



Pinellas County

Staff Report

File #: 24-2024A, **Version:** 1

Agenda Date: 1/14/2025

Subject:

Ranking of firms and agreement with Manhattan Construction Company for Construction Manager at Risk services pertaining to the Passenger Terminal Improvements.

Recommended Action:

Approval of the ranking of firms and agreement with Manhattan Construction Company for Construction Manager at Risk services pertaining to the Passenger Terminal Improvements.

- This contract is for the Construction Manager at Risk for the Passenger Terminal Improvements.
- Nine firms were evaluated by written proposals, with the top three shortlisted firms presenting. The top ranked firm, Manhattan Construction Company, is recommended for the award in the amount of \$374,895.00 in accordance with the Consultants Competitive Negotiations Act, per Florida Statute 287.055.
- The initial award amount is for the preconstruction phase of the project; the second phase of the contract will return to the Board of County Commissioners for approval of the Guaranteed Maximum Price amendment for construction phase services.
- Three certified Small Business Enterprise (SBE) sub-consultants were included in the award to Manhattan Construction Company, DuCon, LLC, OHC Environmental Engineering, and Arehna Engineering for total SBE fees in the amount of \$31,969.00 or approximately 8.5% of the total award amount.
- This agreement is effective for two thousand days after the issuance of a Notice to Proceed by the County.
- Funding is available under New Passenger Terminal Improvements Project 003343A, included in the Capital Improvement Plan, funded by the Airport Revenue and Operating Fund, a Federal Aviation Administration (FAA) Terminal Program Grant (Infrastructure Investment and Jobs Act), a Florida Department of Transportation Public Transportation Grant, and anticipated future FAA and U.S. Department of Transportation grants, in the amount of \$103,610,000. In the event that future fiscal year funding is not available for this project, the County maintains the authority to terminate this agreement.

Contract 24-0333-RFP-CMAR; in the total not to exceed amount of \$374,895.00, effective for two thousand days from the date of Notice to Proceed; Authorize the Chairman to sign and the Clerk of the Circuit Court to attest.

Strategic Plan:

Foster Continual Economic Growth and Vitality

4.4 Invest in Infrastructure to meet current and future needs

4.5 Provide safe and effective transportation systems to support the efficient flow of motorists, commerce, and regional connectivity.

Summary:

Manhattan Construction Company LLC was selected through the competitive CCNA non continuing process as the top ranked firm for Construction Manager at Risk (CMAR) for this project. Upon Board approval of the Preconstruction Services task, Manhattan will join the design effort to assist in keeping the project within budget and schedule while mitigating operational impacts to the airport. As the design progresses towards final plans, Manhattan will provide a Guaranteed Maximum Price (GMP) for the project. After Board approval of the GMP, Manhattan will begin construction of the project.

Background Information:

A Request for Qualifications (RFQ) to comply with the Consultants Competitive Negotiation Act (CCNA), per Florida Statute 287.055, was released on April 5, 2024, with submission of proposal on May 24, 2024; the negotiation and scoping process concluded in November 2024.

The contract includes fully burdened hourly rates that include all labor, direct/indirect overhead margins/profits, and travel within the Tampa Bay Metropolitan Statistical Area (TBMSA). Travel outside of the TBMSA will be reimbursed in accordance with Florida Statutes.

The St. Pete-Clearwater International Airport (PIE) is located on the west shoreline of Old Tampa Bay in Pinellas County, Florida. This county-owned and operated airport was originally built during World War II as a United States Army Air Base. After the war, the property was returned to Pinellas County to operate as a civil airport.

The original terminal building was dedicated in 1957. Since that time, various building expansions and renovations have been made to the facility. The most recent building improvements have been to the Federal Inspection Services area, Gates 7-11 passenger security screening and hold room area, and the Ticketing "A" check-in and baggage screening and make-up areas.

Since 2013, the airport has experienced double-digit growth in total passenger traffic annually, increasing from 1,017,049 passengers in 2013 to 2,366,029 in 2022. This represents an increase of one hundred and thirty-three percent (133%) over nine years.

In the spring of 2021, the airport completed its Master Plan Study. This long-awaited study provided an assessment of the existing conditions of the facility, and a recommended path forward for the expansion of the terminal building (and associated apron) to meet the needs and demands for the present and future conditions.

In July 2024, airport staff and the selected design team (C&S Engineers) had a design kick-off meeting to begin developing conceptual designs for the new terminal expansion. Manhattan Construction Company LLC is selected as the top ranked firm for the Construction Manager at Risk (CMAR) for this project. Manhattan is expected to join the design effort during Schematic Design in early 2025 following award of this contract.

Anticipated commencement of construction for this project is summer of 2026.

Fiscal Impact:

Estimated not to exceed amount of \$374,895.00.

Funding is available under New Passenger Terminal Improvements Project 003343A, included in the Capital Improvement Plan, funded by the Airport Revenue and Operating Fund, a Federal Aviation Administration (FAA) Terminal Program Grant (Infrastructure Investment and Jobs Act), a Florida Department of Transportation Public Transportation Grant, and anticipated future FAA and U.S. Department of Transportation grants.

Funding by Source FY25-FY30

Airport Funds	\$31,595,000
Federal Grants (FAA)	\$6,000,000
State Grants (FDOT)	\$1,975,000
Anticipated Federal Grants (FAA)	\$34,640,000
Anticipated Federal Grants (USDOT)	\$29,400,000
<hr/> Total Funding	<hr/> \$103,610,000

Staff Member Responsible:

Tom Jewsbury, Director, St. Pete-Clearwater International Airport
Merry Celeste, Purchasing Director, Administrative Services
Joe Lauro, Director of Administrative Services

Partners:

N/A

Attachments:

Final Agreement
Ranking

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

PINELLAS COUNTY GOVERNMENT IS COMMITTED TO PROGRESSIVE PUBLIC POLICY, SUPERIOR PUBLIC SERVICE, COURTEOUS PUBLIC CONTACT, JUDICIOUS EXERCISE OF AUTHORITY AND SOUND MANAGEMENT OF PUBLIC RESOURCES, TO MEET THE NEEDS AND CONCERNS OF OUR CITIZENS TODAY AND TOMORROW.



CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

RFP TITLE: Passenger Terminal Improvements – Construction Manager at Risk (CMAR)

RFP CONTRACT NO. 24-0333-RFP-CMAR

COUNTY PID NO. 003343A

CM FIRM: Manhattan Construction Company LLC (successor by conversion to Manhattan Construction Company)

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

TABLE OF CONTENTS

CONSTRUCTION MANAGEMENT AGREEMENT 4

ARTICLE 1 - GENERAL PROVISIONS 4

 1.1 RELATIONSHIP OF PARTIES 4

 1.2 GENERAL CONDITIONS 4

ARTICLE 2 - CONSTRUCTION MANAGER AT RISK RESPONSIBILITIES 5

 2.1 PRECONSTRUCTION PHASE 5

 2.2 GUARANTEED MAXIMUM PRICE PROPOSAL AND CONTRACT TIME 8

 2.3 CONSTRUCTION PHASE 10

 2.4 PROFESSIONAL SERVICES 11

 2.5 HAZARDOUS MATERIALS 11

ARTICLE 3 - OTHER RESPONSIBILITIES 12

 3.1 INFORMATION AND SERVICES 12

 3.2 OWNER'S REPRESENTATIVE 13

 3.3 DESIGN PROFESSIONAL 13

 3.4 LEGAL REQUIREMENTS 13

ARTICLE 4 - COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES 14

 4.1 COMPENSATION 14

 4.2 PAYMENTS 14

ARTICLE 5 - COMPENSATION FOR CONSTRUCTION PHASE SERVICES 15

 5.1 COMPENSATION 15

 5.2 GUARANTEED MAXIMUM PRICE 15

 5.3 CHANGES IN THE WORK 15

ARTICLE 6 - COST OF THE WORK FOR CONSTRUCTION PHASE (THE GUARANTEED MAXIMUM PRICE) 16

 6.1 COSTS TO BE REIMBURSED 16

 6.2 COSTS NOT TO BE REIMBURSED 16

 6.3 DISCOUNTS, REBATES AND REFUNDS 16

 6.4 ACCOUNTING RECORDS 16

 6.5 CONTRACT TIME AND LIQUIDATED DAMAGES 17

ARTICLE 7 - CONSTRUCTION PHASE PAYMENTS 19

 7.1 PROGRESS PAYMENTS 19

 7.2 FINAL PAYMENT 19

ARTICLE 8 - INSURANCE AND BONDS 20

 8.1 INSURANCE REQUIRED OF THE CONSTRUCTION MANAGER AT RISK –per Section C of RFP (attached) 20

 8.2 PERFORMANCE BOND AND PAYMENT BOND 20

ARTICLE 9 - MISCELLANEOUS PROVISIONS 21

 9.1 DISPUTE RESOLUTION 21

 9.2 OTHER PROVISIONS 21

ARTICLE 10 - TERMINATION OR SUSPENSION 22

 10.1 TERMINATION PRIOR TO ESTABLISHING GUARANTEED MAXIMUM PRICE 22

 10.2 TERMINATION SUBSEQUENT TO ESTABLISHING GUARANTEED MAXIMUM PRICE 22

 10.3 SUSPENSION 22

EXHIBIT A GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS 24

EXHIBIT B - SPECIAL CONDITIONS 62

EXHIBIT C - FORM OF PAYMENT BOND 63

EXHIBIT D - FORM OF PERFORMANCE BOND 66

EXHIBIT E - RELEASE AND AFFIDAVIT 69

EXHIBIT F - CONSTRUCTION MANAGER AT RISK APPLICATION FOR PAYMENT 70

EXHIBIT G - CHANGE ORDER 71

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

EXHIBIT H - CONSTRUCTION MANAGER AT RISK STAFFING SCHEDULE.....72

EXHIBIT I - GMP AMENDMENT TO AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER AT RISK.....73

EXHIBIT J - TRUTH-IN-NEGOTIATION CERTIFICATE.....77

EXHIBIT K - CERTIFICATE OF INSURANCE FORM78

EXHIBIT L - CONSTRUCTION MANAGER AT RISK PRE-CONSTRUCTION PHASE FEE PROPOSAL.....85

EXHIBIT M - REQUEST FOR PROPOSAL SOLICITATION94

EXHIBIT N – PRICE PROPOSAL FORM.....137

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT**CONSTRUCTION MANAGEMENT AGREEMENT**

THIS Agreement, made and entered into by and between the Board of County Commissioners of Pinellas County, a political subdivision of the State of Florida, hereinafter designated as the OWNER, and Manhattan Construction Company, LLC (CONSTRUCTION MANAGER AT RISK), an Oklahoma Limited Liability Company whose General Contractor License Number is CGC1527515, to perform all work "Work" in connection with the management and construction the County's "Passenger Terminal Improvements" project (PROJECT), located at the St. Pete-Clearwater International Airport, in, Pinellas County, Florida, said Work being set forth in the plans and specifications being prepared by C&S Companies, the Designer ("Design Professional"), and all other Contract Documents hereafter specified.

Owner and Construction Manager at Risk, for the consideration herein set forth, agree as follows:

ARTICLE 1 - GENERAL PROVISIONS**1.1 RELATIONSHIP OF PARTIES**

The Construction Manager at Risk is the Owner's independent contractor and additionally accepts the relationship of trust and confidence established with the Owner by this Agreement, and covenants with the Owner to furnish the Construction Manager at Risk reasonable skill and judgment and to cooperate with the Design Professional in furthering the interests of the Owner. The Construction Manager at Risk shall furnish construction and management services and use the Construction Manager at Risk best efforts to perform the Project in an expeditious and economical manner consistent with the interests of the Owner. The Construction Manager at Risk shall cooperate and coordinate with the Owner, Design Professional, and other persons or entities employed by the Owner for the Project.

