

# MASTER SERVICES AGREEMENT

## BETWEEN POLK COUNTY AND CONSTRUCTION MANAGER

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 Marcobay Construction, Inc. a Florida corporation, 3810 Drane Field Road - Suite 16, Lakeland, FL 33811, whose Federal Identification Number is: 59-1509590 (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 25-544, 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 – shall be defined in each Pre-Construction Addendum issued under this Agreement.

1.3.2 Services – shall include: (1) all professional services described in the County's Request for Proposals RFP #25-544, including all attachments and addenda; (2) all services described in the Construction

Manager's response thereto (collectively, "RFP 25-544" 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 – shall be determine for each individual Project and named in the Pre-Construction Addendum.
- 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 for five (5) years thereafter, unless otherwise terminated as provided herein.
  - 1.3.14.1 When the Construction Manager and the County enter into a CMSA/CMPO where the term of the CMSA/CMPO expires on a date that is later than the date that the Master Services Agreement (MSA) expires, the Construction Manager and the County agree that the terms of the MSA and any amendments, attachments or provisions thereof are automatically extended until the expiration (including any extension or amendment thereto) or full completion of the requirements of the CMSA/CMPO have been performed. Cancellation by the County of any remaining work prior to the full completion of the requirements of the CMSA/CMPO shall cause the terms of the MSA to

terminate at the same time. This provision only applies when the expiration of the CMSA/CMPO extends beyond the expiration of the MSA. It does not apply when a CMSA/CMPO expires or is cancelled prior to the expiration of the MSA.

- 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. Such authorization will be issued in the form of either 1) a Construction Manager Services Authorization (CMSA) or a Construction Manager Purchase Order (CMPO). All provisions of this Agreement apply to any CMSA or CMPO with full force and effect as if appearing in full within each such document. Each CMSA and CMPO will be accompanied by a completed Pre-Construction Addendum, and shall set forth a specific Scope of Services, maximum limit of compensation, schedule, liquidated damages, if applicable, and completion date, and shall become effective upon the due execution.

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 Pre-Construction Addendum and accompanying CMSA or CMPO, 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.
  - 2.1.2.2.5 A 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.
  - 2.1.2.2.6 A 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 bound separately and 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. A 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 60% design development plans; and

2.1.4.3 Estimate at the completion of 100% design development plans; and

2.1.4.4 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 (total number of copies not to exceed 10) 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 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 two (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

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; and

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; and

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; and

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; and

- 6.1.3.1.5 Payments made by Construction Manager to subcontractors in accordance with the requirements of the applicable written subcontracts; and
- 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; and
- 6.1.3.1.7 Cost of all materials, supplies and equipment incorporated in the Project, including costs of transportation and storage thereof; and
- 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 are included in the Construction Manager fee.

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;** and
- 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; and
- 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; and
- 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; and

- 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; and
- 6.1.3.2.7 Costs for trash and debris control and removal from the site; and
- 6.1.3.2.8 Costs incurred due to an emergency affecting the safety of persons and property; and
- 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; and
- 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; and
- 6.1.3.2.11 Costs for watchman and security services for the project, if necessary; and
- 6.1.3.2.12 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; and
- 6.1.3.2.13 *Intentionally omitted.*
- 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; and
- 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; and
- 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; and
- 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; and
- 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; and

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; and

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; and

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; and

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; and

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; and

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; and

6.1.3.3.4 Costs of all reproductions used for bidding or information purposes required by the Project to directly benefit the project; and

6.1.3.3.5 Construction Manager's capital expenses, including interest on Construction Manager's capital employed for the Work; and

6.1.3.3.6 Rental costs of machinery and equipment, except as specifically provided in Article 6, Section 6.1.3.2.1; and

6.1.3.3.7 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; and

6.1.3.3.8 Any costs not specifically and expressly described in Article 6, Section 6.1.3.1 and 6.1.3.2 above; and

6.1.3.3.9 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; and

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 or his designee can approve the use of the County's Allowance up to \$100,000 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 15% of the total amount of time allotted for the work or 60 days, whichever is less. 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, any sales tax savings recognized from County Purchased Materials as described in Article 14, 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.

7.1.1.1 **Prompt Processing of Change Orders:** Pursuant to §218.755, Fla. Stat., for any contract for construction services, if (1) County receives from Vendor a price quote for a change order requested or issued by the County for construction services, and (2) the price quote conforms to all statutory requirements and contractual requirements for the project, then County shall approve or deny the price quote and send written notice of that decision to Vendor within thirty-five (35) days after receipt of such quote. If the County issues a denial notice, then the County shall specify the alleged deficiencies in the price quote and the actions necessary to remedy those deficiencies. If the County fails to provide the contractor

with a notice in compliance with this section, then the change order and price quote are deemed approved, and the County shall pay the contractor the amount stated in the price quote upon the completion of the change 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; and

(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; and

(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:**  
Marcobay Construction, Inc.  
3810 Drane Field Road - Suite 16  
Lakeland, FL 33811  
Attn: Jimmy Vessels

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 Unauthorized Alien(s)

The Construction Manager 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 Construction Manager shall also deliver a completed and executed counterpart of the attached "AFFIDAVIT CERTIFICATION IMMIGRATION LAWS" form.

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; and
- 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; and
- 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; and
- 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; and
- 13.20.5 Construction Manager has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement; and
- 13.20.6 Construction Manager has the personnel and experience necessary to perform all Services in a professional and workmanlike manner; and

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; and

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; and

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 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.

**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. Any sales tax savings recognized from the County Purchased Materials shall be reallocated to the County's Buyout Allowance, as described in Section 6.1.5.
- 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 County 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 (if not re-allocated to the County's Buyout Allowance as described in Section 14.2.4 above) 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>RFP 25-544 and Construction Manager's Proposal</b>
<b>Exhibit "B"</b>	-	<b>Pre-Construction Services Addendum</b>
<b>Exhibit "C"</b>	-	<b>GMP Addendum</b>
<b>Exhibit "D"</b>	-	<b>Certificate of Substantial Completion</b>
<b>Exhibit "E"</b>	-	<b>Release and Affidavit</b>
<b>Exhibit "F"</b>	-	<b>Application for Payment Form</b>
<b>Exhibit "G"</b>	-	<b>Final Payment Request Checklist/Certificate of Final Completion</b>
<b>Exhibit "H"</b>	-	<b>Change Order</b>
<b>Exhibit "I"</b>	-	<b>Allowance Authorization Release</b>
<b>Exhibit "J"</b>	-	<b>Schedule of Reimbursables</b>
<b>Exhibit "K"</b>	-	<b>Hourly Rate Schedule</b>
<b>Exhibit "L"</b>	-	<b>Affidavit Certification Immigration Laws</b>
<b>Exhibit "M"</b>	-	<b>Public Construction Bond</b>
<b>Exhibit "N"</b>	-	<b>Buy-Out Allowance Authorization Release</b>

**(THE REMAINDER OF THE PAGE IS LEFT INTENTIONALLY BLANK; THE AGREEMENT CONTINUES ON THE FOLLOWING PAGE WITH THE PARTIES SIGNATURES.)**



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

By: \_\_\_\_\_  
Martha Santiago, Ed, D, Chair  
Board of County Commissioners

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

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

 12/18/2025  
County Attorney's Office Date

ATTEST:

**Marcobay Construction, Inc.**  
a Florida corporation

By:



Sara McIntyre Scaynes  
Printed Name

By:



Print Name:

Timmy Vessels

Title:

president

Date:

12/18/2025

### 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 Timmy Vessels (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.

Marcobay Construction, Inc.

NONGOVERNMENTAL AGENCY

SIGNATURE

PRINT NAME

TITLE

DATE

Timmy Vessels  
president  
12/18/2025

## Detail by Entity Name

Florida Profit Corporation  
MARCOBAY CONSTRUCTION, INC.

### Filing Information

<b>Document Number</b>	447272
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<b>Event Date Filed</b>	12/28/1995
<b>Event Effective Date</b>	NONE

### Principal Address

3700 DMG Drive  
LAKE LAND, FL 33811

Changed: 07/28/2023

### Mailing Address

3700 DMG Drive  
LAKE LAND, FL 33811

Changed: 07/28/2023

### Registered Agent Name & Address

Campbell, Timothy F, Esq.  
500 South Florida Avenue, Suite 800  
Lakeland, FL 33801

Name Changed: 08/26/2022

Address Changed: 08/26/2022

### Officer/Director Detail

#### **Name & Address**

Title President

Vessels, Jimmy  
3700 DMG Drive  
LAKE LAND, FL 33811

### Annual Reports

<b>Report Year</b>	<b>Filed Date</b>
2024	05/01/2024
2024	05/08/2024
2025	02/14/2025

### Document Images

<a href="#">02/14/2025 - ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">05/08/2024 - AMENDED ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">05/01/2024 - ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">05/01/2023 - ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">08/26/2022 - AMENDED ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">04/29/2022 - ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">04/26/2021 - ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>

**EXHIBIT “A”**

**RFP 25-544 and Construction Manager’s Proposal**

## RFP NOTICE

Polk County, a political subdivision of the State of Florida, requests the submittal proposals from vendors that are interested in providing construction manager at risk services here as described herein. Sealed proposals must be received in the Procurement Division, prior to the due date and time listed below.

**RFP Number and Title:** 25-544

**Description:** Provide Construction Manager at Risk (CMAR) Continuing Services

**Receiving Period:** Prior to 2:00 p.m., Wednesday, August 13, 2025

**Bid Opening:** Wednesday, August 13, 2025, 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** pre-proposal meeting will be held Tuesday, July 22, 2025, 10:00 a.m. at the Polk County Administration building, located at 330 W. Church St, Procurement Conference Room, Room 150, 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 Proposers Proposal will be considered non-responsive. Those attending via video conference will be added to the sign in sheet by the Procurement office during the video conference. The Zoom Meeting ID: 848 3676 8671.

Questions regarding this RFP must be in writing and must be sent to Tabatha Shirah Procurement Analyst, via email at [tabathashirah@polk-county.net](mailto:tabathashirah@polk-county.net). All questions must be received by, Wednesday, July 30, 2025, 4:00 p.m.

## 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 Polk County Procurement Division as soon as possible. It is the vendor's responsibility to verify if addenda have been issued.**

**RFP Number:** 25-544

**RFP Title:** Construction Manager at Risk Continuing Services

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

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

Carefully complete this form and return it to the Procurement Division via e-mail to [procurement@polk-county.net](mailto:procurement@polk-county.net). You must submit one form for each solicitation that you are registering for.

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

Contact Name: \_\_\_\_\_

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

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip Code: \_\_\_\_\_

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

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

## PROPOSAL SUBMITTAL INSTRUCTIONS

Proposers must submit their proposal prior to 2:00 p.m. on the receiving date. Proposals must be submitted in a “sealed” parcel or electronically through Polk County’s secure website, Kiteworks. Proposals will be publicly opened at 2:00 p.m. on the receiving date.

### **Sealed Parcel Submittal:**

If you are submitting a sealed parcel proposal submit one (1) original marked ORIGINAL and five (5) copies marked COPY of the proposal in a sealed parcel to the Procurement Division. The parcel should be labeled “RFP #25-544, Construction Manager at Risk Continuing Services” and marked with the proposer’s name and address. The Proposals may be mailed or delivered to:

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

To assist with labeling the sealed parcel, please cut along the outer border and affix this label. Be sure to include the name of the company submitting the proposal where requested.

Sealed Proposal. DO NOT OPEN	
RFP Number	25-544
RFP Title	Construction Manager at Risk Continuing Services
Due Date/Time:	August 13, 2025, prior to 2:00 pm
Submitted by:	
Deliver To:	Polk County Procurement Division 330 West Church Street, Room 150, Bartow, Florida 33830

Proposals may be mailed, express mailed or hand delivered. It is the Proposers responsibility to ensure their package is delivered to the Procurement Division prior to 2:00 p.m. on the Receiving date and time referenced above. Proposals delivered at 2:00 p.m. or later will not be accepted.

### **Electronic Proposals Submittal:**

All prospective Proposers that are interested in submitting their proposals electronically can do so via the County’s secure electronic submittal website, Kiteworks. Proposers must email [tabathashirah@polk-county.net](mailto:tabathashirah@polk-county.net) at least 48 hours prior to opening to receive a link to upload their submittal. Please only upload your documents as a PDF or Excel file for the Cost Tab, if applicable. Please use the name convention of your files as follow:

“RFP 25-544 Tab 1”

“RFP 25-544 Tab 2”

"RFP 25-544 Tab 3"

"RFP 25-544 Tab 4"

"RFP 25-544 Tab 5"

"RFP 25-544 Tab 6"

"RFP 25-544 Tab 7"

"RFP 25-544 Submittal Documents"

For more instructions, a video tutorial has been produced to further explain the electronic solicitation submittal process. It can be found by clicking here for RFP Submittals: [https://youtu.be/vkn\\_7AHgioE](https://youtu.be/vkn_7AHgioE). If you need assistance accessing this website due to ADA or any other reason, please email Tabatha Shirah at [tabathashirah@polk-county.net](mailto:tabathashirah@polk-county.net).

Procurement recommends that Proposers submitting electronically double check the documents submitted into Kiteworks to ensure all requested tab information has been uploaded. Failure to upload the requested tab information may result in the proposal being deemed nonresponsive.



**POLK COUNTY**  
**Procurement Division**  
**Fran McAskill**  
**Procurement Director**  
**REQUEST FOR PROPOSAL 25-544**

**Construction Manager at Risk Continuing Services**

Sealed proposals will be received in the Procurement Division, **Wednesday, August 13, 2025 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 [www.polk-county.net/business/procurement/](http://www.polk-county.net/business/procurement/). 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 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 Tabatha Shirah, via email at [tabathashirah@polk-county.net](mailto:tabathashirah@polk-county.net). All questions must be received by July 30, 2025, 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 a 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**  
**(863)534-6757**

## **INTRODUCTION**

Polk County, a political subdivision of the State of Florida seeks proposals from experienced and qualified construction management companies to work during the design, bid/award, construction and County occupancy phases with a County selected architectural/engineering firm on capital construction projects with a construction value up to \$7,500,000.00 or the current adjusted amount on the State of Florida's website, in accordance with §287.055, and as further defined in the Scope of Services below.

Polk County's Selection Process for Construction Manager at Risk (CMAR) services is in accordance with Section 287.055, Florida Statutes, the Consultants' Competitive Negotiations Act ("CCNA"). The Professional Services Selection Committee will review the qualifications of all submitting firms.

It is the intent of the County to select and negotiate a Master Agreement with one (1) or more firm(s).

The County will negotiate a fee schedule as part of "Selection Process", Elevation Level 4 Contract Negotiations.

Services under this contract will be in compliance with Section 255.103 Construction management and Section 287.055 of the Florida Statutes referred to as the "Consultants' Competitive Negotiation Act" (CCNA). Polk County's Procurement Procedure's Manual outlines the Procedures for Contracting for Professional Services Covered by CCNA. These procedures outline the process used for the selection of a construction manager awarded through this RFP process.

The County's agreement with the selected firms will be a master contract for CMAR services.

The Successful Proposer must register in our 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: [www.polk-county.net/business/procurement/vendor-information/](http://www.polk-county.net/business/procurement/vendor-information/). 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 RFP's.

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

## **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 proposal.
2. Prime contractor must have been in business for a minimum of 10 years, which shall be demonstrated by the references provided in Tab 3, Experience, Expertise, Personnel & Technical Resources.

3. Proposers 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 proposers.
4. Prime contractor must have CMAR experience with public entities.

## **SCOPE OF SERVICES**

The successful respondents shall utilize an open book approach to the projects and provide pre-construction services and a guaranteed maximum price with full disclosure of actual costs to the County. Pre-construction responsibilities include, but are not limited to value engineering, estimating, constructability reviews, associated meetings and conferences. Additionally, the successful companies shall provide construction phase services, consisting of, but not limited to, administrative services, construction, supervision and accepted accounting principles throughout the complete project(s).

The selection of firms will be based upon criteria outlined herein under Evaluation of Proposals. Firms submitting must have CMAR experience for public entities. One or more firms will be selected for master service agreements as a result of this RFP.

When the fee for preconstruction phase services is agreed to by the County, a purchase order will be issued for the amount of the preconstruction phase fee. When the Guaranteed Maximum Price (GMP) is agreed to by the County, an agenda item will be prepared and presented to the Board of County Commissioners for their approval. After approval, a purchase order will be issued for the amount of the GMP.

The selection of a contractor utilizing this master service agreement for a specific project shall be made utilizing the County's Selection Procedures for Consultants with Continuing Contracts.

The County shall request the services on an as-needed basis. There is no guarantee that any or all of the services described in this agreement will be assigned during the term of this agreement. Further, the Construction Manager is providing these services on a nonexclusive basis. The County, at its option, may elect to have any of the services set forth herein performed by other construction managers or County staff.

## **AGREEMENT**

The Master Agreement will be for five (5) years unless otherwise terminated in accordance with the master service agreement.

## **EVALUATION CRITERIA**

Proposals should not contain information in excess of that requested, must be concise, and must specifically address the issues of this RFP. Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective response to this RFP 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 responses shall be contained within a three-ring binder

(original and each copy in separate binders). For the purposes of this RFP, one page equals a single sided page. It is requested that the responses be in the same order as the selection and evaluation procedures. The submittals should include the following:

**Tab 1 Executive Summary**

(Items a-c: Maximum of two (2) pages)

- a) Name, company name, address, telephone number, and email address.
- b) State the number of years in business, as the same company/firm.
- c) State the number of full time employees.
- d) Provide documentation showing proper incorporation by the Secretary of State.
- e) Provide a copy of the firm's current State of Florida Certified General Contractor.
- f) 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 of four (4) 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, Expertise, Personnel and Technical Resources (30 points)**

- 1. 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 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 project was completed or are anticipated to be completed.
- e) Size of project (gross S.F. and/or area of construction).
- f) Cost of project (construction cost).
- g) List of change orders, including dollar amount, which were the result of unforeseen circumstances or design errors/oversights; and any time extensions created as a result of the change order
- h) Work for which your staff was responsible.



