Construction Phase Services (the Construction Phase Services may also be referred to herein as the "Work") as further set forth and described herein or in either the Pre-Construction Addendum, the GMP Addendum, or both.
- 1.3.3 Pre-Construction Services Addendum is attached hereto and incorporated herein as Exhibit "B".
- 1.3.4 GMP Addendum is attached hereto and incorporated herein as Exhibit "C" and shall be completed and executed by the County and the Construction Manager following the completion of Pre-Construction Phase Services and determination of a mutually-acceptable Guaranteed Maximum Price ("GMP") and related terms.
- 1.3.5 Architect/Engineer – The Lunz Group, Inc.
- 1.3.6 Contract Documents - The Contract Documents consist of this Agreement, the Exhibits hereto, and any duly executed amendments and/or addendums, including, without limitation, the Pre-Construction Addendum and the GMP Addendum, in addition to all plans and specifications for the construction of the Project ("Construction Documents") that have been completed by the Architect/Engineer and approved in writing by the County's Representative.
- 1.3.7 Punch List – A final list of items of Work to be completed and deficiencies to be corrected, which items shall not affect the attainment of Substantial Completion. Such items shall be complete or otherwise disposed of prior to Final Completion.
- 1.3.8 Schedule of Values - The schedule to be used as a basis for progress payments to be made to the Construction Manager by the County during performance of the Work, based on the then current percentage of progress of construction of the Work, subject to the review of the Architect/Engineer and the County's Representative.
- 1.3.9 Subcontractor – A subcontractor is any person or entity performing, furnishing, supplying or providing any portion of the Work pursuant to a contract with the Construction Manager. Construction Manager shall be solely responsible for and have control over the subcontractors.

- 1.3.10 Substantial Completion Date – The date, certified by the Architect/Engineer, that the Project, or designated portion thereof, is sufficiently complete, in accordance with the Construction Documents and as further delineated in Article 2, Section 2.5.1 so that the County can reasonably occupy or utilize the Project, or a designated portion thereof, for its intended use.
- 1.3.11 General Conditions – Those items that are not specific to any trade and are required for the construction of the Project.
- 1.3.12 County's Construction Budget: The County's Construction Budget shall be set forth in the completed GMP Addendum and shall include an estimated total of all three segments of the budget, including all Construction Manager Fees, Costs of the Work and the County's Allowance, as defined in Article 6. This acknowledgment of the County's Construction Budget is not to be construed as the Construction Manager's Guaranteed Maximum Price ("GMP").
- 1.3.13 *Intentionally omitted.*
- 1.3.14 Term –The "Term" of this Agreement shall commence on the Effective Date and shall continue thereafter through the date of completion by Construction Manager of all its contractual obligations (with the exception of the Warranty period as set forth in Section 2.6.3 and any other provisions contained herein which are specifically stated to survive expiration or earlier termination of this Agreement), and the County has paid the final balance due Construction Manager, including any retainage, as noted in the Certificate for Final Completion.
- 1.3.15 Allowance – Funds and time appropriated by the County for additional work which is not included in the contract document yet may be necessary for the completion of the Work. Any unused allowance funds shall be returned to the County by Change Order at the completion of the Project.
- 1.3.16 Contingency – Those areas of work that are not at 100% design completion, at the time of GMP, for which additional monies will be allowed. A contingency dollar amount will be shown as a separate amount at the appropriate line item within the GMP and labeled as a contingency for that item of work. Any unused contingency funds shall be reassigned to the County's Buyout Allowance, as defined in Section 6.1.5.
- 1.3.17 Effective Date – shall be the date this Agreement is executed by the Chairman, Board of County Commissioners.
- 1.3.18 The County's Representative(s) may be any or all of the following: County Manager, Deputy County Manager, and/or the Facilities Management Division Director

## **ARTICLE 2**

### **CONSTRUCTION MANAGER'S SERVICES**

The County does hereby retain the Construction Manager to furnish, provide and perform the Services (as defined in Section 1.3.2), as those Services may be further specifically designated and authorized by the County in writing, including, without limitation, those services as set forth in the Scope of Services of the Pre-Construction Services Addendum and in the GMP Addendum.

The Services shall include, without limitation, those described or specified in this Article 2. Such services described or specified shall not be deemed to constitute a comprehensive specification having the effect of excluding services not specifically mentioned. Additionally, some of the services described in this Article 2 may be specifically excluded by the County, as set forth in the completed Pre-Construction Services Addendum.

2.1 Project Management Information System (PMIS):

2.1.1 General:

- 2.1.1.1 Commencing immediately upon issuance by the County of a Notice To Proceed, the Construction Manager shall implement and shall utilize throughout the life of the particular Project all subsystems of the Project Management Information System hereinafter referred to as PMIS.
- 2.1.1.2 The reports, documents, and data to be provided shall represent an accurate assessment of the current status of the Project and of the Work remaining to be accomplished and it shall provide a sound basis for identifying variances and problems and for making management decisions. It shall be prepared and furnished to the County's Representative and the Architect/Engineer monthly.
- 2.1.1.3 If requested by the County's Representative, the Construction Manager shall conduct a comprehensive workshop for participants designated by the County's Representative and additional seminars as required, to provide instruction. This workshop and the seminars shall facilitate each participant's and the County's Representatives' use and understanding of PMIS; shall support, in-part, the function of organizing in concert with the Architect/Engineer for the design and construction of the Project; and shall establish, with the full concurrence of the County's Representative and the Architect/Engineer, procedures for accomplishing the management control aspect of the Project.
- 2.1.1.4 The PMIS shall be described in terms of the following major subsystems:
  - 2.1.1.4.1 Narrative Reporting, on a monthly basis, and
  - 2.1.1.4.2 Schedule Control, on a monthly basis, and
  - 2.1.1.4.3 Cost Control, and estimating, and
  - 2.1.1.4.4 Project Accounting, and
  - 2.1.1.4.5 Accounting and Payment, on a monthly basis, and
  - 2.1.1.4.6 Action Reports.

2.1.2 Narrative Reporting Subsystem:

- 2.1.2.1 The Construction Manager shall prepare written reports as described hereunder. No other PMIS narrative reports shall be required. All reports shall be in 8.5" X 11" format, unless directed otherwise by the County's Representative.
- 2.1.2.2 The Narrative Reporting Subsystem shall include the following reports:
  - 2.1.2.2.1 A Monthly Executive Summary which provides an overview of current issues and pending decisions, future developments and expected achievements, and any problems or delays, including all violations and deficiencies found by the applicable permitting authorities.
  - 2.1.2.2.2 A Monthly Cost Narrative describing the current cost status of the Project.
  - 2.1.2.2.3 A Monthly Scheduling Narrative summarizing the current status of the Master Project Schedule. This report shall include an analysis of the various Project schedules, a description of the critical path, tracking of approved original baseline schedule versus the actual progress of the Work and other analyses as necessary.
  - 2.1.2.2.4 A Monthly Accounting Narrative describing the current cost and payment status of the Project. This report shall relate current encumbrances and expenditures to the budget allocations.



2.1.2.2.5A Monthly Progress Report, during the Construction Phase, summarizing the work of the various subcontractors and consultants. This report shall include information from the weekly job site meetings, as applicable, such as General Conditions, long lead supplies, current deliveries, safety and labor relations programs, permits, construction problems and recommendations, and plans for the succeeding month.

2.1.2.2.6A Daily Construction Diary during the Construction Phase describing events and conditions on the site.

2.1.2.3 The reports outlined in subsection 2.1.2.2 shall be submitted monthly during the Construction Phase and shall be current through the end of the preceding month. Copies shall be transmitted to the County's Representative and the Architect/Engineer and others as designated by the County's Representative with the monthly pay requisition. Additional copies of the Monthly Executive Summary, as outlined in subsection 2.1.2.2.1, shall be distributed monthly, as directed by the County's Representative. The Daily Construction Diary, as outlined in subsection 2.1.2.2.6, shall be maintained at the Project Site Office Facility and be made available to the County's Representative and Architect/Engineer. An electronic PDF copy of the complete Daily Construction Diary shall be submitted to the County's Representative at the conclusion of the Project.

#### 2.1.3 Scheduled Control Subsystem:

2.1.3.1 Master Project Schedule: Within 30 days following issuance of the Notice To Proceed, the Construction Manager shall submit, to the County's Representative for approval, a Master Project Schedule covering the Pre-Construction Phase and Construction Phase. The Master Project Schedule shall serve as the framework for the subsequent development of all detailed schedules. The Master Project Schedule shall be produced and updated monthly throughout the Project. No revisions, activity additions, activity deletions, or logic changes to the Master Project Schedule or any other schedule previously approved by the County, shall be made without the County's approval. Minor or immaterial deviations that do not affect key milestone dates may be amended if approved by the County's Representative.

2.1.3.2 Construction Schedule: With the submission of the GMP Proposal, the Construction Manager shall submit to the County's Representative, for approval, a Critical Path Construction Schedule (hereinafter "Construction Schedule") in sufficient detail to graphically depict the activities contemplated to occur as a necessary incident to performance of the Work required to complete the Work, showing the sequence in which the Construction Manager proposes for each such activity to occur and duration (dates of commencement and completion, respectively) of each such activity. The Construction Schedule shall be based on a "Network Analysis System" and shall be the latest version of Microsoft Schedule, Primavera P3, or equivalent, as determined by the County's Representative. The County's Representative shall determine whether the Construction Schedule developed and submitted by the Construction Manager meets the requirements stated above and such determination shall be binding on the Construction Manager. Failure of the Construction Manager to develop and submit a Construction Schedule as aforesaid shall be sufficient grounds for the County to find the Construction Manager in substantial default and certify that sufficient cause exists to terminate the Agreement or to withhold any payment.

2.1.3.3 Updated Construction Schedule: Following development and submittal of the Construction Schedule as aforesaid, the Construction Manager shall, at the end of each calendar month occurring thereafter during the period of time required to finally complete the Work, or at such earlier intervals as circumstances may require, update the Construction Schedule. The updated Construction Schedule will show the actual progress of the Work performed compared to the original baseline schedule, approved as set forth in Section 2.1.3.2, and all updates thereto as reflected in the updated Construction Schedule last submitted prior to submittal of each such

monthly update. Each such update to the Construction Schedule shall be submitted to the County's Representative. Failure of the Construction Manager to update and submit the Construction Schedule as aforesaid shall be sufficient grounds for the County to find the Construction Manager in substantial default, and certify that sufficient cause exists to terminate the Agreement or to withhold payment to the Construction Manager, until a schedule or schedule update acceptable to the County's Representative is submitted.

2.1.3.4 When required by the County's Representative, the Construction Manager shall prepare and incorporate into the schedule database, at the required intervals, the following schedules:

2.1.3.4.1 Subcontractor Construction Schedules (Sub-networks) - Upon the award of each sub-contract, the Construction Manager shall jointly, with the subcontractor, develop a schedule which is more detailed than the Construction Schedule, taking into account the work schedule of the other subcontractors. The Construction Manager shall ensure each Subcontractor's Construction Schedule is incorporated into the Construction Manager's Construction Schedule, ensuring the necessary information is included to allow for construction planning and monitoring the performance of each subcontractor.

2.1.3.4.2 Final Completion Schedule - The Construction Manager shall jointly develop with the Architect/Engineer and the County's Representative, a detailed plan, inclusive of Punch Lists, final inspections, maintenance training and turn-over procedures, to be used for ensuring accomplishment of a smooth and phased transition from construction to Final Completion. The Final Completion Schedule shall be produced and updated monthly and may be part of the Construction Schedule.

2.1.3.4.3 Utility Relocation Schedule - The Construction Manager shall jointly develop with the Architect/Engineer and the County's Representative a detailed plan, for any and all utility relocations required for successful completion of the Work. The Utility Relocation Schedule shall be produced and updated monthly, and may be part of the Construction Schedule.

2.1.3.4.4 Recovery Schedule - If any portion of the Master Project Schedule or any current updates fail to reflect the actual plan or method of operation of the Work, or a contractual milestone date is more than 15 days behind, the County's Representative may require that a Recovery Schedule for completion of the remaining work be submitted. The Recovery Schedule must be submitted within 7 calendar days of the request by the County's Representative. The Recovery Schedule shall describe in detail the Construction Manager's plan to complete the remaining work by the required Agreement milestone date. The narrative submitted with the Recovery Schedule should describe in detail all changes that have been made to meet the Agreement milestone dates.

2.1.3.4.5 Change Orders - When a Change Order is proposed, the County's Representative may require the Construction Manager to identify all logic changes as a result of the Change Order. The Construction Manager shall include, as part of each Change Order proposal, a sketch showing all schedule logic revisions, duration changes, and the relationships to other activities in the Master Project Schedule. This sketch shall be known as the fragnet for the change. Upon acceptance of the fragnet, the Construction Manager will revise the Master Project Schedule. The logic changes required by the Change Order will be considered incidental to the Construction Manager's work. No separate payment will be made for the work required to identify all logic changes that result from the Change Order.

2.1.4 Budget Control Subsystem - The operation of this subsystem shall provide sufficient timely data and detail to permit the Construction Team to control and adjust the Project requirements, needs, materials, equipment and site elements, so that the Work will be completed at a cost which, together

with all other Costs of the Work, will not exceed the County's Project Budget. Requirements of this subsystem may include the following submissions:

- 2.1.4.1 Estimate at the completion of schematic design; and
- 2.1.4.2 Estimate at the completion of 100% design development plans; and
- 2.1.4.3 Estimate at the submission of the GMP Proposal.

- 2.1.5 Project Accounting Subsystem - The operation of this subsystem shall enable the Construction Team to plan effectively and to enable the County's Representative to monitor and control the funds available for the Project, cash flow, costs, Change Orders, payments, and other major financial factors by comparison of budget, estimate, total commitment, amounts invoiced, amounts payable, and to plan effectively. This subsystem will be produced and updated monthly and includes the following reports, which together will serve as a basic accounting tool and an audit trail. This report may be further defined by the County's Representative.

2.1.5.1 A Payment Status Report - showing the value in place (both current and cumulative), the amount invoiced (both current and cumulative), the amount retained, the amount payable (both current and cumulative), and the balance remaining. A summary of this report shall accompany each pay request.

2.1.5.2 Project Accounting Structure. It shall include the budget, estimate and base commitment figures for each contract. It shall give the Change Order history including Change Order numbers, description, proposed and approved dates, and the proposed and approved dollar amounts. It shall also show all pending Change Orders.

2.1.5.3 A Cash Flow Diagram - showing the projected accumulation of cash payments against the Project. Cash flow projections shall be generated for anticipated monthly payments as well as cumulative payments and may be requested at earlier or more frequent intervals by the County's Representative.

2.1.5.4 A Job Ledger - shall be maintained as necessary to supplement the operation of the Project accounting subsystem. The job ledger will be used to provide construction cost accountability for General Conditions work, on-site reimbursable expenses, and costs requiring accounting needs.

- 2.2 Project Manual: Upon the execution of this Agreement, the Construction Manager shall develop a draft comprehensive Project Manual describing the services set forth in this Agreement. This shall provide a plan for the control, direction, coordination and evaluation of Work performed throughout the Project; the Project organization including identification of key personnel, responsibilities of Construction Manager, the County's Representative and Architect/Engineer; work flow diagrams; and strategy for bidding the Work. The Project Manual shall be completed and submitted to the Architect/Engineer and the County's Representative for their review of the format and content, and to the County's Representative for approval as a condition precedent to the first progress payment by County to Construction Manager for services provided in the Pre-Construction Phase. The Project Manual shall be updated as necessary, with the approval of County's Representative throughout the Pre-Construction and Construction Phases. A copy of the Project Manual, and any updates, shall be submitted separately to the County's Representative and Architect/Engineer. In developing the Project Manual, the Construction Manager shall coordinate with the County's Representative and the Architect/Engineer. The Project Manual is merely an amplification and clarification of this Agreement. Any conflicts between the Project Manual and this Agreement shall be governed by the latter. The Project Manual shall describe in detail the procedures for executing the Work and the organizations participating. The Project Manual shall include as a minimum the following sections:

- 2.2.1 Project Definition - The known characteristics of the Project or sub-projects shall be described in general terms which will provide the participants a basic understanding of the Project or sub-projects.

- 2.2.2 Project Goals - The schedule, budget, physical, technical and other objectives for the Project.

- 2.2.3 Project Strategy - A narrative description of the Project delivery methods shall be utilized to accomplish the Project goals.
- 2.2.4 Project Work Plan - A matrix display of the program of Work to be performed by the Construction Manager, the Architect/Engineer and the County's Representative during each phase of the Project.
- 2.2.5 Project Organization - A summary organization chart showing the interrelationships between the County, the Construction Manager, the Architect/Engineer, and other supporting firms, organizations and permitting review agencies. Detailed charts, one each for the Construction Manager, the Architect/Engineer, and the County's Representative, showing organizational elements participating in the Project shall be included.
- 2.2.6 Responsibility Performance Chart - A detailed matrix showing the specific responsibilities of the County, the Architect/Engineer, and Construction Manager. The Responsibility Performance Chart shall indicate major responsibility, and minor responsibility, for each specific task required to deliver the Project. The Construction Manager shall develop a similar chart for the personnel within his own organization who are assigned to the Project, and also for the personnel of the County and the Architect/Engineer from data supplied by each.
- 2.2.7 Flow Diagrams - These charts shall display the flow of information and the decision process for the review and approval of shop drawings, submittals, and Change Orders.
- 2.2.8 Written Procedures - The Construction Manager will provide written procedures for communications and coordination required between Construction Team members throughout the Project. Procedures shall cover such items as correspondence, minutes, reports, inspections, team meetings, technical reviews, design reviews, and other necessary communications.
- 2.2.9 Emergency Contact List: A complete list of the names, company affiliation and emergency contact phone numbers (both day and night) for all key Project personnel from County, Construction Manager and Architect/Engineer, as well as from all subcontractors, sub-consultants and suppliers of any of them. This list shall be continuously updated by the Construction Manager throughout the Project duration, with Construction Manager distributing a copy of all updates to County's Representative and Architect/Engineer.
- 2.3 Pre-Construction Phase Services: The services to be provided under this Section 2.3 constitute the Pre-Construction Phase Services. The parties acknowledge the Construction Phase may commence before the Pre-Construction Phase is completed, and to a certain extent both phases may proceed concurrently.
  - 2.3.1 Preliminary Evaluation - The Construction Manager shall provide a preliminary evaluation of the Project and the County's Project Budget requirements, each in terms of the other.
  - 2.3.2 Consultation - The Construction Manager will jointly schedule and attend regular meetings with the County's Representative and Architect/Engineer. The Construction Manager shall make recommendations with respect to the selection of systems and materials, and cost – reducing alternatives, including assistance to the Architect/Engineer and County's Representative, in evaluating alternative comparisons versus long term cost effects. The evaluation shall address the benefits of the speed of construction and early completion of the Project. The Construction Manager shall furnish pertinent information as to the availability of materials and labor that will be required, in addition to items such as the identification, if necessary, of right-of-way to be acquired, outstanding permits and related issues and the status of utility relocations.
  - 2.3.3 Right of Way Acquisition – When requested, Construction Manager shall assist the County's Representative, in conjunction with the County Attorney's Office, with right of way acquisition, including but not limited to, obtaining appraisals, and assisting with the negotiation of purchase agreements. Construction Manager shall coordinate and develop in the Construction Documents all applicable conditions negotiated through the right-of-way acquisition process, including but not

limited to such items as driveway transitions and modifications, fence relocations and other related items.

- 2.3.4 Phased Construction - Without assuming any design responsibilities, the Construction Manager shall review the design with the Architect/Engineer and may make recommendations to the County's Representative with respect to dividing the Work in such manner as will permit the Construction Manager to take bids and award separate construction sub-contracts on the current schedule, while the design is being completed. He shall take into consideration such factors as natural and practical lines of severability, sequencing effectiveness, access and availability constraints, total time for completion, construction market conditions, availability of labor and materials, maintenance of traffic and utility relocation issues, status of right of way acquisition and community relations and any other factors pertinent to saving time and cost by overlapping design and construction that are authorized by the County's Representative.
- 2.3.5 Review Reports - Within 30 days after receiving the Construction Documents for each phase of the Project, the Construction Manager shall perform a specific review thereof, focused upon factors of a nature encompassed in Article 2, Section 2.3. Promptly after completion of the review, he shall submit to the Construction Team, with copies to the Architect/Engineer, a written report covering suggestions or recommendations previously submitted, additional suggestions or recommendations as he may deem appropriate, and all actions taken by the Architect/Engineer with respect to same, any comments he may deem to be appropriate with respect to separating the work into separate contracts, alternative materials, and all comments called for under Article 2, Section 2.3. Construction Manager shall not assume in any way the responsibilities of the Architect/Engineer, in particular, the responsibility of assuring that the Construction Documents are in accordance with applicable laws, statutes, ordinances, Building Codes, Rules, and Regulations. However, if the Construction Manager recognizes that portions of the Construction Documents are at variance therewith, the Construction Manager shall include notice of same in the written report. THE CONSTRUCTION MANAGER SHALL WARRANT, TO THE BEST OF CONSTRUCTION MANAGER'S KNOWLEDGE, WITHOUT ASSUMING ANY ENGINEERING RESPONSIBILITY, THAT THE CONSTRUCTION DOCUMENTS ARE CONSISTENT, PRACTICAL, FEASIBLE AND CONSTRUCTIBLE. CONSTRUCTION MANAGER SHALL WARRANT THAT THE WORK DESCRIBED IN THE CONSTRUCTION DOCUMENTS FOR THE VARIOUS BIDDING PACKAGES IS CONSTRUCTIBLE WITHIN THE SCHEDULED CONSTRUCTION TIME.
- 2.3.6 Long Lead Procurements - The Construction Manager shall review the design for the purpose of identifying long lead procurement items (machinery, equipment, materials and supplies). When each item is identified, the Construction Manager shall notify the subcontractors, the County's Representative and the Architect/Engineer of the required procurement and schedule. Such information shall be included in the bid documents and made a part of all affected sub-contracts. The Construction Manager shall keep himself informed of the progress of the respective subcontractors or suppliers, manufacturing or fabricating such items and advise County's Representative and Architect/Engineer of any problems or prospective delay in delivery. The Construction Manager may recommend to the County's Representative a schedule for procurement of the long-lead time items, which will constitute part of the Work as required to meet the Master Project Schedule. If such long-lead time items are procured by the County, they shall be procured on terms and conditions acceptable to the Construction Manager. Upon the County's acceptance of the Construction Manager's GMP proposal, all contracts for such items may be assigned by the County to the Construction Manager, who shall accept responsibility for such items as if procured by the Construction Manager. The Construction Manager shall assist in expediting the delivery of long-lead time items.
- 2.3.7 Project Site Office Facilities - The Construction Manager shall arrange for all job-site facilities necessary to enable the Construction Team to perform their respective duties in the management, inspection, and supervision of construction. Tangible personal property, otherwise referred to as Project Site Office Facilities, include but are not limited to such things as trailers, toilets, computers

and any other equipment necessary to carry on the Project. The method of acquiring such Project Site Office Facilities, which are planned to become the property of the County at the conclusion of the Project, shall be evaluated based on cost over the life of the Project. Owning versus leasing shall be considered by the Construction Manager obtaining at least three (3) proposals for leasing and at least three (3) proposals for purchasing, and then analyzing which is the most cost effective over the useful life of the item. The Construction Manager shall present his evaluation with recommendation to the County's Representative for approval. When the Construction Manager wishes to supply Project Site Office Facilities from his own equipment pool, he shall first evaluate buy versus lease as discussed previously herein. If leasing is found to be the least expensive approach, then he may lease such Project Site Office Facilities from his own equipment pool at a price not greater than the lowest of the three (3) lease proposals obtained. For all such facilities purchased, which are to become the property of the County at the conclusion of the Project, the Construction Manager shall maintain care and custody responsibilities of such facilities until the Project conclusion. At the conclusion of the Project, the Construction Manager shall provide the County's Representative with a complete inventory of equipment that has been purchased for the County. The inventory shall describe the equipment and identify the purchase price, serial number, model number, current location, and condition. Where said equipment has a title, said title shall be properly transferred to the County or to his designee. The Construction Manager is responsible for proper care and maintenance of all equipment while in his control. At the time of transfer to the County, the County may refuse acceptance of the equipment if the County determines in its sole discretion that the equipment has not been properly cared for by the Construction Manager. In such event, the Construction Manager shall reimburse County for the cost of such item.

- 2.3.8 Weather Protection - The Construction Manager shall ascertain what temporary enclosures, if any, of work areas should be provided for and may be provided as a practical matter, in order to assure orderly progress of the Work in periods when extreme weather conditions are likely to be experienced. He shall submit to the Construction Team his recommendations as to needed requirements of this nature and as to the contract, or contracts, in which they should be included. The Construction Manager is totally responsible for all weather protection necessary to insure that all new construction is adequately protected from the normal inclement elements.
- 2.3.9 Market Analysis and Stimulation of Bidder Interest - The Construction Manager shall monitor conditions in the construction market to identify factors that will or may affect costs and time for completing the Project. The Construction Manager shall submit to the County's Representative a written "Construction Market Analysis and Prospective Bidders Report" setting out recommendations and providing information as to prospective bidders. As various bid packages are prepared for bidding, the Construction Manager shall submit to the County's Representative and the Architect/Engineer a list of potential bidders. The Construction Manager shall be responsible to stimulate bidder interest in the Polk County market place and identify and encourage bidding competition. The Construction Manager shall carry out an active program of stimulating interest of qualified contractors in bidding on the Work and of familiarizing those bidders with the requirements of this Project.
- 2.4 Construction Phase - After the Construction Documents have been sufficiently completed by Architect/Engineer and approved by County's Representative for all the Work (or such portions thereof as may be designated by County in writing) and County and Construction Manager have agreed in writing upon the GMP to be paid to Construction Manager and the Contract Time for the Work (or designated portions thereof) as hereafter provided, Construction Manager shall fully perform and complete in a good and workmanlike manner the construction of the Work (or designated portions thereof) in accordance with all the terms and conditions of the Contract Documents.
- 2.4.1 Construction Manager's Staff - 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 subcontractors, and he shall provide no less than those personnel during the respective phases of construction that are set forth in Schedule 1 of the GMP Addendum. He shall not change any of

those persons named in said Schedule unless mutually agreed to by the County's Representative and Construction Manager. In such case, the County's Representative shall have the right of approval of the qualifications of replacement personnel. Such approval will not be unreasonably withheld.

- 2.4.2 Lines of Authority - The Construction Manager shall establish and maintain lines of authority for his personnel, and shall provide this definition to the County's Representative and all other affected parties, such as the code inspectors of the permitting agencies, the subcontractors and the Architect/Engineer, to provide general direction of the Work and progress of the various phases and subcontractors. The County's Representative and Architect/Engineer may attend meetings between the Construction Manager and his subcontractors; however, such attendance shall not diminish either the authority or responsibility of the Construction Manager to administer the subcontracts.

- 2.4.3 Schedule and Project Manual Provisions - The Construction Manager shall provide subcontractors and the County, its representatives and the Architect/Engineer with copies of the Project Manual developed and updated as required by Article 2, expanded for the Construction Phase employing their respective milestones, beginning and finishing dates, their respective responsibilities for performance and the relationships of their work with respect to subcontractors and suppliers. He shall also continue to provide current scheduling information, direction and coordination regarding milestones, and beginning and finishing dates. He is also responsible for performance and the relationships of his work to the work of his subcontractors and suppliers, to enable them to perform their respective tasks, so that the development of construction progresses in a smooth and efficient manner in conformance with the Master Project Schedule.

- 2.4.4 Solicitation of Bids Without assuming responsibilities of the Architect/Engineer, the Construction Manager shall prepare invitations for bids, or requests for proposals when applicable, for all procurement of long lead items, materials and services, for Subcontractor contracts and, if directed by the County, for site utilities. Such invitations for bids shall be prepared in accordance with the following guidelines:

- 2.4.4.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by other appropriate agreements with the Construction Manager. The Construction Manager shall obtain bids from subcontractors, vendors, consultants and from suppliers of materials or equipment fabricated to a special design for the Work. The Construction Manager shall strive to receive at least three competitive bids per trade package. Should the nature of the trade package prohibit three competitive bids, the Construction Manager shall notify the County's Representative in writing as to the reason and offer suggestions, if any, to create trade interest.

- 2.4.4.2 The Construction Manager shall be responsible for coordinating with the Architect/Engineer and preparing all information that is the responsibility of the Construction Manager for bidding of the separate bid packages.

- 2.4.4.3 The Construction Manager and the County's Representative shall mutually agree when and if to conduct a pre-bid conference with prospective bidders and the Architect/Engineer. In the event questions are raised which require an interpretation of the bidding documents or otherwise indicate a need for clarification or correction of the invitation, the Construction Manager shall transmit these to the County's Representative and the Architect/Engineer and, upon receiving clarification or correction in writing, shall prepare an addendum to the bidding document, and issue same to all of the prospective bidders.

- 2.4.5 Subcontracts Subject to Article 6 and, in accordance with Article 2, Section 2.4.4, the Construction Manager shall award subcontracts to the qualified low bidder after the Construction Manager and the County have reviewed each proposal and are satisfied that the subcontractor/supplier is qualified to perform the work. Construction Manager shall make available to each proposed subcontractor, prior to the execution of the subcontract, complete copies of the Contract Documents to which the subcontractor will be bound by this Section 2.4.5 and identify to the subcontractor any terms and

conditions of the proposed subcontract which may be at variance with the Contract Documents. Each subcontractor shall similarly make copies of such documents available to its sub-subcontractors.

- 2.4.5.1 All subcontracts shall: (1) require each subcontractor to be bound to Construction Manager to the same extent Construction Manager is bound to County by the terms of the Contract Documents, as those terms may apply to the portion of the Work to be performed by the subcontractor, (2) provide for the assignment of the subcontracts from Construction Manager to County at the election of County, upon termination of Construction Manager, (3) provide that County will be an additional indemnified party of the subcontract, (4) provide that County will be an additional insured on all insurance policies required to be provided by the subcontractor, except workman's compensation, (5) assign all warranties directly to County, and (6) identify County as an intended third-party beneficiary of the subcontract.
- 2.4.5.2 Unless otherwise expressly agreed to by County in writing, all subcontracts shall provide: **LIMITATION OF REMEDIES – NO DAMAGES FOR DELAY** The subcontractor's exclusive remedy for delays in the performance of the contract caused by events beyond its control, including delays claimed to be caused by the County or Architect/Engineer or attributable to the County or Architect/Engineer and including claims based on breach of contract or negligence, shall be an extension of its contract time and shall in no way involve any monetary claim. Each subcontract shall require that any claims by the subcontractor for delay must be submitted to the Construction Manager within the time and in the manner in which the Construction Manager must submit such claims to the County, and that failure to comply with the conditions for giving notice and submitting claims shall result in the waiver of such claims.
- 2.4.5.3 Subcontractual Relations - The Construction Manager shall require each Subcontractor to assume all the obligations and responsibilities which the Construction Manager owes the County, under the agreement, by the parties to the extent of the work to be performed by the subcontractor. Said agreements shall be made in writing and shall preserve and protect the rights of the County and Architect/Engineer under the Contract Documents, with respect to the Work to be performed by the subcontractor, so that the subcontracting thereof will not prejudice such rights. Where appropriate, the Construction Manager shall require each subcontractor to enter into similar agreements with its sub-subcontractor.
- 2.4.5.4 Insurance requirements for subcontractors shall be no more stringent than those requirements imposed on the Construction Manager by the County. The Construction Manager shall be responsible to the County for the acts and omissions of his employees, agents, subcontractors, their agents and employees, and all other persons performing any of the work or supplying materials under a contract to the Construction Manager.
- 2.4.5.5 If bids are not received for a portion of the Work at or below the applicable line item amount in the GMP Addendum, the Construction Manager reserves the right to perform that portion of the Work, or negotiate for its performance for the specified line item lump sum amount or less.
- 2.4.6 A Public Construction Bond in the total amount of the GMP, along with all insurance certificates will be provided by the Construction Manager after approval of the GMP by the Board of County Commissioners, in the form attached hereto and incorporated herein as Exhibit "M". No work shall be performed until these documents are provided and the certificates are current.
  - 2.4.6.1 The Bond shall remain in effect at least until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents.
  - 2.4.6.2 All Bonds shall be in the form prescribed by the Contract Documents except as provided



otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570, as amended by the audit Staff, Bureau of Government Financial Operations, U.S. Treasury Department and A.M. Best rated A VIII or better.

2.4.6.3 If the surety on any Bond furnished by the Construction Manager is declared bankrupt, becomes insolvent, its right to do business is terminated in any state or it ceases to meet the requirements of Section 2.4.6.2, the Construction Manager shall within ten (10) days thereafter substitute another Bond and surety, both of which must be acceptable to the County.

2.4.6.4 All Bonds and insurance required by the Contract Documents to be purchased and maintained by the Construction Manager shall be obtained from surety or insurance companies that are duly licensed or authorized in the State of Florida to issue bonds or insurance policies for the limits and coverage so required. All bonds signed by an agent must be accompanied by a certified copy of authority to act.

2.4.7 Quality Control - The Construction Manager shall develop and maintain a written program, acceptable to the County's Representative and Architect/Engineer, to assure quality control of the construction. He shall supervise the work of all subcontractors, providing instructions to each when their work does not conform to the requirements of the Construction Documents, and he shall continue to exert his influence and control over each subcontractor to ensure that corrections are made in a timely manner, so as to not affect the efficient progress of the Work. Should disagreement occur between the Construction Manager and Architect/Engineer over acceptability of Work and conformance with the requirements of the Construction Documents, the County's Representative shall be the final judge of performance and acceptability, subject to the dispute provisions of this Agreement.

2.4.8 Submittals and Substitutions- Construction Manager shall carefully examine the Contract Documents for approval of materials to be submitted such as shop drawings, data, test results, schedules and samples. Construction Manager shall submit all such materials in such form and manner as required by the Contract Documents in sufficient time to prevent any delay in the delivery of such materials and the installation thereof. The Construction Manager shall also carefully review and certify for accuracy and completeness all shop drawings and other submittals and then forward the same to the Architect/Engineer for review and action. Within 14 days, the Architect/Engineer will transmit them back to the Construction Manager, who will then issue the submittals to the affected subcontractor for fabrication or revision. The Construction Manager shall maintain a suspense control system to promote the expeditious handling of shop drawings and all other submittals. The Construction Manager shall request the Architect/Engineer to make interpretations of the drawings or specifications requested of it by the subcontractors. The Construction Manager shall advise the Architect/Engineer in writing which submittals or requests for clarification have the greatest urgency; the purpose being to enable the Architect/Engineer to prioritize requests coming from the Construction Manager. The Construction Manager shall advise the County's Representative and Architect/Engineer in writing when timely response is not occurring on any of the above.

2.4.8.1 If Construction Manager wishes to furnish or use a substitute item of material or equipment, Construction Manager shall make application to Architect/Engineer for acceptance thereof, certifying that the proposed substitute shall perform adequately the functions and achieve the results called for by the general design, be similar and at least of equal substance to that specified and be suited to the same use as that specified. The application shall state that the evaluation and acceptance of the proposed substitute will not prejudice Construction Manager's achievement of Substantial Completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with County for the Project) to adapt the design to the proposed substitute, and whether or not incorporation or use by the substitute

in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement services shall be indicated. The application also shall contain an itemized estimate of all costs or savings that will result directly or indirectly from acceptance of such substitute, including costs for redesign and claims of other contractors affected by the resulting change, all of which shall be considered by Architect/Engineer in evaluating the proposed substitute. Architect/Engineer may require Construction Manager to furnish, at Construction Manager's expense, additional data about the proposed substitute.