1.2 GENERAL CONDITIONS

For the Construction Phase, the General Conditions of the Contract for Construction shall be as outlined in Exhibit A herein. For the Preconstruction Phase, or in the event that the Preconstruction and Construction Phases proceed concurrently, Exhibit A shall apply to the Preconstruction Phase only as specifically provided in this Agreement.

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT**ARTICLE 2 - CONSTRUCTION MANAGER AT RISK RESPONSIBILITIES**

The Construction Manager at Risk shall perform the services described in this Article. The services to be provided under Sections 2.1 and 2.2 constitute the Preconstruction Phase services.

2.1 PRECONSTRUCTION PHASE**1) PRELIMINARY EVALUATION**

The Construction Manager at Risk shall familiarize itself with the approved facilities program for the Project and shall provide a preliminary evaluation of the Owner's program and Project budget requirements, each in terms of the other. The Construction Manager at Risk shall jointly participate with the Owner and Design Professional in formation of the final Project design. It is the Construction Manager at Risk responsibility to assure that all parties coordinate efforts and revise the program to remain within the Owner's budget.

2) CONSULTATION

The Construction Manager at Risk and the Design Professional shall jointly schedule and attend regular meetings with the Owner. The Construction Manager at Risk shall consult with the Owner and Design Professional regarding site use and improvements and the selection of materials, building systems and equipment. The Construction Manager at Risk shall provide recommendations on construction feasibility; actions designed to minimize adverse effects of labor or material shortages; time requirements for procurement, installation and construction completion; and factors related to construction cost, including estimates of alternative designs or materials, preliminary budgets and possible economies. In order to provide effective consultation, the Construction Manager at Risk shall perform or cause to be performed such structural or environmental tests, surveys or reports as it deems necessary, including but not limited to those listed within Section 3.1.4.

3) PRELIMINARY PROJECT SCHEDULE

When Project requirements described in Section 3.1 have been sufficiently identified, the Construction Manager at Risk shall prepare, and periodically update, a preliminary Project schedule based upon the Critical Path Method for the Design Professional's review and the Owner's approval. The Construction Manager at Risk shall obtain the Design Professional's approval when reporting the preliminary Project schedule relating to the performance of the Design Professional's services. The Construction Manager at Risk shall coordinate and integrate the preliminary Project schedule with the services and activities of the Owner, Design Professional and Construction Manager at Risk. As design proceeds, the preliminary Project schedule shall be updated to indicate proposed activity sequences and durations, milestone dates for receipt and approval of pertinent information, submittal of a Guaranteed Maximum Price proposal, preparation and processing of shop drawings and samples, delivery of materials or equipment requiring long-lead-time procurement, Owner's occupancy requirements showing portions of the Project having occupancy priority, and proposed date of Substantial and Final Completion

4) PHASED CONSTRUCTION

The Construction Manager at Risk shall make recommendations to the Owner and Design Professional regarding the phased construction of the Work, if such phased construction is appropriate for the Project, taking into consideration such factors as economies, time of performance, availability of labor and materials, and provisions for temporary facilities. The identified phase of construction shall begin only after construction documents are 100% complete for that phase of work and a final Guaranteed Maximum Price (GMP) has been established and approved by the Owner.

5) PRECONSTRUCTION COST ESTIMATES

A. The Design Professional is required to provide design concepts, narratives, and drawings, and probable construction cost estimates. During each phase of design, in keeping with the Owner's goals and the program for the Project, the Construction Manager at Risk shall familiarize itself with these design documents and provide the Owner and Design Professional with a report detailing construction issues and concerns relating to the design, with detail appropriate to the phase of design. Without limitation of the foregoing, each construction report shall:

- a. include an estimate of overall construction cost, including Construction Manager at Risk contingency not to exceed the amount specified for each phase of design, including a comparison of the estimate to the Owner's budget for construction;

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

- b. identify conceptual decisions necessary to prepare accurate cost reports with the fewest assumptions, qualifications, and exclusions;
 - c. include an analysis and evaluation of jobsite management, site logistics, and schedule considerations;
 - d. include an analysis and evaluation of the constructability of the design concepts, narratives, or drawings;
 - e. include an analysis and evaluation of the design concepts, narratives, or drawings in regard to the completeness of intended bid categories, conflicts or overlaps in the divisions of the Work, design details affecting construction including, without limitation, unusual or custom materials, value analysis, identification of long-lead materials and equipment affecting the construction schedule, availability of labor, and other factors affecting construction, and, in the report provided during the Construction Documents Phase, suggestions for alternatives for matters which may delay the construction schedule;
 - f. Address problems, conflicts, defects, or deficiencies in the design concepts and offer recommendations and resolutions of same; and
 - g. identify any other issues which Construction Manager at Risk reasonably believes may have a negative impact on the Project schedule, budget, or performance.
 - h. The Construction Manager at Risk shall include a statement that the cost estimates are within the Owner's budget.
 - i. After working with the Design Professional to reconcile the Design Professional's probable construction cost with the estimate submitted by the Construction Manager at Risk, the Construction Manager at Risk shall provide a Reconciled Estimate Report approved by the Design Professional describing the resolutions of the Design Professional and Construction Manager at Risk estimates.
- B. The Construction Manager at Risk and the Design Professional shall jointly schedule and attend regular meetings with the Owner and evaluate the preliminary design drawings. The Design Professional shall prepare and distribute minutes of these meetings, and the Construction Manager at Risk shall verify the accuracy and completeness of the minutes.
- When the Owner has sufficiently identified the Project requirements and the Design Professional has prepared other basic design criteria constituting the Program, the Construction Manager at Risk shall prepare the first construction report as outlined above and coordinate the efforts of the Owner and Design Professional to assure the Owner's budget and schedule are met at the end of this phase. The Construction Manager at Risk contingency included in the estimate of overall construction costs provided at the end of this phase shall not exceed 25%
- C. When Schematic Design Documents have been prepared by the Design Professional and approved by the Owner, the Construction Manager at Risk shall prepare, for the review of the Design Professional and approval of the Owner, a more detailed construction report with supporting data. The Construction Manager at Risk shall coordinate the efforts of the Owner and Design Professional to assure the Owner's budget and schedule are met at the end of this phase. The Construction Manager at Risk contingency included in the estimate of overall construction costs provided at the end of this phase shall not exceed 20% During the next phase (preparation of the Design Development Documents), the Construction Manager at Risk shall update and refine the construction report at appropriate intervals agreed to by the Owner, Design Professional, and Construction Manager at Risk.
- D. When Design Development Documents have been prepared by the Design Professional and approved by the Owner, the Construction Manager at Risk shall prepare a detailed construction report with supporting data for review by the Design Professional and approval by the Owner. The Construction Manager at Risk shall coordinate the efforts of the Owner and Design Professional to assure the Owner's budget and schedule are met at the end of this phase. The Construction Manager at Risk contingency included in the estimate of overall construction costs provided at the end of this phase shall not exceed 15%. During the preparation of the Construction Documents, the Construction Manager at Risk shall update and refine the construction report at appropriate intervals agreed to by the Owner, Design Professional, and Construction Manager at Risk.

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

- E. If any estimate of overall construction costs or schedule within any construction report submitted to the Owner exceeds a previously approved budget or schedule, the Construction Manager at Risk shall make appropriate recommendations to the Owner and Design Professional.

6) SUBCONTRACTORS AND SUPPLIERS

- A. The Construction Manager at Risk shall seek to develop subcontractor interest in the Project and shall furnish to the Owner and Design Professional for their information a list of possible subcontractors, including suppliers who are to furnish materials or equipment fabricated to a special design, from whom proposals will be requested for each principal portion of the Work. The Owner, or designee, will promptly reply in writing to the Construction Manager at Risk if the Design Professional or Owner know of any objection to such subcontractor or supplier. The receipt of such list shall not require the Owner or Design Professional to investigate the qualifications of proposed subcontractors or suppliers, nor shall it waive the right of the Owner or Design Professional later to object to or reject any proposed subcontractor or supplier.
- B. The Construction Manager at Risk and their subcontractor(s) must register with and use the E-verify system in accordance with Florida Statute 448.095. A contractor and subcontractor may not enter into a contract with the County unless each party registers with and uses the E-verify system.

If a Construction Manager at Risk enters a contract with a subcontractor, the subcontractor must provide the Construction Manager at Risk with an affidavit stating that the Subcontractor does not employ, contract with, or subcontract with unauthorized aliens. The contractor must maintain a copy of the affidavit for the duration of the contract.

If the County, Construction Manager at Risk, or Subcontractor has a good faith belief that a person or entity with which it is contracting has knowingly violated Florida Statute 448.09(1) they shall immediately terminate the contract with the person or entity.

If the County has a good faith belief that a Subcontractor knowingly violated this provision, but the Construction Manager at Risk otherwise complied with this provision, the County will notify the Construction Manager at Risk and order that the Construction Manager at Risk immediately terminate the contract with the Subcontractor.

A contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Any contract termination under the provisions of this section may be challenged to Section 448.095(2)(d), Florida Statute. Construction Manager at Risk acknowledges upon termination of this agreement by the County for violation of this section by Construction Manager at Risk, Construction Manager at Risk may not be awarded a public contract for at least one (1) year. Construction Manager at Risk acknowledges that Construction Manager at Risk is liable for any additional costs incurred by the County as a result of termination of any contract for a violation of this section.

Construction Manager at Risk or Subcontractor shall insert in any subcontracts the clauses set forth in this section, requiring the subcontracts to include these clauses in any lower tier subcontracts. Construction Manager at Risk shall be responsible for compliance by any Subcontractor or Lower Tier Subcontractor with the clause set for in this section.

7) LONG-LEAD-TIME ITEMS

The Construction Manager at Risk shall recommend to the Owner and Design Professional a schedule for procurement of long-lead-time items which will constitute part of the Work as required to meet the Project schedule. If such long-lead-time items are procured by the Owner, they shall be procured on terms and conditions acceptable to the Construction Manager at Risk. Upon the Owner's acceptance of the Construction Manager at Risk Guaranteed Maximum Price proposal, all contracts for such items shall be assigned by the Owner to the Construction Manager at Risk, who shall accept responsibility for such items as if procured by the Construction Manager at Risk. The Construction Manager at Risk shall facilitate for timely delivery of long-lead-time items.

8) EXTENT OF RESPONSIBILITY

The Construction Manager at Risk shall assume the responsibility to guide the Owner and Design Professional through each phase of design with assessments and recommendations in the construction reports to assure the Owner's budget and schedule are maintained at the end of each phase. The recommendations and advice of the Construction Manager at Risk concerning design alternatives shall be subject to the review and approval of the Owner and the Design Professional. If the Construction Manager at Risk recognizes that portions of the Drawings

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

and Specifications are at variance with the applicable laws, statutes, ordinances, building codes, rules, and regulations, the Construction Manager at Risk shall promptly notify the Design Professional and Owner in writing. Notwithstanding anything above, it is recognized that the Construction Manager at Risk responsibility, review, and guidance is made in the capacity as a Construction Manager at Risk and not as a design professional.

9) EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION

The Construction Manager at Risk shall comply with applicable laws, regulations and special requirements of the Contract Documents regarding equal employment opportunity and affirmative action programs.