- i) Project manager, superintendent and other key professionals involved in the projects
- 2. Provide an organizational chart of the team highlighting the key individuals who will work on this contract.
- 3. Provide brief resumes of key personnel to be assigned to the master service agreement including, but not limited to, the items in the list below (One (1) page maximum per resume):
  - a) Name and current position held by the person
  - b) Name, title and project assignment
  - c) How many years have they worked for your company?
  - d) How many years have they worked for other contractors/
  - e) Experience:
    - 1) Types of projects.
    - 2) Size of projects (dollar value of project).
    - 3) What were their specific project involvements?
  - f) List degrees, certifications, and registrations

**Tab 4, Scheduling and Cost Control (30 Points)**

(Maximum three (3) pages plus the sample schedule) Revised 6.13.18\_MAS 8

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 Firm a “Polk County Entity”? (5 Points)**

- There will be a maximum of five (5) points allocated for this Tab. If the Proposer is a Polk County Entity then five (5) points will be allocated. If the Proposer is not a Polk County Entity but is utilizing one or more sub-consultants that are a Polk County Entity to assist in performing the scope of work then the Proposal will be allocated one (1) point for each sub-consultant which is a Polk County Entity up to a maximum of five (5) points. The Polk County Entity sub-consultant(s) must have been identified under Tab 3, Experience, Expertise, Personnel and Technical Resources in order to qualify for point allocation.
- Provide documentation of the Proposers' or sub-consultant's headquarters and local offices, if any, and the amount of time the firm has been located at each such local office. Please also indicate the number of employees at the local office.
- Proposers or sub-consultants 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.
- In the event a Proposer lists one or more sub-consultants in Tab 4 which is a Polk County Entity and receives point(s) as a result, and after the Proposer is awarded the project, if successful, it is determined that the listed sub-consultant does not assist in the performance of the scope of work (and is not replaced with an alternative sub-consultant which is a Polk County Entity), then the Proposer acknowledges and agrees that it may be suspended or debarred by the Procurement Director for failure to comply with the conditions, specifications or terms of a proposal or contract with the County or for committing a fraud or misrepresentation in connection with a proposal or contract with the County, in accordance with the Polk County Purchasing Ordinance and Procedures Manual.

**Tab 6 Is the Firm 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 prime and professional services vendors to utilize W/MBE vendors where at all possible,

irrespective of a company's certification status. Please explain how the submitting firm will encourage minority participation in the project. (Limit response to one page)

- There will be a maximum of five (5) points allocated for this tab. If the Proposer is a Woman or Minority owned business then five (5) points will be allocated. If the Proposer is not a Woman or Minority owned business but is utilizing one or more sub-consultants that are a Women or Minority owned business to assist in performing the scope of work, then the Proposal will be allocated one (1) point for each sub-consultant which meets the County's certification criteria of Women or Minority owned, up to a maximum of five (5) points. The Woman or Minority owned business sub-consultant(s) must have been identified under Tab 3, Experience, Expertise, Personnel and Technical Resources in order to qualify for point allocation.
- Proposers or sub-consultants will be allocated points if they are a certified W/MBE as evidenced by providing the documentation described below.
  - If the Proposer or sub-consultant has a certified W/MBE status, provide documentation of the firms' 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.

- In the event a Proposer lists one or more sub-consultants in Tab 5 which is a Women or Minority owned business and receives point(s) as a result, and after the Proposer is awarded the project, if successful, it is determined that the listed sub-consultant does not assist in the performance of the scope of work (and is not replaced with an alternative sub-consultant which is a Women or Minority owned business), then the Proposer acknowledges and agrees that it may be suspended or debarred by the Procurement Director for failure to comply with the conditions, specifications or terms of a proposal or contract with the County or for committing a fraud or misrepresentation in connection with a proposal or contract with the County, in accordance with the Polk County Purchasing Ordinance and Procedures Manual.

### **Tab 7 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)

### **BID OPENING**

Proposers may attend the Bid Opening in person or via conference call by dialing (646) 558-8656 and enter Meeting ID: 327 647 2818. A listing of all proposers will be posted to Procurement's website as soon as possible after bid opening.

### **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.
- Procurement will also ensure all firms meet the requirement of certification as outlined in Florida Statute 287.055(3)(c).
- The Selection Committee may convene to review questions that arise during individual member review of submitted Proposals before Elevation Level 2 to allow for questions, clarifications, explanations, or other discussion to be held before the review of Proposals is completed.



## Elevation Level 2 (Scoring)

- 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 7) 10 points

Subtotal Points: 20 points

by the process stated under each corresponding Tab description as set forth on Pages 10-12.

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

- Approach to the Project (Tab 2) 30 points
- Experience, Expertise, Personnel and Technical Resources (Tab 3) 30 points
- Scheduling and Cost Control (Tab 4) 20 points

Subtotal Points: 80 points

by the following process:

- 1) 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.

- 2) 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.

- 3) A Selection Committee member's total score for each Proposal shall equal the sum of the total points allocated for each evaluation criteria.
- 4) 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.
- 5) 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.
- 6) In accordance with Section 287.055(4)(a), Florida Statutes, if there are three (3) or more Proposers in Elevation Level 2, the Selection Committee must elevate no fewer than the three highest scored of such Proposers to Elevation Level 3 for interviews. If there are only two Proposers in Elevation Level 2, the Selection Committee must elevate those two Proposers to Elevation Level 3 for interviews. If there is only one Proposer in Elevation Level 2, then the Selection Committee may collectively decide if they would like to elevate the Proposer to Elevation Level 3 for interviews or if they would like to recommend the Board authorize staff to enter into Contract Negotiations with the Proposer. In the latter case, after Board approval to authorize staff to negotiate a contract, the Proposer will then be elevated to Elevation Level 4 for contract negotiations.

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

The Selection Committee are required to conduct interviews of the Proposers that it has elevated from Elevation Level 2 to Elevation Level 3.

During an interview, elevated Proposers may be requested to make a presentation focusing on their qualifications, approach to the project and the ability to furnish the required services. The Selection Committee members will have an opportunity to inquire about any aspect of the RFP and the Proposer's Proposal. After all elevated Proposer interviews, each Selection Committee member will individually rank the Proposers in numerical order beginning at number 1 for the Proposer deemed to be the most highly qualified to perform the required services. In accordance with Section 287.055(4)(b), Florida Statutes, in determining whether a Proposer is qualified, each Selection Committee member shall consider such factors as:

- Ability of Personnel
- Whether a Proposer is a certified minority business enterprise
- Past performance
- Willingness to meet time and budget requirements
- Location
- Recent, current, and projected workloads
- Volume of work previously awarded to each Proposer by the County

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(s). After Board approval to authorize staff to negotiate a contract, said Proposer(s) will then be elevated to Elevation Level 4 for contract negotiations.

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

If a Proposer is elevated to this level, the User Division, with the assistance of Procurement and the County Attorney's Office, shall negotiate an Agreement with the elevated Proposer(s) in accordance with Section 287.055(5), Florida Statutes.

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(s). Procurement shall notify the Selection Committee that contract negotiations with the elevated Proposer(s) have terminated. The Selection Committee shall then determine whether to recommend to the Board to approve contract negotiations with the next-highest-ranked Proposer, and so on. If the Selection Committee decides not to recommend contract negotiations with the next-highest-ranked Proposer, 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(s) are successfully completed pursuant to Elevation Level 4, the Selection Committee shall recommend to the Board of County Commissioners that it selects such Proposer(s) to provide the services as outlined in the Agreement. The Board of County Commissioners shall make the final decision whether to enter into an Agreement with a Proposer(s).



## **GENERAL CONDITIONS**

### **CONTACT**

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, and 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 completion execution of a 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 firm, if any, shall maintain, at all times, the following minimum levels of insurance and; shall, without in any way altering their liability, obtain, pay for and maintain insurance for the coverages and amounts of coverage not less than those set forth below. Provide to the County original Certificates of Insurance satisfactory to the County to evidence such coverage before any work commences. Polk County, a political subdivision of the State of Florida, shall be an additional named insured on all policies related to the project; excluding workers' compensation and professional liability. The Workers' Compensation and General Liability policies shall contain a waiver of subrogation in favor of Polk County. All insurance coverage shall be written with a company having an A.M. Best Rating of at least the "A" category and size category of VIII. The firm's self-insured retention or deductible per line of coverage shall not exceed \$25,000 without the permission of the County. In the event of any failure by the firm to comply with the provisions; the County may, at its option, on notice to the firm suspend the project for cause until there is full compliance. Alternatively, the County may purchase such insurance at the firm's expense, provided that the County shall have no obligation to do so and if the County shall do so, the firm shall not be relieved of or excused from the obligation to obtain and maintain such insurance amounts and coverages.

Worker's Compensation and Employer's Liability Insurance providing statutory benefits, including those that may be required by any applicable federal statute:

Admitted in Florida	Yes
Employer's Liability	\$100,000
All States Endorsement	Statutory
Voluntary Compensation	Statutory

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:

Premises and Operations and Products/Completed Operations;

Broad Form Commercial General Liability Endorsement to include blanket contractual liability (specifically covering, but not limited to, the contractual obligations assumed by

the Firm); Personal Injury (with employment and contractual exclusions deleted) and Broad Form Property Damage coverages;

Independent Contractors; Policy must include Separation of Insureds Clause.

Comprehensive Automobile 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 all owned, hired and non-owned vehicles.

Professional Liability Insurance. \$2,000,000 combined single limit of liability, to include but not limited to, engineering and estimating, inclusive of defense costs. Selected firm shall be required to provide continuing Professional Liability Insurance to cover the project for a period of two (2) years after the projects are completed.

#### **INDEMNIFICATION**

To the maximum extent permitted by law, the Consultant shall indemnify, 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, reasonable 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, to the extent 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 this Agreement, (iii) any claim for trademark, patent, or copyright infringement arising out of the scope of Consultant's performance or nonperformance of this Agreement, or (iv) the negligent acts, errors or omissions, or intentional or willful misconduct, of Consultant or any persons or entities employed or utilized by Consultant in the performance of this Agreement. The obligations imposed by this Section shall survive the expiration or earlier termination of the Agreement.

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

The Consultant declares and warrants that neither the Consultant nor any of the Consultant'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 Consultant 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 Consultant shall be in material default of this Agreement, and in such case, the County shall have the rights and remedies as provided herein.

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

The County is an equal opportunity/affirmative action employer. The County is committed to equal opportunity employment effort; and expects firms 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/MBEs 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, firm 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, firm 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 response 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 [www.polk-county.net/business/procurement/](http://www.polk-county.net/business/procurement/). 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, Florida or the United States District Court, Middle District of

Florida, located in Hillsborough County, Florida. The proposer shall comply with all applicable federal, state and local laws and regulations.

### **CONTRACTUAL MATTERS**

A contract in substantially the same form as attached here to as Attachment "A" (Master Consulting Agreement) will be executed between the County and the successful Proposer(s).

All contracts are subject to final approval of the Polk County Board of County Commissioners. Persons or firms who 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 one hundred and twenty (120) 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.

### **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 responses 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, or must provide within thirty (30) days from the Proposal due date.

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 responses 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 responses 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 [www.polk-county.net/business/procurement/protest-procedures/](http://www.polk-county.net/business/procurement/protest-procedures/).

**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 Consultant 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 consultant will complete and submit the form "AFFIDAVIT CERTIFICATION IMMIGRATION LAWS."

**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.

## **LIMITATIONS**

This request does not commit Polk County to award a contract. Proposers will assume all costs incurred in the preparation of their response to this RFP. The County reserves the right to: 1) accept or reject qualifications and/or proposals in part or in whole; 2) request additional qualification information; 3) limit and determine the actual contract services to be included in a contract; 4) obtain information for use in evaluating submittals from any source and 5) reject all submittals.

**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.

**Prohibition Against Considering Vendor Interests:** In accordance with Section 287.05701, Florida Statutes, the County may not (i) request documentation of or consider a Vendor's social, political, or ideological interests when determining if the Vendor is a responsible vendor; or (ii) give preference to a Vendor based on the Vendor's social, political, or ideological interests.

## **PUBLIC RECORD LAWS**

(a) The Consultant 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 Consultant 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 Consultant 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 Consultant 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 Consultant 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 Consultant or keep and maintain public records required by the County to perform the service. If the Consultant transfers all public records to the County upon completion of this Agreement, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of this Agreement, the Consultant 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 CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'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) 534-7527**

**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).

## Proposers Incorporation Information

(Submittal Page)

The following section should be completed by all bidders and submitted with their bid submittal:

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

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

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

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

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip Code: \_\_\_\_\_

County: \_\_\_\_\_

Note: Company name must match legal name assigned to the TIN number. A current W9 should be submitted with your bid submittal.

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

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

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

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

Type of Organization (select one type)

- ☐ 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 form 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 Consultant submitting a proposal package. This is accomplished by sending survey forms to past customers. The customers should return the forms directly to the Consultant. The Consultant is to include all surveys in their proposal package.

**Sending the Survey**

The surveys shall be sent to all clients for whom the Consultant 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 Consultant 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 (\$2,000,000)
DATE COMPLETE	Date when the services were completed. (i.e. 6/30/16)

2. The Consultant 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 Consultant 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 Consultant should enter the past clients' contact information, and project information on each survey form for each reference. The Consultant should also enter their name as the Consultant being surveyed.
3. The Consultant is responsible for ensuring all references/surveys are included in their submittal under Tab 7.
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 25-544, Construction Manager at Risk Continuing Services

To: \_\_\_\_\_ (Name of Person completing survey)  
\_\_\_\_\_  
\_\_\_\_\_  
(Name of Client Company/Consultant)  
Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

Subject: Past Performance Survey of Similar work:

Project name: \_\_\_\_\_

Name of Vendor being surveyed: \_\_\_\_\_

Cost of Services: Original Cost: \_\_\_\_\_ Ending Cost: \_\_\_\_\_

Contract Start Date: \_\_\_\_\_ Contract End Date: \_\_\_\_\_

Rate each of the criteria on a scale of 1 to 10, with 10 representing that you were very satisfied (and would hire the Consultant /individual again) and 1 representing that you were very unsatisfied (and would never hire the Consultant /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.

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: \_\_\_\_\_

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



## AFFIDAVIT CERTIFICATION IMMIGRATION LAWS

SOLICITATION NO.: RFP 25-544, Construction Manager at Risk Continuing Services

POLK COUNTY WILL NOT INTENTIONALLY AWARD COUNTY CONTRACTS TO ANY CONSULTANT 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 CONSULTANT 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 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.

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

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

Notary Commission Number and Expiration: \_\_\_\_\_

(AFFIX NOTARY SEAL)

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

(Florida Statutes, Section 448.095)

PROJECT NAME: 25-544, Construction Manager at Risk Continuing Services

The undersigned, as an authorized officer of the contractor identified below (the "**Contractor**"), having full knowledge of the statements contained herein, hereby certifies 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 448.095, Florida Statutes, as related to the contract entered into by and between the Contractor and the County on or about the date hereof, whereby the Contractor will provide labor, supplies, or services to the County in exchange for salary, wages, or other remuneration (the "**Contract**"), as follows:

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(5), Florida Statutes, the Contractor, and any subcontractor under the Contract, 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 the Contract, and the Contractor may not enter into any subcontracts thereunder, unless each party to the Contract, and each party to any subcontracts thereunder, 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 the Contract, and the County may treat a failure to comply as a material breach of the Contract.

3. 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 or Section 448.09(1), Fla. Stat., the subcontract must be terminated immediately. If the Contract 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 the Contract 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 the Contract. Nothing in this Certification shall be construed to allow intentional discrimination of any class protected by law.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**ATTEST:**

**CONTRACTOR:**

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

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

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

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

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

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

July 24, 2025

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

### **ADDENDUM #1**

#### **RFP 25-544, Construction Manager at Risk (CMAR) Continuing Services**

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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.

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Contained within this addendum: Questions/answers and documents uploaded to FTP Site.

To obtain a copy of requested documents please go the following FTP site: <https://ftp3.polk-county.net>, you will be prompted for a User ID and Password. The User ID is *procurevendor* and the password is *solicitation*. After you have logged in to the FTP site, double click on the file folder "**RFP 25-544, RFP Attachments**", select "Open" or "Save As" to download the proposal documents. If you need assistance accessing this website due to ADA or any other reason, please email Tabatha Shirah at [tabathashirah@polk-county.net](mailto:tabathashirah@polk-county.net).

*Tabatha Shirah*

Tabatha Shirah

Procurement Analyst

Procurement Division

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

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

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

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

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

## **RFP 25-544, Construction Manager at Risk (CMAR) Continuing Services**

### **Addendum #1**

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**Question 1:** Could you please provide who are the firms under the current CMAR Continuing Services Contract and provide a copy of their proposals for the previous RFP?

**Answer 1:** Yes, please refer to the instructions provided on page one of this addendum for accessing the "RFP 25-544, RFP Attachments" folder on the FTP site. These documents are for informational purposes only and will not be incorporated into the resulting agreements for RFP 25-544.

**Question 2:** Can you clarify how the county will procure a CM from the chosen pool of contractors for a project under this contract (i.e. will a firm be chosen and asked to give a GMP or will all the firms be invited to hard bid the project)?

**Answer 2:** The selection of a CM will be done in accordance with our Procurement Procedures Section 5.10:

#### **5.10 CONSTRUCTION MANAGERS AT RISK WITH CONTINUING CONTRACTS**

**Selection Procedures for Construction Managers at Risk with Continuing Contracts** To select a construction manager at risk ("CM at Risk") that has an existing continuing contract with the County, the Division Director may use the following process, in the order listed:

1. Verify that the proposed project is consistent with the scope of services in the Request For Proposal (the "RFP") from which the CM's at Risk were selected. If the answer is affirmative, proceed to Step 2. If the answer is negative, contact the Procurement Director for further assistance.
2. Review the current list of CM's at Risk procured under the RFP to determine whether or not any of these firms have the expertise, experience, and personnel required for the project being proposed. Elevate those firms that meet these criteria to the next step.
3. Review this list to determine whether the past projects have been satisfactory or not. Elevate those firms with a minimum of satisfactory past performance to the next step.
4. Review the firm(s) selected from Step 3 to determine whether the firm meets the needs of the proposed project as further outlined in this Step 4. Some of the qualifying factors for the firm(s) to meet the needs of the County might be: Project Manager that will be assigned to the project; location of this person and other key personnel that will work on the project; and/or, for phased projects, whether a particular CM at Risk has performed previous phases, pre-construction services, or significant portions of the project. Special needs of the proposed project and scope of work should be addressed during this review. Consideration may be given to proposed sub-consultants or subcontractors. Greater consideration may also be given to firms with higher past performance evaluation scores than the minimum requirement set forth in Step 3, so long as supporting documentation is submitted in accordance with the requirement below.
5. If multiple firms remain after Step 4, review the total amount of money the County has contracted, under the RFP, with each of the remaining firms during the last 24-month period. (A report of these contracts can be obtained from the Procurement Division.) Select the firm with the lowest dollar volume during the last 24-month period.