2.4.8.2 If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, Construction Manager may furnish or utilize a substitute means, method, technique, sequence or procedure of construction acceptable to Architect/Engineer, if Construction Manager submits sufficient information to allow Architect/Engineer to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedures for submission to and review by Architect/Engineer shall be the same as those provided herein for substitute materials and equipment.

2.4.8.3 Architect/Engineer shall be allowed a reasonable time within which to evaluate each proposed substitute. Architect/Engineer and County's Representative shall be the sole judges of the acceptability of any substitute. No substitute shall be ordered, installed or utilized without County's and Architect/Engineer's prior written acceptance which shall be evidenced by either a Change Order or an approved submittal. County may require Construction Manager to furnish, at Construction Manager's expense, a special performance guarantee or other surety with respect to any substitute. The cost of such guarantee may be reimbursable from the County's Owner Allowance or Buyout Allowance funds, provided that this cost is presented with the proposed substitute. If County rejects the proposed substitute, at County's direction, County may require Construction Manager to reimburse County for the charges of Engineer and Engineer's consultants for evaluating the proposed substitute.

2.4.9 Subcontractor Interfacing - The Construction Manager shall be the single point of interface with all subcontractors for the County and the County's Representative, including the Architect/Engineer.

2.4.10 Permits - The Construction Manager shall secure and pay for all permits and/or licenses which are customarily secured by a General Contractor. If Construction Manager performs any Work without obtaining, or contrary to, such permits or licenses, Construction Manager shall bear all costs arising therefrom. Cost for all re-inspections of Work found defective and subsequently repaired, shall be borne by the Construction Manager, unless such cost is not a result of negligence on the part of the Construction Manager.

2.4.11 Project Administration - The Construction Manager shall provide Project Administrative functions during construction to assure proper documentation, including, but not limited to, such things as the following:

2.4.11.1 Job Meetings – Hold weekly progress and coordination meetings, or more or less frequently, if required, to provide for the timely completion of the Work. In addition, a regular monthly Project status meeting will be held between the Architect/Engineer, County's Representative and Construction Manager. The meetings shall serve as a tool for planning of work and enforcing schedules and for establishing procedures and responsibilities.

2.4.11.2 Shop Drawing Submittals/Approvals – Check shop drawings and implement procedures to be approved by County's Representative for submittal and transmittal to the

Architect/Engineer and County's Representative of such drawings for action, and closely monitor their submittal and approval process.

- 2.4.11.3 Material and Equipment Expediting – Closely monitor material and equipment deliveries, follow-up procedures on supplier commitments of all subcontractors, and maintain a material and equipment expediting log.
- 2.4.11.4 Payments to subcontractors - Develop and implement a procedure for review, processing, and payment of applications by subcontractors for progress and final payments.
- 2.4.11.5 Document Interpretation (RFI) - Refer all questions for interpretation of the Construction Documents to the Architect/Engineer with a copy to the County's Representative.
- 2.4.11.6 Reports and Project Site Documents - Record the progress of the Project. Submit written progress reports to the County's Representative and the Architect/Engineer including information on the subcontractors' work, and the percentage of completion. Keep a daily log available to the County, the Engineer and the permitting authority's inspectors.
- 2.4.11.7 Subcontractors' Progress - Prepare periodic punch lists for the subcontractors' work, including unsatisfactory or incomplete items and schedules for their completion.
- 2.4.11.8 Start-Up - With the County's personnel, direct the checkout of utilities, operations, systems and equipment for readiness and assist in their initial start-up and testing by the trade contractors.
- 2.4.11.9 Safety – Provide a safety program for the Project to meet OSHA requirements. Monitor for subcontractor compliance without relieving them of responsibilities to perform Work in accordance with the best acceptable practice.
- 2.4.11.10 Record Drawings - The Construction Manager shall monitor the progress of his own forces and his Subcontractors on marked up field prints, which at project completion, shall be sent to the Architect/Engineer, who will prepare the final record drawings. The Construction Manager shall continuously review "As-Built" Drawings and marked up progress prints to provide as much accuracy as possible.
- 2.4.11.11 Systems Maintenance and Instruction - The Construction Manager shall catalog operational and maintenance requirements of equipment to be operated by maintenance personnel and convey those to the County in such a manner as to promote their usability. The Construction Manager shall provide County's operations and maintenance personnel with operations and maintenance training with respect to the equipment and systems being provided as part of the Work. This training shall be videotaped by Construction Manager for subsequent presentation to County's operations and maintenance personnel.
- 2.4.11.12 Administrative Records - Construction Manager shall maintain in a safe place at the Project Site Office Facility, one record copy and one permit set of the Contract Documents, including, but not limited to, all Construction Documents, addenda, amendments, Change Orders, Construction Change Directive and Field Orders, as well as all written interpretations and clarifications issued by Architect/Engineer, in good order and annotated to show all changes made during construction. The record Contract Documents shall be updated by Construction Manager throughout the prosecution of the Work to accurately reflect all field changes that have been made to adapt the Work to field conditions, changes resulting from Change Orders, Construction Change Directive and Field Orders, and all concealed and buried installations of piping, conduit and utility services. Construction Manager shall certify the accuracy of the updated record Contract Documents. As a condition precedent to County's obligation to make a monthly progress payment, Construction Manager shall provide evidence, satisfactory to County's Representative and

Architect/Engineer, that Construction Manager is fulfilling its obligation to update the record Contract Documents. All buried and concealed items, within the Project site, shall be accurately located on the record Contract Documents as to depth and in relationship to not less than 2 permanent features. The record Contract Documents shall be clean and all changes, corrections and dimensions shall be given in a neat and legible manner in red. The record Contract Documents, together with all approved samples and a counterpart of all approved shop drawings, shall be available to County's Representative and Architect/Engineer for reference. In addition, the Construction Manager shall be required to maintain at the Project Site Office Facility on a current basis, electronic and/or copies of files and records such as, but not limited to the following:

Contracts [subcontracts]  
Purchase Orders  
Shop Drawing Submittal/Approval Logs  
Equipment Purchase/Delivery Logs  
Contract Drawings and Specifications with Addenda  
Warranties and Guarantees  
Cost Accounting Records  
Labor Costs  
Material Costs  
Equipment Costs  
Cost Proposal Requests  
Payment Request Records  
Meeting Minutes  
Cost Estimates  
Bulletin Quotations  
Lab Test Reports  
Insurance Certificates and Bonds  
Contract Changes  
Construction Change Directives  
Permits  
Purchase Orders  
Material Purchase Delivery Logs  
Technical Standards  
Design Handbooks  
"As-Built" Marked Prints  
Operating & Maintenance Instruction  
Daily Progress Reports  
Monthly Progress Reports  
Correspondence Files  
Transmittal Records  
Inspection Reports  
Bid/Award Information  
Bid Analysis and Negotiations  
Punch Lists  
PMIS Schedule and Updates  
Suspense (Tickler) Files of Outstanding Requirements  
Project Manual  
Job Photographs

## 2.5 Final Completion:

- 2.5.1 Substantial Completion: When the entire Work (or any portion thereof designated in writing by County) is ready for its intended use, Construction Manager shall notify County's Representative and Architect/Engineer in writing that the entire Work (or such designated portion) is substantially complete and request that Architect/Engineer prepare a Certificate of Substantial Completion (or a

Certificate of Partial Substantial Completion), a copy of which is attached as Exhibit "D". Said written notice from Construction Manager shall include a proposed punch list of all items of Work to be completed or corrected by Construction Manager. Within a reasonable time thereafter, County's Representative, Construction Manager and Architect/Engineer shall make an inspection of the Work (or designated portion thereof) to determine the status of completion. If County's Representative and Architect/Engineer do not consider the Work (or designated portion) substantially complete, Architect/Engineer shall notify Construction Manager in writing giving the reasons therefore. If County and Architect/Engineer consider the Work (or designated portion) substantially complete, Architect/Engineer shall deliver to Construction Manager the Certificate of Substantial Completion (or Certificate of Partial Substantial Completion) which shall fix the date Substantial Completion for the entire Work (or designated portion thereof) is actually achieved by Construction Manager and include a final punch list of items to be completed or corrected by Construction Manager before final payment. Failure to include an item on the final Punch List does not waive County's right to demand completion of the item pursuant to the Contract Documents prior to or after final payment.

- 2.5.2 Final Acceptance: When Construction Manager believes it has fully performed all of the Services, including all punch list items, Construction Manager shall deliver to County's Representative all items listed on Exhibit "G", which includes, but is not limited to, a written Release and Affidavit from Construction Manager certifying that all Work has been completed in accordance with the requirements of the Contract Documents. That written affidavit shall be in conformance with Exhibit "E" and shall be delivered to County's Representative by Construction Manager at the same time it submits its final Application for Payment. After receipt of such affidavit, the final Application for Payment and all other documents required for Project close-out, Architect/Engineer and County's Representative shall promptly inspect the Work to determine if all of the Work has been completed and is ready for Final Acceptance by County. If County's Representative and Architect/Engineer determine Construction Manager has completed the entire Work and performed all of the Services, County's Representative shall promptly approve the Final Completion Certificate of the Project, stating that, to the best of its knowledge, information and belief, and on the basis of its observations and inspections: (i) all of the Services have been completed in accordance with the requirements of the Contract Documents; (ii) the final balance due Construction Manager, as noted in the final Certificate for Completion, is due and payable; and (iii) all conditions precedent to Construction Manager's entitlement to final payment has been satisfied. Neither the final payment nor any retainage shall become due and payable until Construction Manager submits: (1) the final Release and Affidavit in the form attached to the Agreement as Exhibit "E", (2) consent of surety to final payment, and (3) other data establishing payment or satisfaction of all obligations, such as receipts, releases and waivers of liens, arising out of the Contract Documents, to the extent and in such form as may be designated by County. County reserves the right to inspect the Work and make an independent determination as to the Work's acceptability, even though Architect/Engineer may have issued its recommendations. Until the Construction Manager completes all of its contractual obligations, with the exception of the Warranty period, neither the final payment nor any retainage shall become due and payable.
- The County may occupy or take control of portions of the project providing the above items discussed in this paragraph have been completed and the "Substantial Completion", "Start-Up", "Record Drawing", and "Warranty" requirements specified in Article 2, Sections 2.4.11.8, 2.4.11.10, 2.5.1 and 2.6 have been completed to the County's satisfaction for the portions to be occupied, excluding the requirements for a warranty inspection eleven (11) months after Substantial Completion.

## 2.6 Warranty and Corrective Period

- 2.6.1 The Construction Manager shall warrant that all materials and equipment included in the Work will be new, except where indicated otherwise in Contract Documents, and that the Work will be of good quality, free from improper workmanship and defective materials and in conformance with the Construction Documents.

- 2.6.2 The Construction Manager shall collect and deliver to the County's Representative any specific written warranties given by others as required by the Contract Documents. Also, the Construction Manager shall conduct, jointly with the County's Representative and the Architect/Engineer, a warranty inspection eleven (11) months after the date of Substantial Completion of the Project. Construction Manager shall obtain and assign to County all express warranties given to Construction Manager by any subcontractors or by any materialmen supplying materials, equipment or fixtures to be incorporated into the Project. Construction Manager further warrants to County that all materials and equipment furnished under the Contract Documents shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturers, fabricators, suppliers or processors except as otherwise provided for in the Contract Documents. Further, any special warranty to be provided will be in such form as is acceptable to County and shall not include any exclusions, exceptions or modifications except to the extent approved by County in its sole discretion.
- 2.6.3 In addition to the express warranties provided for in Sections 2.6.1 and 2.6.2, and all other rights and remedies available to County at law or in equity, including any implied warranties County may be entitled to as a matter of law, Construction Manager shall promptly correct, upon receipt of written notice from County's Representative, any portion of the Work which is found to be defective or otherwise not in conformance with the requirements of the Contract Documents. In the event that any defective or non-conforming work is deemed by County in its sole discretion to present an immediate threat to safety or security, County shall be entitled to correct and fix such defective or non-conforming portions of the Work, and Construction Manager shall reimburse County for all costs and expenses incurred by County in performing such Work. This obligation to correct defective or nonconforming Work shall run for a period of one year (or such longer period of time as may otherwise be specified in the Contract Documents) commencing from the date Substantial Completion is achieved.
- 2.6.4 With respect to the correction of any defective or nonconforming Work, Construction Manager shall be liable for all damage to any part of the Work itself and to any adjacent property which is caused by such corrective work. Construction Contingency Funds may be utilized to correct such damage provided that damage was not caused by negligence on the part of the Construction Manager. Construction Manager's warranty excludes remedy for damage or defect caused by County's abuse, modifications not performed by Construction Manager, improper or insufficient maintenance by County (unless such maintenance was performed in accordance with the directions from Construction Manager), improper operation by County (unless such operations were performed in accordance with the directions from Construction Manager), or normal wear and tear under normal usage.

**ARTICLE 3**  
**COUNTY'S RESPONSIBILITIES**

3.1 **County's Information:**

The County shall provide full information regarding the requirements for the Project.

3.2 **County's Representative:**

The County shall designate in writing any additional representatives authorized to act on the County's behalf with respect to the Project, together with the scope of his/her respective authority. In no event, shall any delegation of authority be contrary to State or County laws or codes. Such designations as of the date hereof are set forth in Section 1.3.18. Functions that this Agreement provides, which will be performed by the County, can be delegated by written notice to the Construction Manager from the County. The designation(s) of County's Representative, as set forth in Section 1.3.18, may be amended from time to time by the County, pursuant to written notice to the Construction Manager of such amendment. The Construction Manager shall be entitled to rely on directions (and it shall be required to follow directions) from the County's Representative within the authority conferred by the Board of County Commissioners in this Agreement or any Amendment or Change Order to this Agreement. Polk County Board of County Commissioners hereby authorizes the County's Representative to: (1) act as the Board's agent and execute documents associated with the Project. Examples of these documents are Notices of Commencement, Certificates of Substantial and Final Completion and permits from applicable agencies; (2) administer, coordinate, interpret and otherwise manage the contractual provisions and requirements of this Agreement; (3) negotiate a duly authorized Change Order on behalf of the County; and (4) issue a duly authorized memorandum, letter or other instrument covering the services and work to be provided pursuant to this Agreement. Directions and decisions made by County's Representatives shall be binding on the County. The County's Representative does not have the authority to authorize work beyond the scope of the Contract Documents.

The County additionally authorizes the County Manager, or Deputy County Manager, in conjunction with the County's Representative, to authorize individual changes in the Work up to \$100,000.00. Said changes shall be funded from the County's Allowance and shall not cause an increase to County's Project Budget.

3.3 **Design Engineer and Engineer's Agreement:**

The County shall retain an Architect/Engineer for design and to prepare Construction Documents for the Project. The Architect/Engineer's services, duties and responsibilities are described in the Agreement between the County and the Architect/Engineer, a copy of which will be furnished to the Construction Manager.

3.4 **Site Survey and Reports:**

The County shall provide for the site of the Project all surveys describing the physical characteristics, soil reports, and subsurface investigations, legal limitations, utility locations, and a legal description.

3.5 **Approvals and Easements:**

The County shall pay for necessary approvals, properties, easements, assessments and charges required for the construction, use or acceptance of permanent structures or for permanent changes in existing facilities.

3.6 **Legal Services:**

The County shall furnish such legal services as may be necessary for providing the items set forth in Article 3, Section 3.5, and such auditing services as it may require.

3.7 **Construction Documents:**

The Construction Manager will be furnished a reproducible set of all copies of the Construction Documents reasonably necessary and ready for printing.

3.8 Cost of Surveys & Reports:

The services, information, surveys and reports required by the above paragraphs shall be furnished with reasonable promptness in accordance with the approved schedule at the County's expense. Construction Manager shall rely upon the accuracy and completeness thereof as noted in the various reports and surveys. Additional reports or surveys deemed to be necessary by the Construction Manager shall be obtained by the Construction Manager.

3.9 Project Fault Defects:

If the County becomes aware of any fault or defect in the Project or non-conformance with the Construction Documents, the County shall give prompt written notice thereof to the Construction Manager and Architect/Engineer.

3.10 Funding:

The County shall furnish, in accordance with the established Master Program Schedule, reasonable evidence satisfactory to the Construction Manager that sufficient funds will be available and committed for the cost of each part of the Project. The Construction Manager shall not commence performance of any Services, unless authorized in writing by the County.

3.11 Permitting & Code Inspections:

The County and Construction Manager shall coordinate with the appropriate permitting authorities.

**ARTICLE 4**

**CONTRACT TIME**

4.1 The total period of time beginning with the Construction Phase Commencement Date and ending on the date of Final Completion of the Work is referred to hereafter as the "Contract Time". With respect to the Construction Phase Services, the "Construction Phase Commencement Date" shall be established in the GMP Addendum. No portion of the Work, with respect to the Construction Phase Services, shall be performed prior to the Construction Phase Commencement Date, unless expressly approved in advance by the County in writing. The GMP Addendum shall also include the date that portion of the Work associated with the Construction Phase Services must be substantially completed by Construction Manager. The "Substantial Completion" date shall be established in terms of calendar days after the Construction Phase Commencement Date. Unless noted otherwise, the Final Completion Date is 30 (thirty) days after Substantial Completion. In the event Construction Manager and County fail to reach an agreement on the Contract Time, County may elect to terminate this Agreement. In the event of any such termination, Construction Manager shall be entitled to receive that portion of the Contract Amount attributable to the Pre Construction Phase Services earned to the date of termination plus that portion of any earned compensation associated with any Construction Phase Services provided, to the extent such services were expressly approved in advance and in writing by County; but Construction Manager shall not be entitled to any further or additional compensation from County, including, but not limited to, damages or lost profits on portions of the Work not performed.

4.2 Liquidated Damages. County and Construction Manager recognize that, since time is of the essence for this Agreement, County will suffer financial loss if the Work associated with the Construction Phase is not substantially completed within the time specified in the GMP Addendum, as said time may be adjusted as provided for herein. In such event, the total amount of County's damages, will be difficult, if not impossible, to definitively ascertain and quantify, because this is a public construction project that will, when completed,



benefit the public in Polk County, Florida. It is hereby agreed that it is appropriate and fair that the County receive liquidated damages from Construction Manager, if Construction Manager fails to achieve Substantial Completion of the Work within the required Contract Time. Should Construction Manager fail to substantially complete the Work within the required time period, the County shall be entitled to assess, as liquidated damages, but not as a penalty, the amount specified in the GMP Addendum, for each calendar day thereafter until Substantial Completion is achieved. Construction Manager hereby expressly waives and relinquishes any right which it may have to seek to characterize the above noted liquidated damages as a penalty, which the parties agree represent a fair and reasonable estimate of County's actual damages at the time of contracting if Construction Manager fails to substantially complete the Work in a timely manner.

## **ARTICLE 5**

### **CONTRACT TIME EXTENSIONS**

- 5.1 Should Construction Manager be obstructed or delayed in the prosecution of or completion of the Work as a result of unforeseeable causes beyond the control of Construction Manager, and not due to its fault or neglect, including but not restricted to acts of God or the public enemy, acts of government, fires, floods, epidemics, quarantine regulation, strikes, lockouts, utility work being performed within the Project limits, or by unusually severe weather conditions by comparison with the ten year Polk County, Florida average not reasonably anticipatable, Construction Manager shall notify County's Representative and Architect/Engineer, in writing within seven (7) calendar days after the commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which Construction Manager may have had to request a Contract Time Extension. Contract Time Extension requests shall be evaluated through the Change Order process.
- 5.2 If Construction Manager encounters on the Project site any materials reasonably believed by Construction Manager to be petroleum, or petroleum related products, or other hazardous or toxic substances which have not been rendered harmless, Construction Manager immediately shall: (i) stop Work in the area affected, and (ii) report the condition to County's Representative in writing. If the Work is so stopped in excess of ten (10) days and hazardous material is found, the Work in the affected area shall not thereafter be resumed except by Change Order. Any such Change Order shall include, but not be limited to, an adjustment to the Contract Time as appropriate. If no hazardous material is found after the Work is stopped, no Change Order is required to resume the Work in the affected area. Further, if the hazardous material was generated or caused by the Construction Manager or any of its employees, agents, subcontractors, or material suppliers, no Change Order will be required for an adjustment in the Contract Time and Construction Manager shall indemnify the County and hold County harmless for any costs incurred by the County with respect to such material.
- 5.3 NO DAMAGES FOR DELAY. No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the Work from any cause whatever, including those for which the County and Architect/Engineer may be responsible, in whole or in part, shall relieve Construction Manager of his duty to perform, or give rise to any right to damages or additional compensation from the County. Construction Manager's sole remedy, if any, against the County will be the right to seek an extension to the Contract Time and the payment of additional Costs of the Work and associated increase in the Construction Manager's Fee, as allowed pursuant to Article 6. This paragraph shall expressly apply to claims for early completion, as well as to claims based on late completion. In no event shall the County be liable to Construction Manager, whether in contract, warranty, tort (including negligence or strict liability) or otherwise for any acceleration, soft costs, lost profits, special, indirect, incidental, or consequential damages of any kind or nature whatsoever.

## ARTICLE 6

### CONTRACT AMOUNT

- 6.1 In consideration of the full and faithful performance by the Construction Manager of the covenants in this Agreement, County agrees to pay, or cause to be paid, to Construction Manager the following amounts (hereinafter collectively referred to as “Contract Amount”), in accordance with the terms of this Agreement and with the Hourly Rate Schedule attached hereto and incorporated herein as Exhibit “K”. The Hourly Rate Schedule identifies all job classifications which will perform billable services pursuant to this Agreement and the fee for each job classification. Performance of work by personnel in job classifications not listed on the fee schedule will result in nonpayment for such services.
- 6.1.1 Pre-Construction Phase Services - For all Pre-Construction Phase Services enumerated in this Agreement, including, but not limited to, providing value engineering, reviewing documents for constructability, assisting and meeting with the County and the Design professionals, preparing cost estimates and schedules and preparing the GMP Proposal, Construction Manager shall receive the lump sum amount as specified in the Pre-Construction Services Addendum and in accordance with the payment schedule set forth in said Addendum.
- 6.1.2 Construction Phase Services – With respect to the Construction Phase Services to be provided by Construction Manager, County shall: 1) reimburse Construction Manager for the Cost of the Work; and 2) pay the Construction Manager a Construction Manager’s Fee to be negotiated as part of the GMP Addendum process.
- 6.1.2.1 Construction Manager’s Fee: The Construction Manager’s Fee shall be Construction Manager’s total compensation for the Construction Manager’s profit on the Cost of the Work, as defined below. Construction Manager agrees to provide County with a GMP Proposal for the total sum of the Construction Manager’s Fee, plus the Cost of the Work, plus the Construction Manager’s Contingency, after the Construction Manager determines the Construction Documents are sufficiently complete.
- 6.1.2.2 The GMP Proposal shall be based upon actual subcontractor cost proposals with the various subcontractors. Further, the proposal shall be broken down into the categories and level of detail required by County’s Representative. Construction Manager agrees that all its books, records and files, with respect to its development of the GMP Proposal, shall be open to County for review and copying. The final GMP Proposal shall be mutually agreed upon by County and Construction Manager and shall be set forth in the GMP Addendum (Exhibit “C”). The GMP Addendum shall further identify the drawings, specifications (Schedule 1 of the GMP Addendum) and other descriptive documents (Schedule 4 of the GMP Addendum) upon which the GMP is based. The Construction Manager guarantees that in no event shall the sum of the Construction Manager’s Fee, the total Cost of the Work, and the Construction Manager’s Contingency exceed the GMP. The Construction Manager acknowledges multiple GMP Addendums may be required for the portions of the Project to support the Project phasing and schedule.
- 6.1.2.3 The amount to be paid for Construction Manager’s Fee shall be stated in the GMP Addendum. The Construction Manager’s Fee shall be paid proportionally to the ratio of the Cost of the Work completed. The balance of the Construction Manager’s Fee shall be paid at Final Completion. If construction is authorized for a portion of the Project, the Construction Manager’s Fee shall be paid proportionally to the amount of the Work authorized by the County.
- 6.1.2.4 In the event Construction Manager and County fail to reach an agreement on the GMP, the County may elect to terminate this Agreement. In the event of any such termination, Construction Manager shall be entitled to receive that portion of the Contract Amount attributable to the completed Pre Construction Phase Services; but Construction Manager

shall not be entitled to any further additional compensation from County, including but not limited to damages or lost profits on portions of the Work not performed. Construction Manager may be required to continue to provide all other agreed upon Pre Construction services.

6.1.2.5 The Construction Manager will not be due any increases in the Construction Manager's Fee on increases in the GMP value that do not exceed a cumulative total of a specified amount which shall be stated as a "nominal overage" in the GMP Addendum. Should the GMP value be increased by more than such nominal overage amount under the terms of Article 7 hereinafter due to no fault of the Construction Manager, the Construction Manager's additional Construction Manager's Fee will be (5) five percent of that portion of the accumulative increases in the GMP value that exceed the GMP value by more than such nominal overage amount.

6.1.3 Cost of the Work. The Phrase "Cost of the Work" shall mean all costs necessarily and reasonably incurred by Construction Manager in the proper performance of the Construction Phase Services portion of the Services. Such costs shall be at rates not higher than the standard paid at the place of the Project except with the prior written consent of County only after Construction Manager has provided sufficient support in writing that exceptional circumstances exist, which justify the payment of rates higher than the standard. The Cost of the Work shall include only those items set forth below in this subsection 6.1.3:

6.1.3.1 Construction Phase Costs: The following items constitute the elements that can be included in the Construction Phase Cost calculations.

6.1.3.1.1 Wages of construction workers directly employed by Construction Manager to perform the construction of the Work at the Project site or, with County's written agreement, at off-site workshops;

6.1.3.1.2 Wages of Construction Manager's supervisory, technical and administrative personnel who are stationed at the Project site as specified in Schedule 1 to the proposed GMP;

6.1.3.1.3 Wages of Construction Manager's supervisory and administrative personnel engaged at factories, workshops or on the road in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work and only with County's written agreement;

6.1.3.1.4 Wages of Construction Manager's supervisory, technical, and administrative personnel when assigned to this Project and specifically working on this Project in the Construction Manager's administrative or home office, as specified in Schedule 1 to the proposed GMP ;

6.1.3.1.5 Payments made by Construction Manager to subcontractors in accordance with the requirements of the applicable written subcontracts;

6.1.3.1.6 Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents;

6.1.3.1.7 Cost of all materials, supplies and equipment incorporated in the Project, including costs of transportation and storage thereof;

6.1.3.1.8 Minor expenses at the site, such as internet, long distance telephone calls, telephone service, expressage, postage, and similar petty cash items in connection with the Project to be billed at cost.

6.1.3.2 Subcontract and Material Costs. All Subcontractor Costs will be documented and signed by Subcontractor invoices and all material costs will be documented by copies of invoices. Subcontract and Material Costs may also be referred to as "Reimbursable Costs". All requests for payment of expenses eligible for reimbursement under the terms of this Agreement, unless otherwise specifically stated herein, shall be reimbursed per the County's Reimbursable Schedule that is attached hereto as Exhibit "J" and made a part of this Agreement. Reimbursable Costs shall include:

6.1.3.2.1 Rental charges on all necessary machinery and equipment, exclusive of hand tools used at the site of the Project, whether rented from the Construction Manager or other, including installation, repairs and replacement, dismantling, removal, costs of lubrication, transportation and delivery costs thereof, which are used in the support of a sub-contractor or the Construction Manager's own forces in the performance of the work, at rental charges consistent with those prevailing in the area;

6.1.3.2.2 Cost of the premiums for all insurance and cost of premiums for all bonds, which the Construction Manager is required to procure by this Agreement specifically for the construction project. General Liability will be cost at a fixed rate of a specified percentage, to be stated in the GMP Addendum of the final Contract Amount, adjusted to include any previously deducted County Direct Purchase amounts, and Construction Manager bonds will be cost at a fixed rate of a specified percentage, to be stated in the GMP Addendum. The premium stated will be substantiated with industry standard documentation. The cost of the work shall include any subcontractor bonds the Construction Manager deems appropriate. **There shall be no Construction Phase Fee on this item;**

6.1.3.2.3 Losses and expenses sustained by the Construction Manager in connection with the work, not compensated by insurance, including deductibles, provided they have resulted from causes other than the negligent misconduct of Construction Manager;

6.1.3.2.4 Sales, use, gross receipts or similar taxes related to allowable direct costs of the Project imposed by any governmental authority, and for which the Construction Manager is liable;

6.1.3.2.5 The cost of corrective work, subject to the GMP, except for any corrective work made necessary because of defective workmanship, or other causes due to the negligence of the Construction Manager or his subcontractors or suppliers. No costs shall be paid by the County to the Construction Manager for any expenses made necessary to correct defective workmanship, or to correct any work not in conformance with the Plans and Specifications, or to correct any deficiency or damage caused by negligent acts by the Construction Manager;

6.1.3.2.6 Costs for repairs and maintenance, which are consistent with industry standards associated with work required during the warranty period, which may be the responsibility of Construction Manager. This shall not apply to work, which is the responsibility of Subcontractors, except in the case of a Subcontractor's default;

6.1.3.2.7 Costs for trash and debris control and removal from the site;

6.1.3.2.8 Costs incurred due to an emergency affecting the safety of persons and property;

- 6.1.3.2.9 Legal costs reasonably and properly resulting from prosecution of the Project for the County, including handling claims for changes by Subcontractors and Vendors, subject to the following limitations: 1) The County approved, in writing, incurring such costs in advance, which approval shall be in the County's sole discretion; and 2) the legal costs were not incurred as result of the Construction Manager's own negligence or default. This paragraph does not provide for payment of legal costs incurred in preparing or asserting claim or requests, by Construction Manager itself, for change orders, or in enforcing the obligations of this Agreement;
- 6.1.3.2.10 Transportation outside of Polk County for those personnel employed directly for the project, not including relocation expenses. Such transportation must be extraordinary and be approved in advance by the County's Representative, and will be in accordance with the Construction Manager's standard personnel policy;
- 6.1.3.2.11 Costs of all reproductions used for bidding or information purposes required by the Project to directly benefit the project;
- 6.1.3.2.12 Costs for watchman and security services for the project, if necessary;
- 6.1.3.2.13 Costs for efficient logistical control of the Project, including horizontal and vertical transportation of materials and personnel. Also, costs for adequate storage and parking space;
- 6.1.3.2.14 Costs for such temporary facilities and temporary protection during construction, as approved by the County, including temporary water, heat, power, sanitary facilities, telephones, radios and computers with software;
- 6.1.3.2.15 Costs for any job site items not referenced herein, not normally provided by the subcontractors, which will be provided by the Construction Manager as required to complete the Work;
- 6.1.3.2.16 Costs, including transportation, installation, maintenance, dismantling and removal or materials, supplies, temporary facilities (including Project field offices, furniture and fixtures), temporary utilities, machinery, equipment, and hand tools not customarily owned by the construction workers, which are provided by Construction Manager at the Project site and fully consumed in the performance of the Work; and costs less salvage value on such items if not fully consumed, whether sold to others or retained by Construction Manager;
- 6.1.3.2.17 Rental charges, at standard industry rates for the area, for temporary facilities, machinery, vehicles, equipment, and hand tools not customarily owned by the construction workers, which are provided by Construction Manager at the Project site, whether rented from Construction Manager or others, and costs of transportation, installation, minor repairs and replacements, dismantling and removal thereof. Rates and quantities of all equipment rented, whether from Construction Manager or others, shall be subject to the prior written approval of County's Representative;
- 6.1.3.2.18 Costs, fees and assessments for the building permit and for other permits, licenses and inspections for which Construction Manager is required by the Contract Documents to pay;
- 6.1.3.2.19 Cost of Public Information Programs or other neighborhood functions hosted by Construction Manager at the direction of County's Representative;

- 6.1.3.2.20 Costs of testing laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded pursuant to the terms of this Agreement;
- 6.1.3.2.21 Cost of documentation, inspection and testing as required for the preparation of the Final Estimate and implementation of the FDOT Contractor Quality Control process;
- 6.1.3.3 Costs Not To Be Reimbursed. The Cost of the Work shall not include the following items: Except as provided in Article 6, Section 6.1.3.1:
  - 6.1.3.3.1 Temporary living and travel expenses of employees who are not relocated, but are assigned to the Project;
  - 6.1.3.3.2 Except as provided in the Fringe Benefits rate included in Article 6, Section 6.1.3.1.4, expenses of Construction Manager's principal office and offices other than the Project site office;
  - 6.1.3.3.3 Overhead and general expenses, except as may be expressly included in Article 6, Section 6.1.3.1 and 6.1.3.2;
  - 6.1.3.3.4 Construction Manager's capital expenses, including interest on Construction Manager's capital employed for the Work;
  - 6.1.3.3.5 Rental costs of machinery and equipment, except as specifically provided in Article 6, Section 6.1.3.2.1;
  - 6.1.3.3.6 Except as expressly provided in Article 6, Section 6.1.3.2.5, costs due to the negligence of Construction Manager, subcontractors, anyone directly or indirectly employed by any of them, or for whose acts any of them may be liable, including, but not limited to, costs for the correction of damaged, defective, or nonconforming Work, disposal and replacement of materials and equipment incorrectly ordered or supplied;
  - 6.1.3.3.7 Any costs not specifically and expressly described in Article 6, Section 6.1.3.1 and 6.1.3.2 above;
  - 6.1.3.3.8 Construction Manager is responsible, without reimbursement from County, for re-inspection fees and costs; to the extent such re-inspections are due to the negligence of the Construction Manager;
- 6.1.3.4 Adjustments in Construction Phase Costs: For changes in the Project as provided in Article 7, the Construction Phase Costs shall be adjusted as follows:
  - 6.1.3.4.1 The Construction Manager shall be paid an additional amount, subject to negotiation, if the Construction Manager is placed in charge of reconstruction of an insured or uninsured loss, excluding any condition that may have been caused from negligent acts by the Construction Manager.
  - 6.1.3.4.2 Should the construction duration for any phase extend longer than stipulated above, there shall be no additional Construction Phase Costs or Construction Manager's Fee paid to the Construction Manager, unless such delays are as defined in Article 7.
- 6.1.4 County's Allowance: The GMP Addendum shall include the County's Owner Allowance, which permits the County to authorize the Construction Manager to perform work which may not have been specifically addressed in the original contract documents, but which the County deems

necessary for the project. The County's Allowance is also intended to protect against price increases between the GMP Addendum and the completion of the 100% Construction Documents, as well as for the purpose of defraying the expenses due to unforeseen circumstances relating to construction, and for price increases attributable to any code compliance reviews. The Construction Manager will be required to furnish documentation evidencing expenditures charged to the County's Allowance prior to the release of funds by the County. Documentation for use of the County's Allowance shall be determined by the Construction Team, included in the Project Manual and displayed monthly in the PMIS. The Architect/Engineer shall verify the actual costs. The maximum dollar amount of permitted Allowance Work shall be 5% of the GMP or \$250,000, whichever is less. The County Manager can approve the use of the County's Allowance up to \$100,000 per occurrence ;or the Deputy County Manager can approve the use of the County's Allowance up to \$50,000 per occurrence. When allowance funds are utilized for changes and/or additions to the work, the CM shall submit a written request to the County's Representative, in the same manner as a change order request. The County's Representative shall prepare an Allowance Authorization Release, in form attached here to as Exhibit "I" to this Agreement.