10) PUBLIC ENTITIES CRIMES ACT

CONSTRUCTION MANAGER AT RISK is directed to the Florida Public Entity Crime Act, Fla. Stat. 287.133, and Fla. Stat. 287.135 regarding Scrutinized Companies, and CONSTRUCTION MANAGER AT RISK agrees that its bid and, if awarded, its performance of the agreement will comply with all applicable laws including those referenced herein. CONSTRUCTION MANAGER AT RISK represents and certifies that CONSTRUCTION MANAGER AT RISK is and will at all times remain eligible to bid for and perform the services subject to the requirements of these, and other applicable, laws. CONSTRUCTION MANAGER AT RISK agrees that any contract awarded to CONSTRUCTION MANAGER AT RISK will be subject to termination by the County if CONSTRUCTION MANAGER AT RISK fails to comply or to maintain such compliance.

11) HUMAN TRAFFICKING

Construction Manager at Risk shall provide County with an affidavit signed by an officer or a representative of the Construction Manager at Risk under penalty of perjury attesting that the Owners Representative does not use coercion for labor or services as defined in Section 787.06, Florida Statutes.

2.2 GUARANTEED MAXIMUM PRICE PROPOSAL AND CONTRACT TIME

- 1) When the Drawings and Specifications are complete, the Construction Manager at Risk shall negotiate with the Owner or designee, a Guaranteed Maximum Price, which shall be the sum of the estimated Cost of the Work, all applicable permits, bonds, insurance, and the Construction Manager at Risk Fee.
- 2) The cost of the Work shall be based upon competitive bids obtained from subcontractors selected by the Construction Manager at Risk for each portion of the Work outlined in the Construction Documents and subject to the review and approval of the Design Professional and Owner. The Construction Manager at Risk shall attempt to provide at least three bids for every trade. When three bids cannot be provided, the Construction Manager at Risk shall provide justification satisfactory to the Owner's Representative. The complete bid process shall be fully transparent to the Design Professional and Owner, and each shall be invited to observe the process. The Construction Manager at Risk shall schedule pre-bid meetings with each subcontractor to review the scope of work in detail prior to submitting bids. Following the submittal of bids, the Construction Manager at Risk shall review the bid together with each subcontractor to ascertain the entire scope of work is included in their bids. The Construction Manager at Risk shall select each subcontractor determined by the Construction Manager at Risk to be qualified to provide the services at the best value.
- 3) The Cost of the Work shall be the cost for a "turnkey" project delivery and shall include the Construction Manager at Risk contingency, not to exceed 3%.
- 4) **BASIS OF GUARANTEED MAXIMUM PRICE**

The Construction Manager at Risk shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include:

 - A. A list of the Drawings and Specifications, including all addenda thereto and the Conditions of the Contract, which were used in preparation of the Guaranteed Maximum Price proposal.
 - B. A list of allowances and a statement of their basis.
 - C. A list of the exclusions and clarifications made by the Construction Manager at Risk in the preparation of the Guaranteed Maximum Price proposal.
 - D. The proposed Guaranteed Maximum Price, including a complete Schedule of Values outlining the selected competitive bid for each trade category, along with allowances, contingency, and other items and the Fee that comprise the Guaranteed Maximum Price.

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

- E. A Construction Schedule outlining critical path activities and identifying the Dates of Substantial and Final Completion, by phase if applicable, upon which the proposed Guaranteed Maximum Price is based.
- 5) The Construction Manager at Risk shall meet with the Owner and Design Professional to review the Guaranteed Maximum Price proposal and the written statement of its basis. In the event that the Owner or Design Professional discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager at Risk, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.
 - 6) Promptly upon receipt of the complete package constituting the Guaranteed Maximum Price from the Construction Manager at Risk, Pinellas County shall process the package for approval by the Board of County Commissioners. The Construction Manager at Risk shall assure that its selected bidders maintain and uphold their prices until the Board has an opportunity to approve the Guaranteed Maximum Price.
 - 7) Prior to the Owner's acceptance of the Construction Manager at Risk Guaranteed Maximum Price proposal and issuance of a Notice to Proceed, the Construction Manager at Risk shall not incur any cost to be reimbursed as part of the Cost of the Work other than cost included within the preconstruction phase of the Agreement.
 - 8) Upon acceptance by the Owner of the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price and its basis shall be set forth in the Guaranteed Maximum Price Amendment in a form substantially as attached as Exhibit I. The Guaranteed Maximum Price shall be subject to additions and deductions only by a change in the Work as provided in the Contract Documents, and the Dates of Substantial and Final Completion(s) shall be subject to adjustment only as provided in the Contract Documents.
 - 9) The Owner shall authorize and cause the Design Professional to submit to the Owner's Representative and Construction Manager at Risk a Corrected/Conforming Construction Document Set incorporating all agreed-upon qualifications, exclusions, clarifications, value engineering, design review comments, permit review comments, pre-bid inquiries, revisions or suggestions elicited during the development of the Guaranteed Maximum Price Proposal and other agreed-upon modifications made after the Drawings and Specifications have been submitted to the Owner and the Construction Manager at Risk and shall become the basis for construction. The Corrected/Conforming Construction Document Set shall be furnished to the Construction Manager at Risk no later than ten (10) days after GMP approval.
- 10) FLORIDA TRENCH SAFETY ACT - CERTIFICATION AND DISCLOSURE STATEMENT
- The undersigned acknowledges the requirements of the Florida Trench Safety Act (Section 553.60 et. seq. Florida Statutes).
- A. The Bidder further acknowledges that the Florida Trench Safety Act, (the Act) establishes the Federal excavation safety standards set forth at 29 C.F.R. Section 1926.650 Subpart P, as the interim state standard until such time as the state of Florida, through its Department of Labor and Employment Security, or any successor agency, adopts, updates, or revises said interim standard. This State of Florida standard may be supplemented by special shoring requirements established by the State of Florida or any of its political subdivisions.
 - B. The Bidder, as Construction Manager at Risk, shall comply with all applicable excavation/trench safety standards.
 - C. The Construction Manager at Risk shall consider the geotechnical data available from the County, if any, the Construction Manager at Risk's own sources, and all other relevant information in its design of the trench safety system to be employed on the subject Project. The Construction Manager at Risk acknowledges sole responsibilities for the selection of the data on which it relies in designing the safety system, as well as for the system itself.
 - D. The amounts that the Bidder has set forth for pipe installation includes the following excavation/trench safety measures and the linear feet of trench excavated under each safety measure. These units, costs, and unit values shall be disclosed solely for the purpose of compliance with procedural requirements of the Act. No adjustment to the Agreement Time or price shall be made for any difference in the actual number of linear feet of trench excavation, except as may be otherwise provided in these Contract Documents.

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

	Trench Safety Measure (Description)	Units of Measure (LF, SF)	Unit (Quantity)	Unit Cost	Extended Cost
1.				\$	\$
2.				\$	\$
3.				\$	\$
4.				\$	\$
5.				\$	\$

For Information Only, Not for Payment Purposes \$ _____

Bidder may use additional sheets as necessary to extend this form. Failure to complete the above may result in the bid being declared non-responsive.

- E. The amount disclosed as the cost of compliance with the applicable trench safety requirements does not constitute the extent of the Construction Manager at Risk's obligation to comply with said standards. The Construction Manager at Risk shall extend additional sums at no additional cost to the County, if necessary, to comply with the Act (except as otherwise be provided).
- F. Acceptance of the bid to which this certification and disclosure applies in no way represents that the County or its representatives has evaluated and thereby determined that the above costs are adequate to comply with the applicable trench safety requirements nor does it in any way relieve the Construction Manager at Risk of its sole responsibility to comply with the applicable trench safety requirements.

2.3 CONSTRUCTION PHASE

1) GENERAL

A. The Construction Phase shall commence upon the Owner's acceptance of the Construction Manager at Risk Guaranteed Maximum Price proposal, execution of the Amendment, and issuance of a Notice to Proceed.

2) ADMINISTRATION

- A. Those portions of the Work that the Construction Manager at Risk does not customarily perform with the Construction Manager at Risk own personnel shall be performed under subcontracts or by other appropriate agreements with the Construction Manager at Risk. The Construction Manager at Risk shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated to a special design for the Work from the list previously reviewed and, after analyzing such bids, shall deliver such bids to the Owner and Design Professional. The Construction Manager at Risk shall make a recommendation of contracts to be awarded to specific bidders subject to the approval of the Owner and Design Professional. Once this list of awarded contracts is finalized and submitted in the Guaranteed Maximum Price Proposal, it may not be altered without the express written mutual consent of the Owner and Design Professional.
- B. The Guaranteed Maximum Price shall be established following completion of the bid process, which shall be fully transparent to the Owner and Design Professional, and selection and approval of the successful bidders with the concurrence of the Owner and Design Professional. The Guaranteed Maximum Price shall be submitted to the Pinellas County Board of County Commissioners for approval and shall include a full and binding commitment by the Construction Manager at Risk to a "not to exceed" cost and schedule.
- C. Subcontracts and agreements with suppliers furnishing materials or equipment fabricated to a special design shall conform to the payment provisions of Sections 7.1.8 and 7.1.9 and shall not be awarded on the basis of cost plus a fee.

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

- D. The Construction Manager at Risk shall schedule and conduct bi-weekly meetings at which the Owner, Design Professional, Construction Manager at Risk and appropriate Subcontractors can discuss the status of the Work. The Construction Manager at Risk shall prepare and promptly distribute meeting minutes.
- E. The Construction Manager at Risk shall prepare a schedule in accordance with Section 3.10 of the General Conditions of the Contract for Construction (Exhibit A), and shall include this schedule in the Guaranteed Maximum Price submittal to the Board of County Commissioners. This schedule shall include the Owner's occupancy requirements.
- F. The Construction Manager at Risk shall provide monthly written reports to the Owner and Design Professional on the progress of the entire Work. The Construction Manager at Risk shall maintain a daily log containing a record of weather, Subcontractors working on the site, number of workers, Work accomplished, problems encountered and other similar relevant data as the Owner may reasonably require. The log shall be available to the Owner and Design Professional.
- G. The Construction Manager at Risk shall maintain cost control and invoicing for the Work in strict accordance with the Schedule of Values submitted in the Guaranteed Maximum Price proposal and approved by the Board of County Commissioners.

2.4 PROFESSIONAL SERVICES

Section 3.12.10 of the General Conditions of the Contract for Construction (Exhibit A) shall apply to both the Preconstruction and Construction Phases.

2.5 HAZARDOUS MATERIALS

Section 10.3 of General Conditions of the Contract for Construction (Exhibit A) shall apply to both the Preconstruction and Construction Phases.

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT**ARTICLE 3 - OTHER RESPONSIBILITIES****3.1 INFORMATION AND SERVICES**

- 1) The Owner shall provide, through the documents prepared by the Design Professional, full information regarding the requirements of the Project, including a program which sets forth the Owner's objectives, constraints and criteria, including space requirements and relationships, flexibility and expandability requirements, special equipment and systems, and site requirements.
- 2) Prior to commencement of the Construction Phase, the Owner shall provide a Purchase Order to the Construction Manager at Risk for the amount of work in the Schedule of Values identified by the Construction Manager at Risk to be completed in each fiscal year of the project construction schedule subject to the provisions of Article 14 of the General Conditions of the Contract for Construction.
- 3) The Construction Manager at Risk shall establish and update an overall budget for the Project, based on the program established with the Owner and Design Professional. The overall budget shall include Owner contingencies for changes in the Work and other costs as approved by the Owner.