**RFP 25-544, Construction Manager at Risk (CMAR) Continuing Services**

**Addendum #1**

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**Question 3:** Regarding the Surveys, if we are submitting an on-going project, the respondent will not be able to answer question #5 – Close Out Process (would be an N/A). Will that count against the average score, since we would not be eligible to receive all “10s” for that survey?

**Answer 3:** No, it will not be counted against you. If the project is not complete evaluator should leave it blank or put N/A. .

**Question 4:** If a contractor is submitting a proposal the CMAR Continuing Services RFP, will it count against a contractor if they also submit to a County CMAR RFP for project specific jobs?

**Answer 4:** No.

July 24, 2025

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

**ADDENDUM #2**

**RFP 25-544, Construction Manager at Risk (CMAR) Continuing Services**

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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.

*Tabatha Shirah*

Tabatha Shirah

Procurement Analyst

Procurement Division

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

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

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

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

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



**RFP 25-544, Construction Manager at Risk (CMAR) Continuing Services**

**Addendum #2**

---

**Question 1:** In Addendum #1, the County indicated that past performance surveys will not be penalized for incomplete projects - 1) Will in-progress projects, including those currently in construction or preconstruction phases, be evaluated on an equal footing to completed ones? 2) Specifically, can we include projects currently in preconstruction where CM services have been initiated but construction has not yet begun?

**Answer 1:** 1) Yes  
2) Yes

**Question 2:** The RFP states that electronic proposal submittals will be accepted. Could you kindly confirm: 1) Should the electronic submittal be a single consolidated PDF or seven separate PDFs (one per required Tab)? 2) Also, could you please clarify what exactly the County expects proposers to submit under the file titled 'RFP-25-544 Submittal Documents' --Should this include only the County-provided forms, or does it refer to the entire proposal package (forms + narrative tabs + attachments)?

**Answer 2:** 1) Upload each "Tab" as a PDF and Please use the name convention provided in RFP Package, page 3-4.  
2) The Tab labeled "RFP-25-544 Submittal Documents," proposers will upload any forms requiring signature from RFP Package and signed addendums.



# MARCOBAY CONSTRUCTION

*respectfully submits our qualifications in response to*

**Polk County Board of County Commissioners**

**RFP #25-544**

**Construction Manager at Risk Continuing Services**

CBC 047744 CGC 1532521 CBC 1532260 | LAKELAND, FL | [WWW.MARCOBAY.COM](http://WWW.MARCOBAY.COM)



# TAB 1: Executive Summary

## Polk County BOCC - RFP 25-544

### EXECUTIVE SUMMARY

We are Marcobay Construction, Inc.

As a Polk County-born builder with **50+ years** of continuous operations, we've partnered with public and private owners across Florida and the Southeast to deliver spaces that perform—on time, within budget, and without surprises. Our approach is simple: align early, communicate constantly, manage risk proactively, and finish strong. **It's why more than 85% of our annual work comes from repeat clients.**

#### FIRM & CONTACT

**Proposer:** Marcobay Construction, Inc.  
**Primary Contact:** Jimmy Vessels, President  
**Address:** 3700 DMG Dr, Lakeland, FL 33811  
**Phone:** (863) 680-2293  
**Email:** jvessels@marcobay.com

#### WHO WE ARE

**Years in Business:** 51 (est. 1974)  
**Full-Time Employees:** 16  
**Bonding Capacity:** Single \$50M / Aggregate \$100M

#### SERVICES PROVIDED

- General Contracting
- Pre-construction Services
- Construction Management
- Design-Build
- Construction Management at-Risk
- Fast-Track Delivery
- Tilt-Up Construction

#### MARKET SECTORS WE SERVE



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# TAB 1: Executive Summary

## Polk County BOCC - RFP 25-544

## EXECUTIVE SUMMARY

### LICENSING & DOCUMENTATION

Marcobay Construction, Inc., is properly incorporated in Florida and is a Florida Certified Building Contractor and General Contractor, active and in good standing.



Since 1974, Marcobay Construction has delivered hundreds of Polk County Projects--built by locals, for locals-- on time, on budget, and built to last.

### DRUG-FREE WORKPLACE

Marcobay Construction, Inc., is a Drug-Free workplace and requires all employees to take a drug test pre-employment.



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# TAB 1: Executive Summary

## Polk County BOCC - RFP 25-544

### EXECUTIVE SUMMARY

#### LICENSING & DOCUMENTATION (CONTINUED)

##### 2025 FLORIDA PROFIT CORPORATION ANNUAL REPORT

DOCUMENT# 447272

Entity Name: MARCOBAY CONSTRUCTION, INC.

Current Principal Place of Business:

3700 DMG DRIVE  
LAKELAND, FL 33811

Current Mailing Address:

3700 DMG DRIVE  
LAKELAND, FL 33811 US

FEI Number: 59-1509590

Certificate of Status Desired: No

Name and Address of Current Registered Agent:

CAMPBELL, TIMOTHY F. ESQ.  
500 SOUTH FLORIDA AVENUE, SUITE 800  
LAKELAND, FL 33801 US

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: TIMOTHY F. CAMPBELL

02/14/2025

Electronic Signature of Registered Agent

Date

##### Officer/Director Detail :

Title: PRESIDENT  
Name: VESSELS, JIMMY  
Address: 3700 DMG DRIVE  
City-State-Zip: LAKELAND FL 33811

##### POLK COUNTY LOCAL BUSINESS TAX RECEIPT

ACCOUNT NO. 29199

CLASS: B+

EXPIRES: 09/30/2026

OWNER NAME	LOCATION
JIMMY L VESSELS	3700 DMG DR LAKELAND

##### BUSINESS NAME AND MAILING ADDRESS

MARCOBAY CONSTRUCTION  
MARCOBAY CONSTRUCTION  
3700 DMG DR  
LAKELAND, FL 33811

CODE

ACTIVITY TYPE

230150

CONTRACTOR GENERAL

PROFESSIONAL LICENSE (IF APPLICABLE)  
DBPR CBC047744

OFFICE OF JOE G. TEDDER, CFC \* TAX COLLECTOR

THIS POLK COUNTY LOCAL BUSINESS TAX RECEIPT MUST BE CONSPICUOUSLY  
DISPLAYED AT THE BUSINESS LOCATION

PAID - 3432582 07/23/2025 HSP

TP 57.75

MARCOBAY CONSTRUCTION

#### LITIGATION & DISPUTES

Marcobay has not been terminated for cause and has not defaulted on a contract. We have no material litigation affecting performance or bonding; any routine industry matters over the past decade were resolved without impact. Documentation is available upon request.



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## TAB 2: Approach to Project

### Polk County BOCC - RFP 25-544

## CONSTRUCTION MANAGEMENT AT-RISK

**Early CMAR, Better Outcomes.**

**Our job as your partner is to turn evolving design into a cost-certain, buildable plan. From day one we run open-book pricing, schedule modeling, logistics, and constructibility-- so each milestone produces clear decisions, not surprises.**

### PRE-CONSTRUCTION SERVICES & CM RESPONSIBILITIES

**We approach every stage of pre-construction with the same discipline we bring to the field. Our progressive estimates and value engineering keep the design on budget so that by Design Development the project is within budget, and the final CDs are biddable and buildable.**

#### Schematic Design (~30% CDs)

*Goal: Target set & options defined*

##### Responsibilities & Deliverables

- Cost model by major systems with current market input and recent buys
- Scenario pricing for big drivers (structure, envelope, MEP baselines)
- Allowances & alternates documented to protect intent while we refine scope
- Initial logistics & phasing concept and preliminary schedule
- Risk & opportunity log opened (permit durations, utilities, site constraints)
- Deliverables to Owner/A/E: SD estimate with confidence range, VE/Options list, Long-Lead watch-list, preliminary schedule (Level-1 CPM), Constructibility Log

#### Design Development (~50-60% CDs)

*Goal: Cost certainty increases, lead times are protected*

##### Responsibilities & Deliverables

- Detailed quantity survey and vendor quotes for long-lead items (switchgear, AHUs/RTUs, roofing, specialty doors/frames)
- Target Value VE workshops - each idea shows cost delta, schedule/O&M impact, and a decision deadline
- More defined schedule (Level-2 CPM) with procurement paths, submittal/approval durations, and early-release packages identified
- Permitting matrix with authority having jurisdiction, submittals, fees, and review times; comment-clearing cadence set with A/E
- Bid-package plan drafted and qualified bidder list built (local/W/MBE outreach included)
- Deliverables: DD estimate and reconciliation, Accepted/Deferred VE log, Long-Lead & Early-Release plan, Level-2 CPM, Permitting matrix, Constructibility Log v2

#### Construction Documents (100% CDs)

*Goal: Bid-ready & field-ready*

##### Responsibilities & Deliverables

- Scope clarifications tightened; "in/out" lists finalized for each trade package
- General Conditions mapped directly to the baseline schedule (staffing, logistics, temp utilities, protections)
- Market soundings completed; alternates finalized; allowances reduced to actual scope.
- ODP candidates confirmed with projected tax savings and release timing
- Full reconciliation of cost model to drawings/specs; Basis of Estimate memorialized
- Deliverables: CD estimate, Bid-package book & qualified bidder list, Baseline CPM, GC cost summary, ODP plan, Constructibility Log v3 (closed items highlighted), and the Basis of GMP ready for open-book compilation.

*Throughout, the A/E retains full design authority and code compliance; our design-assist input is advisory and implemented only through A/E issued documents.*

## TAB 2: Approach to Project Polk County BOCC - RFP 25-544



### COMPETITIVE BIDDING

Our subcontractor strategy is transparent and competitive from start to finish. We **prequalify** firms based on relationship/history, financial strength, capacity, safety performance (EMR/TRIR), relevant Polk County experience, and references. We drive **local/W/MBE participation** with public notices and targeted invitations to Polk-area firms. Bid packages are issued with clear CSI scopes and explicit “in/out” lists to eliminate gaps and overlaps. On bid day, we conduct apples-to-apples leveling, hold scope review meetings, and secure written confirmations of inclusions. Awards are made as a team and based on best value—a balance of price, scope completeness, team capacity, and schedule commitment.

### COST OF WORK OUTSIDE OF GMP

Consistent with County standards, we separate and show CM Fee, bonds/insurance, permits and impact/utility fees, third-party testing/specialty inspections (when CM- or Owner-held), temporary utilities, site services, and consumables on an open-book basis. We maintain a dedicated log and reconcile monthly. We do not charge fee on items the Contract excludes per section 6.1.3.3.

### CM FEE NEGOTIATIONS

We propose a fixed percentage applied only to the Cost of the Work and shown as a separate line in the GMP. We do not charge fee on items the County excludes. For a continuing-services contract, we'll agree to a fee band that scales with project size, duration, and risk, and lock it in at each task order's GMP.

### GENERAL CONDITIONS COST SUMMARY

We build General Conditions **from the schedule up**: a time-phased, open-book line-item plan tied to the CPM baseline. It covers only what's needed to run the site, (**right-sized staffing**, trailers/IT, temp utilities & protections, site services, safety/QA), and is reconciled at milestones, then **audited monthly** (actuals vs. budget). If scope or schedule change, we adjust up or down using the same unit bases. Under-runs return to the Owner per the Agreement.

### GMP COMPILATION

We submit executed bid tabs/leveling sheets, final GC budget & staffing plan, contingencies (with allowed uses), allowances, alternates, and unit prices—plus a clear **Basis of GMP** and **Schedule of Values**. Accepted VE is embedded in the A/E documents and reflected in the GMP. **Buyout savings/unused allowances and CM contingency** are returned to the Owner per the Agreement. (*Fee adjustments follow the contract's “nominal overage” provision.*)

### OWNER DIRECT PURCHASE (ODP) + SALES TAX SAVINGS

We maximize sales-tax savings while protecting schedule and warranties: identify ODP-eligible materials/equipment; the County issues tax-exempt POs; Marcobay coordinates submittals, release, shipping, receiving, and storage; **title transfers to the Owner** and **installer warranties are preserved** via subcontract language; deductive credits flow through the Schedule of Values. We maintain an **ODP Log** (PO, vendor, value, ship/need-by, savings) reviewed at OAC meetings.

**Typical outcome:** meaningful savings (often 1-2%+ on eligible scopes) realized without added burden to County staff.



## TAB 2: Approach to Project Polk County BOCC - RFP 25-544

### QUALITY PLAN

plan > build > verify.

At Notice to Proceed, we issue a project-specific Quality Plan that sets standards, assigns responsibilities, and builds verification checkpoints directly into the schedule. Before production starts, we complete first-work mock-ups to lock in measurable benchmarks for the envelope, fire stopping, drywall/paint, flooring, and sealants—so the whole team agrees on exactly what “right” looks like. We establish inspection hold points for waterproofing, above-ceiling work, and all life-safety systems, ensuring nothing is covered until it passes. Third-party testing and special inspections are proactively scheduled, coordinated, and tracked through final sign-off. Our superintendent submits daily QC reports, and any nonconformance is corrected immediately so follow-on trades never build on unresolved work. The result: fewer reworks, a cleaner punch list, and a faster, smoother turnover.



### CONTRACT COMPLIANCE

We build from the current set of drawings and specifications maintained on Procore, and we hold every trade accountable to its contracted scope. Any change to the work is processed only through a written Change Order in accordance with Article 7—complete with itemized cost and time, unit prices where stipulated, and prompt notice if differing site conditions are discovered. Final payment is released only after full contract compliance is documented.

### PERFORMANCE COMMITMENTS

- GMP submitted on time with fully leveled buyout
- No unresolved AHJ comments at permit
- Documented ODP savings credited to the County
- Zero tolerance for life-safety deficiencies
- Substantial Completion per baseline, clean punch, and trained end-users on Day One

## TAB 2: Approach to Project Polk County BOCC - RFP 25-544

### CONSTRUCTION APPROACH

**From Day One to Day Done.**

**We hit the ground prepared to keep the job safe, organized and moving-- every single day.**

As CM-at-Risk, we bring the field to pre-con and the schedule to every decision, turning the A/E's design into a budget-aligned, buildable plan and a predictable GMP. We mobilize with a clear logistics map, own the CPM baseline and 3-week look-aheads, and run open-book controls so you always know cost, risk, and next steps. Safety is non-negotiable, quality is planned (not inspected in), and AHJ coordination is baked into the path to permit. We lean on local Polk County trades for speed and accountability, protect time with early long-lead purchasing and ODP savings, and start commissioning on day one so turnover is clean. The result: fewer surprises, a cleaner punch, and a facility that's ready to work the day you get the keys.

### MOBILIZATION PLAN

Before a shovel turns, we finalize a site-specific Logistics & Mobilization Plan—fencing and access, laydown and crane paths, pedestrian protection, SWPPP/erosion control, and temporary utilities—so the site is safe, orderly, and ready for efficient production. Since most projects are built next to active facilities, our plan also covers noise, dust, vibration, and after-hours work to keep your operations whole.

### TRADE COORDINATION

**Build it in the office before we build it in the field.** We lead trade coordination and (where applicable) BIM/clash detection to lock in penetrations, supports, and clearances before fabrication. Above-ceiling and envelope hold points prevent cover-up until work passes inspection. This is how we avoid rework and protect the finish schedule.

### OAC MEETINGS

Weekly OAC meetings (and concise dashboards) keep the County, A/E, and CM in lockstep: CPM update, procurement log, RFI/submittal status, change log, ODP log, contingency, safety, QA/QC, and decisions needed. In the field, we use Procore to manage our projects, so RFIs, submittals, photos, and punch are real-time and everyone builds from the current set.

### SAFETY

Safety is non-negotiable. A site-specific safety plan, subcontractor orientations, JSAs, daily huddles, and documented inspections drive a zero-incident culture. We plan for Florida realities, (heat, storms, lightning), with hydration/cooling protocols and a Severe Weather Plan that protects people, materials, and schedule.

### COMMISSIONING & CLOSEOUT

Commissioning and closeout start on day one. We publish a commissioning roadmap early—pre-functional checklists, factory start-ups, TAB/controls integration, and training—so systems are turned over proven, documented, and operator-ready. We punch by area as we go, not at the end, which yields a clean punch and faster occupancy.

### PAYMENTS & RETAINAGE

We will submit monthly Applications for Payment with required backup and a Schedule of Values based on the GMP. Retainage will follow County terms (generally 10%, with reduction at 50% completion in accordance with Florida Statute §255.078 and the Agreement).





## TAB 3: Experience, Expertise, Personnel & Technical Resources

### Polk County BOCC - RFP 25-544



#### DATE OF COMPLETION

February 22, 2016

#### ADDRESS

905 Lake Myrtle Park Drive,  
Auburndale, FL

#### GMP AMOUNT

\$5,617,298

#### SIZE

Buildings: 16,000 SF  
Fields: 35 acres

#### CLIENT

The City of Auburndale

#### PROJECT OWNER

Cody McGhee,  
Director of Parks & Recreation  
(p) 863.965.5545

#### CHANGE ORDERS

Total: \$10,722

#### RELEVANCIES

- CMAR
- Public Entity
- Polk County
- Assigned Team

## LAKE MYRTLE LITTLE LEAGUE COMPLEX

### City of Auburndale

#### SCOPE OF WORK

Marcobay Construction completed the 35-acre expansion of the Lake Myrtle Little League Complex, transforming the venue into a multi-field tournament hub. The project added new natural-turf baseball fields arranged in pods for simultaneous play, each built with engineered sub-grades, under-drainage, properly graded infields, warning tracks, and safety netting. Team facilities include shaded dugouts, bullpens, batting cages, and foul-line accessories sized for high-cycle tournament use.

To support the fields and fans, Marcobay delivered a full suite of site and building improvements: mass grading and storm-water ponds; domestic water, fire, sanitary, electrical, and communications extensions; a smart, zoned irrigation system; sports-lighting infrastructure and controls; shaded bleachers with ADA routes to every field; and a new restroom/concession building with storage. The expansion also added parking and access drives, bus/coach drop-off, pedestrian safety features, ticketing gates, and branded scoreboards and way-finding.

Sequenced construction allowed ongoing league play elsewhere in the complex while work progressed, and first-work mockups for backstops, dugouts, and infield sections set the quality standard from day one. The result is a tournament-ready complex that increases capacity, improves player and spectator experience, and brings more families, and economic activity, to Polk County.