The GMP Addendum may, at the County's discretion, also contain allowance time, not to exceed fifteen (15) percent of the total amount of time allotted for the work. This time shall be used for any unforeseen changes to the work which may cause the time to be extended and will be granted via an Allowance Authorization Release, approved by the County Manager or his designee.

6.1.4.1 Following the full execution of the GMP Addendum, at a point mutually agreed upon between the County's Representative and Construction Manager, the net amount of the buyout will be reviewed. If the net amount of the total buyout results in excess funds being required, those funds may be taken from the County's Allowance. If the net amount of the buyout results in a savings, the savings will be assigned to the County's Buyout Allowance.

6.1.5 The County's Buyout Allowance shall be created by savings generated by the subcontractor buyout, unused contingency funds, and also by reductions in scope that otherwise could reduce the GMP. The intent of this County's Buyout Allowance is to allow funds already approved within the GMP Addendum to remain and be used at the County's discretion for scope issues that may become required and/or desired during the course of the project. Authorizations up to \$100,000, for the use of the County's Buyout Allowance, will be granted by the County Manager, or his designee. Authorizations for more than \$100,000 will be required to be obtained from the Board. The County's Representative shall prepare an Allowance Authorization Release, in form attached here to as Exhibit "N" to this Agreement.

## ARTICLE 7

### CHANGE IN THE PROJECT

#### 7.1 Change Orders:

7.1.1 County shall have the right, at any time during the progress of the Work, to increase or decrease the Work. Promptly after being notified of a change, but in no event more than 14 days after its receipt of such notification (unless County's Representative has agreed in writing to a longer period of time), Construction Manager shall submit an itemized estimate of any cost or time increases or savings it foresees as a result of the change. Except in an emergency endangering life or property, or for minor changes ordered by the Architect/Engineer, no addition or changes to the Work shall be made except upon written order of County, and County shall not be liable to Construction Manager for any increased compensation or adjustment to the Contract Time without such written order.

- 7.1.2 A Change Order, in form attached here to as **Exhibit "H"** to this Agreement, shall be prepared by County's Representative, reviewed by Architect/Engineer and Construction Manager, and executed promptly by the parties after an agreement is reached between Construction Manager and County, concerning the requested changes. Construction Manager shall promptly perform changes authorized by duly executed Change Orders. The Contract Amount and Contract Time shall be adjusted in the Change Order in the manner as County and Construction Manager shall mutually agree.
- 7.1.3 Notwithstanding anything in the Contract Documents to the contrary, if conditions are encountered at the Project site which are: (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents, or (2) unknown physical conditions of any unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, and which reasonably would not have been discovered by Construction Manager as part of its scope of site investigative services required pursuant to the terms of the Contract Documents, then Construction Manager shall provide County's Representative with prompt written notice thereof before conditions are disturbed and in no event later than 48 hours after first observance of such conditions. County's Representative and Architect/Engineer shall promptly investigate such conditions and, if they differ materially and cause an increase or decrease in Construction Manager's cost of, or time required for, performance of any part of the Work, County will acknowledge and agree to an equitable adjustment to the Contract Amount or Contract Time, or both, for such Work. If County's Representative determines that the conditions at the site are not materially different from those indicated in the Contract Document or not of an unusual nature or should have been discovered by Construction Manager as part of its investigative services, and that no change in the terms of the Contract is justified, County shall so notify Construction Manager in writing, stating its reasons. Claims by Construction Manager in opposition to such determination by County must be made within 48 hours after Construction Manager's receipt of the written determination of County's Representative. If County's Representative and Construction Manager cannot agree on an adjustment to the Contract Amount or Contract Time, the parties shall comply with the dispute resolution procedure set forth in the Contract Documents.
- 7.1.4 The increase or decrease in the GMP as set forth in the GMP Addendum resulting from a change in the Project shall be determined in one or more of the following ways: 1) by mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation by the Architect/Engineer and County's Representative, or 2) by unit prices stated in the Agreement or subsequently agreed upon.
- 7.1.5 If none of the methods set forth in Article 7, Section 7.1.4 is agreed upon, the Construction Manager, provided he receives a written order signed by the County, shall promptly proceed with the Work involved. The increase or decrease in the GMP shall then be determined on the basis of the reasonable expenditures and savings of those performing the Work attributed to the change. However, in the event a Change Order is issued under these conditions, the Construction Manager shall establish an estimated cost of the work and the Construction Manager shall not perform any work whose cost exceeds that estimate, without prior written approval by the County's Representative. In such case, and also under Article 7, Section 7.1.4 above, the Construction Manager shall keep and present, in such form as the County's Representative may prescribe, an itemized accounting together with appropriate supporting data of the increase in the Cost of the Work as outlined in Article 6., Section 6.1.3.2.
- 7.1.6 If unit prices are stated in the Agreement or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order, and that application of the agreed unit prices to the quantities of Work proposed will cause substantial inequity to the County or the Construction Manager, the applicable unit prices and GMP shall be equitably adjusted.
- 7.1.7 In the event the Construction Manager encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, petroleum waste,



biohazardous substances, radioactive waste or any other substance falling within the category of hazardous or toxic waste under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or any other state or federal environmental statute or regulation, hereinafter collectively referred to as "hazardous waste," the Construction Manager shall immediately stop Work in the area affected and report the condition to the County in writing. County shall thereafter, as soon as reasonably possible, conduct a thorough investigation to determine if the suspected material in the affected area is in fact hazardous waste and shall certify to Construction Manager that such material is not hazardous waste, or if such material is in fact hazardous waste that such hazardous waste has been abated and that it is safe to return to the affected area and resume work. The Construction Manager may require the County to furnish copies of reports of tests conducted by a qualified testing laboratory acceptable to Construction Manager verifying the absence of such hazardous waste before Construction Manager will be required to resume work. The Contract time and amount shall thereafter be equitably adjusted to account for the time lost due to the encountering of the hazardous waste and the reasonable cost associated therewith. The Construction Manager shall, through an analysis of network schedule, prove such time delays and associated costs.

- 7.1.8 The Construction Manager shall not be required to perform any work relating to hazardous waste without consent pursuant to the changes clause herein.
- 7.1.9 *Intentionally omitted.*
- 7.1.10 Claims for Additional Cost or Time: All claims for additional cost or time, in excess of what is addressed in Article 6.1.4, shall be made by request for a Change Order submitted as provided in this Article. The Substantial Completion date shall be extended by Change Order for such reasonable time as the Construction Manager may determine. If the Construction Manager is delayed at any time in the progress of the Work by any act or neglect of the County or the Architect/Engineer or of any employee of either or by any separate Construction Manager employed by the County or by any changes ordered in the work by labor disputes, fire, or unusual delay in transportation, unavoidable casualties or any causes beyond the Construction Manager's control or by delay authorized by the County pending resolution of disputes, and such delay extends the completion date, then the dates for completion may be equitably adjusted. Only delays, which are determined to extend the critical path of the schedule for constructing the project, will result in a time extension.
- 7.1.11 Minor Changes in the Project: The County will have authority to order minor changes in the Project not involving an adjustment in the Contract Amount or Contract Time and not inconsistent with the intent of the Construction Documents. Such changes shall be effected in writing. The Documentation of changes shall be determined by the Construction Team, included in the Project Manual and displayed monthly in the PMIS. Changes shall be approved by the County and Architect/Engineer.
- 7.1.12 Emergencies: In any emergency affecting the safety of persons or property, the Construction Manager shall act at his discretion, to prevent threatened damage, injury or loss. Any increase in the GMP or extension of time claimed by the Construction Manager on account of emergency work shall be determined as provided herein. Construction Manager shall take immediate action to prevent injury to any person or damage to any property (including the Work and any adjacent property) which otherwise might arise from an emergency event at the Project Site. If conditions are such that it is safe to return to the Project site, Construction Manager shall give Architect/Engineer written notice within 48 hours after the occurrence of the emergency, if Construction Manager believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If Architect/Engineer determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Change Order shall be issued to document the consequences of the changes or variations. If Construction Manager fails to provide the 48 hour written notice noted above, Construction Manager shall be deemed to have waived any right it otherwise may have had to seek and adjustment to the Contract Amount or an extension to the Contract Time. Construction Manager is obligated

to promptly report in writing to County all accidents relating to the Work that result in any personal injury or property damage.

## ARTICLE 8

### PAYMENTS TO THE CONSTRUCTION MANAGER

#### 8.1 Progress Payments for Construction Phase Services

- 8.1.1 Construction Manager's monthly Applications for Payment shall be in a form, as shown in Exhibit "F", and shall contain such detail and backup as County reasonably may require. Such detail and backup shall include documentation of actual payments made.
- 8.1.2 At the time it submits its GMP Proposal to County, Construction Manager shall submit to County's Representative and Architect/Engineer, for their review, a Schedule of Values based upon the GMP Proposal. The Schedule of Values will be based on the major items of work. The Schedule of Values will be structured so that the costs of the major items of work can be allocated to the various elements of work. The Schedule of Values shall be updated for the current month Change Orders and submitted each month to Architect/Engineer along with a completed and notarized copy of the Application for Payment form attached to the Agreement as Exhibit "F".
- 8.1.3 If the payment is requested on the basis of materials and equipment not incorporated into the Project, but delivered and suitably stored at the site or at an approved location off site, the Application for Payment shall also be accompanied by a bill of sale, invoice or other documentation warranting that County has received the materials and equipment free and clear of all liens, charges, security interests and encumbrances, together with evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect County's interest therein, all of which shall be subject to County's satisfaction.
- 8.1.4 Construction Manager shall submit a notarized original of its monthly Application for Payment to County's Representative, or Architect/Engineer, as directed by the County's Representative, on a monthly basis, on or before the 25<sup>th</sup> of each month. The period covered by each Application for Payment shall be one calendar month ending on the last day of the month. Within seven calendar days after receipt of each Application for Payment, Architect/Engineer shall submit to County's Representative, a certification of the Application for Payment in the amount recommended by Architect/Engineer as being due and owing Construction Manager. Upon approval by County's Representative, payment shall be made to Construction Manager in accordance with the Florida Prompt Payment Act Statute 218.735. As a condition to the application for the monthly partial pay requisition, the Construction Manager agrees that all as-built information will be recorded within 30 days after receipt of information that a change to the Construction Documents has occurred.
- 8.1.5 The County shall withhold from each progress payment made to the Construction Manager an amount equal to five percent (5%) of such payment as retainage, not to include amounts contained within general conditions, Public Construction Bond, or amounts for self-performed work. Such retained sums shall be accumulated and not released to the CM until final payment is due except that retainage on portions of the work completed by subcontractors may be reduced to zero percent (0%) thirty (30) days after completion of said work, as agreed upon by the County. This Section 8.1.5 shall be subject to Section 218.735, Florida Statutes, or any amending or replacement statute.
- 8.1.6 Monthly payments to Construction Manager shall in no way imply approval or acceptance of Construction Manager's work.
- 8.1.7 Each Application for Payment shall be accompanied by a Release and Affidavit showing that all materials, labor, equipment and other bills associated with that portion of the Work payment is being requested on have been paid in full through the previous month's Application for Payment. County shall not be required to make payment until and unless these affidavits are furnished by Construction

Manager. Further, if Construction Manager is withholding any portion of a payment to any subcontractor for any labor, services, or materials for which County has paid Construction Manager, Construction Manager agrees to refund such money to County.

8.2 Payments Withheld

Architect/Engineer shall review each Application for Payment submitted by Construction Manager and shall make recommendations to County's Representative as to the proper amounts, if any, which may be owed Construction Manager under the Application for Payment. Both Architect/Engineer and County's Representative shall have the right to refuse to certify or approve for payment any amounts, or portions thereof, requested by Construction Manager in an Application for Payment, and County's Representative may withhold any payments otherwise due Construction Manager under this Agreement, to the extent it is reasonably necessary, to protect County from any expense, cost or loss attributable to: (a) defective or deficient Work not properly remedied in accordance with the terms of the Contract Documents; (b) the filing or reasonable evidence indicating the probable filing of third party claims against County attributable to the negligence of Construction Manager; (c) Construction Manager's failure to make timely and proper payments to all subcontractors and suppliers; (d) reasonable evidence that the remaining Work cannot be completed for the unpaid Contract Amount balance; (e) reasonable evidence indicating that the remaining Work cannot be completed within the remaining Contract Time; (f) Construction Manager's failure to satisfactorily prosecute the Work in accordance with the requirements of the Contract Documents; or (g) any other material breach of the requirements of the Contract Documents by Construction Manager. County shall have the right, but not the obligation, to take any corrective action County deems appropriate to cure any of the above noted items, at the Construction Manager's expense, if Construction Manager has not started with a cure, to the County's reasonable satisfaction, of any of the above noted items within five working days after Construction Manager's receipt of written notice from County.

8.3 Final Payment.

County shall make final payment to Construction Manager provided the Work is finally accepted by County in accordance with Article 2, Section 2.5.2, and provided that Construction Manager first, and as an explicit condition precedent to the accrual of Construction Manager's right to final payment, shall have furnished County with a properly executed and notarized final release (conditioned only upon receipt of final payment) in the form of the Release and Affidavit attached to the Agreement as Exhibit "E", as well as a duly executed copy of the surety's consent to final payment and such other documentation that may be required by the Contract Documents or County. Construction Manager's acceptance of final payment shall constitute a full waiver of any and all claims by Construction Manager against County arising out of this Contract or otherwise relating to the Project, except those identified in writing by Construction Manager as unsettled in the final Application for Payment. Neither the acceptance of the Work nor the payment by County shall be deemed to be a waiver of County's right to enforce any obligations of Construction Manager hereunder or to the recovery of damages for defective Work not discovered by County's Representative or Architect/Engineer at the time of final inspection. The Project will be considered complete when all Work has been completed and accepted by the Board of County Commissioners. The Construction Manager will then be released from further obligation except as set forth in Section 2.6 Warranty.

## ARTICLE 9

### INSURANCE, WAIVER OF SUBROGATION, AND INDEMNITY

#### 9.1 Construction Manager's Insurance:

- 9.1.1 The Construction Manager shall not commence any construction work in connection with this Agreement until he has obtained all of the following types of insurance and such insurance has been approved by the County, nor shall the Construction Manager allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been so obtained and approved. All insurance policies shall be with insurers qualified and doing business in Florida with an A.M. Best & Company rating of no less than A. The insurance company must have a current A.M. Best & Company financial rating of Class VIII or higher. The insurance company must be duly licensed and authorized by the Department of Insurance of the State of Florida to transact the appropriate insurance business in the State of Florida. The insurance company must have been in such insurance business continuously for not less than 5 years prior to the date of the execution of this Agreement.
- 9.1.2 Worker's Compensation Insurance - The Construction Manager shall take out and maintain during the life of this Agreement Worker's Compensation Insurance for all his employees connected with the work of this Project and, in case any work is sublet, the Construction Manager shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Construction Manager. Such insurance shall comply with the Florida Worker's Compensation Law. In case any class of employees engaged in hazardous work under this contract at the site of the Project is not protected under the Worker's Compensation statute, the Construction Manager shall provide adequate insurance, satisfactory to the County, for the protection of employees not otherwise protected. Employers' liability shall be set at \$1,000,000/1,000,000/1,000,000.
- 9.1.3 Construction Manager's Public Liability and Property Damage Insurance - The Construction Manager shall take out and maintain during the life of this Agreement Comprehensive General Liability and Comprehensive Automobile Liability Insurance as shall protect him from claims for damage for personal injury, including accidental death, as well as claims for property damages which may arise from operating under this Agreement whether such operations are by himself or by anyone directly or indirectly employed by him, and the amount of such insurance shall be minimum limits as follows:
- 9.1.3.1 Construction Manager's Comprehensive General, \$1,000,000 Each (\$2,000,000 aggregate) Liability Coverages, Bodily Injury Occurrence, & Property Damage Combined Single Limit
  - 9.1.3.2 Automobile Liability Coverages, \$1,000,000 Each Bodily Injury & Property Damage Occurrence, Combined Single Limit
  - 9.1.3.3 Excess Liability, Umbrella Form \$2,000,000 Each Occurrence, Combined Single Limit
  - 9.1.3.4 Insurance clause for both BODILY INJURY AND PROPERTY DAMAGE shall be amended to provide coverage on an occurrence basis. There shall not be an EFIS Exclusion Endorsement on any general liability policy. The Products and Completed operations portions of the General Liability shall extend for a period of two years after the Final Acceptance of the Project by the County.
- 9.1.4 Subcontractor's Public Liability and Property Damage Insurance - The Construction Manager shall require each of his subcontractors to procure and maintain during the life of this subcontract, insurance of the type specified above or insure the activities of his subcontractors in his policy, as specified above.
- 9.1.5 *Intentionally omitted.*

- 9.1.6 "XCU" (Explosion, Collapse, Underground Damage) - The Construction Manager's Liability Policy shall provide "XCU" coverage for those classifications in which they are excluded.
- 9.1.7 Broad Form Property Damage Coverage, Products & Completed Operations Coverages - The Construction Manager's Liability Policy shall include Broad Form Property Damage Coverage, Products and Completed Operations Coverages.
- 9.1.8 Contractual Liability Work Contracts - The Construction Manager's Liability Policy shall include Contractual Liability Coverage designed to protect the Construction Manager for contractual liabilities assumed by the Construction Manager in the performance of this Agreement.
- 9.1.9 Certificate of Insurance - The County shall be furnished proof of coverage of Insurance as follows:
- 9.1.9.1 Certificate of Insurance form will be furnished to the County. These shall be completed and signed by an authorized Resident Agent. This Certificate shall be dated and show: the name of the insured Construction Manager, the specific job by name and job number, the name of the insurer, the number of the policy, its effective date, and its termination date. Such Certificates of Insurance shall be updated within five (5) business days of the expiration of or material change to any insurance evidenced on the Certificate of Insurance.
- 9.1.9.2 Certificate of Insurance shall be in the form as approved by Insurance Standards Office (ISO) and such Certificate shall clearly state all the coverages required in this Section.
- 9.1.9.3 Polk County, a political subdivision of the State of Florida, is to be named as an Additional Insured under all policies except for Worker's Comp.
- 9.1.9.4 The insurance evidenced by the certificate shall be primary and non-contributory to any other insurance of the certificate holder.
- 9.1.9.5 The Notice to Proceed will not be given until the Construction Manager has obtained all the insurance and Bonds required by the Contract Documents and such insurance has been approved by the County.
- 9.1.10 The Construction Manager shall not be required to provide Builder's Risk or Architects' and Engineers' Professional Liability Insurance unless specifically requested by the County. The County has Builder's Risk coverage and will provide the Construction Manager with appropriate Certificate of Insurance upon request. The County's Builder's Risk policy does not insure the Construction Manager's tools, machinery or equipment that is stored at the Project site. The Construction Manager should provide insurance in the form of an equipment floater for the Construction Manager's tools and equipment and the County should be named as an additional insured on the Construction Manager's policy with an appropriate waiver of subrogation as to any claims the Construction Manager or the Construction Manager's insurer may have against the County arising from the storage of the Construction Manager's tools and equipment. The Construction Manager shall be responsible for the first \$5,000 of any claim against the County's Builder's Risk policy.
- 9.1.11 The Construction Manager shall not allow a subcontractor to work on the Project without the subcontractor carrying its own Workers Compensation and Liability insurance or the Construction Manager covering the subcontractor under its policies. This requirement is the same for each succeeding sub-tier contractor. The Construction Manager shall provide proof of such coverage to the County upon the County's request.

## 9.2 Waiver of Subrogation:

- 9.2.1 The Construction Manager shall ensure all insurance policies it maintains in fulfillment of its obligations under this Agreement shall contain a waiver of subrogation against the County, its officials, employees, agents and consultants. Waiver of subrogation will apply to the general liability and workers compensation policies. The County, a political subdivision of the State of Florida, shall be named as an additional insured with respect to liability arising from all Services and work performed under this Agreement for automotive and general liability policies of insurance, and such policies should so state in the Certificate of Insurance. The Construction Manager shall require similar waivers from all subcontractors and their sub-subcontractors.
- 9.2.2 The Construction Manager hereby waives all rights against the County for loss or damage to any equipment used in connection with the Project and covered by any property insurance. The Construction Manager shall require similar waivers from all subcontractors and their sub-subcontractors.

## 9.3 Indemnification of County

Construction Manager, to the maximum extent permitted by law, shall indemnify, defend (by counsel reasonably acceptable to County) protect and hold the County, and its officers, employees and agents harmless from and against any and all, claims, actions, causes of action, liabilities, penalties, forfeitures, damages, losses, and expenses (including, without limitation, attorneys' fees costs and expenses incurred during negotiation, through litigation and all appeals therefrom) whatsoever including, but not limited, to those pertaining to the death of or injury to any person, or damage to any property, arising out of or resulting from (i) the failure of Construction Manager to comply with applicable laws, rules or regulations, (ii) the breach by Construction Manager of its obligations under this Agreement, (iii) any claim for trademark, patent or copyright infringement arising out of the scope of Construction Manager's performance or nonperformance of this Agreement, or (iv) the negligent acts, errors or omissions, or intentional or willful misconduct, of Construction Manager, its professional associates, subcontractors, agents, and employees; provided, however, that Construction Manager shall not be obligated to defend or indemnify the County with respect to any such claims or damages arising out of the County's sole negligence. The provisions of this Section shall include any claims for equitable relief or for damages (compensatory or punitive) against the County, its agents, officials, and employees including alleged injury to the business or any claimant and shall include any and all losses, damages, injuries, settlements, judgments, decrees, awards, fines, penalties, claims, costs and expenses. Expenses as used herein shall include, without limitation, the costs incurred by the County, its agents, officials and employees in connection with investigating any claim or defending any action, and shall also include reasonable attorneys' fees, costs and expenses incurred by reason of the assertion of any such claim against the County, its agents, officials or employees. The Construction Manager expressly understands and agrees that any insurance protection required by this Agreement, or otherwise provided by the Construction Manager, shall in no way limit the Construction Manager's responsibility to release, indemnify, keep and save harmless and defend the County as herein provided. The intention of the parties is to apply and construe broadly in favor of the County the foregoing provisions subject to the limitations, if any, set forth in the Florida Statutes. The Construction Manager shall obtain an endorsement or other affirmative coverage from its insurance policies required by this Agreement insuring the Construction Manager's contractual obligations under this Section. The obligations imposed by this Section shall survive the expiration or earlier termination of this Agreement.

## ARTICLE 10

### TERMINATION OF THE AGREEMENT AND THE COUNTY'S RIGHT TO PERFORM CONSTRUCTION MANAGER'S OBLIGATION

#### 10.1 Termination by the Construction Manager:

If the Project is stopped for a period of thirty (30) days under an order of any court or other public authority having jurisdiction or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of the Construction Manager, or if the Project should be stopped for a period of sixty (60) days by the Construction Manager, for the County's failure to make payments thereon, then the Construction Manager may, upon seven (7) days written notice to the County, request payment for all work executed, the Construction Manager's fees earned to date, and for any proven loss sustained upon any materials, equipment, tools, construction equipment, and machinery, including reasonable profit thereon and termination expenses incurred by the Construction Manager.

#### 10.2 County's Right to Perform Construction Manager's Obligations and Termination by County for Cause:

10.2.1 If the Construction Manager fails to perform any of his obligations under this Agreement, including any obligation he assumes to perform work with his own forces, the County may, after seven (7) days written notice during which period the Construction Manager fails to perform such obligation, make good such deficiencies. The GMP, or the actual cost of the Project, whichever is less, shall be reduced by the cost to the County of making good such deficiencies and the Construction Manager's Construction Phase Fee shall be reduced by an amount required to manage the making good of such deficiencies.

10.2.2 The County may, without prejudice to any right or remedy and after giving the Construction Manager and his surety, if any, seven (7) days written notice, during which period Construction Manager fails to cure the violation, terminate the employment of the Construction Manager and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Construction Manager, and may finish the Project by whatever method he may deem expedient if: the Construction Manager is adjudged bankrupt, or if he makes a general assignment for the benefit of his creditors, or if a receiver is appointed on account of his insolvency, or if he persistently or repeatedly refuses or fails, except in case for which extension of time is provided, to supply enough properly skilled workmen or proper materials and fails to maintain an established schedule (failure to maintain schedule shall be defined as any activity on the critical path that falls 45 days or more behind schedule) which has been adopted by the Construction Team, or if he fails to make prompt payment to subcontractors for materials or labor, or persistently disregards laws, rules, ordinances, regulations, or orders of any public authority having jurisdiction, or otherwise is guilty of a breach of a material provision of the Agreement. In such case, the Construction Manager shall not be entitled to receive any further payment until the Project is finished, nor shall he be relieved from his obligations assumed under Article 6. Reasonable terminal expenses incurred by the County may be deducted from any payments left owing the Construction Manager (excluding monies owed the Construction Manager for subcontract work).

10.2.3 The County may terminate the employment of the Construction Manager and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon, owned by the Construction Manager, and may finish the project by whatever method he may deem expedient, without prejudice to any right or remedy and after giving the Construction Manager and his surety, if any, seven (7) days written notice, during which period Construction Manager fails to allow access to the County. In such case, the Construction Manager shall not be entitled to receive any further payment until the Project is finished nor shall he be relieved from his obligations assumed under Article 7. Reasonable termination expenses incurred by the County may be deducted from any payments left owing the Construction Manager (excluding moneys owed to the Construction Manager for subcontract work).

10.3 Termination by County Without Cause:

10.3.1 The County may, at any time, terminate this Agreement for the County's convenience and without cause.

10.3.2 Upon receipt of written notice from the County of such termination for the County's convenience, the Contractor shall:

10.3.2.1 Cease operations as directed by the County in the notice;

10.3.2.2 Take actions necessary, or that the County may direct, for the protection and preservation of the Work; and

10.3.2.3 Terminate all existing subcontracts and purchase orders and not enter into further subcontracts and purchase orders, except for Work directed to be performed prior to the effective date of termination stated in the notice.

10.4 In case of such termination for the County's convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable fee, as defined in Article 6, overhead and profit on the Work performed.

**ARTICLE 11**

**ASSIGNMENT AND GOVERNING LAW**

11.1 Neither the County nor the Construction Manager shall assign his interest in this Agreement without the written consent of the other except as to the assignment of proceeds.

11.2 This Agreement shall be governed by the Laws of the State of Florida. Venue shall be as specified in Section 13.2.3. The parties waive all rights to trial by jury.

**ARTICLE 12**

**NOTICE OF CLAIM: WAIVER OF REMEDIES**

12.1 The County's liability to the Construction Manager for any claims arising out of or related to the subject matter of this contract, whether in contract or tort, including, but not limited to, claims for extension of construction time, for payment by the County of the costs, damages or losses because of changed conditions under which the work is to be performed, or for additional work, shall be governed by the following provisions, subject to Section 13.4 herein:

12.1.1 All claims must be submitted as a Request for Change Order in the manner as provided herein;

12.1.2 The Construction Manager must submit a Notice of Claim to County within 20 days of the Construction Manager becoming aware of the occurrence, or the event, giving rise to the claim; and

12.1.3 Within 10 days of submitting its Notice of Claim, the Construction Manager shall submit to the County its Request for Change Order, which shall include a written statement of all the details of the claim, including a description of the work affected.

The Construction Manager agrees that the County shall not be liable for any claim that the Construction Manager fails to submit as a Request for Change Order as provided in this paragraph to the extent that the County is prejudiced by the failure of the Construction Manager to give notice.

12.2 After receipt of a Request for Change Order, the County, in consultation with the Engineer, shall deliver to the Construction Manager its written determination of the claim.



- 12.3 For work the Construction Manager performs with its own forces, and in addition to the adjustments provided for in Article 6, the Construction Manager's exclusive remedy for delays in performance of the construction caused by events beyond its control, including delays claimed to be caused by or attributable to the County or the Engineer, including claims based on breach of contract or negligence, shall be a claim submitted in compliance with Article 12.1 above, for an extension of the scheduled construction time. In the event of a change in such work, the Construction Manager's claims for adjustments in the contract sum are limited exclusively to its actual costs for such changes plus 5% for profit. The Construction Manager expressly agrees that the foregoing constitutes its sole and exclusive remedy for delays and changes in such work, and eliminate any other remedies for claim, for increase in the contract price, delays, changes in the work, damages, losses or additional compensation.

### **ARTICLE 13**

#### **MISCELLANEOUS**

13.1 **Harmony:**

The Construction Manager is advised and hereby agrees that he will exert every reasonable and diligent effort to assure that all labor employed by the Construction Manager and his Subcontractors for work on the Project shall work in harmony with and be compatible with all other labor being used by building and construction contractors now or hereafter on the site of the Project.

The Construction Manager further agrees that this provision will be included in all subcontracts of the Subcontractors as well as the Construction Manager's own contract; provided, however, that this provision shall not be interpreted or enforced so as to deny or abridge, on account of membership or non-membership in any labor union or labor organization, the right of any person to work as guaranteed by Article 1, Section 6 of the Florida Constitution.

13.2 **Dispute Resolution:**

- 13.2.1 All claims, disputes and other matters in question (hereinafter referred to as a "Controversy") between the parties to this Agreement arising out of or relating to this Agreement or the breach thereof shall be initially submitted to mediation if mutually agreeable in accordance with the Construction Mediation Rules of the American Arbitration Association ("AAA") or any other mutually agreeable mediation firm.
- 13.2.2 Should either the County or the Construction Manager feel it necessary and appropriate to take any legal action to enforce any of the terms or conditions of this Agreement between said parties, then each party shall be responsible for its own attorney's fees and costs associated with such litigation.
- 13.2.3 Any litigation between the County and Construction Manager (which term for the purposes of this subparagraph shall include the Construction Manager's surety), whether arising out of any claim as described in Article 12, or Controversy arising out of this Agreement or any breach thereof, shall be brought, maintained and pursued only in the State of Florida's Tenth Judicial Circuit in and for Polk County, Florida or in the United States District Court, Middle District of Florida, located in Hillsborough County, Florida. Construction Manager consents and submits to the jurisdiction of such courts and agrees to accept service of process from the State of Florida in any matter to be submitted to any such court.

### 13.3 Construction Manager's Project Records and County's Auditing Rights

The Construction Manager's Project Records shall be maintained as prescribed hereinabove for the minimum period required by State and Federal Law, and shall be made available to the County or his authorized representative at mutually convenient times.

Construction Manager shall keep all records and supporting documentation which concern or relate to the Work hereunder for a minimum of 3 years from the date of termination of this Agreement or the date the Project is completed, whichever is later or such longer period of time as may be required by law. Construction Manager shall require all of its subcontractors to likewise retain all of their Project records and supporting documentation. County, and any duly authorized agents or representatives of County, shall be provided access to all such records and supporting documentation at any and all times during normal business hours upon request by County. Further, County, and any duly authorized agents or representatives of the County, including, without limitation, the Department of Inspector General of the Clerk of the Circuit Court and County Comptroller, shall have the right to audit, inspect and copy all of Construction Manager's and any subcontractor's Project records and documentation as often as they deem necessary and Construction Manager shall cooperate in any audit, inspection, or copying of the documents.

If at any time, the County, or its duly authorized agents or representatives, conducts such an audit of Construction Manager's records and documentation and finds that Construction Manager overcharged County, Construction Manager shall pay to County the Overcharged Amount which is defined as the total aggregate overcharged amount together with interest thereon (such interest to be established at the rate of 12% annum). If the Audit Amount is equal to or greater than \$10,000.00, which is defined as the total aggregate of County's reasonable audit costs incurred as a result of its audit of Construction Manager, County may recover the Overcharged Amount and the Audit Amount, as applicable, from any amount due or owing Construction Manager with regard to the Project or under any other agreement between Construction Manager and County. If such amounts owed Construction Manager are insufficient to cover the Overcharged Amount and Audit Amount, as applicable, then Construction Manager hereby acknowledges and agrees that it shall pay such remaining amounts to County within 30 business days of its receipt of County's invoice for such remaining amounts. In no event shall the Overcharged Amount or the Audit Amount be deemed a reimbursable Cost of the Work.

This Article, including all access, inspection, copying, auditing, reimbursement and repayment rights shall survive the termination of this Agreement.

### 13.4 LIMITATION OF LIABILITY

**IN NO EVENT, SHALL THE COUNTY BE LIABLE TO THE CONSTRUCTION MANAGER FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE, INCLUDING LOSS OF PROFIT, WHETHER FORESEEABLE OR NOT, ARISING OUT OF OR RESULTING FROM THE NONPERFORMANCE OR BREACH OF THIS AGREEMENT BY THE COUNTY WHETHER BASED IN CONTRACT, COMMON LAW, WARRANTY, TORT, STRICT LIABILITY, CONTRIBUTION, INDEMNITY OR OTHERWISE.**

### 13.5 Cleanup and Protections

Construction Manager agrees to keep the Project Site clean at all times of debris, rubbish and waste materials arising out of the Work. If Construction Manager fails to keep the Project Site clean, County has the right, after providing a 24 hour written notice, to perform any required clean up and to backcharge the Construction Manager for the costs of such clean up. At the completion of the Work, Construction Manager shall remove all debris, rubbish and waste materials from and about the Project Site, as well as all tools, appliances, construction equipment and machinery and surface materials, and shall leave the Project Site clean and ready for occupancy by County.

Any existing surface or subsurface improvements, including, but not limited to, pavements, curbs, sidewalks, pipes, utilities, footings, structures, trees and shrubbery, not indicated in the Contract Documents to be removed or altered, shall be protected by Construction Manager from damage during the prosecution of the Work. Any such improvements so damaged shall be restored by Construction Manager to condition at least equal to that existing at the time of Construction Manager's commencement of the Work.

13.6 Ownership of Documents

All analyses, reference data, bills, completed reports, or any other form of written instrument or document created or resulting from the Construction Manager's performance of the Services pursuant to this Agreement shall become the property of the County after payment is made to the Construction Manager for such instruments or documents.

13.7 No Contingent Fees

The Construction Manager warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Construction Manager to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Construction Manager, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from award of or making of the Agreement. For the breach or violation of this provision, the County shall have the right to terminate the Agreement at its sole discretion, without liability and to deduct from the Agreement price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

13.8 *Intentionally omitted.*

13.9 Public Entity Crimes

The Contractor Manager declares and warrants that neither the Contractor Manager nor any of the Contractor Manager's affiliates, as that term is defined in Section 287.133, Florida Statutes, are subject to the restrictions in Section 287.133, Florida Statutes, regarding the commission of a public entity crime. If during the term of this Agreement, the Contractor Manager or any affiliate is convicted of a public entity crime or is otherwise prohibited from performing work for or transacting business with the County pursuant to Section 287.133, Florida Statutes, then the Contractor Manager shall be in material default of this Agreement, and in such case, the County shall have the rights and remedies as provided herein.

13.10 Non-Discrimination

The Construction Manager warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, gender, age or national origin.

13.11 All Prior Agreements Superseded

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document or its designated exhibits. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. No modification, amendment or alteration in the terms or conditions contained herein, unless otherwise stated herein, shall be effective unless agreed to and executed in writing by both parties to this Agreement in a form acceptable to the County.