4) STRUCTURAL AND ENVIRONMENTAL INVESTIGATIONS

Construction Manager at Risk shall have the sole responsibility of satisfying itself concerning the nature and location of the Work and the general and local conditions, and particularly, but without limitation, with respect to the following: those affecting transportation, access, legal disposal, handling and storage of materials; availability and quality of labor; water and electric power; availability and condition of roads; work area; living facilities; climatic conditions and seasons; physical conditions at the work-site and the project area as a whole; topography and ground surface conditions; nature and quantity of the surface materials to be encountered; subsurface conditions; equipment and facilities needed preliminary to and during performance of the Work; and all other costs associated with such performance. The failure of Construction Manager at Risk to acquaint itself with any applicable conditions shall not relieve Construction Manager at Risk from any of its responsibilities to perform under the Contract Documents, nor shall it be considered the basis for any claim for additional time or compensation after acceptance of the Guaranteed Maximum Price Amendment by the Board of County Commissioners.

- A. Site Conditions. Construction Manager at Risk acknowledges that it has not relied on any surveys, tests, reports, plans or other such site data supplied to Construction Manager at Risk by Owner but accepts delivery, if any, for information purposes only.
- B. During the Preconstruction Phase, Construction Manager at Risk shall determine the need for, procure and evaluate the results of all geo-technical engineering and related consulting services necessary to determine the location and extent of Utilities and sub-soil, air and water conditions at the site of the Work required to ensure that sufficient information is available for completion of the Work, including but not limited to all topographical surveys, soil tests, drainage plans, applicable test borings, test pits, soil bearing values, percolation tests, air and water pollution tests ("Site Test Data"). Construction Manager at Risk shall provide to Owner copies of the Site Test Data as soon as practicable after it is received by the Construction Manager at Risk.
- C. After Construction Manager at Risk begins the Construction Phase on the Project, having incorporated the knowledge from the Site Test Data, any additional work, regardless of its nature and scope, that is thereafter found to be required in order to complete the work based on the results of the Site Test Data, shall be performed at Construction Manager at Risk sole cost and expense to the extent that such costs exceed any line item within the Schedule of Values, as provided in the Guaranteed Maximum Price Amendment. During the Construction Phase, if conditions are encountered at the Project site which are (i) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (ii) unknown physical conditions of an 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 should not have been discovered by Construction Manager at Risk as part of its scope of site investigative services required pursuant to the terms of the Contract Documents, then Construction Manager at Risk shall provide Owner with prompt written notice thereof before conditions are disturbed and in no event later than seven (7) calendar days after first observance of such conditions. Owner shall promptly investigate such conditions and, if they differ materially and cause an increase or decrease in Construction Manager at Risk cost of,

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

or time required for, performance of any part of the Work, Owner will acknowledge and agree to an equitable adjustment to the Contract Amount or Contract Time, or both, for such Work. If Owner 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 at Risk as part of its investigative services, and that no change in the terms of the Contract is justified, Owner shall so notify Construction Manager at Risk in writing, stating its reasons. Claims by Construction Manager at Risk in opposition to such determination by Owner must be made within 7 calendar days after Construction Manager at Risk receipt of Owner's written determination notice. The provisions of Article 15 of the General Conditions of the Contract for Construction shall apply if Owner and Construction Manager at Risk cannot agree on an adjustment to the Contract Amount or Contract Time.

3.2 OWNER'S REPRESENTATIVE

The Owner shall designate in writing an "Owner's Representative". The Owner's Representative shall have the authority to make decisions on behalf of the Owner concerning estimates and schedules, construction budgets, allowances and contingency authorizations, and minor changes in the Work, and shall render such decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager at Risk. Any change in the Work that increases the Guaranteed Maximum Price, or extends the Dates of Substantial Completion or Final Completion, must be approved by the Pinellas County Board of County Commissioners.

3.3 DESIGN PROFESSIONAL

The Owner shall retain a Design Professional to provide Basic Services, including architecture, civil, structural, mechanical and electrical engineering services, other than cost estimating services. The Owner shall authorize and cause the Design Professional to provide the services described in Section 2.1.5 of this agreement as required by the Owner and Construction Manager at Risk to complete the Preconstruction and Construction Phases of the Work. Such services shall be provided in accordance with time schedules agreed to by the Owner, Design Professional, and Construction Manager at Risk.

3.4 LEGAL REQUIREMENTS

The Construction Manager at Risk shall have the responsibility to identify and acquire all permits required for the Project by authorities having jurisdiction. The Construction Manager at Risk shall further have the responsibility to assure the Project is constructed in strict accordance with all authorities having jurisdiction on the Project. Notwithstanding anything above, it is recognized that the Construction Manager at Risk responsibility is in the capacity of a Construction Manager at Risk and not as a design professional.

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

**ARTICLE 4 - COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION
PHASE SERVICES**

The Owner shall compensate and make payments to the Construction Manager at Risk for Preconstruction Phase services as follows:

4.1 COMPENSATION

- 1) For the services described in Sections 2.1, 2.2, and 3.1.4, the Construction Manager at Risk compensation shall be calculated as follows:
 - A. A stipulated sum of \$374,895.00. In accordance with attached Exhibit L, Construction Manager at Risk Pre-Construction Phase Fee Proposal.

4.2 PAYMENTS

- 1) Prior to the beginning of the preconstruction phase, the Construction Manager at Risk shall submit to the Owner's Representative for review and approval a Schedule of Values for work to be completed in accordance with Article 2, Sections 2.1 and 2.2. Payments shall be made monthly based on the Construction Manager at Risk invoice outlining portions of the services completed to date and their relationship to the Schedule of Values.
- 2) Payments are due and payable in accordance with the Local Government Prompt Payment Act, Section 218.70, et.seq. of the Florida State Statutes.

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT**ARTICLE 5 - COMPENSATION FOR CONSTRUCTION PHASE SERVICES**

The Owner shall compensate the Construction Manager at Risk for Construction Phase services as follows:

5.1 COMPENSATION

- 1) For the Construction Manager at Risk performance of the Work as described in Section 2.3, the Owner shall pay the Construction Manager at Risk in current funds the Contract Sum consisting of the Cost of the Work as defined in Article 6 and the Construction Manager at Risk Fee determined as follows:

A percentage of the actual Cost of the Work (3.646%) of TBD totaling TBD at the time the GMP is incorporated into the agreement. The Construction Manager at Risk Fee shall be adjusted at the same percentage rate for changes in the Work.

5.2 GUARANTEED MAXIMUM PRICE

- 1) The sum of the Cost of the Work and the Construction Manager at Risk Fee are guaranteed by the Construction Manager at Risk not to exceed the amount provided in Guaranteed Maximum Price Amendment, subject to additions and deductions by changes in the Work as provided in the Contract Documents.

5.3 CHANGES IN THE WORK

- 1) Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Section 7.2 of the General Conditions of the Contract for Construction (Exhibit A).
- 2) In calculating adjustments to subcontracts, a 10% markup for overhead and profit shall be applied to the total sum of time and materials required for the adjustment, and the Construction Manager at Risk Fee percentage shall then be applied to this subtotal along with bonds and insurance.
- 3) In calculating adjustments to the Contract, the terms "cost" and "costs" as used in the above-referenced provisions of the General Conditions of the Contract for Construction (Exhibit A) shall mean the Cost of the Work as defined in Article 6 of this Agreement, and the term "and a reasonable allowance for overhead and profit" shall mean the Construction Manager at Risk Fee as defined in Section 5.1.1 of this Agreement.
- 4) Whenever a change in the Work results in an increase to the Guaranteed Maximum Price, or extension of time for Substantial Completion or Final Completion, a Change Order shall be prepared in accordance with the format outlined in Exhibit G Change Order and submitted to the Pinellas County Board of County Commissioners for approval.

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT**ARTICLE 6 - COST OF THE WORK FOR CONSTRUCTION PHASE (THE GUARANTEED MAXIMUM PRICE)****6.1 COSTS TO BE REIMBURSED**

1) The term "Cost of the Work" shall mean all costs necessarily and reasonably incurred by the Construction Manager at Risk in the proper performance of the Work to deliver a "turnkey" project to the Owner. The Cost of the Work as set forth in this Article 6 shall be included on the Schedule of Values as part of the package comprising the Guaranteed Maximum Price submitted to the Board of County Commissioners for approval.

2) EMERGENCIES AND REPAIRS TO DAMAGED OR NONCONFORMING WORK

The following costs shall be included in the Cost of the Work and borne by the Construction Manager at Risk at no additional cost to the Owner:

- A. In taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property, as provided in Section 10.4 of the General Conditions of the Contract for Construction (Exhibit A).
- B. In repairing or correcting damaged or nonconforming Work executed by the Construction Manager at Risk or the Construction Manager at Risk Subcontractors or suppliers.

6.2 COSTS NOT TO BE REIMBURSED

1) The Cost of the Work shall not include:

- A. Salaries and other compensation of the Construction Manager at Risk personnel stationed at the Construction Manager at Risk principal office or offices other than the site office, except as specifically provided in Section 6.1.
- B. Expenses of the Construction Manager at Risk principal office and offices other than the site office, except as specifically provided in Section 6.1.
- C. Overhead and general expenses, except as may be expressly included in Section 6.1.
- D. The Construction Manager at Risk capital expenses, including interest on the Construction Manager at Risk capital employed for the Work.
- E. Rental costs of machinery and equipment, except as specifically provided in Section 6.1.
- F. Except as provided in Section 6.1, costs due to the negligence of the Construction Manager at Risk or to the failure of the Construction Manager at Risk to fulfill a specific responsibility to the Owner set forth in this Agreement.
- G. Costs incurred in the performance of Preconstruction Phase Services or in a failure to perform Preconstruction Phase Services.
- H. Any cost not specifically and expressly described in Section 6.1.
- I. Costs which would cause the Guaranteed Maximum Price to be exceeded.

6.3 DISCOUNTS, REBATES AND REFUNDS

N/A

6.4 ACCOUNTING RECORDS

1) The Owner shall have the right to audit, inspect, and copy the Construction Manager at Risk and any subcontractor's records, as such records relate to the purchase of materials for and construction of the Project.

Unless a longer time is required by applicable law, the Construction Manager at Risk and its subcontractors shall keep all records and supporting documentation which concern or relate to the Work hereunder for a minimum of 5 years from the date of termination of this Agreement or the date the Project is completed, whichever is later. The Owner shall have access to such books, records, and documents as required in this section for the purpose of inspection and audit during normal business hours, at the Owner's cost, upon five (5) days written notice.

Such audit rights are provided for within the text of the Pinellas County Code § 2-176(j), as that Code may be amended from time to time.