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## TAB 3: Experience, Expertise, Personnel & Technical Resources

### Polk County BOCC - RFP 25-544



#### DATE OF COMPLETION

December 14, 2021

#### ADDRESS

1000 Dunson Rd,  
Davenport, FL, 33896

#### GMP AMOUNT

\$3,211,338

#### SIZE

21,414 SF

#### CLIENT

Ridgeview Global Studies  
Academy - Polk County  
School Board

#### PROJECT OWNER

Ralph Frier, Executive Director  
(p) 863.419.3199

#### CHANGE ORDERS

22 Change Orders due to  
Client Requests and Out of  
Scope Work  
Total: \$146,592

#### RELEVANCIES

- CMAR
- Public Entity
- Polk County

## HIGH SCHOOL BUILDING ADDITION

Client: Ridgeview Global Studies Academy - Polk  
County School Board

### SCOPE OF WORK

Marcobay Construction provided construction manager at-risk services for a new 21,414 square-foot, two-story addition at Ridgeview Global Studies Academy, a public charter school operated by the Polk County School Board in Davenport, Florida. The new facility was constructed to house Ridgeview's growing high school population, and included the full interior build-out of 11 classrooms, a science lab, a multipurpose/student dining room, an administrative office, a conference room, a workout room, and a covered outdoor patio. Our scope also included all associated site work.



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## TAB 3: Experience, Expertise, Personnel & Technical Resources

### Polk County BOCC - RFP 25-544



#### DATE OF COMPLETION

September 1, 2018

#### ADDRESS

1000 Dunson Rd,  
Davenport, FL. 33896

#### GMP AMOUNT

\$8,765,706

#### SIZE

63,797 SF

#### CLIENT

Ridgeview Global Studies  
Academy - Polk County  
School Board

#### PROJECT OWNER

Ralph Frier, Executive Director  
(p) 863.419.3199

#### CHANGE ORDERS

11 Change Orders due to  
Client Requests  
Total: \$457,706

#### RELEVANCIES

- CMAR
- Public Entity
- Polk County

## NEW MIDDLE SCHOOL CAMPUS

**Client:** Ridgeview Global Studies Academy - Polk  
County School Board

### SCOPE OF WORK

Marcobay Construction completed the new middle school campus expansion for Ridgeview Global Studies Academy in Davenport, Florida, supporting grades 6 through 8. The project included the construction of five new buildings--four single-story and one gymnasium--for a total of approximately 56,000 square feet of new educational space.

The buildings were thoughtfully designed and constructed to support core curriculum and enrichment activities, and included:

- Twenty-one (21) classrooms, (seven per grade level), including science demonstration classrooms
- A culinary arts lab and an additional elective classroom
- A full administrative suite
- A dedicated band room
- A multi-purpose/student dining facility with a full-service kitchen
- A gymnasium with a regulation-size basketball court, telescoping bleachers, and boys' and girls' locker rooms

Marcobay's scope of work also included full site clearing and development, along with off-site road improvements to support increased traffic flow and accessibility.



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## TAB 3: Experience, Expertise, Personnel & Technical Resources

### Polk County BOCC - RFP 25-544



#### DATE OF COMPLETION

October 19, 2017

#### ADDRESS

715 N Lake Street,  
Lakeland, FL 33801

#### GMP AMOUNT

\$3,582,875 final  
\$3,937,875 original

#### SIZE

28,600 SF

#### CLIENT

Peace River Center

#### CLIENT CONTACT

David Blackwelder, Project Manager  
(p) 863.519.0575

#### CHANGE ORDERS

Total: Credit (\$355,295)

#### RELEVANCIES

- Polk County Project
- Assigned Team
- Multiple Contracts

## LAKELAND CRISIS STABILIZATION UNIT

Client: Peace River Center

### SCOPE OF WORK

Marcobay provided construction management services for Peace River Center's new Lakeland Crisis Stabilization Unit, a vital addition to Polk County's behavioral health infrastructure designed to provide immediate, intensive care for individuals in crisis. The project comprised a 14,000-square-foot secure behavioral health emergency facility housing a 20-bed inpatient stabilization unit, a 24-hour observation area, outpatient crisis intervention spaces, and a walk-in assessment and triage center—built to operate 24/7/365 for psychiatric evaluations, short-term stabilization, medication management, group therapy, discharge planning, and family education. Marcobay also completed the renovation of an adjacent 14,600-square-foot facility to support treatment, education, and long-term case management for adults and children with severe and persistent mental illness. By expanding local capacity, the project enables Peace River Center to serve an additional 2,000 patients annually, reduce out-of-county transfers, and relieve pressure on local hospitals' emergency departments.

### OTHER PROJECTS FOR PEACE RIVER CENTER

Peace River Gateway - ADA Ramp - 2015 - \$17,894

Peace River Center Baker Act Entry Canopy - 2016 - \$28,775



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## TAB 3: Experience, Expertise, Personnel & Technical Resources

### Polk County BOCC - RFP 25-544



#### DATE OF COMPLETION

May 27, 2025

#### ADDRESS

2425 William Booth Way,  
Lakeland, FL 33810

#### GMP AMOUNT

\$8,506,347

#### SIZE

38,000 SF

#### PROJECT DURATION

365 days

#### CLIENT

The Salvation Army, Inc.

#### CLIENT CONTACT

Matt Hedgren, Captain  
(p) 863.853.2214

#### CHANGE ORDERS

Added Scope per Owner  
Total: \$246,345

#### RELEVANCIES

- GMP
- Polk County
- Assigned Team

## WORSHIP & COMMUNITY CENTER

**Client: The Salvation Army - George Jenkins Community of Hope**

### SCOPE OF WORK

Marcobay Construction provided construction management services for the new construction of the Salvation Army Worship and Community Center at the George W. Jenkins Community of Hope in Lakeland, Florida—a 38,000-SF, one-story concrete tilt-wall facility that broke ground in May 2024 and reached completion in May 2025. The project expands The Salvation Army's capacity to serve local families facing housing insecurity and consolidates worship, childcare, education, and community engagement in a single hub, including a welcoming lobby, worship center, administrative offices, and multiple meeting rooms for prayer and music. A significant portion of the building is dedicated to children's and youth programming with age-appropriate classrooms (toddlers, elementary, and older youth) and enrichment rooms for art, games, general gathering, and technology. A full-size commercial kitchen with storage supports daily programming and community meal service. To further serve residents in the transitional housing units, the facility also provides men's and women's locker rooms, large multipurpose flex spaces, and an 8,265-SF gymnasium designed for recreation, fitness, and events.

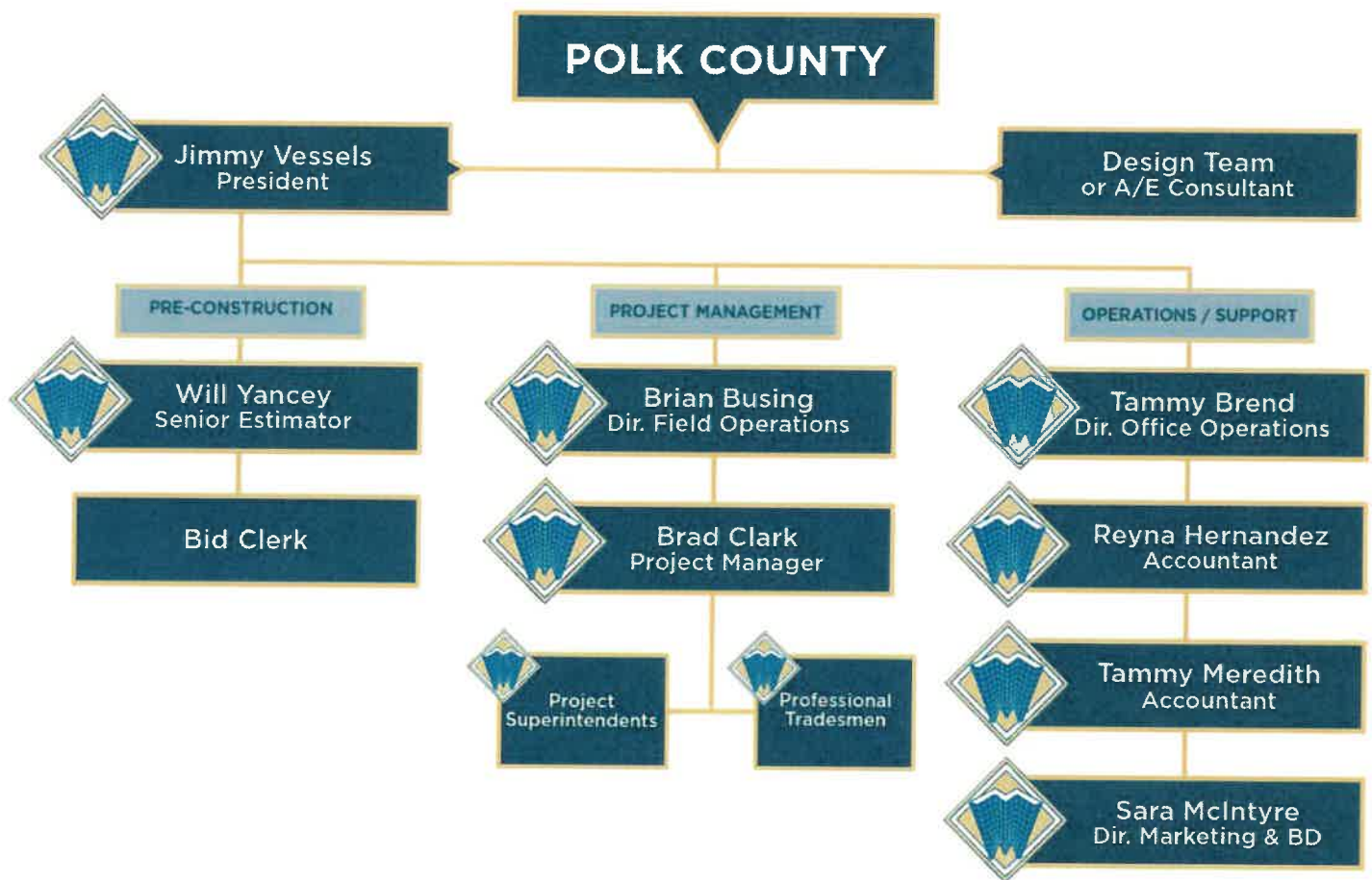


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## TAB 3: Experience, Expertise, Personnel & Technical Resources

### Polk County BOCC - RFP 25-544

## ORGANIZATIONAL STRUCTURE





## TAB 3: Experience, Expertise, Personnel & Technical Resources

### Polk County BOCC - RFP 25-544



## JIMMY VESSELS

### *President*

Jimmy Vessels brings more than 41 years of construction management experience, including **over three decades at Marcobay Construction**. As President, he leads the execution of projects ranging from new school campuses to large-scale industrial builds. **Jimmy has extensive experience managing all aspects of CMAR construction**, including new builds, phased renovations, and occupied work. His leadership ensures projects meet scheduling milestones, adheres to budget goals, and exceed district expectations for quality and safety.

### CREDENTIALS

Certified Building Contractor  
*State of Florida*  
**CBC047744**

OSHA Safety (30-Hour)

### YEARS OF EXPERIENCE

41 years in Construction

### YEARS AT MARCOBAY

35 Years at Marcobay

### OFFICE LOCATION

Lakeland, FL

### REFERENCES

Brandon Clark, President  
The Ruthvens  
(p) 863.450.9540  
(e) brandon.clark@ruthvens.com

Wesley Beck, President  
Aspyre Properties  
(p) 863.686.9000  
(e) wesley@wesleybeck.com

### RELEVANT EXPERIENCE

Lake Myrtle Little League Complex Expansion  
\$5.6M | 35 acres | ROLE: Project Manager

Peace River Center - Lakeland Crisis Stabilization Unit  
\$3.5M | 29K SF | ROLE: Project Manager

Ridgeview Global Middle School Expansion  
\$3.2M | 21K SF | ROLE: Project Manager

Catapult 3.0 Conference Room Ceiling  
\$34K | SF | ROLE: Project Manager

Catapult 3.0 New Office Building  
\$6.5M | 40K SF | ROLE: Project Manager

Ridgeview Global Middle School Expansion  
\$8.3M | 64K SF | ROLE: Project Manager

Lakeland Christian School Athletic Complex  
\$1.9M | 22K SF | ROLE: Project Manager

Horizon Elementary - New Campus  
\$18M | 105K SF | ROLE: Project Manager

Winter Haven High School - Renovations  
\$2.2M | 19K SF | ROLE: Project Manager

Combee Elementary - New Classroom Addition  
\$4.2M | 29K SF | ROLE: Project Manager

Sleepy Hill Elementary - New Campus  
\$17M | 105K SF | ROLE: Project Manager

Okeechobee Achievement Academy  
\$5.8M | ROLE: Project Manager



## TAB 3: Experience, Expertise, Personnel & Technical Resources

### Polk County BOCC - RFP 25-544



## WILL YANCEY

### Senior Estimator

Since joining Marcobay in 2007, Will Yancey has served as a key contributor in the company's pre-construction and estimating efforts. **With over 18 years of experience, he currently leads the estimating department as Senior Estimator**, bringing a deep expertise in cost analysis, bid strategy, and scope development across a broad range of market sectors.

**Will provides detailed, accurate cost projections from conceptual budgeting through GMP delivery.** He is known for his ability to collaborate with design teams, owners, and subcontractors alike to identify cost-saving opportunities without compromising project intent.

### EDUCATION

Southeastern University  
*Pastoral Studies*

### CREDENTIALS

OSHA Safety (30-Hour)

### YEARS OF EXPERIENCE

24 years in Construction

### YEARS AT MARCOBAY

18 Years at Marcobay

### OFFICE LOCATION

Lakeland, FL

### REFERENCES

Steve Scruggs, President  
Lakeland EDC  
(p) 863.687.3788  
(e) sscruggs@lakelandedc.com

Brandon Clark, President  
The Ruthvens  
(p) 863.450.9540  
(e) brandon.clark@ruthvens.com

### RELEVANT EXPERIENCE

Ridgeview Global Middle School Expansion  
\$3.2M | 21K SF | ROLE: Estimator

Lake Myrtle Little League Complex Expansion  
\$5.6M | 35 acres | ROLE: Estimator

Catapult 3.0 Conference Room Ceiling  
\$34K | SF | ROLE: Estimator

Catapult 3.0 New Office Building  
\$6.5M | 40K SF | ROLE: Estimator

Ridgeview Global Middle School Expansion  
\$8.3M | 64K SF | ROLE: Senior Estimator

Lakeland Christian School Athletic Complex  
\$1.9M | 22K SF | ROLE: Estimator

Horizon Elementary - New Campus  
\$18M | 105K SF | ROLE: Estimator

Winter Haven High School - Renovations  
\$2.2M | 19K SF | ROLE: Estimator

Combee Elementary - New Classroom Addition  
\$4.2M | 29K SF | ROLE: Estimator

Sleepy Hill Elementary - New Campus  
\$17M | 105K SF | ROLE: Estimator

Okeechobee Achievement Academy  
\$5.8M | ROLE: Estimator



## TAB 3: Experience, Expertise, Personnel & Technical Resources

### Polk County BOCC - RFP 25-544



## BRIAN BUSING

### *Director of Field Operations*

Providing leadership and oversight across all active job sites, Brian ensures project execution aligns with safety standards, schedule demands, and quality expectations. As Director of Field Operations, not only does Brian support field teams, he also collaborates with Marcobay's executive and pre-construction teams to inform constructibility reviews and manpower planning.

**Brian's field-first mindset, combined with his calm and practical approach to problem solving, ensures that each team is equipped for success from the ground up.**

### EDUCATION

Florida Southern College  
*Criminology*

### CREDENTIALS

Certified General Contractor  
State of Florida  
CGC1532521

OSHA Safety

### YEARS OF EXPERIENCE

14 years in Construction

### YEARS AT MARCOBAY

8 Years at Marcobay

### REFERENCES

Ralph Frier, Executive Director  
Ridgeview Global Studies Academy  
(p) 863.419.3199  
(e) [ralph.frier@rgsa.com](mailto:ralph.frier@rgsa.com)

Matt Hedgren, Captain  
The Salvation Army  
(p) 863.853.2214  
(e) [matt.hedgren@uss.salvationarmy.org](mailto:matt.hedgren@uss.salvationarmy.org)

### RELEVANT EXPERIENCE

- Ridgeview Global Classroom Addition  
\$3.2M | 21K SF | ROLE: Superintendent
- Salvation Army Worship & Community Center  
\$8M | 38K SF | ROLE: Director of Field Operations
- JDA Memorial - JAGG Electric Tenant Improvements  
\$1.3M | 173K SF | ROLE: Director of Field Operations
- Lakeland Central Park - New Shell Warehouse - BLD 200  
\$1.3M | 705K SF | ROLE: Superintendent
- Lakeland Central Park - New Shell Warehouse - BLD 300  
\$1.3M | 261K SF | ROLE: Director of Field Operations
- Lakeland Central Park - Ashley Furniture Build Out - BLD 300  
\$6M | 261K SF | ROLE: Director of Field Operations





## TAB 3: Experience, Expertise, Personnel & Technical Resources

### Polk County BOCC - RFP 25-544



## BRAD CLARK

### *Project Manager*

As an experienced Project Manager, Brad oversees project planning, coordination, and closeout across multiple market sectors. Known for his clear communication and client-focused delivery, Brad collaborates with estimating, operations, and field teams to ensure projects are executed safely, on time, and within budget, while maintaining Marcobay's high standards for quality and customer satisfaction.

### EXPERIENCE

Casa San Alfonso Affordable Homes & Clubhouse  
ROLE: Project Manager

Lincoln Pace Rd - New Shell Storage Warehouses  
\$27.6M | 500K SF | ROLE: Project Manager

Salvation Army Worship & Community Center  
\$8M | 38K SF | ROLE: Project Manager

JDA MCI Conklin Metals Spec Office Tenant Improvements  
\$620K | 111K SF | ROLE: Project Manager

JDA Memorial - New Shell Storage Warehouse  
\$15M | 173K SF | ROLE: Project Manager

### EDUCATION

The University of South Florida  
*Architecture*

Sante Fe Community College  
*Construction Science*

### CREDENTIALS

OSHA Safety (30-Hour)

### YEARS OF EXPERIENCE

22 years in Construction

### YEARS AT MARCOBAY

3 years at Marcobay

### REFERENCES

Cantey Heath, R.E. Manager  
JDA

(p) 803.261.4273

(e) [cheath@johnsondevelopment.net](mailto:cheath@johnsondevelopment.net)

Matt Hedgren, Captain  
The Salvation Army  
(p) 863.853.2214  
(e) [matt.hedgren@uss.salvationarmy.org](mailto:matt.hedgren@uss.salvationarmy.org)



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## TAB 3: Experience, Expertise, Personnel & Technical Resources

### Polk County BOCC - RFP 25-544



## MATT REITH

### *Senior Superintendent*

As Senior Superintendent for Marcobay Construction, Matt Reith brings over 20 years of construction experience, including more than a decade dedicated to educational, institutional, and commercial work across Central Florida. With deep field expertise and a background supporting both ground-up and renovation projects, Matt leads day-to-day job site operations with a focus on safety, schedule integrity, and quality craftsmanship.