13.12 Independent Contractor

Nothing stated in this Agreement is intended or should be construed in any manner as creating or establishing a relationship of co-partners between the parties, or as constituting the Construction Manager (including its

officers, employees, and agents) as the agent, representative, or employee of the County for any purpose, or in any manner, whatsoever. The Construction Manager is to be and shall remain forever an independent contractor with respect to all Services performed under this Agreement. The Construction Manager shall not pledge the County's credit or make the County a guarantor of payment or surety for any contract, debt, obligation, judgment, lien or any form of indebtedness and the Construction Manager shall have no right to speak for or bind the County in any manner.

### 13.13 Public Records Law

(a) The Construction Manager acknowledges the County's obligations under Article I, Section 24, of the Florida Constitution and under Chapter 119, Florida Statutes, to release public records to members of the public upon request and comply in the handling of the materials created under this Agreement. The Construction Manager further acknowledges that the constitutional and statutory provisions control over the terms of this Agreement. In association with its performance pursuant to this Agreement, the Construction Manager shall not release or otherwise disclose the content of any documents or information that is specifically exempt from disclosure pursuant to all applicable laws.

(b) Without in any manner limiting the generality of the foregoing, to the extent applicable, the Construction Manager acknowledges its obligations to comply with Section 119.0701, Florida Statutes, with regard to public records, and shall:

(1) keep and maintain public records required by the County to perform the services required under this Agreement;

(2) upon request from the County's Custodian of Public Records or his/her designee, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

(3) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if the Construction Manager does not transfer the records to the County; and

(4) upon completion of this Agreement, transfer, at no cost, to the County all public records in possession of the Construction Manager or keep and maintain public records required by the County to perform the service. If the Construction Manager transfers all public records to the County upon completion of this Agreement, the Construction Manager shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Construction Manager keeps and maintains public records upon completion of this Agreement, the Construction Manager shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's Custodian of Public Records, in a format that is compatible with the information technology systems of the County.

**(c) IF THE CONSTRUCTION MANAGER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSTRUCTION MANAGER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS AT:**

**RECORDS MANAGEMENT LIAISON OFFICER  
POLK COUNTY  
330 WEST CHURCH ST.  
BARTOW, FL 33830  
TELEPHONE: (863) 534-7670  
EMAIL: RMLO@POLK-COUNTY.NET**

13.14 Compliance with Laws and Regulations

In providing all Services pursuant to this Agreement, the Construction Manager shall abide by all statutes, ordinances, rules, and regulations pertaining to or regulating the provisions of such Services, including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules, or regulations shall constitute a material breach of this Agreement, and shall entitle the County to terminate this Agreement immediately upon delivery of written notice of termination to the Construction Manager.

13.15 Governing Law and Venue

This Agreement shall be governed in all respects by the laws of the State of Florida and any litigation with respect thereto shall be brought only in the courts of Polk County, Florida or in the United States District Court, Middle District of Florida, located in Hillsborough County, Florida. Each party shall be responsible for its own attorneys' fees and other legal costs and expenses.

13.16 Notices

Whenever either party desires to give notice unto the other, it must be given by written notice, delivered (i) in person, (ii) via registered or certified United States mail, postage prepaid with return receipt requested, or (iii) via nationally recognized overnight delivery service, and addressed to the party for whom it is intended at the place last specified by each party. The place for giving of notice shall remain such until it is changed by written notice delivered in compliance with the provisions of this Section 13.16. For the present, the parties designate the following as the respective places for giving of notice, to wit:

For County:  
Polk County Procurement  
330 West Church Street  
Drawer AS05  
Bartow, Florida 33830  
Attention: Procurement Director

For Construction Manager:  
Miller Construction Management, LLC  
3970 S Pipkin Rd.  
Lakeland, FL 33811  
Attn: Corey Miller

13.17 Severability

The invalidity, illegality, or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way affect the validity or enforceability of any other portion or provision of the Agreement; any void provision shall be deemed severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The parties further agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent the entire Agreement from being void should a provision which is of the essence of the Agreement be determined to be void.

13.18 Annual Appropriations

Construction Manager acknowledges that during any fiscal year the County shall not expend money, incur any liability, or enter into any agreement which by its terms involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Accordingly, any agreement, verbal or written, the County may make in violation of this fiscal limitation is null and void, and no money may be paid on such agreement. The County may enter into agreements whose duration exceeds one year;

however, any such agreement shall be executory only for the value of the services to be rendered which the County agrees to pay as allocated in its annual budget for each succeeding fiscal year. Accordingly, the County's performance and obligation to pay the Construction Manager under this Agreement is contingent upon annual appropriations being made for that purpose.

13.19 **Employment Eligibility Verification (E-VERIFY)**

- A. Unless otherwise defined herein, terms used in this Section which are defined in Section 448.095, Florida Statutes, as may be amended from time to time, shall have the meaning ascribed in said statute.
- B. Pursuant to Section 448.095(5), Florida Statutes, the contractor hereto, and any subcontractor thereof, must register with and use the E-Verify system to verify the work authorization status of all new employees of the contractor or subcontractor. The contractor acknowledges and agrees that (i) the County and the contractor may not enter into this Agreement, and the contractor may not enter into any subcontracts hereunder, unless each party to this Agreement, and each party to any subcontracts hereunder, registers with and uses the E-Verify system; and (ii) use of the U.S. Department of Homeland Security's E-Verify System and compliance with all other terms of this Certification and Section 448.095, Fla. Stat., is an express condition of this Agreement, and the County may treat a failure to comply as a material breach of this Agreement.
- C. By entering into this Agreement, the contractor becomes obligated to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility," as amended from time to time. This includes but is not limited to utilization of the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The contractor shall maintain a copy of such affidavit for the duration of this Agreement. Failure to comply will lead to termination of this Agreement, or if a subcontractor knowingly violates the statute or Section 448.09(1), Fla. Stat., the subcontract must be terminated immediately. If this Agreement is terminated pursuant to Section 448.095, Fla. Stat., such termination is not a breach of contract and may not be considered as such. Any challenge to termination under this provision must be filed in the Tenth Judicial Circuit Court of Florida no later than 20 calendar days after the date of termination. If this Agreement is terminated for a violation of Section 448.095, Fla. Stat., by the contractor, the contractor may not be awarded a public contract for a period of 1 year after the date of termination. The contractor shall be liable for any additional costs incurred by the County as a result of the termination of this Agreement. Nothing in this Section shall be construed to allow intentional discrimination of any class protected by law.

13.20 **Construction Manager Representations** - The Construction Manager hereby represents and warrants the following to the County:

- 13.20.1 Construction Manager is a corporation that is duly organized and existing in good standing under the laws of the State of Florida with full right and authority to do business within the State of Florida;
- 13.20.2 Construction Manager's performance under this Agreement will not violate or breach any contract or agreement to which the Construction Manager is a party or is otherwise bound, and will not violate any governmental statute, ordinance, rule, or regulation;
- 13.20.3 Construction Manager has the full right and authority to enter into this Agreement and to perform its obligations in accordance with its terms;
- 13.20.4 Construction Manager now has and will continue to maintain all licenses and approvals required for conducting its business, and that it will at all times conduct its business activities in a reputable manner;
- 13.20.5 Construction Manager has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement;

- 13.20.6 Construction Manager has the personnel and experience necessary to perform all Services in a professional and workmanlike manner;
- 13.20.7 Construction Manager shall exercise the same degree of care, skill, and diligence in the performance of the Services as provided by a professional of like experience, knowledge and resources, under similar circumstances;
- 13.20.8 Construction Manager shall, at no additional cost to the County, re-perform those Services which fail to satisfy the foregoing standard of care or which otherwise fail to meet the requirements of this Agreement;
- 13.20.9 Each individual executing this Agreement on behalf of the Construction Manager is authorized to do so.

13.21 **Waiver**

A waiver by either County or Construction Manager of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach of this Agreement. The making or acceptance of a payment by either party with the knowledge of the other party's existing default or breach of the Agreement shall not waive such default or breach, or any subsequent default or breach of this Agreement, and shall not be construed as doing so.

13.22 **Scrutinized Companies and Business Operations Certification: Termination.**

A. **Certification(s).**

(i) By its execution of this Agreement, the Construction Manager hereby certifies to the County that the Construction Manager is not on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, nor is the Construction Manager engaged in a boycott of Israel, nor was the Construction Manager on such List or engaged in such a boycott at the time it submitted its bid, proposal, quote, or other form of offer, as applicable, to the County with respect to this Agreement.

(ii) Additionally, if the value of the goods or services acquired under this Agreement are greater than or equal to One Million Dollars (\$1,000,000), then the Construction Manager further certifies to the County as follows:

(a) the Construction Manager is not on the Scrutinized Companies with Activities in Sudan List, created pursuant to Section 215.473, Florida Statutes; and

(b) the Construction Manager is not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes; and

(c) the Construction Manager is not engaged in business operations (as that term is defined in Florida Statutes, Section 287.135) in Cuba or Syria; and

(d) the Construction Manager was not on any of the Lists referenced in this subsection A(ii), nor engaged in business operations in Cuba or Syria when it submitted its proposal to the County concerning the subject of this Agreement.

(iii) The Construction Manager hereby acknowledges that it is fully aware of the penalties that may be imposed upon the Construction Manager for submitting a false certification to the County regarding the foregoing matters.

B. **Termination.** In addition to any other termination rights stated herein, the County may immediately terminate this Agreement upon the occurrence of any of the following events:

(i) The Construction Manager is found to have submitted a false certification to the County with respect to any of the matters set forth in subsection A(i) above, or the Construction Manager is

found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

(ii) The Construction Manager is found to have submitted a false certification to the County with respect to any of the matters set forth in subsection A(ii) above, or the Construction Manager is found to have been placed on the Scrutinized Companies with Activities in Sudan List, or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria, and the value of the goods or services acquired under this Agreement are greater than or equal to One Million Dollars (\$1,000,000).

13.23 **Unauthorized Alien(s)**

The Consultant shall not employ or utilize unauthorized aliens in the performance of the Services provided pursuant to this Agreement. The County shall consider the employment or utilization of unauthorized aliens a violation of Section 274A(e) of the Immigration and Naturalization Act (8 U.S.C. 1324a) and a cause for the County's unilateral termination of this Agreement. When delivering executed counterparts of this Agreement to the County, the Consultant shall also deliver a completed and executed counterpart of the attached "AFFIDAVIT CERTIFICATION IMMIGRATION LAWS" form.

13.24 **No Construction Against Drafter**

The Parties acknowledge that this Agreement and all the terms and conditions contained herein have been fully reviewed and negotiated by the Parties. Accordingly, any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement.

**ARTICLE 14**  
**DIRECT MATERIALS ACQUISITION AND SALES TAX EXEMPT PURCHASE PROCEDURES FOR**  
**PUBLIC PROJECTS**

14.1 **Direct Materials Acquisition by County - Supply Bonds:**

- 14.1.1 Each Subcontractor shall include Florida State Tax and other applicable Sales Taxes for all material, supplies and equipment included in the Subcontractor's bid.
- 14.1.2 The County may, if not prohibited by Law, exercise a right to purchase directly various construction materials, supplies and equipment that may be part of the Subcontract. Any materials purchased by the County shall be referred to as "County Purchased Materials" and the responsibilities of both the County and the Construction Manager relating to such County Purchased Materials shall be governed by the terms and conditions of the "Sales Tax Exempt Purchasing Procedures for Public Projects", which shall take precedence over other conditions and terms of this Agreement where inconsistencies or conflicts exist.
- 14.1.3 The County will issue its own Purchase Orders directly to the vendor. The County's Purchase Order shall contain or be accompanied by the County's Certificate of Entitlement and must include the County's name, address, and exemption number. The materials shall be purchased from the vendors and suppliers selected by the Construction Manager, for prices negotiated by the Construction Manager or Subcontractor. The Construction Manager will provide all the necessary information for preparation of the purchase orders by the County and will coordinate the purchase of the materials in a timely manner so as not to negatively impact on the performance of the construction activity of the project.
- 14.1.4 The Subcontract amount shall be reduced by the net, undiscounted amount of these purchase orders, plus all sales taxes. Issuance of the purchase orders by the County shall not relieve the Subcontractor or the Construction Manager of any of their responsibilities regarding material



purchases, or installation, with the exception of the payments for the material so purchased. The Construction Manager and the Subcontractor shall remain, with respect to materials, supplies and equipment, fully responsible for coordination, correct quantities ordered, submittals, protection, storage, scheduling, shipping, security, expediting, receiving, installation, cleaning, and the management of all applicable warranties.

- 14.1.5 Notwithstanding the transfer of County Purchased Materials by the County to the Subcontractor's possession, the County shall retain title to any and all County Purchased Materials.
- 14.1.6 The Contractor shall maintain products liability insurance, which shall include County Purchased Materials, as required for the normal practice of general contracting.
- 14.1.7 The material supplier may be required to provide a supply bond in the amount of 100% of the purchase order price. The bond shall be from a qualified surety company authorized to do business in the State of Florida and acceptable to the County and the Construction Manager. The premium cost for this supply bond shall be included in the sub-contractor's cost. Verifying that a designated material supplier can furnish a supply bond (if required) will be the responsibility of the Subcontractor. County reserves the right to waive the requirement of providing a supply bond at the discretion of County.
- 14.1.8 If the State of Florida assesses any Sales Tax penalties and/or interest against the Construction Manager or any of its Subcontractors or Material Suppliers relating to the direct acquisition of materials and/or equipment by County as authorized by this paragraph, such taxes, penalties, interest and/or any legal and administrative fees expended by the Construction Manager as a direct result of any action or assessment made by the State of Florida, shall be reimbursed by County to the Construction Manager in a prompt and reasonable manner and shall not be considered a Project Cost.

14.2 Sales Tax Exempt Purchasing Procedures for Public Projects:

- 14.2.1 The Subcontractor has included Florida State Sales and other applicable taxes in his bid for material, supplies and equipment. The County, being exempt from sales tax, reserves the right to make direct purchases of various construction equipment, materials or supplies included in the Subcontractor's bid and/or contract, substantially in accordance with the form of Purchase Order attached herewith.
- 14.2.2 Any equipment, materials or supplies directly purchased by the County that are included in the Subcontractor's contract shall be referred to as County Purchased Materials and the responsibilities of both the County/Public Entity and the Subcontractor relating to such County Purchased Materials shall be governed by the terms and conditions of these procedures.
- 14.2.3 Material suppliers shall be selected by the Subcontractor awarded the subcontract.
- 14.2.4 The Subcontractor has included the price for all construction materials plus applicable taxes in their bid. County purchasing of construction materials, if selected, will be administered on a deductive Change Order basis, the Subcontract amount shall be reduced by the net undiscounted amount of these Purchase Orders, plus all sales tax.
- 14.2.5 The Subcontractor shall provide the Construction Manager a list of all intended suppliers, vendors, and material men for consideration as County Purchased Materials. This list shall be submitted at the same time as the preliminary schedule of values and the Project schedule. The Subcontractor shall submit a description of the materials to be supplied, estimated quantities and prices.
- 14.2.6 Upon request from Construction Manager, and in a timely manner, the Subcontractor shall prepare a standard Purchase Order Requisition Form in a form acceptable to the County and the

Construction Manager, to specifically identify the materials, which County has, at its sole option, elected to purchase directly. The Purchase Order Requisition Form shall include:

- A. the name, address, telephone number and contact person for the material supplier
- B. manufacturer or brand, model or specification number of the item
- C. quantity needed as estimated by Subcontractor
- D. the price quoted by the supplier for the materials identified therein, including freight
- E. any sales tax associated with such quote
- F. delivery dates as established by Subcontractor

- 14.2.7 Subcontractor shall include reference to any terms and conditions, which have been negotiated with the vendors; i.e., warranties, retainage, etc. The Purchase Order Requisition Forms are to be submitted to the County's designated representative no less than seven (7) days prior to the need for ordering such County Purchased Materials, in order to provide sufficient time for County review and approval and to assure that such Directly Purchased Materials may be directly purchased by County and delivered to the Project site without any delay to the Project.
- 14.2.8 After receipt of the Purchase Order Requisition Form, the County's Representative shall prepare Purchase Orders for equipment, materials or supplies which the County chooses to purchase directly. Pursuant to the Purchase Order, the vendor will provide the required quantities of material at the price established in the vendor's quote to the Subcontractor, less any sales tax associated with such price. Promptly upon receipt of each Purchase Order, Subcontractor shall verify the terms and conditions of the Purchase Order prior to its issuance to supplier and in a manner to assure proper and timely delivery of items. The County's Procurement Director or their designated representative shall be the approving authority for the County on Purchase Orders in conjunction with County Purchased Materials. The Purchase Order shall require that the supplier provide the required shipping and handling insurance. The Purchase Order shall also require the delivery of the County Purchased Materials on the delivery date provided by the Subcontractor in the Purchase Order Requisition Form and shall indicate F.O.B. jobsite. The County's Purchase Orders shall contain or be accompanied by the County's Certificate of Entitlement and must include the County's name, address, and exemption number.
- 14.2.9 In conjunction with the execution of the Purchase Orders by the suppliers, the Subcontractor shall execute and deliver to the County, through the Construction Manager, one or more deductive Change Orders, referencing the full value of all County-Purchased materials to be provided by each supplier from whom the County elected to purchase material directly, plus all sales tax savings associated with such materials in the Subcontractor's bid to the Construction Manager.
- 14.2.10 All shop drawings and submittals shall be made by the Subcontractor in accordance with the Project Specifications.
- 14.2.11 Subcontractor shall be fully responsible for all matters relating to the receipt of materials furnished by the County in accordance with these Procedures, including, but not limited to, verifying correct quantities, verifying documentation of orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees required by the Contract Documents, inspection and acceptance of the goods at the time of delivery, and loss or damage to equipment and materials following acceptance of items by the County due to the negligence of the Subcontractor. The Subcontractor shall coordinate delivery schedules, sequence of delivery, loading orientation, and other arrangements normally required by the Subcontractor for the particular materials furnished. The Subcontractor shall provide all services required for the unloading, handling and storage of materials through installation. The Subcontractor agrees to indemnify and hold harmless the County from any and all claims of whatever nature resulting from non-payment of goods to suppliers arising from the actions or directions of Subcontractor.
- 14.2.12 As County Purchased Materials are delivered to the jobsite, the Subcontractor and the Construction Manager, as County's Representative, shall visually inspect all shipments from the

suppliers, and approve the vendor's invoice for material delivered. The Subcontractor shall assure that each delivery of County Purchased Material is accompanied by documentation adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the Purchase Order, together with such additional information as the County or Construction Manager may require. The Construction Manager, as County's Representative, shall verify in writing to the County the accuracy of the delivery ticket. The Subcontractor will then forward the invoice to the County through the Construction Manager for payment. The invoice shall be thereupon furnished to the County for processing and payment in the manner as all other County invoices are processed. The County shall have the right to assign County personnel to verify and audit the accuracy of all County Purchased Material documents.

- 14.2.13 The Subcontractor shall ensure that County Purchased Materials conform to the Specifications and determine, prior to incorporation into the Work, if such materials are patently defective, whether such materials are identical to the materials ordered and match the description on the bill of lading. If the Subcontractor discovers defective or nonconformities in the County Purchased Material upon such visual inspection, the Subcontractor shall not utilize such nonconforming or defective materials in the Work and instead shall promptly notify the Vendor of the defective or non-conforming condition in order to pursue repair or replacement of those materials without any undue delay or interruption to the Project. Additionally, the Subcontractor shall notify the County, through the Construction Manager, of such occurrence. If the Subcontractor fails to perform such inspection and otherwise incorporates County Purchased Materials, the condition of which it either knew or should have known by performance of an inspection, the Subcontractor shall be responsible for all damages to the County resulting from the Subcontractor's incorporation of such materials into the Project, including liquidated or delay damages. In the event that materials furnished are found to be defective, or nonconforming, the Subcontractor shall promptly take action to remedy the defect or nonconformance so as not to delay the work.
- 14.2.14 The Subcontractor shall maintain records of all County Purchased Materials it incorporates into the Work from the stock of County Purchased Materials in its possession. The Subcontractor shall account monthly to the County, through the Construction Manager, for any County Purchased Materials delivered into the Subcontractor's possession, including portions of all such materials, which have been incorporated into the Work.
- 14.2.15 The Subcontractor shall be responsible for obtaining and managing all warranties and guarantees for all materials and products as required by the Contract Documents. All repairs, maintenance or damage repair calls shall be forwarded to the Subcontractor for resolution with the appropriate supplier or vendor.
- 14.2.16 Notwithstanding the transfer of County Purchased Materials by the County to the Subcontractor's possession, the County shall retain title to any and all County Purchased Materials.
- 14.2.17 The transfer of possession of County-Purchased Materials from the County to the Subcontractor shall constitute a bailment for mutual benefit of the County and the Subcontractor. The County shall be considered the bailor and the Subcontractor the bailee of the County Purchased Materials. County Purchased Materials shall be considered returned to the County for purposes of its bailment at such time as they are incorporated into the Project or consumed in the process of completing the Project. The Bailee shall have the duty to safeguard, store and protect all County Purchased Materials.
- 14.2.18 The County shall purchase and maintain insurance pursuant to the requirements set forth in the County and Construction Manager Agreement which shall be sufficient to protect against any loss of or damage to County Purchased equipment, materials or supplies. Such insurance shall cover the full value of any County Purchased Materials not yet incorporated into the Project from the time the County first takes title.

- 14.2.19 The County shall in no way be liable for interruption or delay in the Project, for any defects or other problems with the Project, or for any extra costs or time resulting from delay in the delivery of, or defects in, County Purchased Materials.
- 14.2.20 On a monthly basis, the Subcontractor shall be required to review invoices submitted by all suppliers of County Purchased Materials delivered to the Project site during that month and either concur or object to the County's issuance of payment to the suppliers, based upon the Subcontractor's records of materials delivered to the site and any defects in such materials.
- 14.2.21 In order to arrange for the prompt payment to the supplier, the Subcontractor shall provide to the County, through the Construction Manager, a list indicating the acceptance of the goods or materials in accordance with the established monthly Payment Request Schedule. The list shall include a copy of the applicable Purchase Order, invoices, delivery tickets, written acceptance of the delivered items, and such other documentation as may be reasonably required by the County. Upon receipt and verification of the appropriate documentation, the County shall prepare a check drawn to the supplier based upon the receipt of data provided. This check will be released, delivered and remitted directly to the supplier. The Subcontractor agrees to assist the County to immediately obtain partial or final release of lien waivers as appropriate.
- 14.2.22 At the end of the Project, any refund for surplus materials returned to suppliers, plus applicable sales tax savings amount, shall be credited with an additive Change Order to the Subcontractor's agreement with the Construction Manager. Salvage materials shall be the property of the County and stored or removed from the site by the Subcontractor at the County's direction.

## **ARTICLE 15**

### **INCORPORATION OF EXHIBITS**

- 15.1 The following Exhibits, attached hereto, are hereby fully incorporated herein by this specific reference as if fully set forth in the body of this Agreement:

<b>Exhibit "A"</b>	<b>-</b>	<b>RFP 21-425 and Construction Manager's Proposal</b>
<b>Exhibit "B"</b>	<b>-</b>	<b>Pre-Construction Services Addendum</b>
<b>Exhibit "C"</b>	<b>-</b>	<b>GMP Addendum</b>
<b>Exhibit "D"</b>	<b>-</b>	<b>Certificate of Substantial Completion</b>
<b>Exhibit "E"</b>	<b>-</b>	<b>Release and Affidavit</b>
<b>Exhibit "F"</b>	<b>-</b>	<b>Application for Payment Form</b>
<b>Exhibit "G"</b>	<b>-</b>	<b>Final Payment Request Checklist / Certificate of Final Completion</b>
<b>Exhibit "H"</b>	<b>-</b>	<b>Change Order</b>
<b>Exhibit "I"</b>	<b>-</b>	<b>Allowance Authorization Release</b>
<b>Exhibit "J"</b>	<b>-</b>	<b>Schedule of Reimbursables</b>
<b>Exhibit "K"</b>	<b>-</b>	<b>Hourly Rate Schedule</b>
<b>Exhibit "L"</b>	<b>-</b>	<b>Affidavit Certification Immigration Laws</b>
<b>Exhibit "M"</b>	<b>-</b>	<b>Public Construction Bond</b>
<b>Exhibit "N"</b>	<b>-</b>	<b>Buy-Out Allowance Authorization Release</b>

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

**POLK COUNTY, a political subdivision of the  
State of Florida**

ATTEST:

STACY M. BUTTERFIELD, Clerk

By: \_\_\_\_\_  
Deputy Clerk

Date Signed by Chairman: \_\_\_\_\_

By: \_\_\_\_\_  
T.R. Wilson, Chairman  
Board of County Commissioners

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

Wah Widen 9/4/2025  
County Attorney's Office Date

ATTEST:

By: Samantha Gray  
Samantha Gray  
Printed Name

**Miller Construction Management, LLC**  
a Florida limited liability company

By: Corey J. Miller  
Print Name: COREY J. MILLER

Title: C.O.O.

Date: 9/12/2025

### Affidavit Regarding the Use of Coercion for Labor or Services

In compliance with Section 787.06(13), Florida Statutes, this attestation must be completed by an officer or representative of a nongovernmental entity that is executing, renewing, or extending a contract with Polk County, a political subdivision of the State of Florida.

The undersigned, on behalf of the entity listed below (the "Nongovernmental Entity"), hereby attests under penalty of perjury as follows:

1. I am over the age of 18 and I have personal knowledge of the matters set forth herein.
2. I currently serve as an officer or representative of the Nongovernmental Entity.
3. The Nongovernmental Entity does **not** use coercion for labor or services, as those underlined terms are defined in Section 787.06, Florida Statutes.
4. This declaration is made pursuant to Section 92.525, Fla. Stat. and Section 787.06, Fla. Stat. I understand that making a false statement in this declaration may subject me to criminal penalties.

Under penalties of perjury, I COREY J. MILLER (Signatory Name and Title), declare that I have read the foregoing Affidavit Regarding the Use of Coercion for Labor and Services and that the facts stated in it are true.

Further Affiant sayeth naught.

MILLER CONSTRUCTION MANAGEMENT, LLC.

NONGOVERNMENTAL AGENCY

SIGNATURE

COREY J. MILLER

PRINT NAME

C.O.O.

TITLE

9/12/2025

DATE



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

## Detail by Entity Name

Florida Limited Liability Company  
MILLER CONSTRUCTION MANAGEMENT, LLC

### Filing Information

<b>Document Number</b>	L23000337383
<b>FEI/EIN Number</b>	71-0867456
<b>Date Filed</b>	07/18/2023
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<b>Last Event</b>	LC STMNT OF RA/RO CHG
<b>Event Date Filed</b>	11/30/2023
<b>Event Effective Date</b>	NONE

### Principal Address

3970S PIPKIN RD  
LAKELAND, FL 33811

Changed: 08/15/2023

### Mailing Address

100 PERIMETER PARK DR STE H  
MORRISVILLE, NC 27560

Changed: 08/15/2023

### Registered Agent Name & Address

C T CORPORATION SYSTEM  
1200 SOUTH PINE ISLAND ROAD  
PLANTATION, FL 33324

Name Changed: 11/30/2023

Address Changed: 11/30/2023

### Authorized Person(s) Detail

#### **Name & Address**

Title AR

SHADRICK, KEITH  
100 PERIMETER PARK DR STE H  
MORRISVILLE, NC 27560

### Annual Reports

Report Year	Filed Date
2024	04/11/2024
2025	02/10/2025

### Document Images

<a href="#">02/10/2025 - ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">04/11/2024 - ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">08/15/2023 - LC Amendment</a>	<a href="#">View image in PDF format</a>
<a href="#">07/18/2023 - Florida Limited Liability</a>	<a href="#">View image in PDF format</a>

**EXHIBIT “A”**

**RFP 21-425 and Construction Manager’s Proposal**

*Caloosa Lake Fire Rescue Station*



# Exhibit A

## RFP REGISTRATION

You **MUST** register using this form in order to receive notice of any addenda to these documents. Please fax the completed form to the Procurement Division as soon as possible. It is the vendor's responsibility to verify if addenda have been issued.

RFP Number and Title: 21-425, Construction Manager – At Risk – Fire Rescue Stations (2<sup>nd</sup> Group).

Description: Select a qualified Contractor to provide Construction Management at Risk (CMAR) services for the preconstruction and construction phase services of the New Prototype Fire Rescue Stations.

Receiving Period: Prior to **2:00 p.m., Wednesday, April 21, 2021**

Bid Opening: Wednesday, April 21, 2021 at **2:00 p.m.** or as soon as possible thereafter.

This form is for RFP registration only. Please scroll down for additional information.

Special Instructions: A **MANDATORY** preproposal meeting will be held **Tuesday, March 30, 2021, 10:00 a.m.** at Polk County Administration building, located at 330 W. Church St, Fourth Floor, Room 413, Bartow, FL 33830. An authorized representative or agent of the Proposer must be present at this meeting in person or via conference call, as evidenced by their signature on the meeting's sign-in sheet, or the Proposer's Proposal will be considered non-responsive. Those attending via conference call will be added to the sign in sheet by the Procurement office during the conference call. The conference call in number is (863) 534-6799.

Questions regarding this RFP must be in writing and must be sent to Carlos Baez, Procurement Analyst, via email at [carlosbaez@polk-county.net](mailto:carlosbaez@polk-county.net) or via fax at (863) 534-6789. All questions must be received by, **Wednesday, April 7, 2021, 4:00 p.m.**

## RFP REGISTRATION FAX THIS FORM BACK IMMEDIATELY

**FAX: (863) 534-6789**

Carefully complete this form and email or fax it to the Procurement Division. You must submit one form for each RFP that you are registering for.

Company Name: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Cut along the outer border and affix this label to your sealed envelope to identify it as a "Sealed RFP". Be sure to include the name of the company submitting the RFP where requested.

**SEALED RFP DO NOT OPEN**

SEALED RFP NO.: 21-425

REP TITLE: Construction Manager-At Risk- New Prototype Fire Rescue Stations (2<sup>nd</sup> Group)

DUE DATE/TIME: Wednesday, April 21, 2021, prior to 2:00 p.m.

SUBMITTED BY: \_\_\_\_\_

DELIVER TO: PROCUREMENT DIVISION  
330 West Church Street, Room 150  
Bartow, Florida 33830

**POLK COUNTY**

**Procurement Division  
Fran McAskill  
Procurement Director**

**REQUEST FOR PROPOSAL 21-425  
Construction Manager – At Risk  
Fire Rescue Stations (2<sup>nd</sup> Group)**

Sealed proposals will be received in the Procurement Division, **Wednesday, April 21, 2021, prior to 2:00 p.m.**

Attached are important instructions and specifications regarding responses to this Request for Proposal (the "RFP"). The failure of a responding proposer (a "Proposer") to follow these instructions could result in Proposer disqualification from consideration for a contract to be awarded pursuant to this RFP.

This document is issued by Polk County (the "County") which is the sole distributor of this RFP and all addenda and changes to the RFP documents. The County shall record its responses to inquiries and provide any supplemental instructions or additional documents pertaining to this RFP in the form of written addenda to the RFP. The County shall post all such addenda, together with any other information pertaining to this RFP, on the County's website at <https://www.polk-county.net/procurement/procurement-bids>. It is the sole responsibility of each Proposer to review the website prior to submitting a responsive proposal (a "Proposal") to this RFP to ensure that the Proposer has obtained all available instructions, addenda, changes, supporting documents, and any other information pertaining to this RFP.

The County is not responsible for any solicitations issued through subscriber, publications, or other sources not connected with the County and the Proposer should not rely on such sources for information regarding the RFP solicitation.

Questions regarding this RFP must be in writing and must be sent to Carlos Baez, Procurement Analyst, via email at [carlosbaez@polk-county.net](mailto:carlosbaez@polk-county.net) or via fax at (863) 534-6789. All questions must be received by Wednesday, April 7, 4:00 p.m.

**Proposers and any prospective proposers shall not contact, communicate with or discuss any matter relating in any way to this RFP with any member of the Polk County Board of County Commissioners or any employee of Polk County other than the County Procurement Director or the individual designated above. This prohibition begins with the issuance of the Request for Proposal and ends upon execution of the final contract. Any such communication initiated by a Proposer**

**or prospective proposer shall be grounds for disqualifying the offender from consideration for a contract to be awarded pursuant to this RFP and for contracts to be awarded pursuant to RFPs or Requests for Bid that the County may issue in the future.**

A Proposer's responsive Proposal to this RFP may be mailed, express mailed, or hand delivered to:

**Polk County Procurement Division  
330 West Church Street, Room 150  
Bartow, Florida 33830**

## **INTRODUCTION/BACKGROUND**

The intent of this Request for Proposal (RFP) is to select an experienced Contractor to provide Construction Management At Risk (CMAR) services for the preconstruction, including the preparation and submission of a guaranteed maximum price (GMP), and construction phase services for a New Prototype Fire Rescue Station, site development, storm water systems, utility service construction and connections, accompanying access entrance drives, surface parking areas, and landscaping. It is the County's intent to build a guaranteed minimum of one new Fire Rescue station and a non-guaranteed maximum of four new Fire Rescue Stations utilizing the resulting contract pending available funding. The selected CMAR must demonstrate to the County their company has the available workforce in hand to simultaneously build up to four new Fire Rescue Stations.

Furthermore, the County is seeking proposals from experienced and qualified Construction Management companies to work with the selected Design Consultant through the design, preconstruction phase services (inclusive of bid/award), and construction phase. Companies that are not experienced in providing CMAR services will not be considered for selection. It is the intent of the County to select and negotiate a CMAR agreement with one CMAR company as the prime contractor. The County will negotiate a fee schedule for the selected CMAR Company once an RFP selection committee recommendation has been approved by the Board of County Commissioners.

All services must be performed in accordance with applicable Federal, State and Local regulations.

## **BACKGROUND, PURPOSE AND SCOPE**

Polk County desires to construct multiple new Fire Rescue prototype stations in designated locations throughout the county (each a "Project" and collectively, the "Projects"). Contingent upon available funding, the County desires to build a minimum of

one new prototype station and a maximum of four new prototype stations under this RFP

The existing Polk County Fire Rescue stations serving the unincorporated areas of Polk County are considered inadequate for providing long-term public safety needs to the citizens of Polk County. The Polk County Fire Rescue Division desires to design and construct a new prototype facility for the purpose of serving the citizens of Polk County in a more efficient manner by reducing response times on calls while addressing Fire Fighter safety concerns with a Red (Hot), Yellow (Warm), and Green (Cool) zone approach to station design.

The selected CMAR Contractor will be required to work with The Lunz Group, the Architectural firm that is contracted to provide design services that comply with the requirements of the Fire Rescue Divisions space needs. The selected CMAR Contractor will be required to coordinate and interface with The Lunz Group. Coordination includes, but is not limited to; preconstruction phase services, bidding and construction services. The selected CMAR Contractor shall provide the necessary information indicating their understanding and working knowledge associated with the CMAR construction delivery method.

## **SCOPE OF SERVICES**

The successful respondent shall utilize an open book approach to the project, resulting in a fixed cost and provide a GMP with full disclosure of actual costs to the county. Other responsibilities include value engineering, constructability reviews and recommendations; attend design and other applicable conferences, pre-bid meetings, pre-award meetings, and construction progress meetings. The successful company shall also provide administrative services, supervision, and accepted accounting principles throughout the complete project.