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT**6.5 CONTRACT TIME AND LIQUIDATED DAMAGES**

- 1) Time is of the essence in the performance of the Work under this Agreement. The “Pre-construction Phase Commencement Date” shall be established in a Notice to Proceed to be issued by the Owner. The Construction Manager at Risk shall commence the Pre-construction Phase Services portion of the Work within five (5) calendar days after the Pre-construction Phase Commencement Date. Any Work performed by the Construction Manager at Risk prior to the Pre-construction Phase Commencement Date shall be at the sole risk of the Construction Manager at Risk. The “Construction Phase Commencement Date” shall be established in a Notice to Proceed to be issued by the Owner after the Construction Documents and Guaranteed Maximum Price have been submitted to and approved by the Pinellas County Board of County Commissioners. The Construction Manager at Risk shall commence the Construction Phase Services portion of the Work within five (5) calendar days after the Construction Phase Commencement Date. No portion of the Work, with respect to the Construction Phase Services to be provided hereunder, shall be performed prior to the Construction Phase Commencement Date. The total period of time beginning with the Construction Phase Commencement Date and ending on the date of Substantial Completion of the Work is referred to hereafter as the “Contract Time”. The Contract Time is set forth with more specificity in section 6.5.2 below.
- 2) Because the Work is to be completed in two phases, the timely completion of the first phase is critical to the timely completion of the second phase, and therefore, completion of the entire Project. Accordingly, the Construction Manager at Risk agrees to provide Pre-construction Phase Services in accordance with Article 2.1 herein. With respect to the Construction Phase Services, the Guaranteed Maximum Price Amendment shall include the amount of days in which that portion of the Work associated with the Construction Phase Services must be substantially completed by the Construction Manager at Risk. That Substantial Completion date shall be established in terms of calendar days after the Construction Phase Commencement Date. In the event the Construction Manager at Risk and Owner fail to reach an agreement on the Contract Time and the Substantial Completion Date, the Owner may elect to terminate this Contract. In the event of any such termination, the Construction Manager at Risk shall be entitled to receive that portion of the Contract Amount attributable to the Pre-construction Phase Services earned to the date of termination. The Construction Manager at Risk shall not be entitled to any further or additional compensation from the Owner, including, but not limited to, damages or lost profits on portions of the Work not performed. Substantial Completion of the Work shall be achieved when the Construction Manager at Risk obtains a Certificate of Occupancy (CO) or a Temporary Certificate of Occupancy (TCO) from the jurisdictional building authority and has completed the Work to the point where the Owner can occupy or utilize the Work for its intended purpose. The Design Professional shall certify the date the Substantial Completion of the Work is achieved. If the Owner has designated portions of the Work to be turned over to the Owner prior to Substantial Completion of the entire Work, the Design Professional shall certify the date as to when Substantial Completion of such designated portions of the Work have been achieved. The entire Work shall be fully completed and ready for final acceptance by the Owner following completion of the punch list within ___ calendar days after the Substantial Completion date (“Final Completion”).
- 3) The Owner and Construction Manager at Risk recognize that, since time is of the essence for this contract, the Owner will suffer financial loss if the Work associated with the Construction Phase is not substantially completed within the time specified in the Guaranteed Maximum Price Amendment, as said time may be adjusted as provided for herein. In such event, the total amount of the Owner’s damages will be difficult, if not impossible, to definitely ascertain and quantify because this is a public construction project that will, when completed, benefit the public in Pinellas County, Florida. It is hereby agreed that is appropriate and fair that the Owner receive liquidated damages from the Construction Manager at Risk if the Construction Manager at Risk fails to achieve Substantial Completion of the Work within the required Contract Time. Should the Construction Manager at Risk fail to substantially complete the Work within the required time period, the Owner shall be entitled to assess, as liquidated damages but not as a penalty, \$1,500.00 for each calendar day thereafter until Substantial Completion is achieved. The Construction Manager at Risk 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 represents a fair and reasonable estimate of the Owner’s actual damages at the time of contracting if the Construction Manager at Risk fails to substantially complete the Work in a timely manner.
- 4) When any period of time is referenced by days herein, it shall be computed to exclude the first day and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday observed by the Owner, such day shall be omitted from the computation, and the last day shall become the next succeeding day which is not a Saturday, Sunday, or legal holiday. The term “business day” as

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

used herein shall mean all days of the week excluding Saturdays, Sundays, and all legal holidays observed by the Owner.

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT**ARTICLE 7 - CONSTRUCTION PHASE PAYMENTS****7.1 PROGRESS PAYMENTS**

- 1) Based upon Applications for Payment submitted to the Design Professional by the Construction Manager at Risk and Certificates for Payment issued by the Design Professional, the Owner shall make progress payments on account of the Contract Sum to the Construction Manager at Risk as provided below and in accordance with Section 4.2.2.
- 2) The period covered by each Application for Payment shall not exceed one calendar month.
- 3) The Owner's Representative shall establish a schedule for the Construction Manager at Risk submittal of Applications for Payment. The Owner shall make payments in accordance with Section 4.2.2.
- 4) With each Application for Payment, the Construction Manager at Risk shall submit a complete and updated Schedule of Values for the present pay period and an executed Waiver of Lien Release for the previous pay period.
- 5) Each Application for Payment shall be based upon the most recent Schedule of Values submitted by the Construction Manager at Risk in accordance with the Contract Documents. The Schedule of Values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Construction Manager at Risk Fee and Construction Manager at Risk Contingency shall be shown as single separate items. The Schedule of Values shall be prepared based on the format approved in the original Guaranteed Maximum Price submittal package. This schedule shall be used as a basis for reviewing the Construction Manager at Risk Applications for Payment.
- 6) Applications for Payment shall show the percentage completion of each portion of the Work as of the end of the period covered by the Application for Payment.
- 7) The Owner shall withhold 5% retainage on each Application for Payment submitted by the Construction Manager at Risk through final completion of the Work.
- 8) The Construction Manager at Risk shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site, except as otherwise set forth in the Contract Documents.
- 9) In taking action on the Construction Manager at Risk Applications for Payment, the Design Professional shall be entitled to rely on their observations during their most recent periodic site inspection at the end of the pay period for which the pay application has been submitted.

7.2 FINAL PAYMENT

- 1) Final payment shall be made by the Owner to the Construction Manager at Risk when (1) the Contract has been fully performed by the Construction Manager at Risk except for the Construction Manager at Risk responsibility to satisfy other requirements, if any, which necessarily survive final payment; (2) a final Application for Payment and a final accounting for the Cost of the Work have been submitted by the Construction Manager at Risk and reviewed by the Owner; and (3) a final Certificate for Payment has then been issued by the Design Professional; such final payment shall be made by the Owner in accordance with Section 4.2.2.
- 2) The amount of the final payment shall be the sum of the Cost of the Work substantiated by the Construction Manager at Risk in the final Schedule of Values plus the Construction Manager at Risk Fee, but not more than the Guaranteed Maximum Price.
- 3) The Owner will review the Construction Manager at Risk final pay application following receipt and certification of same by the Design Professional and shall process it in accordance with Section 4.2.2. The Design Professional will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager at Risk or notify the Construction Manager at Risk and Owner in writing of the Design Professional's reasons for withholding a certificate as provided in Section 9.5.1 of the General Conditions of the Contract for Construction (Exhibit A). The time periods shall comply with Section 4.2.2.
- 4) In the event a dispute occurs between the Owner and Construction Manager at Risk it shall be resolved pursuant to Article 15 of the General Conditions of the Contract for Construction (Exhibit A).

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

ARTICLE 8 - INSURANCE AND BONDS

8.1 INSURANCE REQUIRED OF THE CONSTRUCTION MANAGER AT RISK – per Section C of RFP (attached).

During both phases of the Project, the Construction Manager at Risk shall purchase and maintain insurance as set forth in Section C of RFP.

8.2 PERFORMANCE BOND AND PAYMENT BOND

- 1) The Construction Manager at Risk shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder. Bonds may be obtained through the Construction Manager at Risk usual source, and the cost thereof shall be included in the Guaranteed Maximum Price. The amount of each bond shall be equal to the full value of the Guaranteed Maximum Price.
- 2) The Construction Manager at Risk shall deliver the required bonds to the Owner within five (5) business days following the execution of the Guaranteed Maximum Price Amendment by the Board of County Commissioners.

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

ARTICLE 9 - MISCELLANEOUS PROVISIONS

9.1 DISPUTE RESOLUTION

- 1) During both the Preconstruction and Construction Phases, Claims, disputes or other matters in question between the parties to this Agreement shall be resolved as provided in Article 15 of the General Conditions of the Contract for Construction (Exhibit A).

9.2 OTHER PROVISIONS

- 1) Unless otherwise noted, the terms used in this Agreement shall have the same meaning as those in the General Conditions of the Contract for Construction (Exhibit A).

2) EXTENT OF CONTRACT

This Contract, which includes this Agreement and the other documents incorporated herein by reference, represents the entire and integrated agreement between the Owner and the Construction Manager at Risk and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Construction Manager at Risk. If any term or condition in the Contract Documents shall conflict with another, the documents shall be interpreted in the following order of precedence:

- A. Guaranteed Maximum Price Amendment
- B. Change Orders
- C. Agreement
- D. General Conditions
- E. Specifications
- F. Drawings

3) OWNERSHIP AND USE OF DOCUMENTS

Article 1.5 of the General Conditions of the Contract for Construction (Exhibit A) shall apply to both the Preconstruction and Construction Phases.

4) GOVERNING LAW

The Contract shall be governed by the Laws of the State of Florida.

5) ASSIGNMENT

The Owner and Construction Manager at Risk respectively bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in the Contract Documents. Neither party to the Agreement shall assign the Agreement as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Agreement.

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT**ARTICLE 10 - TERMINATION OR SUSPENSION****10.1 TERMINATION PRIOR TO ESTABLISHING GUARANTEED MAXIMUM PRICE**

- 1) Prior to execution by both parties of Guaranteed Maximum Price Amendment establishing the Guaranteed Maximum Price, the Owner may terminate this Agreement at any time without cause.
- 2) If the Owner terminates this Agreement pursuant to this Section 10.1 prior to commencement of the Construction Phase, the Construction Manager at Risk shall be compensated for Preconstruction Phase Services performed prior to receipt of notice of termination; provided, however, that the compensation for such services shall not exceed the compensation set forth in Section 4.1.1.
- 3) If the Owner terminates this Agreement pursuant to this Section 10.1 after commencement of the Construction Phase, the Construction Manager at Risk shall, in addition to the compensation provided in Section 10.1.2, be paid an amount calculated as follows:
 - A. Take the Cost of the Work incurred by the Construction Manager at Risk.
 - B. Add the Construction Manager at Risk Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 5.1 or, if the Construction Manager at Risk Fee is stated as a fixed sum in that Section, an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion.
 - C. Subtract the aggregate of previous payments made by the Owner on account of the Construction Phase.

The Owner shall also pay the Construction Manager at Risk fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager at Risk which the Owner elects to retain and which is not otherwise included in the Cost of the Work under Section 10.1.3.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager at Risk shall, as a condition of receiving the payments referred to in this Article 10, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager at Risk, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager at Risk under such subcontracts or purchase orders.

10.2 TERMINATION SUBSEQUENT TO ESTABLISHING GUARANTEED MAXIMUM PRICE.

- 1) Refer to EXHIBIT A GENERAL CONDITIONS, Article 14

10.3 SUSPENSION

The Work may be suspended by the Owner as provided in Article 14 of the General Conditions of the Contract for Construction (Exhibit A).

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

IN WITNESS WHEREOF, the parties have caused this instrument to be executed on the day and year as written below.

OWNER:

PINELLAS COUNTY acting by and through its

Board of County Commissioners

By: [Signature]

Chairman

Date: January 14, 2025.

ATTEST: _____

Ken Burke

Clerk of the Circuit Court

By: [Signature]

Deputy Clerk

Approved as to Form:

By: _____

Office of County Attorney

OFFICIAL SEAL

CONSTRUCTION MANAGER AT RISK:

Manhattan Construction Company

DocuSigned by:
By: J. Michael Miller
CD7FEEC62598432...