Matt has played key roles on numerous public facilities, including multi-building ground-up schools, classroom additions, and complex demolition-and-rebuild efforts. In addition to his leadership in the field, he has served as a Warranty Coordinator and Assistant Superintendent on large-scale CMAR projects, managing final closeouts, punch list completion, and owner turnover. His collaborative approach and attention to sequencing make him a reliable and solutions-oriented superintendent on time-sensitive jobs.

### CREDENTIALS

OSHA Safety (30-Hour)

### YEARS OF EXPERIENCE

20 years in Construction

### YEARS AT MARCOBAY

19 years at Marcobay



### RELEVANT EXPERIENCE

Davenport School of the Arts

\$29.8M | 140K SF | ROLE: Asst. Superintendent

Lake Myrtle Little League Complex Expansion

\$5.6M | 35 acres | ROLE: Superintendent

Sleepy Hill Elementary - New Campus

\$16.6M | 105K SF | ROLE: Asst. Superintendent

Horizon Elementary - New Campus

\$18M | 105K SF | ROLE: Asst. Superintendent

Combee Elementary - New Classroom Addition

\$4.2M | 29K SF | ROLE: Asst. Superintendent

Berkley Elementary - New Classroom Addition

\$1.5M | 10K SF | ROLE: Asst. Superintendent

Lakeland Christian School - Campus Stair Case/Elevator Add.

ROLE: Asst. Superintendent

Lakeland Christian School - Gymnasium Classroom Remodel

ROLE: Asst. Superintendent

Pace Rd - Warehouse Hyundai Tenant Improvements

ROLE: Superintendent

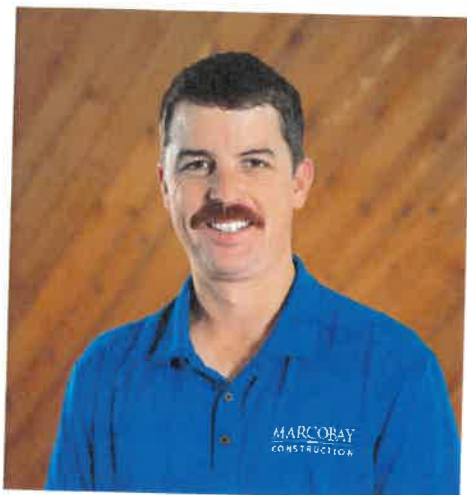


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## TAB 3: Experience, Expertise, Personnel & Technical Resources

### Polk County BOCC - RFP 25-544



## ANTHONY SLIGH

### Superintendent

As a Licensed Certified General Contractor, Anthony serves as a Superintendent at Marcobay with enhanced technical authority and regulatory insight. Anthony brings strong hands-on expertise in schedule management, quality control, subcontractor coordination, and safety compliance. His CGC license enables him to interpret plans, manage inspections, and ensure code compliance at every state of construction. He is detail-oriented and solution-focused, working closely with project managers and stakeholders to drive successful outcomes both practically and efficiently.

### EDUCATION

Covenant College  
*Business Law*

### CREDENTIALS

Certified General Contractor  
State of Florida  
CGC1532260  
OSHA Safety (30-Hour)

### YEARS OF EXPERIENCE

10 years in Construction

### YEARS AT MARCOBAY

5 Years at Marcobay



### RELEVANT EXPERIENCE

JDA S.Pipkin Rd - New Shell Storage Warehouse  
\$8.7M | 156K SF | ROLE: Superintendent

Keymark Drane Field Rd - New Shell Storage Warehouse  
\$10.5M | 76K SF | ROLE: Superintendent

Ruthvens 3150 County Line Rd Bays 3-4 - Tenant Improvements  
ROLE: Superintendent

Ruthvens 3515 Reynolds Rd Bays 5-6 - Tenant Improvements  
ROLE: Superintendent

Ruthvens 3919 Airpark Dr Bays 17-19 - Tenant Improvements  
ROLE: Superintendent

Ruthvens 5865 New Tampa Hwy Bays 5-6 - Tenant Improvements  
ROLE: Superintendent

Ruthvens 5865 New Tampa Hwy Bays 7-9 - Tenant Improvements  
ROLE: Superintendent

Fancy Farms - Hurricane Fence & Brick Repair  
ROLE: Superintendent



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## TAB 4: Scheduling and Cost Control

### Polk County BOCC - RFP 25-544

## APPROACH TO SCHEDULING

### SYSTEM OVERVIEW

We plan and measure the job from the schedule up. Microsoft Project drives our CPM baseline and updates; Procore runs RFIs, submittals, drawing control, daily logs, punch, cost events, and dashboards. Together, they give the County real-time visibility to schedule, cost, and risk—and give us the leverage to hold every trade to their commitments.

### SCHEDULING & COORDINATION OF SUBCONTRACTORS

We prequalify, then onboard each trade with a scope/startup meeting that locks manpower curves, durations, lay-down, crane picks, and inspection hold points. Weekly coordination meetings align 3-Week Look-Ahead tasks with inspections and deliveries. If a trade falls behind, we issue a written recovery plan and re-sequence adjacent tasks to protect the critical path. Progress is validated by field walks and daily reports, not just meeting minutes.

### SUBCONTRACTOR ADHERENCE

We lock expectations at kickoff (scope/startup meetings), publish a rolling 3-Week Look-Ahead, run weekly trade coordination, and require recovery plans (added crews, re-sequencing, extended shifts) whenever activities slip. Progress is verified in the field, not just on paper.

### SCHEDULING TECHNOLOGY

We build a logic-linked CPM baseline in Microsoft Project with milestones for permits, procurement, mobilization, structure, dry-in, MEP rough/overhead, interiors, testing/commissioning, training, and closeout. The Superintendent maintains a rolling 3-Week Look-Ahead that ties inspections, material deliveries, and access constraints to daily work plans. Schedule updates are issued at OAC meetings; critical-path shifts trigger immediate recovery actions.

#### Level of Detail to Define Schedules

- **Level 1:** Milestones & phasing (NTP, permits, mobilize, dry-in, TCO, SC/FC).
- **Level 2:** CPM by phase/area with clear logic ties across major trades.
- **Level 3:** Added detail only for high-risk scopes/areas (rooms, early-release, etc.)
- **Procurement:** Submittal>fab>delivery>install chains tied to field work; track long-leads
- **AHJ/QA:** Inspections and hold points (above-ceiling, waterproofing, life-safety) embedded.
- **Controls:** Baseline + monthly updates, 3-week look-aheads, recovery plans; re-baseline only on approved changes.





## TAB 4: Scheduling and Cost Control

### Polk County BOCC - RFP 25-544

## COST CONTROL APPROACH

### ITEMS OUTSIDE THE “COST OF WORK”

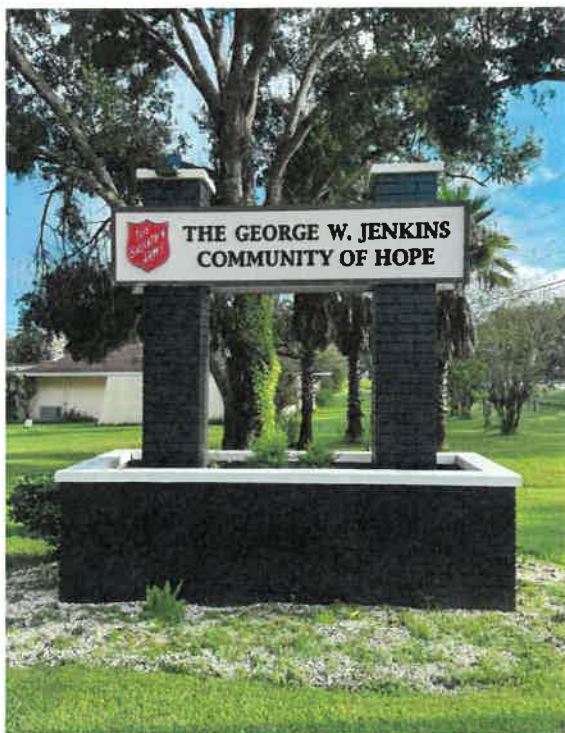
We separate and manage these items in the open so there are no surprises:

- **Pre-construction Phase Services:** Time-phased, deliverable-based level of effort tied to milestones (SD/DD/CD). Hours and tasks are capped and tracked monthly.
- **General Conditions:** Built from the schedule up (staffing, trailers/IT, temp utilities, protections, site services, safety/QA) and reconciled monthly. Adjusts up or down only with approved scope/schedule changes.
- **CM Fee:** A fixed, transparent percentage applied to Cost of the Work and shown as its own line—no fee on ODPs, permits, or sales tax per County direction.
- **Bond:** Pass-through at the actual rate; we competitively source and show invoices.

### INDICATIVE PERCENTAGES:

*(for a project of this size; informational only, not a final offer)*

- **General Conditions** (incl. precon): ~5%
- **CM Fee:** ~5%
- **Performance & Payment Bond:** -0.9-1.0%



### HOLDING PROJECTS WITHIN BUDGET

We hold projects on budget with a disciplined, transparent system: open-book GMP, competitive buyout, and monthly cost-to-complete reporting; live logs for contingency, allowances, and Owner Direct Purchases (ODPs); a pay-app SOV that mirrors the GMP exhibits; and strict change management—we only process priced, time-impacted proposals with clear scope. ODPs are tracked to visible sales-tax savings, and any underruns return to the Owner per the Agreement.



**Example** – Salvation Army Worship & Community Center (fast-track): we phased early buy packages and locked long-lead items while maintaining rolling cost updates. The final GMP increased solely due to Owner-directed scope additions, documented and approved through our change process; the base scope stayed cost-stable and on schedule.



## TAB 4: Scheduling and Cost Control

### Polk County BOCC - RFP 25-544

#### MANAGEMENT OF SHOP DRAWINGS

- **Plan the work:** Shortly after receiving NTP we publish a Submittal Register in Procore tied to the CPM (need-by, submit-by, approve-by, release-by dates) and front-load long-lead items.
- **Clear ownership:** Each submittal has a responsible trade, reviewer, due date, and Ball-in-Court tracking. Weekly OAC meetings include a submittal status review.
- **Quality in, quality out:** Subs submit complete packages (spec section, product data, coordinated shop drawings, color/finish selections). Our internal QC (PE/Superintendent) checks scope, dimensions, and coordination before routing to the A/E. (Our review is for conformance/constructibility; the A/E retains design authority.)
- **Enforce the clock:** Procore sends automatic reminders; aging items are escalated. We target no fabrication release without approval and verify at pre-install meetings.
- **Field control:** Approved/approved-as-noted documents are immediately published to the current drawing set in Procore; first-work inspections verify installation matches the approved submittal.

#### RFIs -- MEANS & METHODS TO MANAGE & RESPOND

- **Make it answerable:** Each RFI contains one clear question, location, impacted sheets/specs/CSI code, photos/sketches, and a proposed resolution, plus a required-by date linked to the CPM.
- **Route & track:** RFIs are logged and time-stamped in Procore; distribution lists include the A/E and affected consultants. We issue daily aging reports and escalate critical items.
- **Protect the schedule:** If an RFI affects the critical path, we issue a schedule fragnet and identify recovery options (re-sequence, temp work, added crews). Cost/time impacts are priced concurrently; no field change is made without A/E direction.
- **Close the loop:** Responses are pushed to the field, tagged in the current set, and, if scope changes, converted to a PCO/CO per the contract.

#### ASIs -- HOW WE IMPLEMENT INSTRUCTIONS

- **Rapid intake:** ASIs are logged in Procore within 24 hours, distributed to affected trades, and cross-checked against submittals and work-in-place.
- **Assess impact:** We analyze cost/schedule effects the same day. If the change is more than negligible, we issue a PCO and update the CPM; if not, we document and proceed.
- **Keep documents current:** ASIs are incorporated into the live drawing set and the Submittal/RFI logs; pre-install meetings and field huddles brief crews on changes.

#### Result:

Submittals, RFIs, and ASIs move on a visible, deadline-driven track that's tied to the schedule and enforced in the field—so decisions arrive when crews need them, and the work stays coordinated, compliant, and on time.

MARCOBAY CONSTRUCTION

Salvation Army Worship and Community Center

ID	Task Name	Duration	Start	Finish	% Work Complete	2023	Qtr 1, 2024	Qtr 2, 2024	Qtr 3, 2024	Qtr 4, 2024	Qtr 1, 2025	Qtr 2, 2025	Qtr 3, 2025		
						Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
1	SALVATION ARMY SCHEDULE	381 days	Mon 11/8/23	Mon 4/21/25 30%											
2	PRE-CONSTRUCTION	48 days	Mon 11/8/23	Wed 1/10/24 100%											
3	Bid Documents Due	1 day	Mon 11/8/23	Mon 11/8/23 100%											
4	Pre-Qualification/ Subcontractor Bidding	42 days	Tue 11/7/23	Wed 1/3/24 100%											
5	Submit GMP for Approval	4 days	Thu 1/4/24	Tue 1/9/24 100%											
6	Execute Contract	1 day	Wed 1/10/24	Wed 1/10/24 100%											
7	SITWORK	264 days	Thu 4/4/24	Tue 4/8/25 34%											
8	Silt Fence & Clearing	10 days	Thu 4/4/24	Wed 4/17/24 100%											
9	Building Pads	17 days	Thu 4/4/24	Fri 4/26/24 90%											
10	UG Utilities	20 days	Mon 10/14/24	Fri 11/8/24 75%											
11	Earthwork	20 days	Mon 11/11/24	Fri 12/6/24 60%											
12	Site Amenities	14 days	Mon 12/9/24	Thu 12/26/24 75%											
13	Electrical Sitework	10 days	Mon 12/9/24	Fri 12/20/24 70%											
14	Sidewalks	10 days	Mon 12/23/24	Fri 1/3/25 0%											
15	Paving/ Curbs	25 days	Mon 1/8/25	Fri 2/7/25 0%											
16	Final Grading	20 days	Mon 2/19/25	Fri 3/7/25 0%											
17	Fencing	18 days	Mon 3/19/25	Wed 4/2/25 0%											
18	Irrigation & Landscaping	15 days	Mon 3/19/25	Fri 3/28/25 0%											
19	Covered Walkways	20 days	Mon 1/8/25	Fri 1/31/25 0%											
20	Striping & Signage	7 days	Mon 3/31/25	Tue 4/8/25 0%											
21	BUILDING SHELL	180 days	Tue 6/21/24	Mon 12/16/24 32%											
22	Footings	24 days	Tue 5/21/24	Fri 6/21/24 100%											
23	Form and Pour the Bldg slab	16 days	Mon 6/24/24	Mon 7/15/24 95%											
24	MEP 1st Rough	10 days	Mon 6/24/24	Fri 7/5/24 100%											
25	Form-Pour-Erect Tilwall Panels	35 days	Tue 7/16/24	Mon 8/2/24 25%											
26	Structural Steel	40 days	Tue 8/3/24	Mon 10/28/24 0%											
27	Roofing	25 days	Tue 10/29/24	Mon 12/2/24 0%											
28	Prime and Paint Exterior	15 days	Tue 10/29/24	Mon 11/18/24 0%											
29	Storefront/Exterior Doors	20 days	Tue 11/19/24	Mon 12/16/24 5%											
30	BUILDING FINISHES	100 days	Tue 12/3/24	Mon 4/8/25 0%											
31	MEP 2nd Rough	30 days	Tue 12/3/24	Mon 1/13/25 0%											
32	Framing/ Drywall	36 days	Tue 12/3/24	Thu 1/23/25 0%											
33	1st Coat Paint	20 days	Fri 1/17/25	Thu 2/13/25 0%											
34	Ceiling Grid	15 days	Fri 1/17/25	Thu 2/6/25 0%											
35	Flooring	15 days	Fri 2/7/25	Thu 2/27/25 0%											
36	Milwork	10 days	Fri 2/21/25	Thu 3/6/25 0%											
37	MEP Trim	30 days	Fri 1/31/25	Thu 3/13/25 0%											
38	Final Coat Paint	10 days	Fri 3/14/25	Thu 3/27/25 0%											
39	Doors & Hardware/ Specialties	7 days	Fri 3/28/25	Mon 4/7/25 0%											
40	Punch Out	10 days	Tue 4/8/25	Mon 4/21/25 0%											
41	Window Treatments	5 days	Wed 4/2/25	Tue 4/8/25 0%											
42	Final Clean	5 days	Wed 4/9/25	Tue 4/15/25 0%											
43	Substantial Completion	1 day	Wed 4/16/25	Wed 4/16/25 0%											

Project: SALVATION ARMY 07-06-202	Task	Project Summary	Inactive Summary	Manual Summary	External Milestone
Date: Tue 8/8/24	Split	External Tasks	Manual Task	Start-only	Progress
	Milestone	External Milestone	Duration-only	Finish-only	Deadline
	Summary	Inactive Milestone	Manual Summary Rollup	External Tasks	