The selection of the CMAR Contractor will be based upon criteria outlined herein under Evaluation of Proposals. Contractors submitting must have CMAR experience. The county's agreement with the selected Contractor will be a job specific contract for CMAR services for the project. When the fee for pre-construction phase services is agreed to by the Facilities Division, a purchase order will be issued in the amount of the negotiated pre-construction phase fee. When the GMP is agreed to by the Facilities Division, an Agenda Item will be presented to the Board of County Commissioners for their approval. After GMP approval, a purchase order will be issued in the amount of the GMP.

In these economic times, there is no assurance that planned capital projects will actually be constructed.

All work must be performed in accordance with applicable Federal, State and Local regulations.

The CMAR services will include, but are not limited to, the following work categories necessary to permit and construct the new Buildings:

- a. Attend and participate in all design progress/review meetings.
- b. Participate in all Buildings modeling reviews and reporting.
- c. Provide GMP estimating for schematic design (SD), design development (DD), and construction document (CD) level design documents.
- d. Provide constructability design reviews and reporting.
- e. Provide value engineering design reviews and reporting.
- f. Provide master project scheduling and reporting services.
- g. Attend all pre-bid meetings.
- h. Provide competitive subcontracting bidding services.
- i. Schedule and coordinate all bid openings.
- j. Provide bid tabulation results and a GMP.
- k. Provide all Buildings permitting services.
- l. Provide all construction services.
- m. Provide demolition services.
- o. Coordinate and attend all construction progress coordination meetings.
- p. Coordinate and participate in all closeout documentation requirements and meetings.
- q. Provide all warranty services.

## **QUALIFICATIONS**

1. Prime contractor must be a State of Florida Certified General Contractor and should provide proof of current general contractors' license(s) with their submittal
2. Prime contractor must have been in business under the same name or EIN number for a minimum of 10 years.
3. Bidders must possess a Polk County Local Business Tax Receipt (f/k/a Business License) in order to do business with the County. A copy of such license must be provided to the Procurement Division before award is made to the successful bidders
4. Prime contractor must have CMAR experience.

## **SPECIAL INSTRUCTIONS:**

A MANDATORY pre-proposal meeting will be held on **Tuesday, March 30, 2021 at 10:00 a.m.** in the Polk County Administration building, located at 330 W. Church St, Fourth Floor, Room 413, Bartow, FL 33830

The estimated total cost for this project is \$4 to 4.2 million, with estimated construction at \$3 to 3.6 million.

It is anticipated that the design and permitting phase will take three to six (3-6) months and the construction phase will take eight (8) to nine (9) months.

### **AGREEMENT**

The term of the resulting master service agreement will be negotiated as part of Elevation Level 4, contract negotiations and will include the building of a minimum of one (1) and a maximum of four (4) fire stations using the CMAR method.

### **SUBMITTAL**

Submittals should not contain information in excess of that requested, must be concise, and must specifically address the issues of this RFP. The responses should be in the same order as the selection and evaluation procedures. Proposals are to be printed double-sided. Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective submittal to this solicitation are not desired and may be construed as an indication of the proposer's lack of cost consciousness. Elaborate artwork, expensive visual aids, and other presentation aids are neither necessary nor desired, unless specifically requested. The proposal submittals should be contained within a three (3) ring binder (original and each copy in separate binders). Each submittal should contain:

#### **Tab 1, Executive Summary:**

(Items a-e: Maximum two (2) pages)

- a) Company name, owner, address, telephone number, fax number & email address.
- b) State the number of years in business.
- c) State the number of full time employees.
- d) Volume of work during each of the last five (5) calendar years.
- e) Describe and explain any litigation, major disputes, contract defaults, or liens experienced in the last ten (10) years.

#### **Tab 2, Approach to the Project (30 Points)**

(Maximum three (3) pages)

- a) Define in detail the components of job specific pre-construction services and the responsibility of the Construction Manager for each component of this phase

including budget estimating, value engineering, constructability recommendations and master project schedule.

- b) Detailed approach to the CM's competitive bidding for subcontracts, other cost of the work, general conditions cost summary, CM fee negotiations, GMP compilation, etc.
- c) Owner direct purchase and sales tax savings approach to the project.
- d) Approach to the management and construction of the project.
- e) CM's approach to quality workmanship and contract compliance control measures.

**Tab 3, Experience and Expertise, Personnel & Technical Resources (25 Points)**

- I. Provide a minimum of three (3) and a maximum of five (5) similar CMAR projects performed for public entities which best illustrate the experience of the Contractor and current staff. (List no more than five (5) projects completed within the last ten (10) years.) (Maximum of one (1) page only per project). For each project please provide:
  - a) Name and location of the projects.
  - b) The nature of the Contractor's responsibility on the projects.
  - c) Project Owner's representative name, address and phone number.
  - d) Date projects were completed or are anticipated to be completed.
  - e) Size of projects (gross S.F. and/or area of construction).
  - f) Cost of projects (construction cost).
  - g) Change Order Summary
  - h) Work for which your staff was responsible.
  - i) Project manager, superintendent and other key professionals involved in the projects
- II. Provide an organizational chart of the firm's team highlighting the key individuals who will work on this project as identified above.
- III. Provide brief resumes of key personnel to be assigned to the project including, but not limited to the items in the list below. (Maximum one (1) page per resume.) Identify project related capability of in-house staff and indicate the adequate depth and abilities of the organization that it can draw upon as needed. This will include management, technical, and support staff. (Indicate whether office or field related.)
  - a) Name and title.
  - b) Job assignment for other projects.
  - c) Percentage of time to be assigned full time to this project
  - d) How many years with this Contractor.
  - e) How many years with other Contractors.
  - f) Experience:
    - 1. Types of projects.
    - 2. Size of projects (dollar value of project).
    - 3. What were the specific project involvements?
  - g) List degrees, certifications, and registrations.



**Tab 4, Scheduling and Cost Control (20 Points)**

(Maximum three (3) pages plus the sample schedule)

The Contractor's scheduling system and cost control system should be described. Methods for assuring subcontractors adherence to schedule should be highlighted.

- a) Describe the Contractor's use of computer-generated schedules for the management of construction.
- b) Indicate the level of detail to define schedules. Describe methods for managing the processing of shop drawings. Define means and methods for managing and responding to requests for Information (RFI's) and Architect's Supplemental Instructions (ASI's).
- c) Indicate the Contractor's approach to project scheduling and coordination of subcontractors.
- d) Describe the Contractor's method for holding projects within budget. Provide one example.
- e) Attach a sample schedule that illustrates your overall scheduling capabilities. Attach sample of the cost control reports.
- f) Provide a written narrative regarding your approach to the project as it relates to cost control for items outside of the "cost of the work". Fees associated with this category are as follows; Preconstruction phase services, general conditions, CM fee and bond. Include fee percentages in your response as general information for a project of this size. Information regarding fee percentages are general in nature and are not considered as a final offer for a proposed contract.

**Tab 5, Is the Contractor a "Polk County Entity"? (5 Points)**

- If the Contractor is a Polk County Entity then five (5) points will be allocated for this tab
- Provide documentation of the Contractors' headquarters and local offices, if any, and the amount of time the Contractor has been located at each such local office. Please also indicate the number of employees at the local office.
- Proposers will be allocated points if they meet the following Polk County Government definition of Polk County Entity.
- The term "Polk County Entity" means any business having a physical location within the boundaries of Polk County, Florida, at which employees are located and business activity is managed and controlled on a day to day basis. Additionally, the business must have been located within the boundaries of Polk County for a minimum of 12 months prior to the date the applicable solicitation is issued. This requirement may be evidenced through a recorded deed, an executed lease agreement, or other form of written documentation acceptable to the County. The County shall have the right, but not the obligation, to verify the foregoing requirements.

**Tab 6, Is the Contractor a "Certified Woman or Minority Business Enterprise"? (5 Points)**

- Polk County Board of County Commissioners has a long standing commitment to encouraging the utilization of Women and Minority Businesses that do business with the County as vendors. To that end we encourage all of our Contractors to utilize W/MBE sub-contractors where at all possible, irrespective of a company's certification status.
- If the Contractor is a Woman or Minority owned business then five (5) points will be allocated for this tab.
- Proposers will be allocated points if they are a certified W/MBE as evidenced by providing the documentation described below.
- If the Proposer has a certified W/MBE status, provide documentation of the Contractors' certified W/MBE status as defined by the Florida Small and Minority Business Act and as defined in Polk County's Purchasing Procedures. Polk County's Purchasing Procedures recognize the following to meet the requirement of a certified W/MBE status:
  - Valid W/MBE Certification from one of the following:
    - Florida Minority Supplier Development Council
    - Women Business Enterprise National Council
    - The State of Florida Office of Supplier Diversity
    - Florida Department of Transportation
    - U. S. Small Business Administration
    - Federal Aviation Authority
    - Other Florida governmental agencies

Certifications from other governmental agencies will be considered on a case-by-case basis.

**Tab 7, Timely Completions of Projects (5 Points)**

- Describe the Contractors' current and future projected workload. Describe specifically the Contractors' daily ability to handle each aspect of the scope of services described herein. (Limit response to two (2) pages maximum)

**Tab 8, Surveys of Past Performance (10 Points)**

- Provide reference surveys from past clients for the projects identified under Tab 3.
- Completed surveys. (See Exhibit 1) Procurement will take the average of all surveys and score as follows:
  - Average Score between 9-10                      10 Points
  - Average Score between 7-8                      8 Points
  - Average Score between 5-6                      6 Points
  - Average Score between 3-4                      4 Points
  - Average Score between 1-2                      2 Points
  - Average Score of 0                                  0 Points

## **SUBMITTAL OF PROPOSALS**

Interested parties are invited to submit one (1) original marked **ORIGINAL** and five (5) copies marked **COPY** of their proposal in a sealed envelope to the Procurement Division. The envelope should be labeled “**RFP 21-425, Construction Manager – at Risk – Fire Rescue Stations (2<sup>nd</sup> Group)**” and marked with the proposers name and address. The Proposals may be mailed or delivered to:

**Polk County Procurement Division  
330 West Church Street, Room 150  
Bartow, FL 33830**

The response shall be received by the County only at the above address prior to **2:00 p.m., Wednesday, April 21, 2021.**

The delivery of the response on the above date and prior to the specified time is solely the responsibility of the proposer.

The submittal may be withdrawn either by written notice to the Procurement Director or in person, if properly identified, at any time prior to the above submittal deadline.

## **BID OPENING**

Bidders may attend the Bid Opening via conference call by dialing (646) 558-8656 and enter Meeting ID: 327 647 2818. Proposers that want to attend in person may do so in compliance with safe COVID 19 practices. A listing of all proposers will be posted to Procurement’s website as soon as possible after bid opening.

## **EVALUATION CRITERIA AND SELECTION PROCESS**

Proposals will be evaluated in accordance with this section and all applicable County procurement policies and procedures.

The County shall appoint a selection committee (the “Selection Committee”) that will be responsible for evaluating and scoring/ranking the Proposals in accordance with this Section.

The County will use a competitive selection process based on the Elevation Levels described in this Section. At Elevation Levels 2 and 3, the Selection Committee will score and/or rank the Proposals as applicable.

Selection of a final Proposal will be based upon the following steps and factors:

### **Elevation Level 1 (Procurement Requirements Assessment)**

- The County Procurement Division shall review all Proposals for conformance with RFP guidelines and detailed submittal requirements. At the County’s discretion, non-conforming Proposals may be eliminated from further consideration and conforming Proposals shall be elevated to Elevation Level 2.

- Procurement will distribute Proposals and evaluation criteria to the Selection Committee.
- If four or fewer Proposals have been received, the Selection Committee may determine at their discretion, to combine Elevation Level 2 with Elevation Level 3, Proposer Interviews. If the Selection Committee chooses this option, the interviews will occur first and the scoring of Proposers will occur in the sunshine following the interviews. Please refer to Elevation Level 3, for further detail.
- The Selection Committee may convene to review questions that arise during individual member review of submitted Proposals before Elevation Level 2 or Elevation Level 3, to allow for questions, clarifications, explanations, or other discussion to be held before the review of Proposals is completed.

#### **Elevation Level 2 (Selection Committee Evaluation)**

Procurement shall score each Proposal on the following evaluation criteria:

• Local (Tab 5)	5 points
• W/MBE Certification (Tab 6)	5 Points
• Surveys of Past Performance (Tab 8)	<u>10 points</u>
Subtotal Points	20 Points

by the process stated under each corresponding Tab description

Each Selection Committee member shall score each Proposal on the following evaluation criteria:

• Approach to Project (Tab 2)	30 Points
• Experience and Expertise (Tab 3)	25 Points
Personnel and Technical Resources	
• Scheduling and Cost Control (Tab 4)	20 Points
• Timely Completion of Projects (Tab 7)	<u>5 Points</u>
Subtotal Points	80 Points

by the following process:

Each Selection Committee member shall determine which of the following descriptions applies to each of the foregoing evaluation criteria:

**EXCELLENT (1.0):** Of the highest or finest quality; exceptional; superior; superb; exquisite; peerless.

The Proposer provided information for a given criteria that satisfied the requirements and described specifically how and what will be accomplished in such a manner that exhibited an exceptional and superior degree of understanding, skill, and competency, both qualitatively and quantitatively. The facts included in the narrative (including all supporting documentation, diagrams, drawings, charts, and schedules, etc.) demonstrate the Proposer's ability to perform and deliver far beyond expectation.

**VERY GOOD (0.8):** To a high degree; better than or above competent and/or skillful.

The Proposer provided information for a given criteria that satisfied the requirements and described specifically how and what will be accomplished in such a manner that exhibited a very high degree of understanding, skill, and competency, both qualitatively and quantitatively. The facts included in the narrative (including all supporting documentation, diagrams, drawings, charts, and schedules, etc.) demonstrate the Proposer's ability to perform and deliver beyond expectation.

**GOOD (0.6):** Having positive or desirable qualities; competent; skilled; above average.

The Proposer provided information for a given criteria that satisfied the requirements and described specifically how and what will be accomplished in such a manner that exhibited a skillful and above-average degree of understanding, skill, and competency, both qualitatively and quantitatively. The facts included in the narrative (including all supporting documentation, diagrams, drawings, charts, and schedules, etc.) demonstrate the Proposer's ability to perform and deliver at the expected level.

**FAIR (0.4):** Average; moderate; mediocre; adequate; sufficient; satisfactory; standard.

The Proposer provided information for a given criteria that satisfied the requirements and described sufficiently how and what will be accomplished in a manner that exhibited an adequate and average degree of understanding, skill, and competency, both qualitatively and quantitatively. The facts included in the narrative (including all supporting documentation, diagrams, drawings, charts, and schedules, etc.) demonstrate the Proposer's ability to perform and deliver at a level slightly below expectation.

**POOR (0.2):** Inadequate; lacking; inferior in quality; of little or less merit; substandard; marginal.

The Proposer provided information for a given criteria that did not satisfy the requirements and described in an inadequate manner how and what will be accomplished. The information provided simply reiterated a requirement, contained inaccurate statements or references, lacked adequate information, or was of inferior quality. The facts included in the narrative (including all supporting documentation, diagrams, drawings, charts, and schedules, etc.) demonstrate the Proposer's ability to perform and deliver at a substandard and inferior level.

**UNACCEPTABLE (0.0):**

The Proposer failed to provide any information for a given criteria, provided information that could not be understood, or did not provide the information for a given category as requested.

After a Selection Committee member has determined the description applicable for each evaluation criterion, the total points available for such criterion shall be multiplied by the factor associated with the applicable description to produce the number of points

allocated for that evaluation criterion. For example, a Selection Committee member classifies the "Experience and Expertise" criterion (which shall be worth 25 points for the purpose of this example) as "Very Good" (which is a description factor multiplier of 0.8). The points that Selection Committee member allocated for that evaluation criterion would be 20, calculated as follows: 25 available points x 0.8 applicable description factor multiplier = 20 points.

A Selection Committee member's total score for each Proposal shall equal the sum of the total points allocated for each evaluation criteria.

When all Selection Committee members have completed their Proposal evaluations, the individual Selection Committee member's total scores for each Proposal will be added together to produce a final score for each Proposal.

Procurement will confirm the calculations for the final score for each Proposal. Then, Procurement shall publish a rank-ordered listing of the Proposals to the Selection Committee with the Proposal receiving the highest point as the highest-ranked Proposal.

If the Selection Committee decides to interview Proposers based on the final scores, then at a minimum the Selection Committee shall elevate the two highest-ranked Proposers to Elevation Level 3 for interviews. If the Selection Committee decides not to interview Proposers, they will collectively decide if they would like to recommend the Board authorize staff to enter into Contract Negotiations with all Proposers, starting with the highest scoring Proposer. After Board approval to authorize staff to negotiate a contract, the Proposers will then be elevated to Elevation Level 4 for contract negotiations.

### **Elevation Level 3 (Proposer Interviews)**

The Selection Committee may conduct interviews of the Proposers that it has elevated from either Elevation Level 1 or Elevation Level 2 to Elevation Level 3. During an interview, elevated Proposers shall make a presentation describing the key elements of their Proposal and/or address any specific topics the Selection Committee may determine necessary. The Selection Committee members will have an opportunity to inquire about any aspect of the RFP and the Proposer's written Proposal. After all elevated Proposer interviews, each Selection Committee member shall evaluate each Proposer with emphasis on the following:

Written Proposal, Proposer interview and presentation focusing on the key elements of their presentation and answers to questions of the Selection Committee.

If Proposers were elevated from Elevation Level 2, Selection Committee Evaluation, after the interviews, each Selection Committee member will individually rank the Proposers in numerical order beginning at number 1 for the highest-ranked Proposer. Procurement shall receive and compile each Selection Committee member's ranking of each Proposer, and then publish a rank-ordered listing of Proposers to the Selection

Committee, based on the combined average rankings given each Proposer. The Selection Committee members will then collectively decide if they would like to recommend the Board authorize staff to enter into Contract Negotiations with all Proposers elevated to Proposer Interviews, starting with the highest-ranked Proposer; and should negotiations fail with the highest ranked Proposer, staff shall end negotiations with the highest ranked Proposer and begin negotiating with the next highest ranked Proposer and so on. After Board approval to authorize staff to negotiate a contract, the highest-ranked Proposer will then be elevated to Elevation Level 4, Contract Negotiations.

If Proposers were elevated from Elevation Level 1, Proposer Requirements Assessment, they will score proposers in accordance with Elevation Level 2, Selection Committee Evaluation, based upon Proposer RFP responses, Proposer interview and presentation focusing on the key elements of their presentation and answers to questions of the Selection Committee.

Procurement will confirm the calculations for the final score for each Proposal and interview. Then, Procurement shall publish a rank-ordered listing of the Proposals to the Selection Committee with the Proposal receiving the highest points as the highest-ranked Proposal. The Selection Committee members will then collectively decide if they would like to recommend the Board authorize staff to enter into Contract Negotiations with all Proposers elevated to Proposer Interviews, starting with the highest-scored Proposer; and should negotiations fail with the highest ranked Proposer, staff shall end negotiations with the highest ranked Proposer and begin negotiating with the next highest ranked Proposer and so on.

#### **Elevation Level 4 (Contract Negotiations)**

If a Proposer is elevated to this level, the user Division, and Procurement, with the assistance of the County Attorney's Office, shall negotiate an Agreement with the elevated Proposer.

If after negotiating for a reasonable time period the parties cannot agree on a contract, the County shall, in its sole discretion, terminate further contract negotiations with that Proposer. Procurement shall notify the Selection Committee that contract negotiations with the elevated Proposer have terminated. If the Selection Committee decides not to recommend contract negotiations with the next-highest-ranked Proposer, and so on, or if the County determines there is no other Proposer with whom the County can successfully negotiate a contract, then the RFP Selection Process shall terminate.

After contract negotiations with a Proposer are successfully completed pursuant to Elevation Level 4, the Selection Committee shall recommend to the Board of County Commissioners that it selects such Proposer to provide the services as outlined in the Agreement. The Board of County Commissioners shall make the final decision whether the County shall enter into an Agreement with a Proposer.

### **ATTENTION PROPOSERS**

The Successful Proposer must register in our new Vendor Database if you have not already done so prior to award of this RFP. A purchase order cannot be issued to a vendor until they have registered.

You may register by going to the following link:

<https://www.polk-county.net/procurement/vendor-registration>

Registered vendors will receive a User ID and Password to access their company information. All registered vendors must provide their owner gender, owner ethnicity, corporate status, and a minimum of one (1) commodity code to be considered registered. It is the responsibility of all vendors to update their vendor information.

Only registered vendors will receive notifications of future bids and quotes.



## **GENERAL CONDITIONS**

### **COMMUNICATIONS**

After the issuance of any Request for Proposal, prospective proposers shall not contact, communicate with or discuss any matter relating in any way to the Request for Proposal with the Board of County Commissioners, the County Manager, or any employee of Polk County other than the Procurement Director or as directed in the cover page of the Request for Proposal. This prohibition begins with the issuance of any Request for Proposal and ends upon execution of the final contract. Such communications initiated by a proposer shall be grounds for disqualifying the offending proposer from consideration for award of the proposal and/or any future proposal.

### **INSURANCE REQUIREMENTS**

The selected Contractor, if any, shall maintain, at all times, in force during the contract period the insurance as specified with an insurer licensed to do business in the State of Florida; rated "A VIII" or better by A.M. Best Rating Company for Class VIII financial size category. Polk County, a political subdivision of the State of Florida, must be named as an additional insured with respect to liability arising from all work being performed for Polk County, for Automobile and General Liability policies of insurance. The certificate holder must be Polk County, a political subdivision of the State of Florida, 330 W Church St, Rm 150, Bartow, Florida 33830. Workers' Compensation Insurance is required to provide statutory benefits, including those that may be required by any applicable federal statute. Any sole proprietor or partner actively engaged in the construction industry, and any corporate officer of a construction or non-construction industry corporation who elects to be exempt from the provisions of the workers' compensation law must provide either a workers' compensation exemption certificate (construction industry) or a letter stating the exemption status and number of employees (non-construction industry). For non-exempt vendors, Employers Liability in the amount of \$1,000,000. Commercial General Liability Insurance \$1,000,000 combined single limit of liability for bodily injuries, death, and property damage, and personal injury resulting from any one occurrence, including the following coverages: Completed Operations, Broad Form CG. Comprehensive Automobile Liability Insurance \$1,000,000; combined single limit of liability for bodily injuries, death and property damage resulting from any one occurrence, including all owned, hired and non-owned vehicles. The general liability and worker's compensation policies shall contain a waiver of subrogation in favor of Polk County. An original certificate of insurance must be on file in the Procurement Division before a purchase order will be issued.

### **INDEMNIFICATION**

Consultant, to the extent permitted by law, shall indemnify, defend (by counsel reasonably acceptable to County), protect and hold the County, and its officers, employees and agents, harmless from and against any and all, claims, actions, causes of action, liabilities, penalties, forfeitures, damages, losses, and expenses whatsoever (including, without limitation, attorneys' fees, costs, and expenses incurred during negotiation, through litigation and all appeals therefrom) including, without limitation,

those pertaining to the death of or injury to any person, or damage to any property, arising out of or resulting from (i) the failure of Consultant to comply with applicable laws, rules or regulations, (ii) the breach by Consultant of its obligations under any Agreement with the County entered into pursuant to this solicitation, (iii) any claim for trademark, patent, or copyright infringement arising out of the scope of Consultant's performance or nonperformance of the Agreement, or (iv) the negligent acts, errors or omissions, or intentional or willful misconduct, of Consultant, its professional associates, subcontractors, agents, and employees; provided, however, that Consultant shall not be obligated to defend or indemnify the County with respect to any such claims or damages arising out of the County's sole negligence. The obligations imposed by this Section shall survive the expiration or earlier termination of the Agreement.

#### **PUBLIC ENTITY CRIMES STATEMENT**

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid/proposal on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. By submitting this proposal, the proposer hereby certifies that they have complied with said statute.

#### **EQUAL OPPORTUNITY/AFFIRMATIVE ACTION**

The County is an equal opportunity/affirmative action employer. The County is committed to equal opportunity employment effort; and expects Contractors that do business with the County to have a vigorous affirmative action program.

#### **WOMEN/MINORITY BUSINESS ENTERPRISE OUTREACH**

The County hereby notifies all Proposers that W/MBE's are to be afforded a full opportunity to participate in any request for proposal by the County and will not be subject to discrimination on the basis of race, color, sex or national origin.

#### **AFFIRMATION**

By submitting their proposal, the Proposer affirms that the proposal is genuine and not made in the interest of or on behalf of any undisclosed person, Contractor or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; the Proposer has not directly or indirectly induced or solicited any other person to submit a false or sham proposal; the Proposer has not solicited or induced any person, Contractor or corporation to refrain from submitting a proposal; and the Proposer has not sought by collusion to obtain for him/herself any advantage over other persons or over the County.

**DEVELOPMENT COSTS**

Neither the County nor its representative(s) shall be liable for any expenses incurred in connection with preparation of a submittal to the RFP. Proposers should prepare their proposals simply and economically, providing a straightforward and concise description of the proposer's ability to meet the requirements of the RFP.

**ADDENDA**

The County may record its responses to inquiries and any supplemental instructions in the form of written addenda. The addenda will be posted on the County's website at <http://www.polk-county.net/boccsite/doing-business/bids>. It is the sole responsibility of the proposers to check the website to ensure that all available information has been received prior to submitting a proposal.

**CODE OF ETHICS**

If any proposer violates or is a party to a violation of the code of ethics of Polk County or the State of Florida, with respect to this proposal, such proposer may be disqualified from performing the work described in this proposal or from furnishing the goods or services for which the proposal is submitted and shall be further disqualified from bidding on any future proposals for work, goods, or services for the County.

**DRUG FREE WORKPLACE**

Preference shall be given to businesses with Drug Free Workplace (DFW) programs. Whenever two or more proposals, which are equal with respect to price, quality and service, are received by the County for the procurement of commodities or contractual services, a proposal received from a business that has provided a statement that it is a DFW shall be given preference in the award process.

**APPLICABLE LAWS AND COURTS**

This RFP and any resulting agreements shall be governed in all respects by the laws of the State of Florida and any litigation with respect thereto shall be brought only in the courts of Polk County, State of Florida or the Middle District of Florida, Hillsborough County, Florida. The proposer shall comply with all applicable federal, state and local laws and regulations.

**CONTRACT**

All contracts are subject to final approval of the Polk County Board of County Commissioners or County Manager, as applicable. Persons or Contractors which incur expenses or change position in anticipation of a contract prior to the Board's approval do so at their own risk.

**PROPOSAL ACCEPTANCE PERIOD**

A proposal shall be binding upon the offeror and irrevocable by it for ninety (90) calendar days following the proposal opening date. Any proposal in which offeror shortens the acceptance period may be rejected.

### **ADDITION/DELETION**

The County reserves the right to add to or delete any item from this proposal or resulting agreements when deemed to be in the best interest of the County.

**INVOICING AND PAYMENT:** The successful proposer shall submit a properly certified invoice to the County at the contract prices. **An original invoice shall be submitted to the appropriate User Division.** The proposer shall include the contract number and/or the purchase order number on all invoices. The proposer's Project Manager or any authorized officer shall, by affidavit, attest to the correctness and accuracy of all charges. Invoices will be processed for payment when approved by the appropriate Division's Project Manager or designee. The County's payment of an invoice shall not constitute evidence of the County's acceptance of the Proposers performance of the Service or the County's acceptance of any work.

### **PROPRIETARY INFORMATION**

In accordance with Chapter 119 of the Florida Statutes (Public Records Law) and except as may be provided by other applicable State and Federal Law, all proposers should be aware that Request for Proposals and the submittals thereto are in the public domain. However, the proposers are **required to identify specifically** any information contained in their proposals which they consider confidential and/or proprietary and which they believe to be exempt from disclosure, **citing specifically the applicable exempting law.** Proposers should provide a redacted copy of proposal with submittal.

All proposals received from proposers in response to this Request for Proposal will become the property of the County and will not be returned to the proposers. In the event of contract award, all documentation produced as part of the contract will become the exclusive property of the County.

### **REVIEW OF PROPOSAL FILES**

In accordance with Chapter 119.071 of the Florida Statutes, the submittals received for this Request for Proposal are exempt from review for thirty (30) days after the Bid Opening Date or at Recommendation of Award, whichever event occurs first.

Should the RFP be cancelled and re-solicited for any reason, proposal submittals shall remain exempt from disclosure for a period not to exceed twelve (12) months or at Recommendation of Award of the subsequent solicitation.

**RFP PROTEST:** Any proposer desiring to file a protest, with respect to a recommended award of any RFP, shall do so by filing a written protest. The written protest must be in the possession of the Procurement Division within three (3) working days of the Notice of Recommended Award mailing date. All proposers who submitted a proposal will be sent a Notice of Recommended Award, unless only one proposal was received.

A copy of the protest procedures may be obtained from the Polk County Procurement Division or can be downloaded from the County's website at <http://www.polk-county.net/docs/default-source/procurement/protest-procedures.pdf?sfvrsn=2>.

**FAILURE TO FOLLOW PROTEST PROCEDURE REQUIREMENTS WITHIN THE TIME FRAMES PRESCRIBED HEREIN AS ESTABLISHED BY POLK COUNTY, FLORIDA, SHALL CONSTITUTE A WAIVER OF THE PROPOSER'S RIGHT TO PROTEST AND ANY RESULTING CLAIM.**

**UNAUTHORIZED ALIEN(S)**

The vendor agrees that unauthorized aliens shall not be employed nor utilized in the performance of the requirements of this solicitation. The County shall consider the employment or utilization of unauthorized aliens a violation of Section 274A(e) of the Immigration and Naturalization Act (8 U.S.C. 1324a). Such violation shall be cause for unilateral termination of this Agreement by the County. As part of the response to this solicitation, the successful Contractor will complete and submit the attached form "AFFIDAVIT CERTIFICATION IMMIGRATION LAWS."

**EMPLOYMENT ELIGIBILITY VERIFICATION (E-Verify)**

A. For purposes of this section, the following terms shall have the meanings ascribed to them below, or as may otherwise be defined in Section 448.095, Florida Statutes, as amended from time to time:

(i) "Contractor" means a person or entity that has entered or is attempting to enter into a contract with a public employer to provide labor, supplies, or services to such employer in exchange for salary, wages, or other remuneration; and

(ii) "E-Verify system" means an Internet-based system operated by the United States Department of Homeland Security that allows participating employers to electronically verify the employment eligibility of newly hired employees; and

(iii) "Subcontractor" means a person or entity that provides labor, supplies, or services to or for a contractor or another subcontractor in exchange for salary, wages, or other remuneration.

B. Pursuant to Section 448.095(2)(a), Florida Statutes, effective January 1, 2021, public employers, contractors and subcontractors shall register with and use the E-verify system in order to verify the work authorization status of all newly hired employees. The Contractor acknowledges and agrees to utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of:

(i) All persons employed by the Contractor to perform employment duties during the term of this contract; and

(ii) All persons (including subvendors/subconsultants/subcontractors) assigned by the Contractor to perform work pursuant to this contract.

C. The Contractor acknowledges and agrees that use of the U.S. Department of Homeland Security's E-Verify System and compliance with all other terms of this section is an express condition of this contract, and the County may treat a failure to comply as a material breach of this contract. By entering into this contract, the

Contractor becomes obligated to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility," as amended from time to time. This includes but is not limited to utilization of the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The Contractor shall maintain a copy of such affidavit for the duration of the contract. Failure to comply will lead to termination of this contract, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Tenth Judicial Circuit Court of Florida no later than 20 calendar days after the date of termination. If this contract is terminated for a violation of the statute by the Contractor, the Contractor may not be awarded a public contract for a period of 1 year after the date of termination. The Contractor shall be liable for any additional costs incurred by the County as a result of the termination of this contract. Nothing in this section shall be construed to allow intentional discrimination of any class protected by law.

#### **LIMITATIONS**

The County reserves the right to revise, amend or withdraw this proposal at any time to protect its interest. Proposers will not be compensated by the County for costs incurred in preparation of responses to this RFP.

**ATTORNEY'S FEES AND COSTS:** Each party shall be responsible for its own legal and attorney's fees, costs and expenses incurred in connection with any dispute or any litigation arising out of, or relating to this Agreement, including attorney's fees, costs and expenses incurred for any appellate or bankruptcy proceedings.

#### **PUBLIC RECORD LAWS**

- a) The Contractor acknowledges the County's obligations under Article I, Section 24, of the Florida Constitution and under Chapter 119, Florida Statutes, to release public records to members of the public upon request and comply in the handling of the materials created under this Agreement. The Contractor further acknowledges that the constitutional and statutory provisions control over the terms of this Agreement. In association with its performance pursuant to this Agreement, the Contractor shall not release or otherwise disclose the content of any documents or information that is specifically exempt from disclosure pursuant to all applicable laws.
- b) Without in any manner limiting the generality of the foregoing, to the extent applicable, the Contractor acknowledges its obligations to comply with Section 119.0701, Florida Statutes, with regard to public records, and shall:
  1. keep and maintain public records required by the County to perform the services required under this Agreement;
  2. upon request from the County's Custodian of Public Records or his/her designee, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a

cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

3. ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the County; and
4. upon completion of this Agreement, transfer, at no cost, to the County all public records in possession of the Contractor or keep and maintain public records required by the County to perform the service. If the Contractor transfers all public records to the County upon completion of this Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of this Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's Custodian of Public Records, in a format that is compatible with the information technology systems of the County.

**c) IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS AT:**

**RECORDS MANAGEMENT LIASON OFFICER  
POLK COUNTY  
330 WEST CHURCH ST.  
BARTOW, FL 33830  
TELEPHONE: (863) 534-7527  
EMAIL: RMLO@POLK-COUNTY.NET**

**Scrutinized Companies and Business Operations Certification; Termination.**

**A. Certification(s).**

- i. By its execution of this Agreement, the Vendor hereby certifies to the County that the Vendor is not on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, nor is the Vendor engaged in a boycott of Israel, nor was the Vendor on such List or engaged in such a boycott at the time it submitted its bid, proposal, quote, or other form of offer, as applicable, to the County with respect to this Agreement.
- ii. Additionally, if the value of the goods or services acquired under this Agreement are greater than or equal to One Million Dollars (\$1,000,000), then the Vendor further certifies to the County as follows:

- a) the Vendor is not on the Scrutinized Companies with Activities in Sudan List, created pursuant to Section 215.473, Florida Statutes; and
    - b) the Vendor is not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes; and
    - c) the Vendor is not engaged in business operations (as that term is defined in Florida Statutes, Section 287.135) in Cuba or Syria; and
    - d) the Vendor was not on any of the Lists referenced in this subsection A(ii), nor engaged in business operations in Cuba or Syria when it submitted its proposal to the County concerning the subject of this Agreement.
  - iii. The Vendor hereby acknowledges that it is fully aware of the penalties that may be imposed upon the Vendor for submitting a false certification to the County regarding the foregoing matters.
- B. Termination.** In addition to any other termination rights stated herein, the County may immediately terminate this Agreement upon the occurrence of any of the following events:
- i. The Vendor is found to have submitted a false certification to the County with respect to any of the matters set forth in subsection A (i) above, or the Vendor is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.
  - ii. The Vendor is found to have submitted a false certification to the County with respect to any of the matters set forth in subsection A(ii) above, or the Vendor is found to have been placed on the Scrutinized Companies with Activities in Sudan List, or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria, and the value of the goods or services acquired under this Agreement are greater than or equal to One Million Dollars (\$1,000,000).