Print Name: J. Michael Miller

Title: Vice President



CORPORATE SEAL

APPROVED AS TO FORM

By: Miles Belknap
Office of the County Attorney

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS

EXHIBIT A GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION
TABLE OF CONTENTS

ARTICLE 1 -GENERAL PROVISIONS 27

1.1 BASIC DEFINITIONS 27

1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS 27

1.3 CAPITALIZATION 27

1.4 INTERPRETATION 28

1.5 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE... 28

1.6 TRANSMISSION OF DATA IN DIGITAL FORM 28

ARTICLE 2 -OWNER 29

2.1 GENERAL 29

2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER 29

2.3 OWNER’S RIGHT TO STOP THE WORK 29

2.4 OWNER’S RIGHT TO CARRY OUT THE WORK 29

ARTICLE 3 -CONSTRUCTION MANAGER AT RISK 30

3.1 GENERAL 30

3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONSTRUCTION MANAGER AT RISK 30

3.3 SUPERVISION AND CONSTRUCTION PROCEDURES 31

3.4 LABOR AND MATERIALS 32

3.5 WARRANTY 32

3.6 TAXES 32

3.7 PERMITS, FEES, NOTICES, AND COMPLIANCE WITH LAWS 32

3.8 ALLOWANCES 32

3.9 SUPERINTENDENT 33

3.10 CONSTRUCTION MANAGER AT RISK CONSTRUCTION SCHEDULES 33

3.11 DOCUMENTS AND SAMPLES AT THE SITE 33

3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES 33

3.13 LANDS FOR WORK AND ACCESS THERETO 35

3.14 CUTTING AND PATCHING 35

3.15 CLEANING UP 35

3.16 ACCESS TO WORK 35

3.17 ROYALTIES, PATENTS AND COPYRIGHTS 35

3.18 INDEMNIFICATION 36

ARTICLE 4 -ADMINISTRATION OF THE CONTRACT 37

4.1 DESIGN PROFESSIONAL 37

4.2 DESIGN PROFESSIONAL’S ROLE IN ADMINISTRATION OF THE CONTRACT 37

ARTICLE 5 -SUBCONTRACTORS 39

5.1 DEFINITIONS 39

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK 39

5.3 SUBCONTRACTUAL RELATIONS 39

5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS 39

5.5 E-VERIFY 40

ARTICLE 6 -CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS 41

6.1 OWNER’S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS 41

6.2 MUTUAL RESPONSIBILITY 41

6.3 OWNER’S RIGHT TO CLEAN UP 41

ARTICLE 7 -ARTICLE 7 - CHANGES IN THE WORK 42

7.1 GENERAL 42

7.2 CHANGE ORDERS 42

7.3 CONTINGENCY AUTHORIZATIONS AND ALLOWANCES 42

7.4 MINOR CHANGES IN THE WORK 42

ARTICLE 8 -TIME 43

8.1 DEFINITIONS 43

8.2 PROGRESS AND COMPLETION 43

8.3 DELAYS AND EXTENSIONS OF TIME 43

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS

ARTICLE 9 -PAYMENTS AND COMPLETION..... 44

9.1 CONTRACT SUM 44

9.2 SCHEDULE OF VALUES 44

9.3 APPLICATIONS FOR PAYMENT 44

9.4 CERTIFICATES FOR PAYMENT 44

9.5 DECISIONS TO WITHHOLD CERTIFICATION 45

9.6 PROGRESS PAYMENTS 45

9.7 SUBSTANTIAL COMPLETION 46

9.8 PARTIAL OCCUPANCY OR USE 46

9.9 FINAL COMPLETION AND FINAL PAYMENT 47

ARTICLE 10 -PROTECTION OF PERSONS AND PROPERTY 48

10.1 SAFETY PRECAUTIONS AND PROGRAMS 49

10.2

10.3HAZARDOUS MATERIALS 48

10.4EMERGENCIES 49

ARTICLE 11 -INSURANCE AND BONDS 50

11.1CONSTRUCTION MANAGER AT RISK INSURANCE 50

11.2WAIVERS OF SUBROGATION 50

11.3INDEMNIFICATION 50

11.4 PROPERTY INSURANCE (BUILDER’S RISK INSURANCE OR INSTALLATION FLOATER COVERAGE AS APPLICABLE) 50

11.5PERFORMANCE BOND AND PAYMENT BOND 51

ARTICLE 12 -UNCOVERING AND CORRECTION OF WORK..... 53

12.1UNCOVERING OF WORK 53

12.2CORRECTION OF WORK..... 53

12.3ACCEPTANCE OF NONCONFORMING WORK..... 54

ARTICLE 13 -MISCELLANEOUS PROVISIONS 55

13.1GOVERNING LAW 55

13.2SUCCESSORS AND ASSIGNS 55

13.3WRITTEN NOTICE 55

13.4RIGHTS AND REMEDIES 55

13.5TESTS AND INSPECTIONS 55

13.6INTEREST..... 56

13.7PUBLIC RECORD CONTRACTORS DUTY 56

ARTICLE 14 -TERMINATION OR SUSPENSION OF THE CONTRACT 58

14.1TERMINATION BY THE CONSTRUCTION MANAGER AT RISK..... 58

14.2 TERMINATION BY THE OWNER FOR CAUSE..... 59

14.3SUSPENSION BY THE OWNER FOR CONVENIENCE 59

14.4TERMINATION BY THE OWNER FOR CONVENIENCE 59

ARTICLE 15 -CLAIMS AND DISPUTES 60

15.1CLAIMS..... 60

15.2ALTERNATIVE DISPUTE RESOLUTION..... 61

15.3VENUE 61

15.4SURVIVAL OF ARTICLE 61

EXHIBIT B - SPECIAL CONDITIONS 62

EXHIBIT C - FORM OF PAYMENT BOND 63

EXHIBIT D - FORM OF PERFORMANCE BOND 66

EXHIBIT E - RELEASE AND AFFIDAVIT 69

EXHIBIT F - CONSTRUCTION MANAGER AT RISK APPLICATION FOR PAYMENT 70

EXHIBIT G - CHANGE ORDER 71

EXHIBIT H - CONSTRUCTION MANAGER AT RISK STAFFING SCHEDULE 72

EXHIBIT I - GMP AMENDMENT TO AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER AT RISK 73

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS

EXHIBIT J - TRUTH-IN-NEGOTIATION CERTIFICATE77

EXHIBIT K - CERTIFICATE OF INSURANCE FORM78

EXHIBIT L - CONSTRUCTION MANAGER AT RISK PRE-CONSTRUCTION PHASE FEE

PROPOSAL.....85

EXHIBIT M - REQUEST FOR PROPOSAL SOLICITATION94

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS**ARTICLE 1 - GENERAL PROVISIONS****1.1 BASIC DEFINITIONS****1) THE CONTRACT DOCUMENTS**

The Contract Documents are enumerated in the Agreement between the Owner and Construction Manager at Risk (hereinafter the Agreement) and consist of the Agreement, General Conditions of the Contract for Construction, Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Contingency Authorization or Allowance, or (4) a written order for a minor change in the Work. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Construction Manager at Risk bid or proposal, or portions of Addenda relating to bidding requirements.

2) THE CONTRACT

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification (the methods defined in Article 7). The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Construction Manager at Risk and the Design Professional or the Design Professional's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Design Professional or the Design Professional's consultants or (4) between any persons or entities other than the Owner and the Construction Manager at Risk.

3) THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Construction Manager at Risk to fulfill the Construction Manager at Risk obligations. The Work may constitute the whole or a part of the Project.

4) THE PROJECT

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by separate contractors.

5) THE DRAWINGS

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

6) THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

7) INSTRUMENTS OF SERVICE

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Design Professional and the Design Professional's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

8) N/A**9) TURNKEY**

The term "turnkey", where used in the Agreement, refers to the Construction Manager at Risk obligation to provide the Owner with a complete, operational, functioning product at final completion of the Work. The Construction Manager at Risk shall be required to include all materials and work reasonably implied from the scope of work outlined in the Contract Documents and necessary for a complete and functioning product even though they may not have been shown in detail.

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS**1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS**

- 1) The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Construction Manager at Risk. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Construction Manager at Risk shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.
- 2) Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Construction Manager at Risk in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.
- 3) Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

1.3 CAPITALIZATION

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents.

1.4 INTERPRETATION

In the interest of brevity, the Contract Documents frequently omit modifying words such as “all” and “any” and articles such as “the” and “an,” but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

1.5 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE

- 1) The Owner, having paid the Design Professional for its services, shall be deemed to own said drawings, specifications and other instruments of service that relate to the specific individual application, site, and use intended for the Owner. The Construction Manager at Risk, Subcontractors, Sub-subcontractors, and material or equipment suppliers shall not own or claim a copyright in the Instruments of Service.
- 2) The Construction Manager at Risk, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce the Instruments of Service provided to them solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Construction Manager at Risk, Subcontractors, Sub-subcontractors, and material or equipment suppliers may not use the Instruments of Service on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Design Professional, and the Design Professional's consultants, as applicable.
- 3) The Owner shall also be deemed to own all drawings, specifications and other Instruments of Service created pursuant to the Contract Documents.

1.6 TRANSMISSION OF DATA IN DIGITAL FORM

If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Agreement or the Contract Documents.

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS**ARTICLE 2 - OWNER****2.1 GENERAL**

- 1) The Owner is the Pinellas County Board of County Commissioners and is referred to throughout the Contract Documents as if singular in number. Except as otherwise specifically provided herein, the Design Professional does not have any authority to bind the Owner. The term “Owner’s Representative” has the meaning as described in Section 3.2 of the Contract.
- 2) The Owner, as a governmental agency, is not subject to the enforcement of construction or mechanic’s lien rights. Payment and Performance Bonds are required in accordance with Article 8 of the Construction Management Agreement.

2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

- 1) N/A
- 2) All permits and fees are the responsibility of the Construction Manager at Risk under the Contract Documents, including those required under Section 3.7.1. The Owner shall secure and pay for only those necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities specifically identified in the Contract Documents.
- 3) The Owner shall furnish existing available project information such as surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Construction Manager at Risk shall be required to confirm the accuracy of information furnished by the Owner (and shall include costs involved in this confirmation in the project budget) and shall exercise proper precautions relating to the safe performance of the Work.
- 4) The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner’s control and relevant to the Construction Manager at Risk performance of the Work with reasonable promptness after receiving the Construction Manager at Risk written request for such information or services.
- 5) Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Construction Manager at Risk an electronic copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

2.3 OWNER’S RIGHT TO STOP THE WORK

If the Construction Manager at Risk fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner’s Representative may issue a written order to the Construction Manager at Risk to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Construction Manager at Risk or any other person or entity, except to the extent required by Section 6.1.3.

2.4 OWNER’S RIGHT TO CARRY OUT THE WORK

If the Construction Manager at Risk defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Construction Manager at Risk the reasonable cost of correcting such deficiencies, including Owner’s expenses and compensation for the Design Professional’s additional services made necessary by such default, neglect or failure. If payments then or thereafter due the Construction Manager at Risk are not sufficient to cover such amounts, the Construction Manager at Risk shall pay the difference to the Owner.

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS**ARTICLE 3 - CONSTRUCTION MANAGER AT RISK****3.1 GENERAL**

- 1) The Construction Manager at Risk is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Construction Manager at Risk shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Construction Manager at Risk shall designate in writing a representative who shall have express authority to bind the Construction Manager at Risk with respect to all matters under this Contract. The term “Construction Manager at Risk” means the Construction Manager at Risk or the Construction Manager at Risk authorized representative.
- 2) The Construction Manager at Risk shall perform the Work in accordance with the Contract Documents.
- 3) Unless the terms of the Contract are modified in accordance with Article 7, the Construction Manager at Risk shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Design Professional in the Design Professional’s assistance in administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Construction Manager at Risk.