Example: Cost Control Report



**COST CONTROL-FINAL SOV RECAP-JOB #885 REVISED-5/05/2025**

	ORIGINAL CONTRACT SOV	CURRENT JOB COST	
GENERAL CONDITIONS	\$ 260,000.00	\$ 260,000.00	
SWPPP SERVICES	\$ 5,000.00	\$ -	
CONCRETE WASHOUT PIT	\$ 10,000.00	\$ 10,000.00	
SOIL POISONING	\$ 12,480.00	\$ 12,480.00	
FENCE-ADDED SCOPE	\$ -	\$ 55,436.00	
CONCRETE	\$ 3,353,800.00	\$ 3,592,167.24	
STRUCTURAL STEEL MATERIAL	\$ 1,564,875.00	\$ 1,448,457.30	
STRUCTURAL STEEL ERECTION	\$ 224,000.00	\$ 224,000.00	
LADDER FALL PROTECTION	\$ 2,500.00	\$ -	
MISC IRON	\$ 9,360.00	\$ -	
WOOD BLOCKING	\$ 4,680.00	\$ 4,680.00	
ROUGH HARDWARE	\$ 1,560.00	\$ 1,560.00	
ROOFING & SHEET METAL	\$ 688,000.00	\$ 688,000.00	
HM DOORS & HARDWARE	\$ 8,500.00	\$ 8,500.00	
DOCK DOORS & DOCK EQUIPMENT	\$ 206,986.00	\$ 211,956.46	
STOREFRONT GLASS	\$ 268,660.00	\$ 235,337.00	
PAINTING	\$ 125,723.00	\$ 103,360.00	
INTERIOR FJ CAULKING	\$ 60,328.00	\$ 20,000.00	PARTIAL FJ & COLUMN JOINTS ONLY
TP CAULKING	\$ 44,545.00	\$ 44,545.00	
SW CAULKING	\$ 5,000.00	\$ 5,000.00	
FIRE EXTINGUISHERS	\$ 4,000.00	\$ 4,000.00	
SIGNS	\$ 2,250.00	\$ 28,795.24	INCLUDES DS,AAS & MCB DOCK LABOR
DOCK CANOPY	\$ 68,200.00	\$ 68,200.00	
ENTRY CANOPY	\$ 113,880.00	\$ 113,880.00	
FIRE SPRINKLER	\$ 479,052.00	\$ 479,052.00	
PLUMBING	\$ 79,374.00	\$ 79,374.00	
HVAC	\$ 32,468.00	\$ 14,988.00	
ELECTRICAL	\$ 340,172.00	\$ 367,752.00	INCLUDES PE CO#1-5
ELECTRICAL INFRASTRUCTURE	\$ 132,380.00	\$ 132,380.00	
CONTINGENCY	\$ 75,000.00	\$ -	APPLIED TO OVERAGES & CREDIT BELOW
SUBTOTAL	\$ 8,182,773.00	\$ 8,213,900.24	
FEE	\$ 450,053.00	\$ -	FEE RECALCULATED BELOW
SUBTOTAL W/FEE	\$ 8,632,826.00	\$ 8,213,900.24	SUBTOTAL LESS FEE
8" CONCRETE PAVING IN TRUCK COURT	\$ 622,450.00	\$ -	INCLUDED IN CONCRETE
REVISED PANELS	\$ (304,055.00)	\$ -	INCLUDED IN CONCRETE
ORIGINAL CONTRACT AMOUNT	\$ 8,951,221.00	\$ 8,213,900.24	SUBTOTAL-SUB COST & GCs
CO#1-REVISED CONCRETE PAVING	\$ (86,100.00)	\$ 450,053.00	REVISED FEE-ACTUAL \$451,764.51
CURRENT CONTRACT AMOUNT	\$ 8,865,121.00	\$ 8,663,953.24	CURRENT JOB COST W/FEE
LESS FINAL JOB COST W/FEE	\$ (8,663,953.24)		
CO#2-FINAL RECAP-DEDUCT \$201,167.76	\$ 201,167.76		



## TAB 5: Polk County Entity

### Polk County BOCC - RFP 25-544

## POLK COUNTY ENTITY

Since 1974.

Marcobay Construction, Inc. anchors more than five decades of continuous operations in Polk County--*one of the few commercial contractors born here and still building here.*

The blueprint design used throughout our presentation isn't just decorative--it's an original, hand-drawn blueprint from an early Lakeland project and reflects what we've stood for ever since: lasting structures, long-term relationships, and a legacy built on trust, craftsmanship, and community.

### WHAT THIS MEANS FOR POLK COUNTY

- Local decision-makers and field staff a short drive from any County site
- Deep bench of Polk-based subcontractors and suppliers
- Familiarity with local AHJs, permitting, and utility coordination
- Dollars and jobs that stay in the local economy



Headquarters: 3700 DMG Drive  
Lakeland, FL 33811

Established in Polk County, FL, in 1974

Distance to County Office: 16.2 miles



CBC 047744 CGC 1532521 CGC 1532260 | LAKELAND, FL | [WWW.MARCOBAY.COM](http://WWW.MARCOBAY.COM)

## TAB 6: Certified Woman or Minority Business Enterprise

### Polk County BOCC - RFP 25-544

## W/MBE STATUS

While Marcobay Construction, Inc. is not a Certified Woman or Minority Business Enterprise, we recognize the importance of diversity and are dedicated to supporting and empowering underrepresented groups in our field.

We understand that Polk County awards points for certified firms and we fully support that intent. While we are not eligible for those points as prime, we will meet or exceed County participation goals through W/MBE participation and suppliers.

## DOCUMENTATION

At trade award/GMP, we will submit valid W/MBE certificates for each participating firm from one of the County-recognized agencies, including:

- **Florida Minority Supplier Development Council (FMSDC)**
- **Women's Business Enterprise National Council (WBENC)**
- **State of Florida Office of Supplier Diversity (OSD)**
- **Florida Department of Transportation (FDOT)**
- **U.S. Small Business Administration (SBA)**
- **Federal Aviation Administration (FAA)**
- **Other Florida governmental agencies (case-by-case)**

## W/MBE PARTICIPATION PLAN

What you can count on:

- **Local outreach:** Use Polk County vendor lists and our database to invite certified firms to every trade; host pre-bid info sessions and one-on-one scope calls.
- **Transparent buyout:** Open-book leveling; award on best value with a focus on certified participation.
- **Mentor & support:** Help with insurance/bonding requirements, submittal templates, and schedule planning; prompt pay flow-downs.
- **Track & report:** Maintain a live W/MBE log (commitments, dollars invoiced/paid) and include it in monthly OAC reports; corrective action if pacing lags.





## Survey Questionnaire – Polk County

### RFP 25-544, Construction Manager at Risk Continuing Services

To: Cody McGhee (Name of Person completing survey)  
City of Auburndale (Name of Client Company/Consultant)  
Phone Number: 863-965-5545 Email: cmcghee@auburndalefl.com

Subject: Past Performance Survey of Similar work:

Project name: Lake Myrtle Sports Complex Expansion

Name of Vendor being surveyed: Marcobay Construction, Inc.

Cost of Services: Original Cost: \$5,606,575 Ending Cost: \$5,617,298

Contract Start Date: \_\_\_\_\_ Contract End Date: \_\_\_\_\_

**Rate each of the criteria on a scale of 1 to 10, with 10 representing that you were very satisfied (and would hire the Consultant /individual again) and 1 representing that you were very unsatisfied (and would never hire the Consultant /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.**

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

Printed Name of Evaluator Cody McGhee

Signature of Evaluator: Cody McGhee

Please fax or email the completed survey to: smcintyre@marcobay.com

## Survey Questionnaire – Polk County

### RFP 25-544, Construction Manager at Risk Continuing Services

To: Ralph Frier (Name of Person completing survey)  
Ridgeview Global Studies Academy (Name of Client Company/Consultant)  
 Phone Number: 863-419-3199 Email: ralph.frier@rgsa.com

Subject: Past Performance Survey of Similar work:

Project name: Ridgeview Global Studies Academy - New Middle School

Name of Vendor being surveyed: Marcobay Construction, Inc.

Cost of Services: Original Cost: \$8,308,00 Ending Cost: \$8,765,706

Contract Start Date: 1/3/2018 Contract End Date: 9/1/2018

Rate each of the criteria on a scale of 1 to 10, with 10 representing that you were very satisfied (and would hire the Consultant /individual again) and 1 representing that you were very unsatisfied (and would never hire the Consultant /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.

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)	8
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

Printed Name of Evaluator Ralph H. Frier

Signature of Evaluator: Ralph A. Frier

Please fax or email the completed survey to: smcintyre@marcobay.com



## Survey Questionnaire – Polk County

### RFP 25-544, Construction Manager at Risk Continuing Services

To: Ralph Frier (Name of Person completing survey)  
Ridgeview Global Studies Academy (Name of Client Company/Consultant)  
Phone Number: 863-419-3199 Email: ralph.frier@rgsa.com

Subject: Past Performance Survey of Similar work:

Project name: Ridgeview Global Studies Academy - New 2-story Classroom Addition

Name of Vendor being surveyed: Marcobay Construction, Inc.

Cost of Services: Original Cost: \$3,055,759 Ending Cost: \$3,211,338

Contract Start Date: 4/26/2021 Contract End Date: 12/14/2021

Rate each of the criteria on a scale of 1 to 10, with 10 representing that you were very satisfied (and would hire the Consultant /individual again) and 1 representing that you were very unsatisfied (and would never hire the Consultant /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.

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	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

Printed Name of Evaluator Ralph H. Frier

Signature of Evaluator: Ralph H. Frier

Please fax or email the completed survey to: smcintyre@marcobay.com

## Survey Questionnaire – Polk County

### RFP 25-544, Construction Manager at Risk Continuing Services

To: Jessica Lawson (Name of Person completing survey)  
Peace River Center (Name of Client Company/Consultant)  
Phone Number: 863-519-0575 Email: jessica.lawson@peacrivercenter.org

Subject: Past Performance Survey of Similar work:

Project name: Peace River New Crisis Center

Name of Vendor being surveyed: Marcobay Construction, Inc.

Cost of Services: Original Cost: \$3,937,875 Ending Cost: \$3,582,875

Contract Start Date: \_\_\_\_\_ Contract End Date: 10/19/2017

Rate each of the criteria on a scale of 1 to 10, with 10 representing that you were very satisfied (and would hire the Consultant /individual again) and 1 representing that you were very unsatisfied (and would never hire the Consultant /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.

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)	9
5	Close out process	(1-10)	6
6	Ability to communicate with Client's staff	(1-10)	9
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)	7
10	Appropriate application of technology	(1-10)	9
11	Overall Client satisfaction and comfort level in hiring	(1-10)	9
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)	9

Printed Name of Evaluator David F. Blackwelder, Project Manager

Signature of Evaluator: 

Please fax or email the completed survey to: smcintyre@marcobay.com

## Survey Questionnaire – Polk County

### RFP 25-544, Construction Manager at Risk Continuing Services

To: Captain Matt Hedgren (Name of Person completing survey)  
Salvation Army (Name of Client Company/Consultant)  
Phone Number: 863-853-2214 Email: matt.hedgren@uss.salvationarmy.org

Subject: Past Performance Survey of Similar work:

Project name: The Salvation Army Worship & Community Center

Name of Vendor being surveyed: Marcobay Construction, Inc.

Cost of Services: Original Cost: \$8,260,002 Ending Cost: \$8,506,347

Contract Start Date: 5/15/2024 Contract End Date: TCO 5/27/2025

**Rate each of the criteria on a scale of 1 to 10, with 10 representing that you were very satisfied (and would hire the Consultant /individual again) and 1 representing that you were very unsatisfied (and would never hire the Consultant /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.**

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:  \_\_\_\_\_

Please fax or email the completed survey to: smcintyre@marcobay.com

July 24, 2025

**POLK COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA**  
**ADDENDUM #1**

**RFP 25-544, Construction Manager at Risk (CMAR) Continuing Services**

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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.

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Contained within this addendum: Questions/answers and documents uploaded to FTP Site.

To obtain a copy of requested documents please go the following FTP site: <https://ftp3.polk-county.net>, you will be prompted for a User ID and Password. The User ID is *procurevendor* and the password is *solicitation*. After you have logged in to the FTP site, double click on the file folder "RFP 25-544, RFP Attachments", select "Open" or "Save As" to download the proposal documents. If you need assistance accessing this website due to ADA or any other reason, please email Tabatha Shirah at [tabathashirah@polk-county.net](mailto:tabathashirah@polk-county.net).

*Tabatha Shirah*

Tabatha Shirah  
Procurement Analyst  
Procurement Division

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

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

Printed Name: Jimmy Vessels

Title: President

Company: Marcobay Construction, Inc.

**RFP 25-544, Construction Manager at Risk (CMAR) Continuing Services  
Addendum #1**

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**Question 1:** Could you please provide who are the firms under the current CMAR Continuing Services Contract and provide a copy of their proposals for the previous RFP?

**Answer 1:** Yes, please refer to the instructions provided on page one of this addendum for accessing the "RFP 25-544, RFP Attachments" folder on the FTP site. These documents are for informational purposes only and will not be incorporated into the resulting agreements for RFP 25-544.

**Question 2:** Can you clarify how the county will procure a CM from the chosen pool of contractors for a project under this contract (i.e. will a firm be chosen and asked to give a GMP or will all the firms be invited to hard bid the project)?

**Answer 2:** The selection of a CM will be done in accordance with our Procurement Procedures Section 5.10:

**5.10 CONSTRUCTION MANAGERS AT RISK WITH CONTINUING CONTRACTS**

**Selection Procedures for Construction Managers at Risk with Continuing Contracts** To select a construction manager at risk ("CM at Risk") that has an existing continuing contract with the County, the Division Director may use the following process, in the order listed:

1. Verify that the proposed project is consistent with the scope of services in the Request For Proposal (the "RFP") from which the CM's at Risk were selected. If the answer is affirmative, proceed to Step 2. If the answer is negative, contact the Procurement Director for further assistance.
2. Review the current list of CM's at Risk procured under the RFP to determine whether or not any of these firms have the expertise, experience, and personnel required for the project being proposed. Elevate those firms that meet these criteria to the next step.
3. Review this list to determine whether the past projects have been satisfactory or not. Elevate those firms with a minimum of satisfactory past performance to the next step.
4. Review the firm(s) selected from Step 3 to determine whether the firm meets the needs of the proposed project as further outlined in this Step 4. Some of the qualifying factors for the firm(s) to meet the needs of the County might be: Project Manager that will be assigned to the project; location of this person and other key personnel that will work on the project; and/or, for phased projects, whether a particular CM at Risk has performed previous phases, pre-construction services, or significant portions of the project. Special needs of the proposed project and scope of work should be addressed during this review. Consideration may be given to proposed sub-consultants or subcontractors. Greater consideration may also be given to firms with higher past performance evaluation scores than the minimum requirement set forth in Step 3, so long as supporting documentation is submitted in accordance with the requirement below.
5. If multiple firms remain after Step 4, review the total amount of money the County has contracted, under the RFP, with each of the remaining firms during the last 24-month period. (A report of these contracts can be obtained from the Procurement Division.) Select the firm with the lowest dollar volume during the last 24-month period.



**RFP 25-544, Construction Manager at Risk (CMAR) Continuing Services  
Addendum #1**

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**Question 3:** Regarding the Surveys, if we are submitting an on-going project, the respondent will not be able to answer question #5 – Close Out Process (would be an N/A). Will that count against the average score, since we would not be eligible to receive all “10s” for that survey?

**Answer 3:** No, it will not be counted against you. If the project is not complete evaluator should leave it blank or put N/A. .

**Question 4:** If a contractor is submitting a proposal the CMAR Continuing Services RFP, will it count against a contractor if they also submit to a County CMAR RFP for project specific jobs?

**Answer 4:** No.

July 24, 2025

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

**ADDENDUM #2**

**RFP 25-544, Construction Manager at Risk (CMAR) Continuing Services**

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.

*Tabatha Shirah*

Tabatha Shirah

Procurement Analyst

Procurement Division

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

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

Printed Name: Jimmy Vessels

Title: President

Company: Marcobay Construction, Inc.

**RFP 25-544, Construction Manager at Risk (CMAR) Continuing Services  
Addendum #2**

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**Question 1:** In Addendum #1, the County indicated that past performance surveys will not be penalized for incomplete projects - 1) Will in-progress projects, including those currently in construction or preconstruction phases, be evaluated on an equal footing to completed ones? 2) Specifically, can we include projects currently in preconstruction where CM services have been initiated but construction has not yet begun?

**Answer 1:** 1) Yes  
2) Yes

**Question 2:** The RFP states that electronic proposal submittals will be accepted. Could you kindly confirm: 1) Should the electronic submittal be a single consolidated PDF or seven separate PDFs (one per required Tab)? 2) Also, could you please clarify what exactly the County expects proposers to submit under the file titled 'RFP-25-544 Submittal Documents' –Should this include only the County-provided forms, or does it refer to the entire proposal package (forms + narrative tabs + attachments)?

**Answer 2:** 1) Upload each "Tab" as a PDF and Please use the name convention provided in RFP Package, page 3-4.  
2) The Tab labeled "RFP-25-544 Submittal Documents," proposers will upload any forms requiring signature from RFP Package and signed addendums.

## AFFIDAVIT CERTIFICATION IMMIGRATION LAWS

SOLICITATION NO.: RFP 25-544, Construction Manager at Risk Continuing Services

POLK COUNTY WILL NOT INTENTIONALLY AWARD COUNTY CONTRACTS TO ANY CONSULTANT 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 CONSULTANT 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: Marcybay Construction, Inc.

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

Title: President

Date: July 22, 2025

State of: Florida

County of: Polk

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 22 day of July, 2025, by Jimmy Vessels (name) as President (title of officer) of Marcybay Construction, Inc. (entity name), on behalf of the company, who ☒ is personally known to me or ☐ has produced \_\_\_\_\_ as identification.

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

Printed Name of Notary Public: Sara Scoynes

Notary Commission Number and Expiration: HH482188 1/17/2028

(AFFIX NOTARY SEAL)



SARA A. SCOYNES  
Notary Public  
State of Florida  
Comm# HH482188  
Expires 1/17/2028

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

(Florida Statutes, Section 448.095)

PROJECT NAME: 25-544, Construction Manager at Risk Continuing Services

The undersigned, as an authorized officer of the contractor identified below (the "Contractor"), having full knowledge of the statements contained herein, hereby certifies 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 448.095, Florida Statutes, as related to the contract entered into by and between the Contractor and the County on or about the date hereof, whereby the Contractor will provide labor, supplies, or services to the County in exchange for salary, wages, or other remuneration (the "Contract"), as follows:

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(5), Florida Statutes, the Contractor, and any subcontractor under the Contract, 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 the Contract, and the Contractor may not enter into any subcontracts thereunder, unless each party to the Contract, and each party to any subcontracts thereunder, 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 the Contract, and the County may treat a failure to comply as a material breach of the Contract.

3. 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 or Section 448.09(1), Fla. Stat., the subcontract must be terminated immediately. If the Contract 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 the Contract 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 the Contract. Nothing in this Certification shall be construed to allow intentional discrimination of any class protected by law.