THE FOLLOWING SECTION SHOULD BE COMPLETED BY ALL PROPOSERS:  
(SUBMITTAL PAGE)

Company Name: \_\_\_\_\_

DBA/Fictitious Name (if applicable): \_\_\_\_\_

NOTE: COMPANY NAME MUST MATCH LEGAL NAME ASSIGNED TO TIN  
NUMBER. CURRENT W9 SHOULD BE SUBMITTED WITH BID.

TIN #: \_\_\_\_\_

\_\_\_\_\_  
(Street No or PO Box Number) (Street Name) (City)

\_\_\_\_\_  
(County) (State) (Zip Code)

Contact Person: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Cell Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Type of Organization:

☐ Sole Proprietorship

☐ Partnership

☐ Non-Profit

☐ Sub-Chapter

☐ Joint Venture

☐ Corporation

☐ LLC

☐ LLP

☐ Publicly Traded

☐ Employee  
Owned

State of Incorporation \_\_\_\_\_

The Successful vendor must complete and submit this section prior to award. The  
Successful vendor must invoice using the company name listed above.

**EXHIBIT 1**  
**DETAILED INSTRUCTIONS ON HOW TO PREPARE AND SEND**  
**PERFORMANCE SURVEYS**

The objective of this process is to identify the past performance of the Contractor submitting a proposal package. This is accomplished by sending survey forms to past customers. The customers should return the forms directly to the Contractor. The Contractor is to include all surveys in their proposal package.

**Sending the Survey**

The surveys shall be sent to all clients for whom the Contractor has identified under Tab 3. Surveys should correlate to all projects identified under Tab 3.

If more surveys are included then Procurement will only use those identified under Tab 3.

1. The Contractor shall complete the following information for each customer that a survey will be sent

CLIENT NAME	Name of the company that the work was performed for (i.e. Hillsborough County).
FIRST NAME	First name of the person who will answer customer satisfaction questions.
LAST NAME	Last name of the person who will answer customer satisfaction questions.
PHONE NUMBER	Current phone number for the reference (including area code).
EMAIL ADDRESS	Current email address for the reference.
PROJECT NAME	Name of the project (CMAR Services for Hillsborough County Fire Station), Etc.
COST OF SERVICES	Cost of services (\$5,000,000)
DATE COMPLETE	Date when the services were completed. (i.e. 5/31/2017)

2. The Contractor is responsible for verifying that their information is accurate prior to submission for references.

3. The survey must contain different services/projects. You cannot have multiple people evaluating the same job. However, one person may evaluate several different jobs.

4. The past projects can be either completed or on-going.

5. The past client/owner must evaluate and complete the survey.

**Preparing the Surveys**

1. The Contractor is responsible for sending out a performance survey to the clients that have been identified under Tab 3. The survey can be found on the next page.
2. The Contractor should enter the past clients' contact information, and project information on each survey form for each reference. The Contractor should also enter their name as the Contractor being surveyed.
3. The Contractor is responsible for ensuring all references/surveys are included in their submittal under Tab 8
4. Polk County Procurement may contact the reference for additional information or to clarify survey data. If the reference cannot be contacted, there will be no credit given for that reference.

**Survey Questionnaire – Polk County**  
**RFP 21-425, Construction Manager at Risk - Fire Rescue Stations (2<sup>nd</sup> Group)**

To: \_\_\_\_\_  
 (Name of Person completing survey) (Name of Client Company/Contractor)

Phone Number: \_\_\_\_\_

Email: \_\_\_\_\_

Subject: Past Performance Survey of:

\_\_\_\_\_  
 (Project Name)

Consultant Name: \_\_\_\_\_  
 (Name of Contractor being surveyed)

Cost of Services: \_\_\_\_\_ Date Complete: \_\_\_\_\_

**Rate each of the criteria on a scale of 1 to 10, with 10 representing that you were very satisfied (and would hire the Contractor/individual again) and 1 representing that you were very unsatisfied (and would never hire the Contractor/individual again). Please rate each of the criteria to the best of your knowledge. If you do not have sufficient knowledge of past performance in a particular area, leave it blank.**

Similar Work Project Name: \_\_\_\_\_ Date Completed: \_\_\_\_\_

NO	CRITERIA	UNIT	SCORE
1	Ability to manage cost	(1-10)	
2	Ability to maintain project schedule (complete on-time/early)	(1-10)	
3	Quality of workmanship	(1-10)	
4	Professionalism and ability to manage	(1-10)	
5	Close out process	(1-10)	
6	Ability to communicate with Client's staff	(1-10)	
7	Ability to resolve issues promptly	(1-10)	
8	Ability to follow protocol	(1-10)	
9	Ability to maintain proper documentation	(1-10)	
10	Appropriate application of technology	(1-10)	
11	Overall Client satisfaction and comfort level in hiring	(1-10)	
12	Ability to offer solid recommendations	(1-10)	
13	Ability to facilitate consensus and commitment to the plan of action among staff	(1-10)	

\_\_\_\_\_  
 Printed Name of Evaluator

\_\_\_\_\_  
 Signature of Evaluator

**AFFIDAVIT CERTIFICATION  
IMMIGRATION LAWS**

SOLICITATION NO.: RFP 21-425

PROJECT NAME: Construction Manager at  
Risk – Fire Rescue Stations (2<sup>nd</sup> Group)

POLK COUNTY WILL NOT INTENTIONALLY AWARD COUNTY CONTRACTS TO ANY CONTRACTOR WHO KNOWINGLY EMPLOYS UNAUTHORIZED ALIEN WORKERS, CONSTITUTING A VIOLATION OF THE EMPLOYMENT PROVISIONS CONTAINED IN 8 U.S.C. SECTION 1324 a(e) {SECTION 274A(e) OF THE IMMIGRATION AND NATIONALITY ACT ("INA").

POLK COUNTY MAY CONSIDER THE EMPLOYMENT BY ANY CONTRACTOR OF UNAUTHORIZED ALIENS A VIOLATION OF SECTION 274A(e) OF THE INA. SUCH VIOLATION BY THE RECIPIENT OF THE EMPLOYMENT PROVISIONS CONTAINED IN SECTION 274A(e) OF THE INA SHALL BE GROUNDS FOR UNILATERAL CANCELLATION OF THE CONTRACT BY POLK COUNTY.

BIDDER ATTESTS THAT THEY ARE FULLY COMPLIANT WITH ALL APPLICABLE IMMIGRATION LAWS (SPECIFICALLY TO THE 1986 IMMIGRATION ACT AND SUBSEQUENT AMENDMENTS).

Company Name: \_\_\_\_\_

\_\_\_\_\_  
Signature Title Date

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

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

The foregoing instrument was signed and acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,

20\_\_\_\_, by \_\_\_\_\_ who has produce \_\_\_\_\_

(Print or Type Name) (Type of Identification  
and Number)

as identification.

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

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

\_\_\_\_\_  
Notary Commission Number/Expiration

**EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY) CERTIFICATION**

(Florida Statutes, Section 488.095)

PROJECT NAME: 21-425, Construction Manager at Risk – Fire Rescue Station (2<sup>nd</sup> Group) (the “Project”)

The undersigned, as an authorized officer of the contractor identified below (the “Contractor”), having full knowledge of the statements contained herein, hereby certifies the following to Polk County, a political subdivision of the State of Florida (the “County”), by and on behalf of the Contractor in accordance with the requirements of Section 488.095, Florida Statutes, as related to the contract (the “Contract”) entered into by and between the Contractor and the County governing the Project:

1. Unless otherwise defined herein, terms used in this Certification which are defined in Section 448.095, Florida Statutes, as may be amended from time to time, shall have the meaning ascribed in said statute.

2. Pursuant to Section 448.095(2)(a), Florida Statutes, effective January 1, 2021, public employers, contractors and subcontractors shall register with and use the E-verify system in order to verify the work authorization status of all newly hired employees. The Contractor acknowledges and agrees to utilize the U.S. Department of Homeland Security’s E-Verify System to verify the employment eligibility of:

(a) All persons employed by the Contractor to perform employment duties during the term of the Contract; and

(b) All persons (including subvendors/subconsultants/subcontractors) assigned by the Contractor to perform work pursuant to the Contract.

3. The Contractor acknowledges and agrees that use of the U.S. Department of Homeland Security’s E-Verify System and compliance with all other terms of this Certification is an express condition of the Contract, and the County may treat a failure to comply as a material breach of the Contract. By entering into the Contract, the Contractor becomes obligated to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility," as amended from time to time. This includes but is not limited to utilization of the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The Contractor shall maintain a copy of such affidavit for the duration of the Contract. Failure to comply will lead to termination of the Contract, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Tenth Judicial Circuit Court of Florida no later than 20 calendar days after the date of termination. If the Contract is terminated for a violation of the statute by the Contractor, the Contractor may not be awarded a public contract for a period of 1 year after the date of termination. The Contractor shall be liable for any additional costs incurred by the County as a result of the termination of the Contract. Nothing in this Certification shall be construed to allow intentional discrimination of any class protected by law.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**ATTEST:**

**CONTRACTOR:**

By: \_\_\_\_\_

By: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

March 31, 2021

**POLK COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA**

**ADDENDUM #1**

**RFP 21-425, Construction Manager at Risk - Fire Rescue Station (2<sup>nd</sup> Group)**

This addendum is issued to clarify, add to, revise and/or delete items of the RFP Documents for this work. This Addendum is a part of the RFP Documents and acknowledgment of its receipt should be noted on the Addendum.

---

Contained within this addendum: questions and answers

Carlos Baez  
Procurement Analyst  
Procurement Division

---

**This Addendum sheet should be signed and returned with your submittal. This is the only acknowledgment required.**

---

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Company: \_\_\_\_\_

**RFP 21-425, Construction Manager at Risk – Fire Rescue Station (2<sup>nd</sup> Group)**  
**Addendum #1 (Continued)**

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Question 1: Where should we list the certificates and licenses?

Answer 1: You may list all the certificates or licenses under TAB 1 Executive Summary.

Question 2: What is the WMBE points allocation criteria?

Answer 2: For points allocation criteria refer to TAB 6 “Certified Woman or Minority Business Enterprise”

**Tab 6, Is the Contractor a “Certified Woman or Minority Business Enterprise”?**

- Polk County Board of County Commissioners has a long standing commitment to encouraging the utilization of Women and Minority Businesses that do business with the County as vendors. To that end we encourage all of our Contractors to utilize W/MBE sub-contractors where at all possible, irrespective of a company's certification status.
- If the Contractor is a Woman or Minority owned business then five (5) points will be allocated for this tab.
- Proposers will be allocated points if they are a certified W/MBE as evidenced by providing the documentation described below.
- If the Proposer has a certified W/MBE status, provide documentation of the Contractors' certified W/MBE status as defined by the Florida Small and Minority Business Act and as defined in Polk County's Purchasing Procedures. Polk County's Purchasing Procedures recognize the following to meet the requirement of a certified W/MBE status:
  - Valid W/MBE Certification from one of the following:
    - Florida Minority Supplier Development Council
    - Women Business Enterprise National Council
    - The State of Florida Office of Supplier Diversity
    - Florida Department of Transportation
    - U. S. Small Business Administration
    - Federal Aviation Authority
    - Other Florida governmental agencies

Certifications from other governmental agencies will be considered on a case-by-case basis.



## Exhibit Ai



REQUEST FOR PROPOSAL #21 - 425

### Construction Manager at Risk Fire Rescue Stations (2nd Group)

#### PREPARED FOR:

Polk County Procurement Division  
330 West Church Street, Room 150  
Bartow, FL 33830

#### PREPARED BY:

Miller Construction Management, Inc.  
502 N. Massachusetts Ave  
Lakeland, FL 33801

#### AUTHORIZED COMPANY OFFICIAL:

Corey J. Miller, *President*  
corey@millerconstructionmanagement.com  
(863) 688-3060

#### TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY</b>	<b>TAB 1</b>
<b>APPROACH TO THE PROJECT</b>	<b>TAB 2</b>
<b>EXPERIENCE AND EXPERTISE</b>	<b>TAB 3</b>
<b>SCHEDULING AND COST CONTROL</b>	<b>TAB 4</b>
<b>POLK COUNTY ENTITY</b>	<b>TAB 5</b>
<b>CERTIFIED W/MBE ENTERPRISE</b>	<b>TAB 6</b>
<b>TIMELY COMPLETION OF PROJECTS</b>	<b>TAB 7</b>
<b>SURVEYS OF PAST PERFORMANCE</b>	<b>TAB 8</b>





April 19, 2021

Polk County Procurement Division  
330 West Church Street, Room 150  
Bartow, Florida 33830

RE: RFP 21-425, Construction Manager—At Risk, Fire Rescue Stations (2<sup>nd</sup> Group)

Dear Selection Committee,

We are pleased to submit our qualifications for the second group of Fire Rescue Stations, utilizing Construction Manager At-Risk Services. The following points outline why our team is best fit to partner with Polk County:

**Experienced Team Members**

Founded in 2002, Miller Construction Management has over 19 years of successfully delivering Construction Management At-Risk Services on public projects. This experience includes Fire Rescue Stations, Public Safety Training Facilities, Police Department Headquarters, Recreational Facilities, etc. Most recently, our team completed the new construction of the Roads and Drainage Annex Facility for the County, successfully using the Construction Management—At Risk approach. Currently, we are in the beginning stages of construction for the County's Survey Mapping Office.

**Miller, The Lunz Group, and Fire Rescue Stations**

Our Team has extensive experience building Fire Rescue Stations. Two of the fire stations that we are most proud of were designed by the Lunz Group: Station 5 for the City of Apopka and Station 7 for the City of Lakeland. Located at Lakeland Linder Regional Airport, Station 7 serves both as a community station and an Aircraft Rescue and Firefighting Station (ARFF). This airport achieved two Green Globes ratings, making this the first and only Green Globes Certified ARFF facility in the country, and the highest rated fire station in Florida.

**Commitment to Integrity**

At Miller Construction, we believe in building our client relationships on trust and advocacy. As a result, our preconstruction services, cost estimates, scheduling forecasts and construction bids are always open, transparent, and honest. Our dedication to excellence and integrity is how we have established long-term relationships with our clients. We would like the opportunity to continue doing so with Polk County.

Thank you for the opportunity to partner with you in providing a solution to the current public safety inadequacies. Should you have any questions regarding the enclosed materials, please let us know.

Sincerely,

Corey J Miller, President

## MILLER CONSTRUCTION MANAGEMENT, INC.

We are a leader in construction management at risk services throughout Florida. From new construction to renovations, schools, administrative offices, recreational facilities, and other Municipal administrative buildings, Miller Construction Management, Inc. has successfully delivered a wide range of public projects in the past 19 years of business. We have the staff depth and resources to work with **the County** to provide construction management at risk services for the varying projects that fall within the continuing services.

FOUNDED IN  
**2002**

LICENSED IN

**6**

FLORIDA

GEORGIA

SOUTH CAROLINA

TENNESSEE

LOUISIANA

TEXAS

LOCAL  
FIRM  
LOCAL  
RELATIONSHIPS  
LOCAL  
SITE KNOWLEDGE

**20**

EXPERIENCED  
PROFESSIONALS  
ON STAFF

OUR TEAM  
HAS OVER

**\$600M**

PROJECTIVE  
EXPERIENCE  
IN

PUBLIC SAFETY FACILITIES

FIRE STATIONS

POLICE DEPARTMENTS

TRAINING FACILITIES

OFFICES

PROJECT MANAGEMENT



**COREY MILLER, LEED AP**  
PRESIDENT / OWNER

### OFFICE LOCATION

502 N. MASSACHUSETTS AVE  
LAKELAND, FL 33801

### CONTACT INFORMATION

PHONE: 863-688-3060

FAX: 863-682-1242

EMAIL: COREY@millerconstructionmanagement.com

Volume of Work	
2020	\$23 MM
2019	\$15 MM
2018	\$23 MM
2017	\$22 MM
2016	\$17 MM

Tab 1 - Executive Summary - (d) : Describe and explain any litigation, major disputes, contract defaults, or liens experienced in the last ten (10) years.

As a Construction Manager for various projects, Miller Construction Management, Inc from time to time, is brought into actions by suppliers or lower-tier subcontractors to its trade contractors to enforce liens for payment on projects. In such cases, MCM has tendered the claims to its trade contractors for indemnification against any liability for the underlying amounts due.

## **CONSTRUCTION MANAGEMENT AT RISK**

Miller Construction Management, Inc., knows that working as a collaborative team is key to a successful project. Our approach provides the greatest degree of owner advocacy, promotes a team environment, and stresses project quality and safety.

## **PRECONSTRUCTION PHASE**

The ultimate goal of any construction project is to deliver a facility that meets the needs of its owners as well as its end users.

Our comprehensive array of preconstruction expertise allows us to meet a wide range of criteria, from budget and schedule considerations to functional and aesthetic requirements. The underlying commitment to you, the customer, is built on the following three actions:

**We listen.**

**We ask the right questions.**

**We seek creative solutions.**

Our success is achieved upon completion and turn-over of a facility that fulfills your needs at the highest quality for the lowest reasonable cost.

## **PRECONSTRUCTION SERVICES**

- Program Validation
- Design Development
- Constructability Analysis
- Life Cycle Cost Analysis
- Value Engineering
- Procurement Analysis and Process
- Safety Planning
- Scheduling
- Quality Planning

## **ESTIMATING SOFTWARE**

Our estimating software, Sage 100 Contractor, facilitates our detailed approach by maintaining libraries of detailed cost elements that are populated and continuously updated with cost information gathered from actual current company-wide costs data.

### **Five ways Sage Estimating improves accuracy:**

1. Uses up-to-date, trade-specific cost databases for final numbers you can trust
2. Eliminates manual calculations and reduces the risk of overlooked items
3. Enables last-minute changes with quick precision
4. Standardizes the bid process
5. Removes spreadsheet liabilities such as hidden cells and broken formulas

## **Budget Estimating**

At the inception of a project, our estimating team reviews current design documents and reviews historical data stored in our estimating software, Sage 100 Contractor. This program facilitates our detailed approach by maintaining libraries of detailed cost elements that are populated and continuously updated with MCM cost information gathered from actual current company-wide costs data.

The estimating team determines a conceptual estimate of probable costs based on MCM's current cost database, subcontractor/supplier input, as well as the following factors:

- Conditions and circumstances surrounding the subcomponent
- Material Quantity
- Market Conditions
- Escalation

## VALUE ENGINEERING

Value Engineering is an on-going process that identifies systems and components that can be designed or constructed in a more cost effective manner. The value engineering process begins with the first review of the design documents. The first value engineering review will include cross referencing any VE we have used from previous similar projects.

From this point until the final GMP, we will track all value engineering ideas for both the owner and the design team to review and maintain a log of items as either accepted, rejected, or pending approval. We will specifically coordinate with the Architect during the design phase to determine any critical specification or building system for which value engineering alternates are not desired. Each value engineering suggestion will be submitted to the owner for review and acceptance before being incorporated into the design.

## CONSTRUCTABILITY ANALYSIS

Constructability is initially analyzed during the design phase by the core team to assess any potential construction sequence or system conflicts. Addressing these issues ensures that the proper construction materials and systems are used for the project. Any issues that are discovered are discussed between the Owner and our core team, and then addressed in the development of the Contract Documents.

## MASTER PROJECT SCHEDULE

Optimal schedule development is critical because labor costs are the largest single project expenditure, and construction projects are intrinsically driven by time frames for activity completion. Our Project Manager will create a Master Schedule using Primavera Suretrak, a computerized scheduling program in a Critical Path Method (CPM) format. The Master Schedule represents the overall project strategy, objectives and activities set to time scale. It is the framework from which all project time control information is developed. It also serves as a baseline against which project progress is measured. Our team will work closely with the Owner and the design team to review, evaluate and refine the Master Schedule.

## COMPETITIVE BIDDING

Attracting quality trade contractors and subcontractors to our projects is of critical importance to the competitive outcome of the bidding process as well as the overall success of the project. Our team is well positioned to maximize participation of local subcontractors and suppliers due to our recent experience in **construction management at risk services**. Our streamlined subcontractor pre-qualification process ensures that we approve the most qualified, financially solvent, and quality firms before they can submit bid proposals.

## OWNER-DIRECT PURCHASE PROGRAM & SALES TAX SAVINGS

In compliance with Florida Statutes and the Owner's policies, Miller Construction Management, Inc., can administer Owner-Direct Purchases for selected materials. This approach allows the Owner to maximize their budget, while minimizing risk. We start by identifying appropriate direct purchase materials and equipment. Once identified, we will ask our subcontractors to separate unit costs, excluding installation, for these items. It should be noted that warranty responsibility remains with these subcontractors. Next, we will provide the Owner with detailed descriptions and unit pricing in preparation of purchase orders. We always track and log delivery progress, review vendor invoices for payment authorization, and log direct purchases in the Schedule of Values.

## CONTRACT COMPLIANCE CONTROL

Contract compliance starts early on when our pre-construction department develops detailed scopes of work during the bid process. The received bids are then reviewed and scope meetings are held with the three most competitive bidders. Once a subcontractor has been selected, a contract will be issued including a detailed scope of work and an enumeration of plans and specifications for the entire project. Once work has commenced, our superintendent will inspect the delivery of critical items and verify the materials have been approved through the submittal process. The superintendent will continuously monitor the installation of the work and will ensure they are fulfilling their contract. In addition, our project manager will inspect the work at during site visits.

## CONSTRUCTION PHASE

Our extensive experience with **construction management at risk services** provides valuable best practices that form a foundation of success for the construction phase of this project.

- Our fully committed, best qualified project team will be available at the start of the project with the proper focus and resources to “hit the ground running”
- Our intimate knowledge of the subcontract market in Central Florida
- Our commitment to using pre-qualified, cost-conscious, and quality-focused subcontractors and vendors
- Our ability to maintain effective communication and collaboration with our team approach
- Our project management software including project scheduling and accounting
- Our financial strength to ensure necessary manpower, materials, and equipment are employed at the site when needed

## CONSTRUCTION SERVICES

- On-Site Construction Supervision
- Cost Control
- Schedule Control
- Quality Control Program
- Safety Program
- Site Logistics Coordination
- Commissioning Coordination
- Project Close-Out
- As-Built Documents
- Equipment Installation

## COST CONTROL

During construction, cost control is accomplished through proper bid management, detailed cost reporting and payment procedures, management of contingency funds, and thorough review of potential cost issues and Owner change requests.

## INSPECTIONS

Our team has worked successfully with the **Polk County Inspection Department**. We understand the process, requirements and procedures. We will maintain protocol and keep all team members informed at all times.

## ON SITE SUPERVISION

On-Site supervision will be full time during any hours work is being performed on the project. Our work days are Monday - Friday, 7:00 am - 4:00 pm. We use weekends, if necessary, to make up any days missed due to weather delays and to accelerate the schedule. We will check with surrounding neighborhoods to ensure we work within the times of their noise ordinances.

\* We recognize that these hours are subject to change, depending on the construction time line.

## CLOSE OUT

Miller Construction manages the Operations and Maintenance (O&M) and close-out process with quality as a top priority. We start during the design phase by assisting the design team in defining expectations for warranty and O&M information required of the subcontractors and vendors. We also include the commissioning agent to ensure functional performance, equipment start-up and maintenance information needed to meet the project requirements are included in the specifications as well as covered in our contracts from the very start.

## QUALITY CONTROL

A properly maintained Quality Control Plan separates a good builder from an excellent builder. Setting expectations early and communicating those with potential trade contractors are key elements during preconstruction. MCM's Quality Control Plan is designed to ensure that all work is done right, complete, and free of defects the first time. The program puts a specific process in place for all of our projects that prevents mistakes by observing/inspecting work at the earliest possible opportunities throughout the building process.

Quality Control	Description	Benefit
<b>Quality Plan</b>	Documented program that is measurable and included in each trade contractors contract.	Incorporates A/E's checks and balances, code compliance, and promotes quality awareness.
<b>Benchmarks</b>	An evaluation of the first installation of any new work that is a permanent part of construction.	Eliminates defective construction patterns by establishing a reference for all future work.
<b>First Delivery of Material Inspection</b>	Examination of the first delivery of materials and equipment.	Prevents non-compliant materials from being installed.
<b>First Equipment-in-place Inspection</b>	Examination of all equipment at the initial installation stage.	Eliminates defective construction patterns by establishing a reference for all future work.
<b>First Construction Inspection</b>	Benchmark for means, methods, and conformance with a project's requirements.	Resolves conflicting interpretation of requirements and eliminates any defective construction pattern from the beginning.
<b>Closure Inspection</b>	All critical work is inspected and tested before it is enclosed below grade, under concrete, in walls, or above ceiling. Any deficiencies are corrected immediately.	Eliminates re-entry to closed spaces.
<b>Final Inspection, Acceptance, and Punch List</b>	Inspection of the final status of construction of a system or area.	Confirms correction of all Rolling Completion List items, final conformance to the requirements, and creates the punch list.
<b>Activation Inspection</b>	Inspection of the installation of equipment/systems, the surroundings to ensure that the installation is safe and meets the requirements for operations.	Any deficiencies noted will be corrected by the responsible subcontractor prior to active operation.
<b>Start Up Inspection</b>	Inspection of the debugged equipment/system to check that it is ready for demonstration and that it functions as required.	All non-conforming work will be corrected by the Subcontractor, paving the way for acceptance by MCM and the Owner.

## SAFETY PROGRAM

### Isolate Construction Area

Safety is a top priority for Miller Construction. A protection plan will be developed and implemented to isolate the general public from all construction areas. Fencing, signage, and other barriers will be located for maximum visibility, well constructed and maintained, to prevent anyone from accidentally wandering into a construction zone. When necessary, way-finding will be well placed throughout with highly visible signage to provide all pedestrians with clear direction on footpaths.

### Traffic Control

During Preconstruction, we will prepare a Proposed Staging Plan with an efficient approach to maintaining the traffic flow throughout the site.



## CITY OF APOPKA FIRE STATION NO. 5 | 2018



Miller Construction Management, Inc., provided CMAR services for the City of Apopka for the New Construction of a 7,747 square foot fire station that consisted of three apparatus bays. This fire station houses four to six fire fighters.

We provided assistance through the design process with the Architect, and value engineering options during the pre-construction phase. During construction, we provided a dedicated full time staff to manage and drive the project from start to finish.

<b>Owner</b>	City of Apopka Chief Ray Thompson (p) 407-703-1756 (e) RThompson@apopka.net
<b>Project Location</b>	1685 Firehouse Lane Apopka, FL 32703
<b>Architect</b>	The Lunz Group
<b>Contract Value</b>	\$1.65 M
<b>Size</b>	7,747 SF
<b>Duration</b>	8 months

### PROJECT RELEVANCIES

- Construction Management at Risk
- Fire Station
- Project Staff
- Architect - The Lunz Group



### PROJECT TEAM

Project Executive: Corey Miller  
Dir. of Preconstruction: Todd Albaugh  
Project Manager: Mike George, Jr.  
Superintendent: Mike George, Sr.





## POLK COUNTY ROADS AND DRAINAGE ANNEX FACILITY | 2020



Miller Construction Management, Inc., provided Construction Management At-Risk services for the new construction of the Polk County Roads and Drainage Annex Facility. This building houses the offices for those who work for the Roads and Drainage department, as well as conference spaces. This project consisted of two phases: Pre-construction and Construction.

The scope of work for this project included the installation of a 13,019 square foot PEMB with 359 square feet of covered entry space and 3,350 square feet of covered patio and parking. All associated site work as well as the installation of required mechanical, electrical, plumbing, technology systems and fire alarm were included.

<b>Owner</b>	Polk County Board of County Commissioners Steve McMillan, Architectural Services Manager 330 West Church Street, Bartow, FL 33830 (e) Stevemcmillan@polk-county.net
<b>Project Location</b>	3000 Sheffield Rd, Winter Haven, FL 33880
<b>Architect</b>	The Lunz Group
<b>Contract Value</b>	\$3.0 M
<b>Size</b>	16,728 SF
<b>Duration</b>	9 months

### PROJECT RELEVANCIES

- Construction Management at Risk
- Owner: Polk County
- Project Staff
- Architect - The Lunz Group



### PROJECT TEAM

Project Executive: Corey Miller  
Dir. of Preconstruction: Todd Albaugh  
Project Manager: Mike George, Jr.  
Superintendent: Mike George, Sr.



## CITY OF LAKELAND - FIRE STATION NO. 7 | 2015



Working with the Lunz Group in a Design-Build contract, Miller Construction Management, Inc. was the Construction Manager for the new construction of the City of Lakeland's Fire Station No. 7 at the Airport. This 15,900 square foot dual-purpose Fire Station serviced the West territory of the City as well as Lakeland Linder Regional Airport. This station housed three structural fire trucks and two aircraft rescue trucks.

This airport received two Green Globes ratings, making this the first and only Green Globes Certified ARFF facility in the country, and the highest rated fire station in Florida.

Owner	The City of Lakeland Rick Hartzog, Asst. Chief of Administration 701 E Main St, Lakeland, FL 33801 (p) 863-834-8291 (e) rick.hartzog@lakelandgov.net
Project Location	3150 Drane Field Rd, Lakeland, FL 33811
Architect	The Lunz Group
Contract Value	\$3.7 M
Size	15,900 SF

### PROJECT RELEVANCIES

- Fire Station
- Architect - The Lunz Group
- Project Value \$3.7 M



### PROJECT TEAM

Project Executive: Corey Miller  
Dir. of Preconstruction: Todd Albaugh  
Project Manager: Mike George, Jr.  
Superintendent: Mike George, Sr.





**EAST MANATEE FIRE STATION NO. 6 | 2019**

Our firm's responsibilities for this project were to provide Construction Management at Risk services for the East Manatee Fire Rescue District in the interior renovation and exterior improvements of Station 6.

This project was completed in three phases. Phase 1 included all work associated with the renovation of bunk rooms, restrooms, janitor closets, compressor room, the apparatus bay, and exterior masonry infills. Phase 2 consisted of renovations to the entry, corridors, computer/dispatch room, women's and handicap restroom, lieutenant's office, fire fighter's office, water heater, and replacement of exterior windows. Phase 3 renovations included the meeting room, dining room, kitchen, fitness room, and screened in porch.

<b>Owner</b>	East Manatee Fire Rescue District Chief Lee Whitehurst 3200 Lakewood Ranch Blvd, Bradenton, FL (p) 941-751-5611 (e) lwhitehurst@emfr.org
<b>Project Location</b>	8800 SR 70, Bradenton, FL 34202
<b>Architect</b>	Garry Roberts Architecture, LLC
<b>Contract Value</b>	\$744 K
<b>Size</b>	9,551 SF

**PROJECT RELEVANCIES**

- Construction Management at Risk
- Fire Station

**PROJECT TEAM**

Project Executive: Corey Miller  
Dir. of Preconstruction: Todd Albaugh  
Project Manager: Mike George, Jr.  
Superintendent: Wayne Feaster



## TAMPA MAID FOODS IDEATION CENTER EXPANSION | 2019



Miller Construction Management, Inc., provided Construction Management at Risk services for the new construction of an office building at a food processing plant. This building included offices, a presentation theater and kitchen, as well as a research and development laboratory.

Owner	Tampa Maid Foods, Inc. Page Godwin, Sr Director of Plant Operations 1600 Kathleen Rd Lakeland, FL 33805 (p) 863-687-4411 (e) pgodwin@tampamaid.com
Project Location	1600 Kathleen Rd Lakeland, FL 33805
Architect	BDG Architects
Contract Value	\$3.7 M
Size	14,000 SF

### PROJECT RELEVANCIES

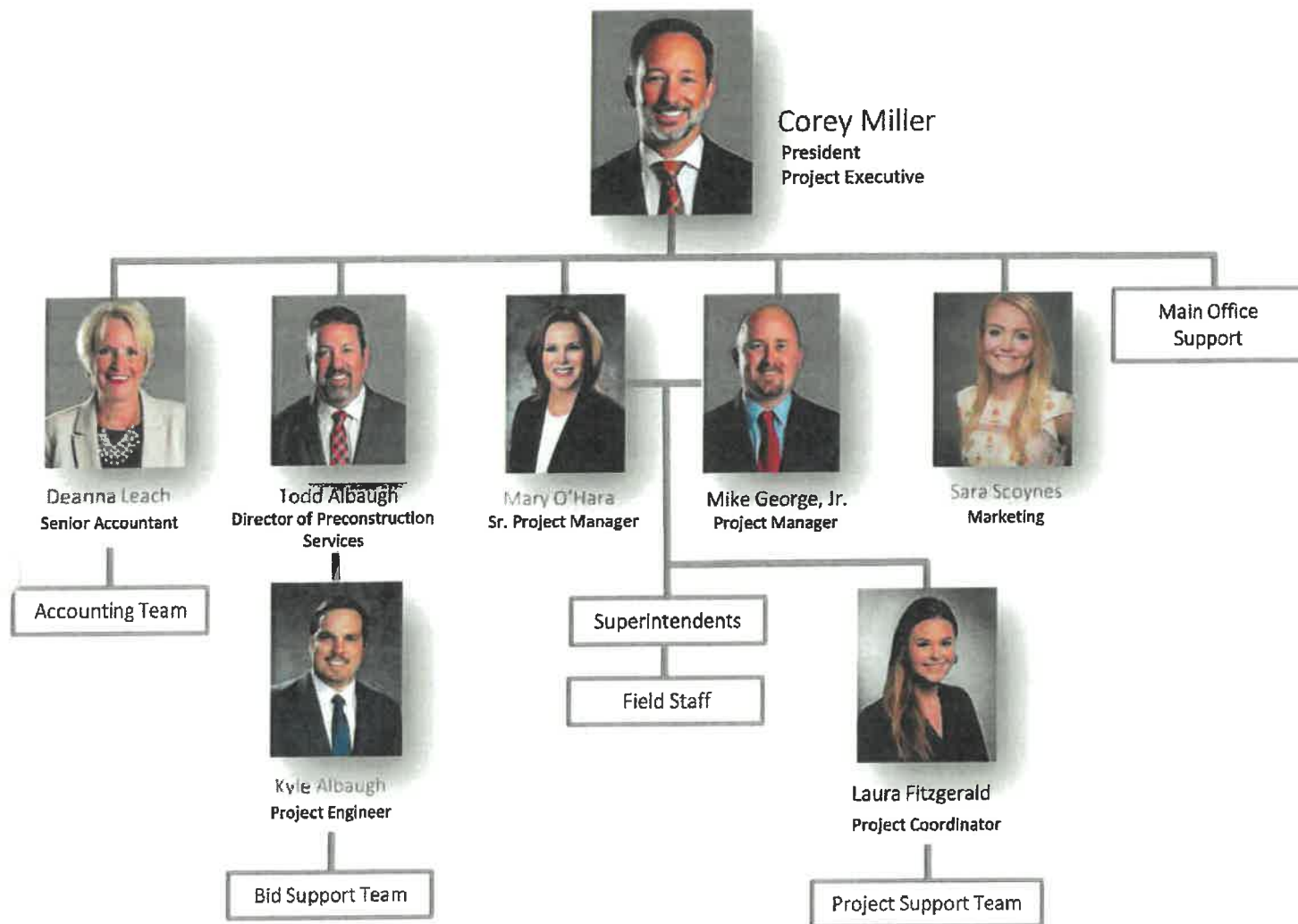
- Construction Management at Risk
- Direct Purchase Orders
- Contract Value of \$3.7 M

### PROJECT TEAM

Project Executive: Corey Miller  
Dir. of Preconstruction: Todd Albaugh  
Project Manager: Mike George, Jr.  
Superintendent: Matt Pitts



# ORGANIZATIONAL CHART







## ABOUT

Corey Miller has more than 26 years of experience in construction and serves as the President of Miller Construction Management, Inc. He will serve as the Project Executive for this project.