3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONSTRUCTION MANAGER AT RISK

- 1) Execution of the Contract by the Construction Manager at Risk is a representation that the Construction Manager at Risk has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents. Submittal of the GMP proposal by the Construction Manager at Risk is a representation that the Construction Manager at Risk has performed complete due diligence, including but not limited to the following:
 - A. Construction Manager at Risk has visited the site of the proposed work and fully acquainted himself with conditions relating to construction and labor so that he fully understands the facilities, difficulties and restrictions attending the execution of work under the contract. The Construction Manager at Risk as thoroughly examined and is familiar with the Contract Documents. Failure or omission of the Construction Manager at Risk to receive or examine any form, instrument, addendum or other documents, or to visit the site and acquaint himself with conditions existing thereon, shall in no way relieve the Construction Manager at Risk from any obligation with respect to the Contract. Owner does not warrant the accuracy or completeness of any reports, soil samples, or any other site condition information or data made available including, but not limited to, underground utility location.
 - B. The Construction Manager at Risk acknowledges that he has satisfied himself as to the nature and location of the work; the general and local conditions, including but not restricted to, those bearing upon transportation, disposal, handling and storage of materials; availability of labor, water, electric power, roads; and uncertainties of weather, river stages, tides or similar physical conditions at the site; the conformation and conditions of the ground; the character of equipment and facilities needed preliminary to and during prosecution of the work.
 - C. The Construction Manager at Risk further acknowledges that it has satisfied itself as to the character, quality and quantity of surface and subsurface materials, obstacles, or conditions to be encountered.
 - D. Any failure by the Construction Manager at Risk to acquaint himself with any aspect of the work or with any of the applicable conditions shall not relieve the Construction Manager at Risk from responsibility for adequately evaluating the difficulty or cost of successfully performing the work under the Contract Documents, nor shall it be considered the basis for any claim for additional time or compensation.
 - E. The Owner assumes no responsibility for any conclusions or interpretations made by the Construction Manager at Risk on the basis of the information made available by the Owner. The Owner also assumes no responsibility for any understanding or representations made by its officers or agents during or prior to the execution of this Contract, unless such understanding or interpretations are made in writing.
- 2) Because the Contract Documents are complementary, the Construction Manager at Risk shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Construction Manager at Risk and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Construction Manager at Risk shall promptly report to the Design

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS
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Professional any errors, inconsistencies or omissions discovered by or made known to the Construction Manager at Risk as a request for information in such form as the Design Professional may require. It is recognized that the Construction Manager at Risk review is made in the Construction Manager at Risk capacity as a Construction Manager at Risk and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

- 3) The Construction Manager at Risk is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager at Risk shall promptly report to the Design Professional any nonconformity discovered by or made known to the Construction Manager at Risk as a request for information in such form as the Design Professional may require.
- 4) If the Construction Manager at Risk believes that additional cost or time is involved because of clarifications or instructions the Design Professional issues in response to the Construction Manager at Risk notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Construction Manager at Risk shall make Claims as provided in Article 15. If the Construction Manager at Risk fails to perform the obligations of Sections 3.2.1, 3.2.2 or 3.2.3, the Construction Manager at Risk shall pay such costs and damages to the Owner as would have been avoided if the Construction Manager at Risk had performed such obligations.

3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

- 1) The Construction Manager at Risk shall supervise and direct the Work, using the Construction Manager at Risk best skill and attention. The Construction Manager at Risk shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Construction Manager at Risk shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Construction Manager at Risk determines that such means, methods, techniques, sequences or procedures may not be safe, the Construction Manager at Risk shall give timely written notice to the Owner and Design Professional and shall not proceed with that portion of the Work without further written instructions from the Owner's Representative. If the Construction Manager at Risk is then instructed to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Construction Manager at Risk, the Owner shall be solely responsible for any loss or damage arising solely from those Owner-required means, methods, techniques, sequences or procedures.
- 2) The Construction Manager at Risk shall be responsible to the Owner for acts and omissions of the Construction Manager at Risk employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Construction Manager at Risk or any of its Subcontractors.
- 3) The Construction Manager at Risk shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.
- 4) If any of the Key Personnel (Project Director, Sr. Project Manager, Director of Preconstruction, and Senior Superintendent positions), are substituted, replaced or removed from the Project prior to the date of Final Completion without Owner's prior written consent, it is acknowledged by Construction Manager at Risk that completion of the Project will be severely and adversely impacted, in that, inter alia, there be a loss of time, a loss of the Project experience and the Project details, a loss of history and understanding of the Project and of discussions with trades and vendors, a loss of confidence by the staff, need for added training, and other adverse consequences all with resulting damages for such breach which will be extensive but difficult to estimate. Accordingly, if any of the Key Personnel are substituted, replaced or removed from the Project prior to the date of Final Completion without Owner's prior written consent, then Owner may, in addition to any other remedy available to Owner, immediately deduct Seventy-Five Thousand and 00/100 Dollars (\$75,000.00) from Construction Manager at Risk's Fee for each Key Personnel so substituted, replaced or removed, and Construction Manager at Risk shall thereafter replace the Key Personnel with individuals acceptable to Owner in its sole discretion. The Parties expressly agree that the liquidated damages established, and agreed upon, in this are not intended to penalize Construction Manager at Risk or to induce performance by Construction Manager at Risk. Construction Manager at Risk hereby waives all claims and defenses that the liquidated damages established, and agreed upon herein, are a penalty. If payments then or thereafter due Construction Manager at Risk are not sufficient to cover such amounts, then Construction Manager at Risk shall promptly pay the

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS

difference to Owner. Notwithstanding to the contrary, it is expressly agreed that the Construction Manager at Risk shall not be responsible and not owe liquidated damages for Key Personnel losses that are beyond the Construction Manager at Risk's control, such as retirement, employee death, employee request or employees that leave the company.

3.4 LABOR AND MATERIALS

- 1) Unless otherwise provided in the Contract Documents, the Construction Manager at Risk shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.
- 2) Except in the case of minor changes in the Work in accordance with Sections 3.12.8 or 7.4, the Construction Manager at Risk may make substitutions only with the consent of the Owner, after evaluation by the Design Professional and in accordance with a Change Order.
- 3) The Construction Manager at Risk shall enforce strict discipline and good order among the Construction Manager at Risk employees and other persons carrying out the Work. The Construction Manager at Risk shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

3.5 WARRANTY

The Construction Manager at Risk warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Construction Manager at Risk further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. Unless otherwise specified, if within twelve (12) months after Substantial Completion and acceptance, any work is found to be defective or not in conformance with the Contract Documents, the Construction Manager at Risk shall correct it promptly after receipt of written notice from the County. The Construction Manager at Risk shall also be responsible for and pay for replacement or repair of adjacent materials or work which may be damaged as a result of such replacement or repair. These warranties are in addition to those implied warranties to which the County is entitled as a matter of law. The Construction Manager at Risk warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Construction Manager at Risk, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Design Professional or Owner's Representative, the Construction Manager at Risk shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

3.6 TAXES

The Construction Manager at Risk shall pay sales, consumer, use and similar taxes for the Work provided by the Construction Manager at Risk that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

3.7 PERMITS, FEES, NOTICES, AND COMPLIANCE WITH LAWS

- 1) Unless otherwise provided in the Contract Documents, the Construction Manager at Risk shall secure and pay for the building permit as well as for all other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work.
- 2) The Construction Manager at Risk shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.
- 3) If the Construction Manager at Risk performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Construction Manager at Risk shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

3.8 ALLOWANCES

- 1) The Construction Manager at Risk shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Construction Manager at Risk shall not be required to employ persons or entities to whom the Construction Manager at Risk has reasonable objection.
- 2) Unless otherwise provided in the Contract Documents,

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS

- A. allowances shall cover the cost to the Construction Manager at Risk of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
 - B. Construction Manager at Risk costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
 - C. whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Construction Manager at Risk costs under Section 3.8.2.2.
- 3) Materials and equipment under an allowance shall be selected by the Owner according to the time frames established in the Construction Schedule in the GMP Amendment.

3.9 SUPERINTENDENT

- 1) The Construction Manager at Risk shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Construction Manager at Risk, and communications given to the superintendent shall be as binding as if given to the Construction Manager at Risk.
- 2) The Construction Manager at Risk shall employ the superintendent on the Project as submitted to the Owner during the Request For Presentation and the basis upon which the final Construction Manager at Risk was selected.
- 3) The Construction Manager at Risk shall not change the superintendent without the Owner's consent. A new, proposed superintendent must be submitted to the Owner, meet with the Owner's full approval, and prior written consent shall be obtained from by the Owner before any change in superintendent can occur.

3.10 CONSTRUCTION MANAGER AT RISK CONSTRUCTION SCHEDULES

- 1) The Construction Manager at Risk shall prepare and include a construction schedule utilizing the Critical Path Method for the Work in the Guaranteed Maximum Price submittal. This construction schedule shall meet with the Owner's and Design Professional's approval and shall be provided in native format if requested. The schedule shall not exceed time limits current under the Contract Documents, shall be revised (with the approval of the Owner and Design Professional) at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.
- 2) The Construction Manager at Risk shall prepare a submittal schedule, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, and shall submit the schedule(s) for the Design Professional's approval. The Design Professional's approval shall not unreasonably be delayed or withheld. The submittal schedule shall (1) be coordinated with the Construction Manager at Risk construction schedule, and (2) allow the Design Professional ten (1) days after receipt of submittals from Construction Manager at Risk to review and reject or approve the same. If the Construction Manager at Risk fails to submit a submittal schedule, the Construction Manager at Risk shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.
- 3) The Construction Manager at Risk shall perform the Work in general accordance with the most recent schedules submitted to and approved by the Owner and Design Professional.

3.11 DOCUMENTS AND SAMPLES AT THE SITE

The Construction Manager at Risk shall maintain at the site for the Owner one copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Design Professional and shall be delivered to the Design Professional for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

- 1) Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Construction Manager at Risk or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS

- 2) Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Construction Manager at Risk to illustrate materials or equipment for some portion of the Work.
- 3) Samples are physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.
- 4) Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. Their purpose is to demonstrate the way by which the Construction Manager at Risk proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Design Professional is subject to the limitations of Section 4.2.7. Informational submittals upon which the Design Professional is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Design Professional without action.
- 5) The Construction Manager at Risk shall review for compliance with the Contract Documents, approve and submit to the Design Professional Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents in accordance with the submittal schedule approved by the Design Professional or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors.
- 6) By submitting Shop Drawings, Product Data, Samples and similar submittals, the Construction Manager at Risk represents to the Owner that the Construction Manager at Risk has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.
- 7) The Construction Manager at Risk shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Design Professional.
- 8) The Work shall be in accordance with approved submittals except that the Construction Manager at Risk shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Design Professional's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Construction Manager at Risk has specifically informed the Design Professional in writing of such deviation at the time of submittal and (1) the Owner's Representative has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or (3) a Contingency Authorization has been issued authorizing the deviation. The Construction Manager at Risk shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Design Professional's approval thereof.
- 9) The Construction Manager at Risk shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Design Professional on previous submittals. In the absence of such written notice, the Design Professional's approval of a resubmission shall not apply to such revisions.
- 10) The Construction Manager at Risk shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Construction Manager at Risk needs to provide such services in order to carry out the Construction Manager at Risk responsibilities for construction means, methods, techniques, sequences and procedures. The Construction Manager at Risk shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Construction Manager at Risk by the Contract Documents, the Owner and the Design Professional will specify all performance and design criteria that such services must satisfy. The Construction Manager at Risk shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Design Professional. The Owner and the Design Professional shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Design Professional have specified to the Construction Manager at Risk all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Design Professional will review, approve or

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS

take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Construction Manager at Risk shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

3.13 LANDS FOR WORK AND ACCESS THERETO

- 1) Owner will furnish and define the limits of land for access to the construction site and for the site proper. All information shown in the Contract Documents constitutes the extent of land provided by the Owner. Any and all other lands required by the Construction Manager at Risk shall be procured by the Construction Manager at Risk at the Construction Manager at Risk expense. Private property will not be used for storage without written permission of the property owner or lessee, with copies furnished to the Owner's Representative.
- 2) Temporary buildings (storage sheds, shops, offices, etc.) may be erected by the Construction Manager at Risk only with the approval of the Owner's Representative after obtaining necessary permits, and shall be built with labor and materials furnished by the Construction Manager at Risk without expense to the Owner. Such temporary buildings and/or utilities shall remain the property of the Construction Manager at Risk and will be removed by him at his expense upon the completion of the work. With the written consent of the Owner's Representative, such buildings and/or utilities may be abandoned and need not be removed.
- 3) The Construction Manager at Risk shall confine all construction equipment, the storage of materials and equipment and the operations of workers to the Project site and land and areas identified in and permitted by the Contract Documents, and shall not unreasonably encumber the Project site with construction equipment or other material or equipment. The Construction Manager at Risk shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or any land or areas contiguous thereto, resulting from the performance of the work. Storage sites shall be restored to their original condition at the Construction Manager at Risk expense. This shall not apply to the stripping and storing of topsoil or other salvaged materials.