Executed this 22nd day of July, 2025.

ATTEST:

By: 

PRINTED NAME: Tammy Brend

Its: Director of Operations

CONTRACTOR:

By: 

PRINTED NAME: Jimmy Vessels

Its: President



**Request for Taxpayer  
Identification Number and Certification**

Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

Give form to the  
requester. Do not  
send to the IRS.

Before you begin. For guidance related to the purpose of Form W-9, see *Purpose of Form*, below.

Print or type. See Specific Instructions on page 3.	1 Name of entity/individual. An entry is required. (For a sole proprietor or disregarded entity, enter the owner's name on line 1, and enter the business/disregarded entity's name on line 2.) <b>MARCOBAY CONSTRUCTION, INC.</b>	
	2 Business name/disregarded entity name, if different from above.	
	3a Check the appropriate box for federal tax classification of the entity/individual whose name is entered on line 1. Check only <b>one</b> of the following seven boxes. <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C corporation <input checked="" type="checkbox"/> S corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> LLC. Enter the tax classification (C = C corporation, S = S corporation, P = Partnership) _____ <b>Note:</b> Check the "LLC" box above and, in the entry space, enter the appropriate code (C, S, or P) for the tax classification of the LLC, unless it is a disregarded entity. A disregarded entity should instead check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from Foreign Account Tax Compliance Act (FATCA) reporting code (if any) _____  (Applies to accounts maintained outside the United States.)
	3b If on line 3a you checked "Partnership" or "Trust/estate," or checked "LLC" and entered "P" as its tax classification, and you are providing this form to a partnership, trust, or estate in which you have an ownership interest, check this box if you have any foreign partners, owners, or beneficiaries. See instructions _____ <input type="checkbox"/>	
	5 Address (number, street, and apt. or suite no.). See instructions. <b>3700 DMG Drive</b> 6 City, state, and ZIP code <b>Lakeland, Florida 33811</b> 7 List account number(s) here (optional)	Requester's name and address (optional)

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. See also *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number	
<div></div>	<div></div>
or	
Employer identification number	
<div></div>	<div></div>

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and, generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person 	Date <b>7/24/2025</b>
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**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

**What's New**

Line 3a has been modified to clarify how a disregarded entity completes this line. An LLC that is a disregarded entity should check the appropriate box for the tax classification of its owner. Otherwise, it should check the "LLC" box and enter its appropriate tax classification.

New line 3b has been added to this form. A flow-through entity is required to complete this line to indicate that it has direct or indirect foreign partners, owners, or beneficiaries when it provides the Form W-9 to another flow-through entity in which it has an ownership interest. This change is intended to provide a flow-through entity with information regarding the status of its indirect foreign partners, owners, or beneficiaries, so that it can satisfy any applicable reporting requirements. For example, a partnership that has any indirect foreign partners may be required to complete Schedules K-2 and K-3. See the Partnership Instructions for Schedules K-2 and K-3 (Form 1065).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS is giving you this form because they



July 24, 2025

Re: **Marcobay Construction, Inc.**

We are pleased to advise you that **Marcobay Construction, Inc.** has a surety relationship with **Liberty Mutual Insurance Company**, which carries an A.M. Best Rating of A XV and a Department of Treasury's Federal Register listing of \$1,897,231,000..

Based upon normal and standard underwriting criteria at the time of the request, we should be in a position to provide Performance and Payment Bonds when requested by Marcobay Construction, Inc. Their single job limit is \$50,000,000.00 with a \$100,000,000.00 aggregate work program. **Liberty Mutual Insurance Company** reserves the right to review bond issuance based on the underwriting criteria in effect at the time the bonds are requested; subject to acceptable contract terms, bond forms, and evidence of financing acceptable to both the Contractor and the Surety.

This letter is issued as a bonding reference. Neither we nor **Liberty Mutual Insurance Company** assume liability to any third party, including you, if bonds are not provided.

**Marcobay Construction, Inc.** maintains an excellent reputation of exceeding owner expectations by providing quality projects on time and within budget. We recommend them to you very highly and invite any additional inquiries you may have.

Sincerely,  
Liberty Mutual Insurance Company

Kevin Wojtowicz  
Surety Specialist and Licensed Agent



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/24/2025

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

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

<b>PRODUCER</b> The Baldwin Group Southeast LLC 1115 Bartow Rd Lakeland FL 33801	<b>CONTACT NAME:</b> Angel.McGhee <b>PHONE (A/C, No, Ext):</b> 863-686-2113 <b>FAX (A/C, No):</b> 863-682-6292 <b>E-MAIL ADDRESS:</b> Angel.McGhee@Baldwin.com												
<b>INSURED</b> Marcobay Construction, Inc. 3700 DMG Dr. Lakeland FL 33811	<b>INSURER(S) AFFORDING COVERAGE</b> <table><tr><td><b>INSURER A:</b> Westfield Insurance Company</td><td><b>NAIC #</b> 24112</td></tr><tr><td><b>INSURER B:</b> The Continental Insurance Comp</td><td>35289</td></tr><tr><td><b>INSURER C:</b> Travelers Property Casualty Co</td><td>25674</td></tr><tr><td><b>INSURER D:</b> Pacific Insurance Company</td><td>10046</td></tr><tr><td><b>INSURER E:</b></td><td></td></tr><tr><td><b>INSURER F:</b></td><td></td></tr></table>	<b>INSURER A:</b> Westfield Insurance Company	<b>NAIC #</b> 24112	<b>INSURER B:</b> The Continental Insurance Comp	35289	<b>INSURER C:</b> Travelers Property Casualty Co	25674	<b>INSURER D:</b> Pacific Insurance Company	10046	<b>INSURER E:</b>		<b>INSURER F:</b>	
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<b>INSURER E:</b>													
<b>INSURER F:</b>													

**COVERAGES**

CERTIFICATE NUMBER: 2072733305

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> \$1000 PD Ded GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC OTHER:	Y	Y	CMM3680691	9/1/2024	9/1/2025	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> PIP <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	CMM3680691	9/1/2024	9/1/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ PIP \$ 10,000
B C	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			CUE7034446503 EX-6S087257-24-NF	9/1/2024 9/1/2024	9/1/2025 9/1/2025	EACH OCCURRENCE \$ 25,000,000 AGGREGATE \$ 25,000,000 \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N	N / A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A D	Rented or Leased Equipment Professional Liability Pollution Liability			CMM3680691 13CPIGD0280	9/1/2024 9/22/2024	9/1/2025 9/22/2025	\$350,000 Limit \$3,000,000 Limit \$1,000 Deductible \$25,000 Deductible

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate Holder Polk County a Political Subdivision of the State of Florida, their affiliates and or assigns are included as Additional Insured with respect to General Liability including products and completed operations and Auto Liability on a primary and non contributory basis as required by written contract and subject to terms, conditions and exclusions of the policy. Waiver of subrogation applies to General Liability and Auto Liability. Umbrella follows form of General Liability, Auto Liability and Workers' Compensation.

**CERTIFICATE HOLDER****CANCELLATION**

Polk County a Political Subdivision of the State of Florida  
330 West Church Street  
Bartow FL 33830

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**WAIVER OF TRANSFER OF RIGHTS OF  
RECOVERY AGAINST OTHERS TO US  
(WAIVER OF SUBROGATION)**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM  
BUSINESS AUTO COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

**Named Insured:**

**Endorsement Effective Date:**

**SCHEDULE**

**Name(s) Of Person(s) Or Organization(s):**

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** Condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**



**FLORIDA BUSINESS AUTO ENDORSEMENT**

This endorsement modifies insurance provided under the following:

**BUSINESS AUTO COVERAGE FORM**

**SCHEDULE**

The coverage provided by this endorsement is summarized below and is intended to provide a general coverage description only. For the details affecting each coverage, please refer to the terms and conditions in this endorsement.

- A. Who Is An Insured broadened:**
  - Additional Insured by Contract, Agreement or Permit
  - Legally Incorporated Subsidiaries
  - Newly Acquired Organizations
- B. Supplementary Payments**
  - Bail Bonds - \$5000
  - Loss of Earnings - \$500
- C. Coverage Extensions**
  - Transportation Expenses
  - Personal Effects (Excess Basis)
- D. Additional Coverages**
  - Expenses paid for returning a stolen covered auto
  - Fire Department Service Charge
- E. Airbag Coverage - Accidental Discharge**
- F. Knowledge and Notice of an Accident, Claim or Suit**
- G. Unintentional Failure To Disclose Hazards**
- H. Definitions**
  - Bodily Injury Redefined

In addition to the policy amendments contained in A. through H. listed above, the endorsements listed below will automatically be attached to your policy to complete the coverage provided by the Signature Series Business Auto Endorsement:

- Audio, Visual and Data Electronic Equipment Coverage Added Limits - CA 99 60
- Auto Loan/Lease Gap Coverage - CA 20 71
- Drive Other Car Coverage - Broadened Coverage For Named Individuals - (Executive Officers and Spouse/Members of that Person's Household) - CA 99 10
- Employee Hired Autos - CA 20 54
- Employees As Insureds - CA 99 33
- Hired Auto Physical Damage (Refer to Auto Declarations page)
- Rental Reimbursement Coverage - CA 99 23
- Waiver of Transfer of Rights of Recovery (Waiver of Subrogation) - CA 04 44

**A. WHO IS AN INSURED BROADENED**

**SECTION II - COVERED AUTOS LIABILITY COVERAGE, item A. Coverage, 1. Who Is An Insured** is amended to include the following additional paragraphs:

- d. Any legally incorporated subsidiary of yours in which you own more than

50% of the voting stock on the effective date of this endorsement.

However, "insured" does not include any subsidiary that is an "insured" under any other liability policy or would be an "insured" under such a policy but for its termination or the exhaustion of its limit of insurance.



Coverage under this provision is afforded only for the first 180 days after you acquire or form the organization or until the end of the policy period, whichever comes first.

- e. Any organization you newly acquire or form, other than a partnership or joint venture, and over which you maintain ownership or a majority interest. However, coverage under this provision:

- (1) Does not apply if the organization you acquire or form is an "insured" under another auto liability policy or would be "insured" under such a policy but for its termination or the exhaustion of its limits of insurance;

- (2) Does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

- (3) Is afforded only for the first 180 days after you acquire or form the organization or until the end of the policy period, whichever comes first.

- f. Any person or organization with whom you agreed in writing in a contract, agreement or permit, to provide insurance such as is afforded under this policy.

This provision only applies if the written contract or agreement has been executed or permit has been issued, prior to the "bodily injury" or "property damage".

## **B. SUPPLEMENTAL PAYMENTS**

**SECTION II - COVERED AUTOS LIABILITY COVERAGE**, item **A. Coverage**, **2. Coverage Extensions**, **a. Supplementary Payments**, subparagraphs (2) and (4) are deleted and replaced with the following:

- (2) Up to \$5,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 per day because of time off from work.

## **C. COVERAGE EXTENSIONS**

**SECTION III - PHYSICAL DAMAGE COVERAGE**, Item **A. Coverage**, **4. Coverage Extensions**, **a. Transportation Expenses** is replaced with the following:

### **a. Transportation Expenses**

We will pay up to \$100 per day to a maximum of \$1,800 for transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

The following is added to Item **4. Coverage Extensions**:

### **c. Personal Effects**

We will pay up to \$500 for the "loss" of your personal effects that are contained in a covered "auto" due to the total theft of the covered "auto." We will pay only for those personal effects that are contained in covered "autos" for which you carry either Comprehensive or Specified Causes Of Loss Coverage.

Our payment for "loss" of or damage to personal effects will apply only on an excess basis over other collectible insurance.

## **D. ADDITIONAL COVERAGES**

**SECTION III - PHYSICAL DAMAGE COVERAGE**, **A. Coverage**, is amended to include the following additional coverage items:

- 5. We will pay the expense of returning a stolen covered "auto" to you.

### **6. Fire Department Service Charge**

When a fire department is called to save or protect a covered "auto", its equipment, its contents or occupants from a Covered Cause Of Loss, we will pay up to \$1,000 for your liability for Fire Department Service Charges:

- (a) Assumed by contract or agreement prior to loss; or
- (b) Required by local ordinance.

No deductible applies to this additional coverage.

**E. AIRBAG COVERAGE - ACCIDENTAL DISCHARGE**

**SECTION III - PHYSICAL DAMAGE COVERAGE**, Item **B. Exclusions**, subparagraph **3.a.** is deleted and replaced with the following:

- a.** Wear and tear, freezing, mechanical or electrical breakdown.

Mechanical breakdown does not apply to the accidental discharge of an airbag.

**F. KNOWLEDGE AND NOTICE OF AN ACCIDENT, CLAIM OR SUIT**

**SECTION IV - BUSINESS AUTO CONDITIONS**, Item **A. Loss Conditions** is amended as follows:

Subparagraph **a.** under Item **2. Duties In The Event Of Accident, Claim, Suit Or Loss**, is amended to include the following paragraphs:

This requirement applies when the "accident," claim, "suit" or "loss" is first known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership; or
- (3) An executive officer or insurance manager, if you are a corporation.

Subparagraph **b.(2)** under **2. Duties In The Event Of Accident, Claim, Suit Or Loss** is amended as follows:

- (2) Immediately send us copies of any request, demand, order,

notice, summons or legal paper received concerning the claim or "suit."

Your employees may know of documents received concerning a claim or "suit". This will not mean that you have such knowledge, unless receipt of such documents is known to you, any of your executive officers or partners or your insurance manager.

**G. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS**

Under **SECTION IV - BUSINESS AUTO CONDITIONS**, **B. General Conditions**, **2. Concealment, Misrepresentation Or Fraud** is amended to include the following additional paragraph:

If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Part because of such failure.

**H. DEFINITIONS**

Under **SECTION V - DEFINITIONS**, Item **C.** is replaced by the following:

- C.** "Bodily injury" means bodily injury, sickness or disease sustained by a person, including mental anguish, mental injury or death resulting from any of these. "Bodily injury" includes mental anguish or other mental injury resulting from "bodily injury".

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**



**COMMERCIAL GENERAL LIABILITY CONTRACTORS ENDORSEMENT**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

Coverage afforded under this expanded coverage endorsement does not apply to any person or organization covered as an additional insured on any other endorsement now or hereafter attached to this Coverage Form.

**SCHEDULE**

The coverage provided by this endorsement is summarized below and is intended to provide a general coverage description only. For the details effecting each coverage please refer to the terms and conditions in this endorsement.

- A. Expected or Intended Injury**
  - Reasonable force
- B. Liquor Liability Coverage Extension**
- C. Non-Owned Watercraft**
  - Increased to 60 feet
- D. Non-Owned Aircraft**
- E. Damage To Property - Borrowed Equipment**
- F. Damage To Premises Rented To You**
- G. Personal And Advertising Injury**
  - Contractual Personal and Advertising Injury
  - Exclusions
- H. Supplementary Payments**
  - Bail Bonds - \$2,500
  - Loss of Earnings - \$1,000
- I. Additional Insureds - Automatic Status**
  - State or Governmental Agency or Subdivision or Political Subdivision Controlling Interest
  - Managers or Lessors of Premises
  - Mortgagee, Assignee or Receiver
  - Owners or Other Interests From Whom Land Has Been Leased
  - Co-Owners of Insured Premises
  - Lessor of Leased Equipment
- J. Who Is An Insured broadened**
  - Joint Ventures / Partnership / Limited Liability Company
  - Health Care Professionals (Incidental Medical Malpractice)
  - Individual Owners of Building are Insured's
  - Newly Formed or Acquired Entities
- K. Knowledge and Notice of Occurrence**
- L. Other Insurance Condition Amended**
- M. Unintentional Failure To Disclose Hazards**
- N. Waiver of Transfer Of Rights Of Recovery Against Others To Us - Automatic Status**
- O. Liberalization**
- P. Definitions**
  - Bodily Injury redefined
  - Insured Contract redefined
  - Expanded Personal and Advertising Injury definition

**A. EXPECTED OR INTENDED INJURY**

Under **SECTION 1, COVERAGES, COVERAGE**

**A. BODILY INJURY AND PROPERTY DAMAGE**

exclusion a. is replaced with the following:

**a. Expected Or Intended Injury**

"Bodily Injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force for the purpose of protecting persons or property.

**B. LIQUOR LIABILITY COVERAGE EXTENSION**

**SECTION 1, COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Item 2. Exclusions c. Liquor Liability** is deleted.

**C. NON-OWNED WATERCRAFT**

Under **SECTION 1, COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Item 2. Exclusions g.2(a)** is replaced with the following:

- (a) Less than 60 feet long; and

**D. NON-OWNED AIRCRAFT**

Under **SECTION 1, COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Item 2. Exclusions g. Aircraft, Auto or Watercraft**, the following is added:

- (6) An aircraft you do not own provided that:

- (a) The pilot in command holds a currently effective certificate issued by the duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;

- (b) It is rented with a trained, paid crew; and

- (c) It does not transport persons or cargo for a charge.

**E. DAMAGE TO PROPERTY - BORROWED EQUIPMENT**

Under **SECTION 1, COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Item 2. Exclusions j.** is deleted and replaced by the following:

**j. Damage To Property:**

- (1) Property you own, rent or occupy;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of any real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

- (6) That particular part of any real property that must be restored, replaced, or repaired because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to:

- (i) "property damage" to tools or equipment loaned to you if the tools or equipment are not being used to perform operations at the time of loss; or

- (ii) "property damage" (other than damage by fire) to premises rented to you or temporarily occupied to you with the permission of the owner or to the contents of premises rented to you for a period of seven (7) or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **Section III - Limits Of Insurance.**

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were not occupied, rented or held for rental by you beyond one year from the date "your work" was completed.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard."

**F. DAMAGE TO PREMISES RENTED TO YOU**

Under **SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Item 2. Exclusions**, the last paragraph of Item 2. Exclusions is replaced with the following:

Exclusion c. through n. do not apply to damage by fire or explosion to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in **Section III - LIMITS OF INSURANCE.**

#### **G. PERSONAL AND ADVERTISING INJURY**

Under **SECTION 1, COVERAGES, COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY**, Item 2. Exclusions e. Contractual Liability is deleted.

Under **SECTION 1 - COVERAGES, COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY**, the following are added to Item 2. Exclusions:

**q. Discrimination Relating To Room, Dwelling or Premises**

Caused by discrimination directly or indirectly related to the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any insured.

**r. Fines or Penalties**

Fines or penalties levied or imposed by a governmental entity because of discrimination.