Corey's primary role is to ensure that the full resources of Miller Construction Management are available to successfully deliver projects on time, in budget, and with the highest quality of workmanship. Corey will be an active participant throughout the entire process and will be available for key project development team meetings to ensure the success of this project.

## EXPERIENCE

2 years

## EDUCATION

**The University of Florida**  
Bachelors of Science,  
Building Construction  
*High Honors*

26

YEARS IN CONSTRUCTION

## CERTIFICATIONS

- Licensed General Contractor
  - Florida
  - Georgia
  - Tennessee
  - South Carolina
  - Louisiana
  - Texas
- LEED Accredited Professional
- OSHA 30 Hour
- Procore Project Management
- Florida Real Estate Sales Associate

## AWARDS & RECOGNITION

- Tampa Bay Business Journal
  - 2019 Top 200 Largest Private Companies
  - 2018 - The List - Top 40 GC/Construction Firms
- 2019 Lakeland Chamber of Commerce "Business Man of the Year" Nominee
- 2019 Gator100 - Top 100 Growing Businesses Owned by UF Alumni

## COMMUNITY INVOLVEMENT

- Lakeland Economic Development Council Member
- Vistage Florida Member
- Florida Blue Key Member
- Lakeland Chamber of Commerce - Community Outreach Chair
- Leadership Lakeland - Class XIX





## Todd Albaugh

*Director of Preconstruction & Estimator*

### ABOUT

Todd Albaugh is the Director of Preconstruction Services and Chief Estimator of Miller Construction Management, Inc. Todd is responsible for all estimates throughout the project, including the schematic, design development, and working drawing estimates. In addition, Todd plays a key role by providing estimates on systems and materials options so informed budgetary decisions can be made quickly regarding which alternative is best for the project.

### EXPERIENCE WITH MCM

15 years @ Miller Construction

### EDUCATION

United States Coast Guard  
St. Petersburg, FL

### CERTIFICATIONS

- OSHA 10
- Procore Project Management

# 38

YEARS IN CONSTRUCTION

### RELATED PROJECT EXPERIENCE

<b>Polk County Roads &amp; Drainage Annex Facility</b> New Construction of Offices with focus on Interior Finishes	\$3 M
<b>East Manatee Fire Rescue District - Fire Station No. 6</b> Interior Renovation and Exterior Improvements	\$744 K
<b>Tampa Maid Foods Innovation Center Expansion</b> New Construction of Office Building with Presentation Kitchen, Theater/Classroom, and Fine Interior Finishes	\$3.75 M
<b>City of Lakeland - Fire Station No. 7</b> New Construction of LEED/Green Globes Certified Fire Station that services the Airport and West Lakeland	\$3.7 M
<b>Florida Polytechnic Student Development Center</b> New Construction of Recreational Facility with Olympic Competition Pool	\$2.24 M
<b>RP Funding Center</b> Complete Renovation of Recreational Facility	\$14 M
<b>City of Apopka Fire Station No. 5</b> New Construction of a Fire Station   CMAR	\$1.65 M
<b>City of Lake Wales North Fire Station</b> New Construction of a Fire Station	





**Mike George, Jr.**

*Project Manager / Field Operations Manager*

### ABOUT

Mike George, Jr., has 14 years of experience delivering successful construction management at risk projects. He will be responsible for coordinating and managing the necessary resources throughout the project, from preconstruction through closeout. He will ensure that expectations and budgetary guidelines are met or exceeded. Mike manages costs, schedule, general work performance, quality, and overall progress against the project plan.

### EXPERIENCE WITH MCM

9 years @ Miller Construction

### EDUCATION

Florida Army National Guard  
*Air Defense Artillery*

### CERTIFICATIONS

- OSHA10
- Procore Project Management

14<sup>+</sup>

YEARS IN CONSTRUCTION

### RELATED PROJECT EXPERIENCE

<b>Polk County Roads &amp; Drainage Annex Facility</b> New Construction of Offices   CMAR   Continuing Contract	\$3 M
<b>East Manatee Fire Rescue District - Fire Station No. 6</b> Interior Renovation and Exterior Improvements	\$744 K
<b>City of Lakeland - Fire Station No. 7</b> New Construction of LEED/Green Globes Certified Fire Station that services the Airport and West Lakeland	\$3.7 M
<b>Tampa Maid Foods I.C.E.</b> New Construction of Office Building   CMAR	\$3.75 M
<b>Florida Polytechnic Student Development Center</b> New Construction of Recreational Facility CMAR   Continuing Contract	\$2.24 M
<b>RP Funding Center</b> Complete Renovation of Recreational Facility   CMAR	\$14 M
<b>City of Apopka Fire Station No. 5</b> New Construction of a Fire Station   CMAR	\$1.65M

## FEATURED EXPERIENCE

### FIRE STATIONS POLK COUNTY







**Mary O'Hara** LEED AP  
Senior Project Manager

### ABOUT

Mary Layton has over 31 years of experience in the construction industry with projects ranging from award winning small projects to large iconic projects. Mary is well experienced in project management as well as preconstruction services, and is responsible for understanding the overall expectations, documenting measurable benchmarks for project success, making major decisions in a timely manner, and ensuring the decisions are consistent with the Owner's functional, cost, and schedule requirements.



### EXPERIENCE WITH MCM

2 years @ Miller Construction

### CERTIFICATIONS

- Licensed General Contractor FL CGC1508903
- LEED Accredited Professional
- OSHA 30 Hour
- Procore Project Management
- Construction Industry Licensing Board - Probable Cause
- Past Chair and Executive Board of Directors - ABC Gulf Coast Chapter

### PROJECT EXPERIENCE

Advent Health Parson's Park Medical Plaza - Interior Renovation	\$1.17 M
Florida Dermatology & Skin Cancer Center Medical Practice - New Construction	\$1.45 M
Pyramed Medical Office - New Construction	\$900 K
City of Auburndale Lake Myrtle Sports Park Complex Recreational Fields - New Construction	\$7 M
The University of Tampa - Bob Martinez Athletics Center Renovation of Basketball Court and Bleachers	\$1.78 M

## FEATURED EXPERIENCE

### MUNICIPAL FACILITIES

CM AT RISK





**Mike George, Sr.**  
Superintendent

### ABOUT

Michael George, Sr (Mike) has extensive experience with NEW CONSTRUCTION as well FIRE STATIONS. He will participate in preconstruction services including site mobilization, safety plan and constructability reviews. He understands building principles, and will provide direct daily oversight of safety, site utilization, and quality by overseeing inspections, and benchmarking of activities. During the construction phase, Mike will be responsible for daily supervision of all trades for buildings on-site, ensuring adequate manpower, quality control assurance, daily logs, scheduling of all material testing, safety, participation in weekly project meetings, schedule adherence, final completion and testing, commissioning, acceptance, and punch out.

### EXPERIENCE WITH MCM

10 years @ Miller Construction

### CERTIFICATIONS

- OSHA 10 Hour
- Procore Project Management - Superintendent / Field

**46**

YEARS IN CONSTRUCTION

### PROJECT EXPERIENCE

Polk County Roads & Drainage Annex Facility New Construction of Offices   CMAR   Continuing Contract	\$3 M
City of Apopka Fire Station No. 5 New Construction of a Fire Station   CMAR	\$1.65 M
City of Lakeland - Fire Station No. 7 New Construction of LEED/Green Globes Certified Fire Station that services the Airport and West Lakeland	\$3.7 M
RP Funding Center Complete Renovation of Recreational Facility   CMAR	\$14 M
Florida Polytechnic Student Development Center New Construction of Recreational Facility   CMAR	\$2.24 M

## FEATURED EXPERIENCE

### FIRE STATIONS

CM AT RISK



## SCHEDULING

### Master Project Schedule / Computer - Generated Schedules

Our Project Manager will create a Master Schedule utilizing either Primavera Suretrak and Microsoft Project, with Critical Path Method (CPM) format, as the project size and type warrants. The Master Schedule is developed to represent the overall strategy, objectives and activities to time scale. It is the framework from which all project time control information is developed. It also serves as a baseline against which project progress is measured. Our team will work closely with the Owner and the design team to review, evaluate and refine the Master Schedule.

### Short Interval Schedule (Three Week Look Ahead)

In addition to our Master Schedule, we provide 3-Week Look Ahead Schedules throughout the life of the project. These highlight daily progress, list upcoming goals, identify any future conflicts, and help us determine where we can pick up time with a trade. These are produced by the Site Superintendent who then collaborates with the Project Manager to assess and address the current schedule and ensure the project stays on track. The Superintendent updates this schedule weekly, and the Project Manager reviews and compares it to the previous 3-Week Look Ahead and the Master Schedule.

### Detail Schedule Items

Each major task category is broken down into detailed project activities for tracking and adherence to the schedule for all involved team members to follow:

**Preconstruction Services:** Conceptual Estimate Delivery, Schematic Estimate, GMP Estimate

**Administrative Items:** Project Award, Notice to Proceed, Subcontractor Negotiations/Contracts

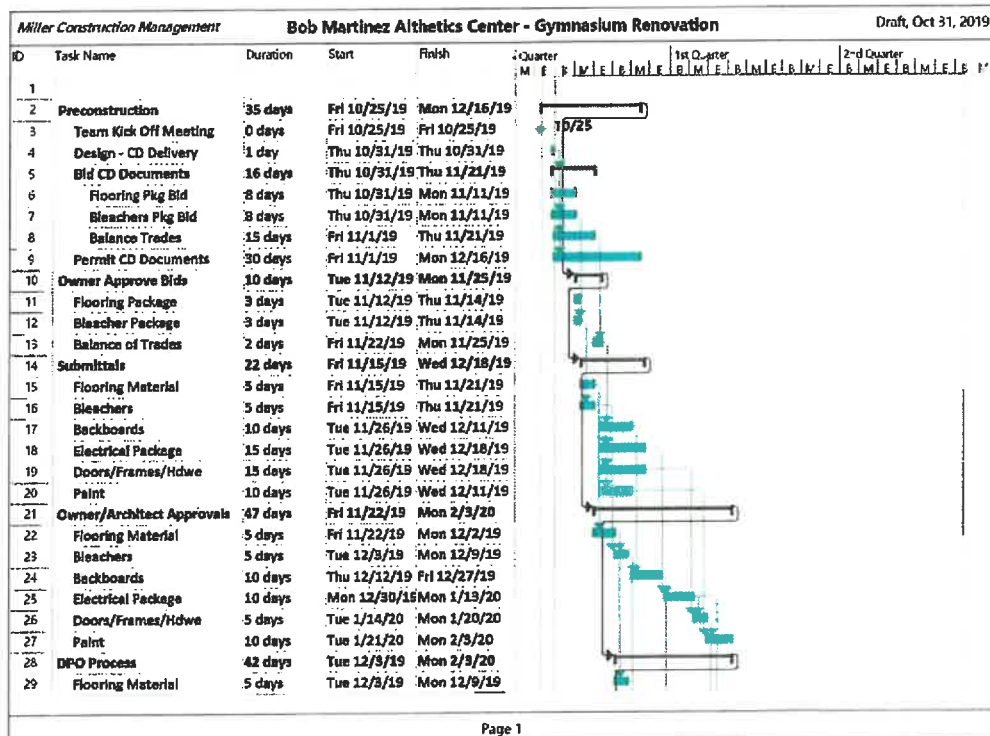
**Submittals:** Shop Drawing/Submittal Delivery, A/E Reviews, Release to Fabricate

**Material Delivery:** Release Date, Long Lead Time Frames

**Construction:** Mobilization, Construction, Testing, Substantial Completion

**Close Out:** Punch List, Close Out Documents, Owner Training, Final Completion, Owner Occupancy Date(s)

### Schedule Example





## RFI/ASI

We utilize Procore Project Management software, which allows for instant and easy access to the latest, most accurate project information including RFIs and ASIs. This software is web-based, meaning all data is in one central and secure database. This provides the entire team with accountability and facilitates timely responses. As a member of your team, we understand the value of full transparency, which is why we have an open book policy. All of the information and data is available to you at all times.

## COST CONTROL

During construction, cost control is accomplished through proper bid management, detailed cost reporting and payment procedures, management of contingency funds, and thorough review of potential cost issues and Owner change requests.

## EXAMPLE

### Florida Polytechnic University

Lakeland, Florida

We were able to save over \$140,000.00 on the construction of Florida Polytechnic University's Recreating and Aquatics Center with value engineering through the design phase, incorporating program changes to keep within the GMP, and using contingency money.

#### GMP

\$2,382,125.00

#### FINAL COST

\$2,240,719.34

#### COST SAVINGS

\$141,405.66

#### APPLICATION AND CERTIFICATION FOR PAYMENT

TO OWNER: Florida Polytechnic University 4700 Research Way Lakeland, FL 33805-8531	PROJECT: Wellness 2 Recreation	APPLICATION NO: 16R
	PROJECT #: PCS5318	INVOICE NO: 10R
	PO #: PO-1708855	INVOICE DATE: 4/8/2018 INVOICE PERIOD: 4/1/18-4/30
FROM CONTRACTOR:		
Miller Construction Management, Inc. 502 N. Massachusetts Ave LAKELAND, FL 33801		

#### CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in accordance with the Contract. Certification Sheet, ADA Document 0705, is attached.

1. ORIGINAL CONTRACT SUM	\$ 2,382,125.00
2. Net change by Change Orders	\$ 141,405.66
3. CONTRACT SUM TO DATE (Line 1 + 2)	\$ 2,240,719.34
4. TOTAL COMPLETED & STORED TO	\$ 2,240,719.34

The undersigned Contractor certifies that to the best information and belief the Work covered by this / completed in accordance with the Contract. I/Donor the Contractor for Work for which previous Certi payments received from the Owner, and that con

CONTRACTOR:

By: 



## GENERAL PRECONSTRUCTION SERVICES, GC, CM, & BOND FEES

Pre-Construction services are performed at the below rates:

Classification:	Raw Labor Rates:	Rates with Labor Burden:
Pre-construction Manager	\$77.19	\$109.60
Assistant Estimator / Bids	\$38.59	\$54.80
Principal	\$102.90	\$146.12
Accountant	\$42.00	\$59.64
Project Coordinator	\$26.25	\$37.27
Project Manager	\$49.87	\$70.82
Superintendent / Job Supervisor	\$42.00	\$65.10

### General Conditions

We pride ourselves on running an efficient project, including our general conditions. The cost for each project will vary based upon size, location, duration, and site conditions.

### BONDING

Bond Capacity  
Single Project: \$25M  
Aggregate: \$50M

#### Bond Rates

Contract Amount	Bond Percentage
0 - 100K	8 %
100K - 500K	7 %
500K - 1,000K	6%
1,000K+	5%



NIELSON, WOJCIOWICZ, NEU & ASSOCIATES

February 16th, 2021

RE: Miller Construction Management, Inc.  
Project: Surety Bonding Letter

To Whom it May Concern:

This is to advise you that our office provides Bid, Performance, and Payment Bonds for Miller Construction Management, Inc. Their surety is Berkley Insurance Company, which carries an AM Best Rating of A+ XV and is listed in the Department of the Treasury's Federal Register & licensed to do business in the state of Florida.

Based upon normal and standard underwriting criteria at the time of the request, Berkley Insurance Company should be in a position to provide Performance and Payment Bonds in the amount of \$25,000,000 for a single project and \$50,000,000 aggregately. We obviously reserve the right to review final contractual documents, bond forms and obtain satisfactory evidence of funding prior to final commitment to issue bonds, and we cannot assume liability to any third party, including you, if we do not execute said bonds.

Please be advised that this letter is not pre-qualifying the client for Subcontractor Default Insurance. We accept no responsibility whatsoever as to the qualifying requirements of this client for the underwriting of Subcontractor Default Insurance.

This letter is not an assumption of liability, nor is it a bid or performance and payment bond. It is issued only as a bonding reference requested by our respected client. If you should have any questions, please do not hesitate to give me a call.

Miller Construction Management, Inc. is an excellent contractor and we hold them in highest regard. We are extremely confident in our contractor and encourage you to offer them an opportunity to execute any upcoming projects.

Sincerely,

Kevin Wojtowicz  
Producer  
KRW/mas

1000 Central Avenue  
Suite 700  
St. Petersburg, FL 33705  
P. 727.209.1803  
F. 727.209.1335



## Committed Costs

03/26/19

Job# 17088 Tampa Maid - I.C.E. Center

Includes P.O.s, Subcontracts

Cost Code	Budget + Changes	Cost To Date	Committed Costs	Remaining Budget
210.000 - Bonds	33,500.00	32,545.00		955.00
590.000 - Blueprints				
810.000 - General Liability Insurance				
1000.000 - Supervision	90,000.00	36,096.70		53,903.30
1010.000 - Project Management	2,056.02	2,056.02		
1014.000 - Labor Burden				
1015.000 - Punch List Labor & Materi				
1033.000 - Miscellaneous Tools	5,000.00			5,000.00
1035.000 - Miscellaneous Material	6,250.00	1,111.33		5,138.67
1050.000 - Field Engineering	4,000.00	800.00		3,200.00
1060.000 - Building Permits	35,000.00	33,321.69		1,678.31
1061.000 - Recording Fees (NOC & B	150.00			150.00
1065.000 - MCM Contingency	76,361.52			76,361.52
1069.000 - Safety Products	1,000.00			1,000.00
1400.000 - Qual. Cntrl, Tests, Inspectio	9,801.00	4,180.00	5,621.00	
1500.000 - Temp. Office	8,500.00	3,487.83	2,594.75	2,417.42
1540.000 - Temp. Power		172.88		-172.88
1550.000 - Telephone - Job-Site	1,500.00			1,500.00
1570.000 - Temp. Sanitation & Toilet	4,500.00	1,375.78		3,124.22
1600.000 - Equipment Rental	10,000.00			10,000.00
1625.000 - OSHA Safety Requirement	2,150.00			2,150.00
1660.000 - Fuel	5,250.00	2,000.00		3,250.00
1665.000 - Closeout Documents	1,000.00			1,000.00
1670.000 - Postage & Overnight Fees	300.00			300.00
1700.000 - Cleanup During Constructi	10,000.00	183.82		9,816.18
1710.000 - Dump Fees & Trash Hauli	12,000.00	748.48		11,251.52
1750.000 - Final Cleanup	4,200.00			4,200.00
1765.000 - Shop Drwgs. & Submittals				
2022.000 - Building Demolition	12,800.00	12,800.00		
2086.000 - Asbestos Testing	1,200.00	1,200.00		
2105.000 - Clear & Grub				
2200.000 - Earthwork				
2201.000 - Sitework	491,045.00	393,422.32	97,622.68	
2205.000 - Mobilization				
2215.000 - Maintenance of Traffic				
2240.000 - Erosion Control				
2245.000 - Construction Entrance				
2500.000 - Paving				
2560.000 - Curbing				
2580.000 - Pavement Marking				
2585.000 - Site Concrete Work				

# Committed Costs

03/26/19

Continued...

Item Code	Budget + Changes	Cost To Date	Committed Costs	Remaining Budget
2601.000 - Utility Locates	2,196.90			2,196.90
2635.000 - Fireline Water System				
2655.000 - Site Lighting	50,000.00			50,000.00
2682.000 - Transformer Pad				
2701.000 - Sanitary Sewer System				
2702.000 - Potable Water System				
2788.000 - Underground Drainage Sy				
2830.000 - Dumpster Enclosure				
2831.000 - Dumpster Enclosure Gates	3,819.00		3,819.00	
2901.000 - Landscaping Allowance				
2905.000 - Irrigation Piping				
2915.000 - Landscape, Sod & Irrigatio	26,049.20	26,049.20		
2930.000 - Sod	13,500.00			13,500.00
3001.000 - Cutting and Patching				
3002.000 - Non-Shrink Grout				
3004.000 - Concrete Subcontract (L&	211,480.00	18,000.00	193,480.00	
3541.000 - Sidewalk/Walkway-Labor				
4000.000 - Masonry Block Walls - (L&	164,841.00		164,841.00	
4405.000 - Brick Pavers	23,471.00		23,471.00	
5100.000 - Structural Steel Framing	174,638.55	12,000.00	162,638.55	
6100.000 - Rough Carpentry - Materia				
6101.000 - Rough Carpentry - Labor				
6145.000 - Soffit and Fascia				
7000.000 - Cabinets	164,000.00		164,000.00	
7060.000 - Bituminous Dampproofing				
7300.000 - Roofing	156,734.00		156,734.00	
7920.000 - Sealing & Caulking	6,385.00		6,385.00	
8105.000 - Metal Access Panel Doors	1,875.00			1,875.00
8115.000 - Doors, Frames and Hardw	49,996.72	1,114.83	48,881.89	
8370.000 - Coiling Overhead Doors	2,099.00		2,099.00	
8405.000 - Alum. Ent./Storefront/Glazi	200,000.00	3,360.00	196,640.00	
8705.000 - Install Doors and Hardwar				
9120.000 - Acoustical Ceiling	41,025.00		41,025.00	
9200.000 - Stucco, Lath & Plaster	74,900.00		74,900.00	
9251.000 - Gyp. Board/Frame Labor	242,960.00		242,960.00	
9300.000 - Ceramic Tile				
9540.000 - FRP Panels	21,000.00		21,000.00	
9602.000 - Flooring Subcontract	87,641.44		87,641.44	
9616.000 - Marble Window Sills	1,400.00			1,400.00
9840.000 - Resinous Floor System	36,371.25		36,371.25	
9900.000 - Painting	37,425.00		37,425.00	
9970.000 - Wallpaper - Labor				
9985.000 - Wood Wall Coverings	19,500.00			19,500.00
10020.000 - Corner Guards	7,200.00			7,200.00
10045.000 - Flag Poles	2,000.00			2,000.00
10355.000 - Bicycle Rack	1,686.00			1,686.00
10381.000 - Fish Tank and Equipment	20,000.00			20,000.00
10440.000 - Interior Signage	450.00			450.00
10525.000 - Fire Extinguishers	1,700.00		1,700.00	

# Committed Costs

03/26/19

Continued...

Cost Code	Budget + Changes	Cost To Date	Committed Costs	Remaining Budget
10540.000 - Knox Box	650.00			650.00
10600.000 - Partitions	5,500.00		5,500.00	
10800.000 - Toilet & Bath Accessories	3,300.00		3,000.00	300.00
12529.000 - Window Treatment Allow	16,500.00			16,500.00
13010.000 - Aluminum Walkway Cove	34,500.00			34,500.00
13051.000 - Metal Awnings	22,516.00			22,516.00
13180.000 - Shade Canopies	33,000.00			33,000.00
15000.000 - Plumbing	105,782.05	6,144.39	99,637.66	
15070.000 - Gas Piping				
15300.000 - Fire Protection Piping	30,330.00	3,080.00	27,250.00	
15500.000 - HVAC	211,115.00		211,115.00	
16000.000 - Electrical	352,161.26	139,938.80	212,222.46	
16205.000 - Emergency Generator				
16670.000 - Lightning Protection				
16725.000 - Fire Alarm				
<b>Totals:</b>	<b>3,489,261.91</b>	<b>735,189.07</b>	<b>2,330,575.68</b>	<b>423,497.16</b>



Miller Construction Management, Inc.,  
has remained a Polk County Entity for 19 years.



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

### Detail by Entity Name

Florida Profit Corporation  
MILLER CONSTRUCTION MANAGEMENT, INC.

#### Filing Information

**Document Number** P02000012949  
**FEI/EIN Number** 71-0867456  
**Date Filed** 01/30/2002  
**State** FL  
**Status** ACTIVE  
**Last Event** NAME CHANGE  
AMENDMENT  
**Event Date Filed** 02/13/2002  
**Event Effective Date** NONE

#### Principal Address

502 N. MASSACHUSETTS AVENUE  
LAKELAND, FL 33801

Changed: 05/29/2007

#### Mailing Address

502 N. MASSACHUSETTS AVENUE  
LAKELAND, FL 33801

Changed: 03/16/2008

#### Registered Agent Name & Address

MILLER, COREY J  
502 N. MASSACHUSETTS AVE.  
LAKELAND, FL 33801

Name Changed: 02/03/2004

Address Changed: 02/07/2012

#### Officer/Director Detail

##### Name & Address

##### Title President

MILLER, COREY J  
502 N. MASSACHUSETTS AVE.  
LAKELAND, FL 33801

Miller Construction Management, Inc., has held its headquarters in Lakeland, FL, since its inception, and has remained at its current downtown location for over 12 years. Currently, 10 full-time employees work at this location.

## **CERTIFIED WOMAN OR MINORITY BUSINESS ENTERPRISE**

Miller Construction Management, Inc., is not a Certified Woman or Minority Business Enterprise, however, we will meet Polk County's participation goal through our Tier 1 and Tier 2 subcontractors.

Attracting local quality trade contractors and subcontractors to this project is of critical importance to both the competitive outcome of the project, as well as its overall success.

## **MILLER CONSTRUCTION'S W/MBE POLICY**

### **Responsibility**

The Project Manager representing MCM is recognized as the Program Liaison. This individual serves as the focal point of the program to insure the following:

- The Minority/Women/Section 3 Business Enterprise Program is clearly defined and represents the Project's requirements
- The appropriate staff and effort is dedicated to the program
- The overall program is properly implemented
- The appropriate parties are periodically informed and updated of the program status
- Develop small package scope of work to maximize participation

### **Definition of M/W/Section 3 Business Enterprises Goal**

The goal for the Minority/Women/Section 3 Business Enterprises is to obtain the maximum participation of minority and women owned business participation. It is a program to obtain this participation without incurring any additional cost or additional time.

### **Miller Construction Management, Inc.**

MCM shall appoint its Project Manager to perform the actual implementation of the program. Duties as follows:

- Coordinate and report to appropriate individuals concerning required actions and needs
- Maintain accurate records and documentation
- Assist in recruiting Minority/Women/Section 3 Business Enterprises participants
- Evaluate qualifications of proposed Minority/Women/Section 3 Business Enterprises participants
- Evaluate Minority/Women/Section 3 proposals
- Monitor and report progress of Minority/Women/Section 3 programs

### **Recruiting Minority/Women/Section 3 Business Enterprise Participation**

- MCM will compile a master list of Minority/Women/Section 3 Business Enterprise subcontractors and vendors which may be qualified and interested in performing work on the project. MCM will maintain this list throughout the project, updating it with additional names and information as required
- MCM will encourage Minority/Women/Section 3 Business Enterprise participants to recruit other participants
- MCM will direct recruitment efforts, both oral and written, to selected organizations, which may provide information related to increasing Minority/Women/Section 3 Business Enterprise participation.
- Bidders who are not Minority/Women/Section 3 participants will be advised of the goals.

### **Monitoring and Reporting**

- Each subcontractor and vendor will be required to submit a summary with each Request for Payment, which reflects their progress in meeting their Minority/Women/Section 3 Business Enterprise commitments.
- A periodic report Minority/Women/Section 3 Business Enterprise report will be issued by MCM and will include the following:
  1. Current status of projected versus committed participation
  2. Current status of the Minority/Women/Section 3 Business Enterprise work performed to date
  3. Program summary, which includes any negative trends or problems

**PROJECTS CURRENTLY UNDER CONTRACT**

We are very selective in the projects we pursue because it is important to us to deliver quality projects that are built within time and on budget. We carefully balance our projects to ensure that each project is properly staffed.

<b>Active Construction</b>		
<b>Project</b>	<b>Contract Volume</b>	<b>Scheduled Completion Date</b>
<b>Century Storage</b> Sebring, FL	\$2.5 MM	May 2021
<b>Dollar General Store</b> New Port Richey, FL	\$486 K	April 2021
<b>Florida Dermatology &amp; Skin Cancer Center</b> Inverness, FL	\$1.45 MM	April 2021
<b>Pyramed Office</b> Lakeland, FL	\$900 K	August 2021
<b>301 Corporate Center</b> Bradenton, FL	\$7 MM	September 2021
<b>City of Lakeland - CRA - The Well</b> Lakeland, FL	\$1.1 MM	October 2021
<b>Trevesta - Shopping Plaza - Phase I</b> Palmetto, FL	\$3.2 MM	October 2021
<b>Awarded and in Pre-Construction</b>		
<b>Project</b>	<b>Contract Volume</b>	<b>Scheduled Completion Date</b>
<b>Haverty's Furniture Store</b> Orlando, FL	TBD	TBD
<b>Haverty's Furniture Store</b> Ocala, FL	\$729 K	TBD
<b>Leto High School Workshop</b> Tampa, FL	\$600 K	TBD
<b>Middleton High School Workshop</b> Tampa, FL	\$600 K	TBD
<b>Tomlin Middle School Vestibule</b> Plant City, FL	\$1.5 MM	TBD
<b>Polk County Public Schools - Employee Clinic</b> Lakeland, FL	\$650 K	TBD
<b>Polk County Public Schools - Babson Park Elementary</b> Babson Park, FL	TBD	TBD
<b>Polk County BOCC - Roads &amp; Drainage Survey Mapping BLDG</b> Winter Haven, FL	\$800 K	Begin 4th QTR 2021

### Survey Questionnaire – Polk County

RFP 21-425, Construction Manager at Risk - Fire Rescue Stations (2<sup>nd</sup> Group)

To: Asst. Chief Rick Hartzog Lakeland Fire Department  
(Name of Person completing survey) (Name of Client Company/Contractor)

Phone Number: \_\_\_\_\_

Email: Rick.Hartzog@lakelandgov.net

Subject: Past Performance Survey of:

City of Lakeland Fire Station 7

(Project Name)

Consultant Name: Miller Construction Management, Inc.  
(Name of Contractor being surveyed)

Cost of Services: \$3,704,253.98

Date Complete: 12/15/2014

Rate each of the criteria on a scale of 1 to 10, with 10 representing that you were very satisfied (and would hire the Contractor/individual again) and 1 representing that you were very unsatisfied (and would never hire the Contractor/individual again). Please rate each of the criteria to the best of your knowledge. If you do not have sufficient knowledge of past performance in a particular area, leave it blank.

Similar Work Project Name: \_\_\_\_\_ Date Completed: \_\_\_\_\_

NO.	CRITERIA	UNIT	SCORE
1.	Ability to manage cost	(1-10)	10
2.	Ability to maintain project schedule (complete on-time/early)	(1-10)	10
3.	Quality of workmanship	(1-10)	10
4.	Professionalism and ability to manage	(1-10)	10
5.	Close out process	(1-10)	10
6.	Ability to communicate with Client's staff	(1-10)	10
7.	Ability to resolve issues promptly	(1-10)	10
8.	Ability to follow protocol	(1-10)	10
9.	Ability to maintain proper documentation	(1-10)	10
10.	Appropriate application of technology	(1-10)	10
11.	Overall Client satisfaction and comfort level in hiring	(1-10)	10
12.	Ability to offer solid recommendations	(1-10)	10
13.	Ability to facilitate consensus and commitment to the plan of action among staff	(1-10)	10

Rick Hartzog  
Printed Name of Evaluator

  
Signature of Evaluator

## Survey Questionnaire – Polk County

RFP 19-375

### Construction Manager – At Risk – New Prototype Fire Rescue Stations

To: Chief Ray Thompson  
(Name of Person completing survey)

City of Apopka  
(Name of Client Company/Contractor)

Phone Number: 407-703-1756

Email: RThompson@apopka.net

Subject: Past Performance Survey of:  
Apopka Fire Station No. 5

(Project Name)

Consultant Name: Miller Construction Management, Inc.

(Name of Contractor being surveyed)

Cost of Services: \$1,646,990.13

Date Complete: 3/6/2018

Rate each of the criteria on a scale of 1 to 10, with 10 representing that you were very satisfied (and would hire the Contractor/individual again) and 1 representing that you were very unsatisfied (and would never hire the Contractor/individual again). Please rate each of the criteria to the best of your knowledge. If you do not have sufficient knowledge of past performance in a particular area, leave it blank.

Similar Work Project Name: \_\_\_\_\_ Date Completed: \_\_\_\_\_

NO	CRITERIA	UNIT	SCORE
1	Ability to manage cost	(1-10)	10
2	Ability to maintain project schedule (complete on-time/early)	(1-10)	9
3	Quality of workmanship	(1-10)	9
4	Professionalism and ability to manage	(1-10)	10
5	Close out process	(1-10)	9
6	Ability to communicate with Client's staff	(1-10)	10
7	Ability to resolve issues promptly	(1-10)	8
8	Ability to follow protocol	(1-10)	10
9	Ability to maintain proper documentation	(1-10)	10
10	Appropriate application of technology	(1-10)	10
11	Overall Client satisfaction and comfort level in hiring	(1-10)	10
12	Ability to offer solid recommendations	(1-10)	10
13	Ability to facilitate consensus and commitment to the plan of action among staff	(1-10)	10

Ray Thompson

Printed Name of Evaluator

  
Signature of Evaluator

Please fax or email the completed survey to: SScoynes@millerconstructionmanagement.com

# **Survey Questionnaire for City of Plant City For Construction Manager At Risk**

To: Mark Schmitz  
(Name of Person completing survey)

Polk County BOCC / Roads and Drainage Division  
(Name of Client Company/Firm)

Phone Number: 863-535-2308

Email: MarkSchmitz@polk-county.net

Subject: Past Performance Survey of:

Roads & Drainage Annex Facility  
(Project Name)

Contractor's Name: Miller Construction Management, Inc.  
(Name of the firm being surveyed)

Cost of Services: \$2,947,938.58 Date Complete: 2020

Rate each of the criteria on a scale of 1 to 10, with 10 representing that you were very satisfied (and would hire the company) and 1 representing that you were very unsatisfied (and would never hire the company again). Please rate each of the criteria to the best of your knowledge. If you do not have sufficient knowledge of past performance in a particular area, leave it blank.

NO	CRITERIA	UNIT	SCORE
1	Ability to manage cost	(1-10)	10
2	Ability to maintain project schedule (complete on-time/early)	(1-10)	10
3	Quality of workmanship	(1-10)	9
4	Professionalism and ability to manage	(1-10)	10
5	Closeout process	(1-10)	10
6	Ability to communicate with Client's staff	(1-10)	10
7	Ability to resolve issues promptly	(1-10)	10
8	Ability to follow protocol	(1-10)	10
9	Ability to maintain proper documentation	(1-10)	10
10	Appropriate application of technology	(1-10)	10
11	Overall Client satisfaction and comfort level in hiring	(1-10)	10
13	Ability to offer solid recommendations	(1-10)	10
13	Ability to facilitate consensus and commitment to the plan of actions among staff	(1-10)	10

Printed Name of Evaluator MARK SCHMITZ, FINANCIAL ADMINISTRATOR  
863 535 2308 Signature of Evaluator [Signature]

Please email the completed survey to [cpcprocurement@plantcitygov.com](mailto:cpcprocurement@plantcitygov.com)

## Survey Questionnaire – Polk County

**RFP 19-375**

### Construction Manager – At Risk – New Prototype Fire Rescue Stations

To: Lee Whitehurst East Manatee Fire Rescue  
(Name of Person completing survey) (Name of Client Company/Contractor)

Phone Number: 941-751-5611

Email: lwhitehurst@emfr.org

Subject: Past Performance Survey of: East Manatee Fire Station 6

(Project Name)

Consultant Name: Miller Construction  
(Name of Contractor being surveyed)

Cost of Services: \_\_\_\_\_ Date Complete: \_\_\_\_\_

Rate each of the criteria on a scale of 1 to 10, with 10 representing that you were very satisfied (and would hire the Contractor/individual again) and 1 representing that you were very unsatisfied (and would never hire the Contractor/individual again). Please rate each of the criteria to the best of your knowledge. If you do not have sufficient knowledge of past performance in a particular area, leave it blank.

Similar Work Project Name: \_\_\_\_\_ Date Completed: \_\_\_\_\_

NO	CRITERIA	UNIT	SCORE
1	Ability to manage cost	(1-10)	9
2	Ability to maintain project schedule (complete on-time/early)	(1-10)	8
3	Quality of workmanship	(1-10)	7
4	Professionalism and ability to manage	(1-10)	8
5	Close out process	(1-10)	NA
6	Ability to communicate with Client's staff	(1-10)	9
7	Ability to resolve issues promptly	(1-10)	8
8	Ability to follow protocol	(1-10)	9
9	Ability to maintain proper documentation	(1-10)	8
10	Appropriate application of technology	(1-10)	8
11	Overall Client satisfaction and comfort level in hiring	(1-10)	8
12	Ability to offer solid recommendations	(1-10)	8
13	Ability to facilitate consensus and commitment to the plan of action among staff	(1-10)	8

Lee Whitehurst  
 Printed Name of Evaluator

[Signature]  
 Signature of Evaluator

Please fax or email the completed survey to: \_\_\_\_\_

## Survey Questionnaire – Polk County

RFP 19-375

### Construction Manager – At Risk – New Prototype Fire Rescue Stations

To: Page Godwin  
(Name of Person completing survey)

Tampa Maid Foods  
(Name of Client Company/Contractor)

Phone Number: 863-899-1815

Email: pygodwin@tampamaid.com

Subject: Past Performance Survey of:  
Current Project - Tampa Maid Foods Innovation Center Expansion

(Project Name)

Consultant Name: Miller Construction Management, Inc.

(Name of Contractor being surveyed)

Cost of Services: \$3,701,290.66

Current Project -  
Date Complete: Scheduled Completion Date: September 2019

Rate each of the criteria on a scale of 1 to 10, with 10 representing that you were very satisfied (and would hire the Contractor/individual again) and 1 representing that you were very unsatisfied (and would never hire the Contractor/individual again). Please rate each of the criteria to the best of your knowledge. If you do not have sufficient knowledge of past performance in a particular area, leave it blank.

Similar Work Project Name: \_\_\_\_\_

Date Completed: 26 Nov 2014

NO	CRITERIA	UNIT	SCORE
1	Ability to manage cost	(1-10)	10
2	Ability to maintain project schedule (complete on-time/early)	(1-10)	10
3	Quality of workmanship	(1-10)	10
4	Professionalism and ability to manage	(1-10)	10
5	Close out process	(1-10)	
6	Ability to communicate with Client's staff	(1-10)	10
7	Ability to resolve issues promptly	(1-10)	10
8	Ability to follow protocol	(1-10)	10
9	Ability to maintain proper documentation	(1-10)	10
10	Appropriate application of technology	(1-10)	10
11	Overall Client satisfaction and comfort level in hiring	(1-10)	10
12	Ability to offer solid recommendations	(1-10)	10
13	Ability to facilitate consensus and commitment to the plan of action among staff	(1-10)	10

Page Godwin

Printed Name of Evaluator

  
Signature of Evaluator

Please fax or email the completed survey to: SScoynes@millerconstructionmanagement.com



## Survey Questionnaire – Polk County

**RFP 19-375**

### Construction Manager – At Risk – New Prototype Fire Rescue Stations

To: John White  
(Name of Person completing survey)

Florida Polytechnic University  
(Name of Client Company/Contractor)

Phone Number: 863-874-8595

Email: jcwhite@floridapoly.edu

Subject: Past Performance Survey of:  
Florida Polytechnic University Recreation and Aquatics Center

(Project Name)  
Consultant Name: Miller Construction Management, Inc.  
(Name of Contractor being surveyed)

Cost of Services: \$2,240,719.00 Date Complete: 2/2/2018

Rate each of the criteria on a scale of 1 to 10, with 10 representing that you were very satisfied (and would hire the Contractor/individual again) and 1 representing that you were very unsatisfied (and would never hire the Contractor/individual again). Please rate each of the criteria to the best of your knowledge. If you do not have sufficient knowledge of past performance in a particular area, leave it blank.

Similar Work Project Name: Recreation Building Date Completed: 2/2/18

NO.	CRITERIA	UNIT	SCORE
1	Ability to manage cost	(1-10)	9
2	Ability to maintain project schedule (complete on-time/early)	(1-10)	8
3	Quality of workmanship	(1-10)	9
4	Professionalism and ability to manage	(1-10)	8
5	Close out process	(1-10)	7
6	Ability to communicate with Client's staff	(1-10)	10
7	Ability to resolve issues promptly	(1-10)	9
8	Ability to follow protocol	(1-10)	8
9	Ability to maintain proper documentation	(1-10)	8
10	Appropriate application of technology	(1-10)	9
11	Overall Client satisfaction and comfort level in hiring	(1-10)	8
12	Ability to offer solid recommendations	(1-10)	9
13	Ability to facilitate consensus and commitment to the plan of action among staff	(1-10)	8

John C. White  
Printed Name of Evaluator

John C. White  
Signature of Evaluator  
Digitally signed by John C. White  
DN: cn=John C. White, o=Florida Polytechnic University  
c=US, email=jcwhite@floridapoly.edu, serial=11501  
Date: 2018.02.02 11:55:45 -0500

Please fax or email the completed survey to: SScoynes@millierconstructionmanagement.com

May 29, 2025

Transmitted U.S. Mail  
& Email [RobWilliams@Polk-County.net](mailto:RobWilliams@Polk-County.net)

Mr. Rob Williams  
Polk County Facilities Management  
2160 Marshall Edwards Dr.  
Bartow, FL33830

Re: Polk County Caloosa Lake Fire Station  
Pre-Construction Services Proposal

Dear Mr. Williams:

We are excited about the opportunity to work with you for the construction of the Polk County Caloosa Lake Fire Station. Below is a proposal for our fees for the pre-construction phase services portion of the project in accordance with the CMAR Agreement Terms and Conditions.

**INITIAL CONSTRUCTABILITY REVIEW AND MARKET ANALYSIS**

Our team will review and evaluate the prototype documents for constructability. We will also verify the availability of the proposed materials and equipment based upon current market conditions. In addition, we will prepare an order of magnitude estimate and schedule based upon current and anticipated market pricing.

Pre-Construction Manager (42 Hours @ \$104.40 / Hour)	\$4,384.80
Project Manager (9 Hours @ \$67.45 / Hour)	\$607.05
Assistant Estimator / Bids (32 Hours @ \$52.20 / Hour)	\$1,670.40
Principal (8 Hours @ \$139.16 / Hour)	\$1,113.28
Project Coordinator (13 Hours @ \$35.50/ Hour)	\$461.50
Reimbursable Allowance (Per Exhibit "J" Reimbursable Cost Schedule)	<u>\$300.00</u>
<b>Initial Constructability Review and Market Analysis:</b>	<b>\$8,537.03</b>

**SITE SPECIFIC RELATED ITEMS**

Our team will work with the design team to determine the constructability of the site, assist in verifying utility requirements, and with permitting as necessary. We will prepare a preliminary site estimate and schedule based upon current and anticipated market conditions.

Pre-Construction Manager (14 Hours @ \$104.40 / Hour)	\$1,461.60
Project Manager (8 Hours @ \$67.45 / Hour)	\$539.60
Assistant Estimator / Bids (14 Hours @ \$52.20 / Hour)	\$730.80
Principal (4 Hours @ \$139.16 / Hour)	\$556.64
Project Coordinator (8 Hours @ \$35.50 / Hour)	\$284.00
Reimbursable Allowance (Per Exhibit "J" Reimbursable Cost Schedule)	<u>\$600.00</u>
<b>Site Specific Related Items:</b>	<b>\$4,172.64</b>

**GUARANTEED MAXIMUM PRICE DEVELOPMENT**

Our team will attend the pre-construction meetings. We will develop the bid packages and distribute them to pre-qualified subcontractors. Once the bids have been received and opened, we will host scope meetings to verify the proposed scope of work, schedule and other necessary resources from the trade contractors. Once the subcontractors have been properly scoped out and vetted, we will assemble the guaranteed maximum price. The package will include a comprehensive construction schedule.

Pre-Construction Manager (62 Hours @ \$104.40 / Hour)	\$6,472.80
Project Manager (14 Hours @ \$67.45 / Hour)	\$944.30
Assistant Estimator / Bids (42 Hours @ \$52.20 / Hour)	\$2,192.40
Principal (10 Hours @ \$139.16 / Hour)	\$1,391.60
Project Coordinator (52 Hours @ \$35.50 / Hour)	\$1,846.00
Advertising Allowance	\$1,500.00
Reimbursable Allowance (Per Exhibit "J" Reimbursable Cost Schedule)	<u>\$1,500.00</u>
<b>Guaranteed Maximum Price Development Total:</b>	<b>\$15,847.10</b>

**TOTAL PRE-CONSTRUCTION SERVICES** **\$28,556.77**

It is our understanding that the actual construction commencement is dependent upon the issuance of environmental permitting and the above services may be adjusted accordingly.

Should you have any questions, please do not hesitate to contact us.

Sincerely,

*Todd Albaugh*

Todd Albaugh  
Director of Preconstruction

## **EXHIBIT “B”**

### **PRE-CONSTRUCTION SERVICES ADDENDUM**

#### ***Caloosa Lake Fire Rescue Station***

#### **I. Construction Team Representatives**

- County ..... Polk County
- The Board of County Commissioners
  - County Manager
  - Deputy County Manager
  - Facilities Management Division Director
- Architect/Engineer ..... The Lunz Group
- Construction Manager ..... Miller Construction Management, LLC
- Mike George, Jr. / Corey Miller - Project Executive
  - Todd Albaugh, Pre-Construction Manager
  - Daven Styles, Project Manager
  - Daniel Hagen, Superintendent

#### **II. Pre-Construction Phase Services**

1. To be provided in accordance with the CMAR Agreement Terms and Conditions unless otherwise noted.

#### **III. Omitted Services as previously included in Article 2 of the Agreement**

1. N/A unless otherwise noted.

#### **IV. Construction Manager’s Staff Positions to be assigned to the Pre-Construction/Design Phases**

Position	Name	Duration in Months	Percentage of Time Assigned
Project Executive	Mike George, Jr. / Corey Miller	3	15%
Pre-Construction Manager	Todd Albaugh	3	20%
Project Manager	Daven Styles	3	15%
Project Coordinator	Laura Ramos	3	15%
Bid Coordinator	Christine Matthews	3	15%

## **EXHIBIT "C"**

### **GMP ADDENDUM**

to

Agreement between Polk County and Construction Manager At Risk

### ***Caloosa Lake Fire Rescue Station***

Pursuant to the Master Services Agreement (the "Agreement") dated \_\_\_\_\_ between Polk County, a political subdivision of the State of Florida (the "County") and \_\_\_\_\_ (the "Construction Manager"), with respect to the Project, as identified and described in the Pre-Construction Addendum, the County and the Construction Manager hereby establish a Guaranteed Maximum Price (GMP), Contract Time for the Work and amend the Agreement as set forth below.

1. The Construction Manager's (GMP) for the Work as defined in Section 6.1.3 and the Construction Manager's Fee as defined in Section 6.1.2, for the Construction Phase Services is \_\_\_\_\_.

2. This price is for the performance of the Work in accordance with the Schedules listed below and attached to this Addendum as follows:

- Schedule 1 Construction Manager's Personnel.
- Schedule 2 Contract Drawings & Specifications.
- Schedule 3 GMP Bid Breakdown.
- Schedule 4 Clarifications, Assumptions, Exclusions and Allowances.

3. Pursuant to Article 2, Section 2.5, the Project critical dates are as follow:

- A. Construction Phase Commencement Date: Date Stated in the Notice to Proceed
- B. Project Substantial Completion Date is \_\_\_\_\_ Calendar days from Notice to Proceed
- C. Project Final Completion Date is \_\_\_\_\_ Calendar days after Substantial Completion
- D. The allowance time for this project is \_\_\_\_\_ days.

4. In the event the Construction Manager does not achieve Substantial Completion within the Contract Time, including approved extensions, the Construction Manager shall pay the County, as liquidated damages and not as a penalty, the sum of \_\_\_\_\_ per day for each calendar day the actual time of performance exceeds the authorized Contract Time.

5. The Construction Manager shall not be due any additional Construction Phase Fee on increases in the GMP that do not exceed a cumulative total of \_\_\_\_\_. Should the GMP be increased by more than \_\_\_\_\_ under the terms of Article 7 hereinafter due to no fault of the Construction Manager, the Construction Manager's additional Construction Phase Fee will be 5% percent of that portion of the accumulative increases in the GMP that exceed the GMP by more than \_\_\_\_\_.

6. The Construction Manager's Fee for overhead, profit and general expenses of any kind, except as may be expressly included in Article 9, for services provided during and related to the construction phase, shall be \_\_\_\_\_% of the cost of work, as defined under section 6.1.3, and contingency. The Construction Manager's Fee shall be converted to a fix amount upon acceptance of the GMP, subject to changes as described herein, and shall be paid proportionally to the ratio of the work in place, including stored materials (see Article 8.1.3), as it bears on the latest estimate of the total construction cost and/or to the GMP, whichever is less.

7. Pursuant to Section 6.1.3.2.2, the cost of the premiums for all insurance and cost of premiums for all bonds, which the Construction Manager is required to procure by this Agreement specifically for the construction project. General

Liability will be cost at a fixed rate of \_\_\_\_\_ % of the final Contract Amount and Construction Manager bonds will be cost at a fixed rate of \_\_\_\_\_ %. The premium stated will be substantiated with industry standard documentation. The cost of the work shall include any subcontractor bonds the Construction Manager deems appropriate. There shall be no Construction Manager Overhead and profit fee on this item.

IN WITNESS WHEREOF, the parties have caused this amendment to be executed by their duly authorized representatives, as of the effective date.

**POLK COUNTY, a political subdivision of the  
State of Florida**

ATTEST:

STACY M. BUTTERFIELD, Clerk

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
\_\_\_\_\_, Chairman  
Board of County Commissioners

Date: \_\_\_\_\_

Approved as to form and legal sufficiency:

\_\_\_\_\_  
County Attorney's Office

Miller Construction Management, LLC.  
a Florida limited liability corporation

Attest:

\_\_\_\_\_  
Corporate Secretary

By: \_\_\_\_\_

Title: \_\_\_\_\_

## SCHEDULE 1 to the GMP ADDENDUM

## *Caloosa Lake Fire Rescue Station*

### Construction Manager's Personnel

### During Construction Phase

**(TO BE COMPLETED AT GMP)**

[illegible]

# **SCHEDULE 2 to the GMP ADDENDUM**

***Caloosa Lake Fire Rescue Station***

**Contract Drawings & Specifications**



# **SCHEDULE 3 to the GMP ADDENDUM**

*Caloosa Lake Fire Rescue Station*

**GMP Bid Breakdown**

## **SCHEDULE 4 to the GMP ADDENDUM**

*Caloosa Lake Fire Rescue Station*

**Clarifications, Assumptions, Exclusions and Allowances**

## **EXHIBIT “D”**

*Caloosa Lake Fire Rescue Station*

**Certificate of Substantial Completion**

Standard AIA Document G704 to be used

## EXHIBIT "E"

### *Caloosa Lake Fire Rescue Station* **RELEASE AND AFFIDAVIT**

STATE OF FLORIDA

COUNTY OF Polk County

Before me, the undersigned authority, personally appeared \_\_\_\_\_, who after being duly sworn, deposes and says:

(1) In accordance with the Contract Documents and in consideration of \$\_\_\_\_\_ paid, \_\_\_\_\_ ("Construction Manager") releases and waives for itself and its subcontractors, materialmen, successors and assigns, all claims, demands damages, costs and expenses, whether in contract or in tort, against the Polk County Board of County Commissioners, a body corporate existing under the laws of the State of Florida ("County") relating in any way to the performance of the Agreement between Construction Manager and County, dated \_\_\_\_\_, 20\_\_, for the period from \_\_\_\_\_ to \_\_\_\_\_.

(2) Construction Manager certifies for itself and its subcontractors, materialmen, successors and assigns, that all charges for labor, materials, supplies, lands, licenses and other expenses for which County might be sued or for which a lien or a demand against any payment bond might be filed, have been fully satisfied and paid.

(3) Construction Manager agrees to indemnify, defend, and save harmless County from all demands or suits, actions, claims of liens or other charges filed or asserted against County arising out of the performance by Construction Manager of the Work covered by this Release and Affidavit.

(4) Construction Manager certifies that it has paid all its subcontractors and materialmen in full all amounts owed them from any previous payments received by Construction Manager from County and has not withheld any such amounts. In the event Construction Manager withholds any unpaid amounts due to its subcontractors and/or materialmen from the payment it receives from County with respect to the Application for Payment referenced in Paragraph 5 below, Construction Manager agrees to immediately refund all such unpaid amounts to County.

(5) This Release and Affidavit is given in connection with Construction Manager's [monthly/final] Application for Payment No. \_\_\_\_\_.

**Construction Manager:**

**By:** \_\_\_\_\_

**Title:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
**Witnesses**

[Corporate Seal]

**STATE OF** \_\_\_\_\_  
**COUNTY OF** \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ (name) as \_\_\_\_\_ (title of officer) of \_\_\_\_\_ (entity name), on behalf of the company, who ☐ is personally known to me or ☐ has produced \_\_\_\_\_ as identification.

(AFFIX NOTARY SEAL)

\_\_\_\_\_  
Notary Public

Print Name \_\_\_\_\_

My Commission Expires \_\_\_\_\_

# **EXHIBIT “F”**

*Caloosa Lake Fire Rescue Station*

## **Application for Payment**

Form shall be AIA Document G702 Application and Certificate for Payment

## **EXHIBIT “G”**

### *Caloosa Lake Fire Rescue Station*

#### **Final Payment Request Check List/Certificate of Final Completion**

##### Items to be submitted with Construction Manager’s Request for Final Payment

- \_\_\_\_\_ 1. Pay Request (1 copy with original signatures and original seals, noted as FINAL).
- \_\_\_\_\_ 2. Final Schedule of Contract Values.
- \_\_\_\_\_ 3. Consent of Surety to make Final Payment (signed and sealed).
- \_\_\_\_\_ 4. Power of Attorney from Surety for Release of Final Payment (signed, sealed and dated same as Consent of Surety).
- \_\_\_\_\_ 5. Affidavit of Contract Completion (**Exhibit “E”**).
- \_\_\_\_\_ 6. Satisfactory Conclusion or Release of Lien from all Subcontractors or laborers who have filed Intent to Lien or have indicated non-payment from the Contractor.
- \_\_\_\_\_ 7. Construction Manager’s Guarantee of Construction for one (1) year from the date of Substantial Completion.
- \_\_\_\_\_ 8. Copy of the approval by the Architect/Engineer and the transmittal to the County of Manuals, Shop Drawings, As-Builts (one electronic media and two sets of prints), brochures, warranties, and list of Subcontractors with telephone numbers and addresses.
- \_\_\_\_\_ 9. Verification that County’s personnel have been trained in the operation of their new equipment, attendance lists and videos.
- \_\_\_\_\_ 10. Other special Warranties are required by Specifications in the name of the County.

## EXHIBIT "G"

### *Caloosa Lake Fire Rescue Station*

#### CERTIFICATE OF FINAL COMPLETION

Project: \_\_\_\_\_ County's Project No.: \_\_\_\_\_

Contract No.: \_\_\_\_\_ Contract Date: \_\_\_\_\_

Notice to Proceed Date: \_\_\_\_\_ Completion Date: \_\_\_\_\_

The Work to which this Certificate applies has been inspected by the authorized representatives of the County, Construction Manager and Professional; and that Work is hereby declared to be finally complete in accordance with the Contract Documents on \_\_\_\_\_. This Certificate of Final Completion applies to all Work under the Contract Documents.

All punch list items have been completed and corrected for compliance with Contract Documents. This Certificate constitutes acceptance of Work as specified and intended in the Contract Documents. Construction Manager retains responsibility and obligation to the County for warranty Work arising after admission and acceptance of final completion. Signatories agree the project is finally complete as of the date of signature such that the project is in complete compliance with Contract Documents and authorized Change Orders.

Construction Manager: \_\_\_\_\_

By: \_\_\_\_\_ (Authorized Signature)

\_\_\_\_\_ (Typed Name & Title)

Date: \_\_\_\_\_

Professional: \_\_\_\_\_

By: \_\_\_\_\_ (Authorized Signature)

\_\_\_\_\_ (Typed Name & Title)

Date: \_\_\_\_\_

County: \_\_\_\_\_ (Division Director)

Date: \_\_\_\_\_





## EXHIBIT "H"

### CHANGE ORDER

County \_\_\_\_\_  
Engineer \_\_\_\_\_  
Contractor \_\_\_\_\_

**PROJECT:** Caloosa Lake  
Fire Rescue Station

**CHANGE ORDER NO:** \_\_\_\_\_

POLK COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA  
INITIATION DATE: \_\_\_\_\_

**TO CONTRACTOR:**  
Miller Construction Management, LLC.  
3970 S. Pipkin Rd.  
Lakeland, FL 33811

**PROJECT NO:** \_\_\_\_\_  
**CONTRACT DATE:** \_\_\_\_\_

The contract is changed as follows:

The original (Contract Sum) (Guaranteed Maximum Price) was..... \$  
Net Change by previously authorized Change Orders.....\$  
The (Contract Sum) (Guaranteed Maximum Price) prior to this change order was.....\$  
The (Contract Sum) (Guaranteed Maximum Price) will be (increased) (decreased)  
(unchanged) by this Change Order in the amount of..... \$  
The new (Contract Sum) (Guaranteed Maximum Price) including this Change Order will be..... \$  
The Contract Time will be (increased) (decreased) (unchanged) by ( ) days  
The date of Substantial Completion as of date of this Change Order therefore is: \_\_\_\_\_

**The above changes are accepted by:**

Architect/Engineer: \_\_\_\_\_ (Signature) Date: \_\_\_\_\_

Address: \_\_\_\_\_

Contractor: \_\_\_\_\_ (Signature) Date: \_\_\_\_\_

Address: \_\_\_\_\_

Division Director: \_\_\_\_\_ (Signature) Date: \_\_\_\_\_

Reviewed as to form and legal sufficiency:

County Attorney's Office: \_\_\_\_\_ (Signature) Date: \_\_\_\_\_

County Manager/Designee: \_\_\_\_\_ (Signature) Date: \_\_\_\_\_

(Change order increases require Board approval)

Attest: STACY M. BUTTERFIELD, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Polk County, a political subdivision  
of the State of Florida

By: \_\_\_\_\_, Chairman  
Board of County Commissioners

Date Signed by Chairman: \_\_\_\_\_

**To the CONTRACTOR: Your acceptance of this Change Order shall constitute a modification to our agreement and will be performed subject to all of the same terms and conditions as contained in our Agreement indicated above, as fully as if the same were repeated in this acceptance. The adjustment, if any, to the agreement shall constitute a full and final settlement of any and all claims arising out of or related to the change set forth herein, including claims for impact and delay costs.**



**EXHIBIT "I"**  
ALLOWANCE AUTHORIZATION RELEASE (AAR)

**PROJECT:** Caloosa Lake Fire  
Rescue Station

**AAR NO:** \_\_\_\_\_

POLK COUNTY,  
A POLITICAL SUBDIVISION OF  
THE STATE OF FLORIDA

**CONTRACT NO:** \_\_\_\_\_

**INITIATION DATE:** \_\_\_\_\_

**CONSTRUCTION MANAGER:** Miller Construction Management, LLC.; 3970 S. Pipkin Rd., Lakeland, FL 33811

**ARCHITECT/ENGINEER:** The Lunz Group, 58 Lake Morton Drive, Lakeland, FL 33801

---

**DESCRIPTION OF ALLOWANCE WORK:**

Reason for change:

---

**\*Not valid until signed by the County, Architect/Engineer and Construction Manager.**

---

Amount of Allowance Authorization included in this Contract is \_\_\_\_\_  
Amount of Allowance Authorization used to date \_\_\_\_\_ \$  
Amount of Allowance Authorization used this AAR \_\_\_\_\_ \$  
Balance of remaining AAR \_\_\_\_\_ \$

Original Contract Time \_\_\_\_\_ days  
Amount of the Allowance Authorization time included in this Contract is \_\_\_\_\_ days  
Amount of the Allowance Authorization time used to date \_\_\_\_\_ days  
Amount of the Allowance Authorization time used this AAR \_\_\_\_\_ days  
Balance of remaining Allowance Authorization Time is \_\_\_\_\_ days  
Date of Substantial Completion therefore is \_\_\_\_\_

**(THE TOTAL ORIGINAL CONTRACT AMOUNT REMAINS UNCHANGED)**

**CONTRACTOR:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**COUNTY:** \_\_\_\_\_ **Date:** \_\_\_\_\_

(Division Director)

**ARCHITECT/ENGINEER:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**COUNTY MANAGER:** \_\_\_\_\_ **Date:** \_\_\_\_\_

(Or Deputy County Manager)

AAR's less than \$50,000.00 requires County Manager or designee approval

AAR's over \$50,000.00 but less than \$100,000.00 requires County Manager approval

AAR's over \$100,000.00 require Board approval

**POLK COUNTY, A POLITICAL SUBDIVISION OF THE STATE:** \_\_\_\_\_  
**OF FLORIDA** **CHAIRMAN**

**Date:** \_\_\_\_\_



## REIMBURSABLE COST SCHEDULE

1. **Reproduction Cost**
  - A. **Regular Copying**.....Single Side                      Double Sided
 

8 ½ x 11 (black & white).....\$ 0.15/page	\$ 0.25/sheet
8 ½ x 11 (color) .....\$ 0.30/page	\$ 0.40/sheet
8 ½ x 14 (black & white).....\$ 0.15/page	\$ 0.25/sheet
8 ½ x 14 (color) .....\$ 0.30/page	\$ 0.40/sheet
11 x 17 (black & white).....\$ 0.25/page	\$ 0.35/sheet
11 x 17 (color) .....\$ 0.40/page	\$ 0.50/sheet
9 ½ x 24 Single Side Only.....\$ 1.00/page	
17 x 22 Single Side Only.....\$ 2.00/page	
18 x 24 Single Side Only.....\$ 2.00/page	
24 x 36 Single Side Only.....\$ 3.00/page	
30 x 30 Single Side Only.....\$ 5.00/page	
32 x 34 Single Side Only.....\$ 5.00/page	
Other sizes-per square inch .....\$ 0.03/page	
Compact Digital Disk.....\$ 6.00/disk	
  - B. **Blueprint Copy**.....\$10.00/page
2. **Subcontractor Services**    Actual Costs
3. **Special Consultants**    Actual costs
4. **Computer Services**    Non-reimbursable
5. **Travel Expenses**    In accordance with Chapter 112.061, F.S.;  
and further defined in the Polk County  
Employee Handbook
6. **Postage, Fed Express, UPS**    Actual Costs
7. **Pre-approved Equipment**  
(includes purchase and rental of equipment used in project)                      Actual Costs

**EXHIBIT K****HOURLY RATE SCHEDULE**

<b>COMPANY NAME:</b>	<b>Miller Construction Management, Inc.</b>	
<b>Classification:</b>	<b>Raw Labor Rates:</b>	<b>Rates with Labor Burden:</b>
Pre-construction Manager	\$73.52	\$104.40
Assistant Estimator / Bids	\$36.76	\$52.20
Principal	\$98.00	\$139.16
Accountant	\$40.00	\$62.00
Project Coordinator	\$25.00	\$35.50
Project Manager	\$47.50	\$67.45
Superintendent	\$40.00	\$62.00
Rough Carpentry	\$27.50	\$42.63
Finish Carpentry	\$27.50	\$42.63
Laborer (General)	\$15.00	\$23.25

**EXHIBIT "L"**

**AFFIDAVIT CERTIFICATION  
IMMIGRATION LAWS**

SOLICITATION NO.: RFP 21-425      PROJECT NAME: Caloosa Lake Fire Rescue Station

POLK COUNTY WILL NOT INTENTIONALLY AWARD COUNTY CONTRACTS TO ANY PARTY WHO KNOWINGLY EMPLOYS UNAUTHORIZED ALIEN WORKERS, CONSTITUTING A VIOLATION OF THE EMPLOYMENT PROVISIONS CONTAINED IN 8 U.S.C. SECTION 1324 a(e) {SECTION 274A(e) OF THE IMMIGRATION AND NATIONALITY ACT ("INA").

POLK COUNTY MAY CONSIDER A CONTRACTING PARTY'S EMPLOYMENT OF UNAUTHORIZED ALIENS A VIOLATION OF SECTION 274A(e) OF THE INA. **SUCH VIOLATION BY THE RECIPIENT OF THE EMPLOYMENT PROVISIONS CONTAINED IN SECTION 274A(e) OF THE INA SHALL BE GROUNDS FOR UNILATERAL CANCELLATION OF THE CONTRACT BY POLK COUNTY.**

THE UNDERSIGNED ATTESTS THAT THE COMPANY IS FULLY COMPLIANT WITH ALL APPLICABLE IMMIGRATION LAWS (SPECIFICALLY TO THE 1986 IMMIGRATION ACT AND SUBSEQUENT AMENDMENTS).

**STATE OF** \_\_\_\_\_  
**COUNTY OF** \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
by \_\_\_\_\_ (name) as \_\_\_\_\_ (title of officer) of  
\_\_\_\_\_ (entity name), on behalf of the company, who ☐ is personally known  
to me or ☐ has produced \_\_\_\_\_ as identification.

(AFFIX NOTARY SEAL)

\_\_\_\_\_  
Notary Public  
Print Name \_\_\_\_\_

My Commission Expires \_\_\_\_\_

**EXHIBIT M**  
**PUBLIC CONSTRUCTION BOND**  
**FRONT PAGE**  
**F.S. CHAPTER 255.05**

BOND NO.: \_\_\_\_\_

CONTRACTOR NAME: \_\_\_\_\_

CONTRACTOR ADDRESS: \_\_\_\_\_

CONTRACTOR PHONE NO: \_\_\_\_\_

SURETY COMPANY: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

OWNER NAME: Polk County, a political subdivision of the State of Florida

OWNER ADDRESS: 330 W. Church St

Bartow, FL 33830

OWNER PHONE NO: (863) 534-6757

OBLIGEE NAME: (if  
contracting entity is different  
from the owner, the contracting  
public entity) \_\_\_\_\_

OBLIGEE ADDRESS: \_\_\_\_\_

OBLIGEE PHONE NO: \_\_\_\_\_

BOND AMOUNT: \$ \_\_\_\_\_

CONTRACT NUMBER: \_\_\_\_\_

GENERAL DESCRIPTION  
OF PROJECT: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

PROJECT LOCATION: \_\_\_\_\_

\_\_\_\_\_

## PUBLIC CONSTRUCTION BOND

KNOW ALL MEN BY THESE PRESENTS: That \_\_\_\_\_, as Principal, and \_\_\_\_\_, as Surety, located at \_\_\_\_\_ (Business Address) are held and firmly bound unto Polk County, a political subdivision of the State of Florida, as Obligee in the sum of \_\_\_\_\_ in lawful currency of the United States, for the payment whereof we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the Contract executed between Principal and County for construction of \_\_\_\_\_, the Contract being made a part of this bond by reference, at the times and in the manner prescribed in the Contract; and
2. Promptly makes payments to all claimants, as defined in Section 255.05(1) Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided in the Contract; and
3. Pays County all losses, damages, expenses, costs, liquidated damages, and attorney fees, including appellate proceedings, that County sustains because of a default by Principal under the Contract; and
4. Performs the guarantee of all work and materials furnished under the Contract for the time specified in the Contract, then this bond is void, otherwise it remains in full force.

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05(2), Florida Statutes.

Any changes in or under the Contract Documents and compliance or non-compliance with any formalities connected with the Contract or the changes does not affect Surety's obligation under this bond.

Reference is hereby made to Section 255.05 Florida Statutes, and to the notice and time limitation provisions thereof:

IN WITNESS WHEREOF, this instrument is executed this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

ATTEST:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

ATTEST:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

PRINCIPAL:

BY: \_\_\_\_\_ (SEAL)  
Authorized Signature (Principal)

Printed Name

Title of Person Signing Above

SURETY:

Printed Name

BY: \_\_\_\_\_ (SEAL)  
Attorney in Fact

Printed Name

Business Address





**EXHIBIT "N"**  
**BUY-OUT ALLOWANCE AUTHORIZATION RELEASE (BOAAR)**

**PROJECT:** Caloosa Lake  
Fire Rescue Station

**BOAAR NO:** \_\_\_\_\_

POLK COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA

**CONTRACT NO:** \_\_\_\_\_

**INITIATION DATE:** \_\_\_\_\_

CONSTRUCTION MANAGER: Miller Construction Management, LLC.; 3970 S. Pipkin Rd., Lakeland, FL 33811

ARCHITECT/ENGINEER: The Lunz Group, 58 Lake Morton Drive, Lakeland, FL 33801

---

**DESCRIPTION OF ALLOWANCE WORK:**

**Total:** \_\_\_\_\_ \$

**\*Not valid until signed by the County, Architect/Engineer and Construction Manager.**

---

Amount of Buy-out Allowance \_\_\_\_\_ \$

Amount of Buy-out Allowance Authorization used to date \_\_\_\_\_ \$

Amount of Buy-out Allowance this AAR \_\_\_\_\_ \$

Balance of remaining Buy-out Allowance \_\_\_\_\_ \$

**(THE TOTAL ORIGINAL CONTRACT AMOUNT REMAINS UNCHANGED)**

CONTRACTOR: \_\_\_\_\_ Date: \_\_\_\_\_

COUNTY: \_\_\_\_\_ Date: \_\_\_\_\_

Division Director

ARCHITECT/ENGINEER: \_\_\_\_\_ Date: \_\_\_\_\_

COUNTY MANAGER: \_\_\_\_\_ Date: \_\_\_\_\_

(Or Deputy County Manager)

AAR's less than \$50,000.00 requires County Manager or designee approval

AAR's over \$50,000.00 but less than \$100,000.00 requires County Manager approval

AAR's over \$100,000.00 require Board approval

**POLK COUNTY, A POLITICAL SUBDIVISION OF THE STATE:** \_\_\_\_\_  
**OF FLORIDA** **CHAIRMAN**

Date: \_\_\_\_\_