#### **H. SUPPLEMENTARY PAYMENTS**

Under **SECTION 1 - SUPPLEMENTARY PAYMENTS COVERAGES A AND B**, item 1.b. is replaced with the following:

- b.** Up to \$2,500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the "Bodily Injury" Liability Coverage applies. We do not have to furnish these bonds.

Under **SECTION 1 - SUPPLEMENTARY PAYMENTS COVERAGES A AND B**, item 1.d. is replaced with the following:

- d.** All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$1,000 a day because of time off from work.

#### **I. ADDITIONAL INSURED - AUTOMATIC STATUS**

**SECTION II - WHO IS AN INSURED** is amended to include as an insured any person or organization (called additional insured) described in paragraphs a. through g. below whom you are required to add as an additional insured on this policy under a written contract or written agreement. However the written contract or written agreement must be:

1. Currently in effect or becoming effective during the term of the policy; and
2. Executed prior to the "bodily injury", "property damage" or "personal injury and advertising injury", but

Only the following persons or organizations are additional insureds under this endorsement and coverage provided to such additional insureds is limited as provided herein:

**a. State or Governmental Agency or Subdivision or Political Subdivisions**

A state or governmental agency or subdivision or political subdivision subject to the following provisions:

- (1)** This insurance applies only with respect to the following hazards for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization in connection with premises you own, rent or control and to which this insurance applies;

- (a)** The existence, repair maintenance, erection, construction, or removal of advertising signs, awnings canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners, or decorations and similar exposures; or

- (b)** The construction, erection, or removal of elevators.

- (2)** This insurance applies only with respect to operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization.

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the federal government, state or municipality.

**b. Managers or Lessors of Premises**

A manager or lessor of premises but only with respect to liability arising out of the ownership, maintenance or use of that specific part of the premises leased to you and subject to the following additional exclusions:

This insurance does not apply to:

- (1)** Any "occurrence" which takes place after you cease to be a tenant in that premises; or



- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

**c. Mortgagee, Assignee or Receiver**

A mortgagee, assignee or receiver but only with respect to their liability as mortgagee, assignee or receiver and arising out of the ownership, maintenance, or use of a premises by you.

This insurance does not apply to structural alterations, new construction or demolition operations performed by or for such additional insured.

**d. Owners Or Other Interests From Whom Land Has Been Leased**

An owner or other interest from whom land has been leased by you but only with respect to liability arising out of the ownership, maintenance or use of that specific part of the land leased to you and subject to the following additional exclusions:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to lease that land; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

**e. Co-owner of Insured Premises**

A co-owner of a premises co-owned by you and covered under this insurance but only with respect to the co-owners liability as co-owner of such premises.

**f. Lessor of Equipment**

Any person or organization from whom you lease equipment. Such person or organization are insureds only with respect to their liability arising out of the maintenance, operation or use by you of equipment leased to you by such person or organization.

A person's or organization's status as an insured under this endorsement ends when their written contract or written agreement with you for such leased equipment ends.

With respect to the insurance afforded these additional insureds, the following exclusions apply:

This insurance does not apply:

- (1) To any "occurrence" which takes place after the equipment lease expires; or
- (2) To "bodily injury", "property damage", or "personal and advertising injury" arising out of the sole negligence of such additional insured.

Any insurance provided to an additional insured designated under paragraphs a. through f. above does not apply to "bodily injury" or "property damage" included within the "products-completed operations hazard".

As respects the coverage provided under this provision, Paragraph 4.b.(1) of **Section IV - Commercial General Liability Conditions** is deleted and replaced with the following:

**4. Other Insurance**

**b. Excess Insurance**

- (1) This insurance is excess over:

Any other insurance naming the additional insured as an insured whether primary, excess, contingent or on any other basis unless a written contract or written agreement specifically requires that this insurance be either primary or primary and non-contributing. Where required by written contractor written agreement, we will consider any other insurance maintained by the additional insured for injury or damage covered by this endorsement to be excess and non-contributing with this insurance.

**J. WHO IS AN INSURED BROADENED**

Under **SECTION II - WHO IS AN INSURED** the following is added to item 1:

**1. Joint Ventures / Partnership / Limited Liability Company Coverage**

You are an insured when you had an interest in a joint venture, partnership or limited liability company which is terminated or ended prior to or during this policy period but only to the extent of your interest in such joint venture, partnership or limited liability company. This coverage does not apply:

- (1) Prior to the termination date of any joint venture, limited liability company or partnership; or

- (2) If there is other valid and collectible insurance purchased specifically to insure the joint venture, legal liability company or partnership.

Under **SECTION II - WHO IS AN INSURED, 2.a.(1)(d)** is deleted and replaced with the following:

- (d) Arising out of his or her providing or failing to provide professional health care services.

This does not apply to nurses, emergency medical technicians or paramedics employed by you to provide health care services, but only if you are not in the business or occupation of providing such professional services.

Under **SECTION II - WHO IS AN INSURED** the following is added:

- 4. For **COVERAGE A** and **COVERAGE B** only, the owner of any building leased to you, but only if the building owner is a shareholder in your corporation or a partner in your partnership insured by this policy, and only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you. However, this insurance does not apply:

- a. To any "occurrence" or offense which takes place after you cease to be a tenant in the premises; or
- b. To structural alterations, new construction or demolition operations performed by or on behalf of the building owner.

Under **SECTION II - WHO IS AN INSURED, 3.a.** is deleted and replaced with the following:

- a. Coverage under this provision is afforded only until the end of the policy period or the next anniversary of this policy's effective date after you acquire or form the organization whichever is earlier.

Under **SECTION II - WHO IS AN INSURED** the last paragraph in this section is deleted and replaced with the following:

Except as provided in 3. above, no person or organization is an insured with respect to the conduct of any current or past joint venture, limited liability company or partnership that is not shown as a named insured in the Declarations.

## K. KNOWLEDGE AND NOTICE OF OCCURRENCE

Under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 2. Duties in the Event of Occurrence, Offense, Claim Or Suit**, the following is added:

- e. The requirement in Condition 2.a. applies only when the "occurrence" or offense is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership;
- (3) An "executive officer" or insurance manager, if you are a corporation; or
- (4) A manager, if you are a limited liability company.

- f. The requirement in Condition 2.b. will not be breached unless the breach occurs after such claim or "suit" is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership;
- (3) An "executive officer" or insurance manager, if you are a corporation; or
- (4) A manager, if you are a limited liability company.

- g. Your rights under this Coverage Part will not be prejudiced if you fail to give us notice of an "occurrence," offense, claim, or "suit" and that failure is solely due to your reasonable belief that the "bodily injury" or "property damage" is not covered under this Coverage Part. However, you shall give written notice of this "occurrence," offense, claim, or "suit" to us as soon as you are aware this insurance may apply to such "occurrence," offense, claim or "suit."

## L. OTHER INSURANCE CONDITION AMENDED

When required by written contract with any additional insured owner, lessee, or contractor to provide insurance on a primary and noncontributory basis, **Condition 4 of Section IV - Commercial General Liability Conditions** is deleted and replaced by the following:

### 4. Other Insurance

If other valid and collectible insurance is available for a loss we cover under Coverage A or B of this Coverage Part, our obligations are limited as follows:

**a. Primary Insurance**

This insurance is primary and non-contributory except when **b.** below applies.

**b. Excess Insurance**

This insurance is excess over any of the other insurance, whether primary, excess, contingent, or on any other basis:

- (1) That is Fire, Extended Coverage, Builders Risk, Installation Risk, or similar coverage for your work;
- (2) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner; or
- (3) If the loss arises out of the maintenance or use of aircraft, "autos," or watercraft to the extent not subject to Exclusion **g.** of **Section I - Coverage A.**
- (4) If the loss is caused by the sole negligence of any additional insured, owner, lessee, or contractor.

When this insurance is excess, we will have no duty under Coverage **A** or **B** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit." If no other defends, we will undertake to do so, but we will be entitled to the other insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductibles and self-insured amounts under all that other insurance.

We will share the remaining loss, if any with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the limits of Insurance shown in the declarations of this Coverage Part.

**M. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS**

Under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**, item **6. Representations**, the following is added:

- d.** Your failure to disclose all hazards or prior "occurrences" existing as of the inception date of this policy shall not prejudice the coverage afforded by this policy, provided such failure to disclose all hazards or prior "occurrences" is not intentional.

**N. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - AUTOMATIC STATUS**

Under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**, item **8. Transfer Of Rights Of Recovery Against Others To Us** is deleted and replaced by the following:

We waive any right of recovery we may have against any person or organization with respect to which the insured has waived its right of recovery.

It is further agreed that work commenced under letter of intent or work order, subject to subsequent reduction to writing, with customers whose customary written contracts would require a waiver of recovery rights against them also falls within this blanket waiver of recovery rights.

**O. LIBERALIZATION**

If we adopt a change in our forms or rules which would broaden coverage for contractors under this coverage form without an additional premium charge, your policy will automatically provide the additional coverage's as of the date the broadened coverage is effective in your state.

**P. DEFINITIONS**

Under **SECTION V - DEFINITIONS**, item **3.** is deleted and replaced with the following:

- 3.** "Bodily Injury" means bodily injury, disability, sickness, or disease sustained by a person, including death resulting from any of these at any time. "Bodily injury" includes mental anguish or other mental injury resulting from "bodily injury".

Under **SECTION V - DEFINITIONS**, item **9.** is deleted and replaced with the following:

**9. "Insured Contract" means:**

- a.** A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b.** A sidetrack agreement;
- c.** Any easement or license agreement;

- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization.

Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies an architect, engineer, or surveyor for injury or damage arising out of:
  - (a) Preparing, approving or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  - (b) Giving directions or instructions, or failing to give

them, if that is the primary cause of the injury or damage; or

- (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

Under **SECTION V - DEFINITIONS**, item **14**, the following is added to the definition of "Personal and advertising injury":

- h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is:
  - (1) Not done intentionally by or at the direction of:
    - (a) The insured; or
    - (b) Any "executive officer", director, stockholder, partner, member or manager (if you are a limited liability company) of the insured;
  - (2) Not directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person or persons by any insured.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - SCHEDULED PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
All persons or organizations when you have agreed in writing in a contract or agreement that such persons or organizations be added as an additional insured.	All Locations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**A. Section II - Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

**C.** With respect to the insurance afforded to these additional insureds, the following is added to **Section III - Limits Of Insurance**:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED - OWNERS, LESSEES OR  
CONTRACTORS - COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

**SCHEDULE**

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) And Description Of Covered Operations
All persons or organizations when you have agreed in writing in a contract or agreement that such persons or organizations be added as an additional insured.	All Locations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

- A. Section II - Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the

contract or agreement to provide for such additional insured.

- B. With respect to the insurance afforded to these additional insureds, the following is added to Section III - Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

**EXHIBIT “B”**

**PRE-CONSTRUCTION SERVICES ADDENDUM**

*(to be completed and issued with a CMSA or CMPO)*

**I. Construction Team Representatives**

County .....Polk County

- The Board of County Commissioners
- County Manager
- Deputy County Manager
- Facilities Management Division Director

Architect/Engineer .....NAME

- NAME, Vice President
- NAME, Project Engineer

Construction Manager.....NAME

- NAME, President
- NAME, Chief Operations Officer
- NAME, Sr. Project Manager
- NAME, Project Manager
- NAME, Pre-Construction Advisor
- NAME, 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 assigned to the Pre-Construction/Design Phases**

Position	Name	Duration in Months	Percentage of Time Assigned

## **EXHIBIT "C"**

### **GMP ADDENDUM**

to

Master Services Agreement \_\_\_\_\_ between Polk County and Construction Manager at Risk

***Project Name:*** \_\_\_\_\_

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 2.1.3, the Project critical dates are as follows:

A. Construction Phase Commencement Date \_\_\_\_\_ Date stated in the Notice to Proceed.

B. Project Substantial Completion Date \_\_\_\_\_ Calendar days from Notice to Proceed.

C. Project Final Completion Date \_\_\_\_\_ 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. Pursuant to 6.1.2.5 of the Agreement, 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, and is shown on schedule 3, GMP Bid Breakdown, 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 are required to be procured by the construction manager for 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.

THE REMAINDER OF PAGE LEFT INTENTIONALLY BLANK

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

**Register Construction & Engineering, Inc.**  
a Florida corporation

Attest:

\_\_\_\_\_  
Corporate Secretary  
(seal)

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

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



## SCHEDULE 1 to the GMP ADDENDUM

**Project Name:** \_\_\_\_\_

### Construction Manager's Personnel

### During Construction Phase

**(TO BE COMPLETED AT GMP)**

[illegible]

## **SCHEDULE 2 to the GMP ADDENDUM**

***Project Name:*** \_\_\_\_\_

**List of Contract Drawings & Specifications**

## **SCHEDULE 3 to the GMP ADDENDUM**

***Project Name:*** \_\_\_\_\_  
**GMP Bid Breakdown**

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

***Project Name:*** \_\_\_\_\_

**Clarifications, Assumptions, Exclusions, Contingencies and Allowances**

## **EXHIBIT “D”**

***Project Name:*** \_\_\_\_\_

**Certificate of Substantial Completion**

Standard AIA Document G704 to be used



## EXHIBIT "E"

*Project Name:* \_\_\_\_\_

### 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:**

**Register Construction & Engineering, Inc.**

**a Florida corporation**

**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”**

***Project Name:*** \_\_\_\_\_

### **Application for Payment**

Form shall be AIA Document G702 Application and Certificate for Payment

## EXHIBIT "G"

***Project Name:*** \_\_\_\_\_

### **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
- \_\_\_ 11. Final change order deduction, if applicable

## EXHIBIT "G"

***Project Name:*** \_\_\_\_\_

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

(Authorized Signature)

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

(Typed Name & Title)

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

County: \_\_\_\_\_

(Division Director)

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





**EXHIBIT "H"**

**CHANGE ORDER**

CHANGE  
ORDER

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

**PROJECT:**

POLK COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA

**TO CONTRACTOR:**

[Company Name]

[Address]

[City, State, Zip]

The contract is changed as follows:

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

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

PROJECT NO: \_\_\_\_\_

CONTRACT DATE: \_\_\_\_\_

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: \_\_\_\_\_

ARCHITECT/ENGINEER

CONTRACTOR

Board of County Commissioners  
COUNTY

330 West Church Street

ADDRESS

ADDRESS

ADDRESS

Bartow, FL 33830

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_

Chairman/Vice Chairman

Or \_\_\_\_\_

County Manager or Designee

Date \_\_\_\_\_ Date \_\_\_\_\_ Date \_\_\_\_\_

**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:**  
POLK COUNTY,  
A POLITICAL SUBDIVISION OF  
THE STATE OF FLORIDA  
**CONSTRUCTION MANAGER:**  
**ARCHITECT/ENGINEER:**

**AAR NO:**  
**CONTRACT NO:**  
  
**INITIATION DATE:**

#### 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)**

**CONSTRUCTION MANAGER:** \_\_\_\_\_ **ARCHITECT/ENGINEER:** \_\_\_\_\_  
**Date:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
**COUNTY:** \_\_\_\_\_

**County Manager/Deputy County Manager**

**Chairman  
Board of County Commissioners**

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

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



## **EXHIBIT “J”**

### **REIMBURSABLE COST SCHEDULE**

- 1.....Subcontractor Services.....Actual Costs
2. Travel Expenses In accordance with Chapter 112.061, F.S.; and  
further defined in the Polk County Employee Handbook
3. Pre-approved Equipment Actual Costs  
(includes purchase and rental of equipment used in project)



**Exhibit K - Hourly Rate Schedule**  
**Polk County CMAR Continuing Services**

Company Name: Marcobay Construction

Classification	Raw Labor Rate	Rates with Burden
Field Operations Manager	\$93/hour	\$146/hour
Superintendent	\$54/hour	\$85/hour
Senior Estimator	\$65/hour	\$102/hour
Preconstruction Assistant/Bid Clerk	\$35/hour	\$55/hour
Project Executive/Senior Project Manager	\$100/hour	\$157/hour
Project Manager	\$75/hour	\$118/hour
Project Coordinator/ Administrative Assistant	\$35/hour	\$55/hour
Project Accountant	\$70/hour	\$110/hour
Carpentry	\$40/hour	\$63/hour
Skilled Laborer	\$30/hour	\$47/hour
Unskilled Laborer	\$20/hour	\$32/hour

**EXHIBIT “L”**  
**AFFIDAVIT CERTIFICATION**  
**IMMIGRATION LAWS**

SOLICITATION NO.: RFP 25-544

PROJECT NAME: \_\_\_\_\_

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

PRINCIPAL:

BY: \_\_\_\_\_ (SEAL)

Authorized Signature (Principal)

\_\_\_\_\_

Printed Name

\_\_\_\_\_

Title of Person Signing Above

ATTEST:

SURETY: \_\_\_\_\_

Printed Name

\_\_\_\_\_

Witness

\_\_\_\_\_

Witness

BY: \_\_\_\_\_ (SEAL)

Attorney in Fact

\_\_\_\_\_

Printed Name

\_\_\_\_\_

Business Address

\_\_\_\_\_



## EXHIBIT "N"

### BUY-OUT ALLOWANCE AUTHORIZATION RELEASE (BOAAR)

**PROJECT:**

**BOAAR NO:**

POLK COUNTY,  
A POLITICAL SUBDIVISION OF  
THE STATE OF FLORIDA  
CONSTRUCTION MANAGER:

**CONTRACT NO:**

**INITIATION DATE:**

**ARCHITECT/ENGINEER:**

#### DESCRIPTION OF ALLOWANCE WORK:

**Total:**

\$

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

Amount of Original Buy-out Allowance \_\_\_\_\_ \$

Amount of Other Buy-out Authorization Release Credits \_\_\_\_\_ \$

Amount of Other Buy-out Authorization Release Expenses \_\_\_\_\_ \$

Amount of Buy-out Remaining Balance \_\_\_\_\_ \$

Amount of Buy-out Credit in this BOAAR \_\_\_\_\_ \$

Amount of Buy-out Allowance used this BOAAR \_\_\_\_\_ \$

Amount of New Buy-out Allowance Remaining \_\_\_\_\_ \$

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

**CONSTRUCTION**

**ARCHITECT/**

**MANAGER:** \_\_\_\_\_

**ENGINEER:** \_\_\_\_\_

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

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

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

\_\_\_\_\_

County Manager/Deputy County Manager

Chairman,

Board of County Commissioners

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

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