3.14 CUTTING AND PATCHING

- 1) The Construction Manager at Risk shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting and patching shall be restored to the condition existing prior to the cutting, fitting and patching, unless otherwise required by the Contract Documents.
- 2) The Construction Manager at Risk shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Construction Manager at Risk shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Construction Manager at Risk shall not unreasonably withhold from the Owner or a separate contractor the Construction Manager at Risk consent to cutting or otherwise altering the Work.

3.15 CLEANING UP

- 1) The Construction Manager at Risk shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Construction Manager at Risk shall remove waste materials, rubbish, the Construction Manager at Risk tools, construction equipment, machinery and surplus materials from and about the Project.
- 2) If the Construction Manager at Risk fails to clean up as provided in the Contract Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Construction Manager at Risk.

3.16 ACCESS TO WORK

The Construction Manager at Risk shall provide the Owner and Design Professional access to the Work in preparation and progress wherever located.

3.17 ROYALTIES, PATENTS AND COPYRIGHTS

The Construction Manager at Risk shall pay all royalties and license fees. The Construction Manager at Risk shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Design Professional harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications or other documents prepared

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS

by the Owner or Design Professional. However, if the Construction Manager at Risk has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Construction Manager at Risk shall be responsible for such loss unless such information is promptly furnished to the Design Professional.

3.18 INDEMNIFICATION

- 1) To the maximum extent permitted by Florida law, the Construction Manager at Risk shall defend, indemnify, and hold harmless the Owner and its officers and employees from any and all liabilities, claims, damages, penalties, demands, judgments, actions, proceedings, losses or costs, including, but not limited to, reasonable attorneys' fees and paralegals' fees, whether resulting from any claimed breach of this Agreement by the Construction Manager at Risk or from personal injury, property damage, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Construction Manager at Risk or anyone employed or utilized by the Construction Manager at Risk in the performance of this Agreement. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18.

The duty to defend under this Section 3.18 is independent and separate from the duty to indemnify, and the duty to defend exists regardless of any ultimate liability of the Construction Manager at Risk, Owner, and any indemnified party. The duty to defend arises immediately upon presentation of a claim by any party and written notice of such claim being provided to the Construction Manager at Risk. The Construction Manager at Risk obligation to indemnify and defend under this Section 3.18 will survive the expiration or earlier termination of this Agreement until it is determined by final judgment that an action against the Owner or an indemnified party for the matter indemnified hereunder is fully and finally barred by the applicable statute of limitations.

- 2) In claims against any person or entity indemnified under this Section 3.18 by an employee of the Construction Manager at Risk, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Construction Manager at Risk or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.
- 3) The Construction Manager at Risk further agrees that nothing contained herein is intended to nor shall be construed a waiver of the County's rights and immunities under Section 768.28, Florida Statutes, as amended from time to time. County expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes.

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS**ARTICLE 4 - ADMINISTRATION OF THE CONTRACT****4.1 DESIGN PROFESSIONAL**

- 1) The Owner shall retain a Design Professional lawfully licensed to practice architecture or an entity lawfully practicing architecture in the jurisdiction where the Project is located. That person or entity is identified as the Design Professional in the Agreement and is referred to throughout the Contract Documents as if singular in number.
- 2) N/A
- 3) If the employment of the Design Professional is terminated, the Owner shall employ a successor design professional whose status under the Contract Documents shall be that of the Design Professional.

4.2 DESIGN PROFESSIONAL'S ROLE IN ADMINISTRATION OF THE CONTRACT

- 1) The Design Professional will assist the Owner in the administration of the Contract as described in the Contract Documents (1) during construction, (2) until the date the Design Professional issues the final Certificate for Payment, and (3) with the Owner's concurrence, and from time to time during the one-year period for correction of Work described in Section 12.2. The Design Professional will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.
- 2) The Design Professional, will visit the site at intervals appropriate to the stage of the Construction Manager at Risk operations or as otherwise agreed with the Owner (1) to become generally familiar with and to keep the Owner informed about progress and quality of the portion of the Work completed (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Design Professional may not make exhaustive or continuous on-site inspections. The Design Professional will neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Construction Manager at Risk rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1.
- 3) The Construction Manager at Risk will be solely responsible to perform the Work in accordance with the requirements of the Contract Documents. Neither the Owner, nor the Design Professional will have control over or charge of, nor will they be responsible for acts or omissions of the Construction Manager at Risk, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.
- 4) N/A
- 5) Based on the Design Professional's evaluations of the Construction Manager at Risk Applications for Payment, the Design Professional will review and certify the amounts due the Construction Manager at Risk and will issue Certificates for Payment to the Owner in such amounts.
- 6) The Design Professional may recommend to the Owner that Owner reject Work that does not conform to the Contract Documents. Whenever the Design Professional considers it necessary or advisable, the Design Professional will have authority to require inspection or testing of the Work in accordance with Sections 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed.
- 7) The Design Professional will review and approve, or take other appropriate action upon, the Construction Manager at Risk submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Design Professional's action will be taken within ten (10) days of receipt of submittals as to cause no delay in the Work or in the activities of the Owner, Construction Manager at Risk, or separate contractors, while allowing sufficient time in the Design Professional's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Construction Manager at Risk as required by the Contract Documents. The Design professional's review of the Construction Manager at Risk submittals shall not relieve the Construction Manager at Risk of the obligations under Sections 3.3, 3.5 and 3.12.

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS

- 8) The Design Professional will review Change Orders and proposed Contingency Authorization and may propose minor changes in the Work as provided in Section 7.4. The Design Professional will respond with 10 days of receipt of the change orders or contingency authorizations.
- 9) The Design Professional will conduct inspections to determine the date or dates of Substantial Completion and the date of Final Completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Construction Manager at Risk pursuant to Section 9.10; and issue a final Certificate for Payment to the Owner pursuant to Section 9.10.
- 10) At the Owner's direction, the Design Professional will provide one or more project representatives to assist in carrying out the Design Professional's responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as outlined in the Owner/Design Professional Agreement and shall be made available to the Construction Manager at Risk.
- 11) The Design Professional will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Construction Manager at Risk. The Design Professional's response to such requests will be made in writing within ten (10) days of receipt of such requests.
- 12) Interpretations and decisions of the Design Professional will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Design Professional will endeavor to secure faithful performance by both Owner and Construction Manager at Risk, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.
- 13) The Owner's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.
- 14) The Design Professional will review and respond to Requests for Information (RFI's) about the Contract Documents. The Design Professional's response to such requests will be made in writing within 5 days of receipt. If appropriate, the Design Professional will prepare and issue supplemental Drawings and Specifications in response to the requests for information. To the greatest extent possible, Construction Manager at Risk will resolve all questions relating to the Contract Documents prior to submission of the Guaranteed Maximum Price Proposal.

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS**ARTICLE 5 - SUBCONTRACTORS****5.1 DEFINITIONS**

- 1) A Subcontractor is a person or entity who has a direct contract with the Construction Manager at Risk to perform a portion of the Work at the site. The term “Subcontractor” is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term “Subcontractor” does not include a separate contractor or subcontractors of a separate contractor.
- 2) A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term “Sub-subcontractor” is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

- 1) Prior to beginning the competitive bid process to develop the Guaranteed Maximum Price, the Construction Manager at Risk shall furnish in writing to the Owner with a copy to the Design Professional the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed to bid each principal portion of the Work. The Design Professional shall reply within ten (10) days to the Construction Manager at Risk in writing stating (1) whether the Owner or the Design Professional has reasonable objection to any such proposed person or entity, (2) whether the Design Professional or Owner wishes to recommend another subcontractor or subcontractors to be added to the bid list, or (3) that the Design Professional requires additional time for review. Failure of the Owner or Design Professional to reply within the ten (10) day period shall constitute notice of no reasonable objection.
- 2) The Construction Manager at Risk shall not contract with a proposed person or entity to whom the Owner or Design Professional has made reasonable and timely objection. The Construction Manager at Risk shall not be required to contract with anyone to whom the Construction Manager at Risk has made reasonable objection.
- 3) If the Owner or Design Professional has reasonable objection to a person or entity proposed by the Construction Manager at Risk, the Construction Manager at Risk shall propose another to whom the Owner or Design Professional has no reasonable objection.
- 4) The Construction Manager at Risk shall not substitute a Subcontractor, person or entity previously selected if the Owner or Design Professional makes reasonable objection to such substitution.

5.3 SUBCONTRACTUAL RELATIONS

By appropriate agreement, written where legally required for validity, the Construction Manager at Risk shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Construction Manager at Risk by terms of the Contract Documents, and to assume toward the Construction Manager at Risk all the obligations and responsibilities, including the responsibility for safety of the Subcontractor’s Work, which the Construction Manager at Risk, by these Documents, assumes toward the Owner. Each subcontract agreement shall preserve and protect the rights of the Owner under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Construction Manager at Risk that the Construction Manager at Risk, by the Contract Documents, has against the Owner. Where appropriate, the Construction Manager at Risk shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Construction Manager at Risk shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

- 1) Each subcontract agreement for a portion of the Work is assigned by the Construction Manager at Risk to the Owner, provided that
 - A. assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Construction Manager at Risk in writing; and
 - B. assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Construction Manager at Risk rights and obligations under the subcontract.

- 2) Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.
- 3) Upon such assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity.

5.5 E-VERIFY

The PROJECT shall be developed by the CONSULTANT in accordance with applicable industry standards. The CONSULTANT shall be responsible for utilizing and maintaining current knowledge of any laws, ordinances, codes, rules, regulations, standards, guidelines, special conditions, specifications, or other mandates relevant to the PROJECT or the services to be performed.

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS**ARTICLE 6 - CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS****6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS**

- 1) The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Construction Manager at Risk claims that delay or additional cost is involved because of such action by the Owner, the Construction Manager at Risk shall make such Claim as provided in Article 15.
- 2) When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.
- 3) The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Construction Manager at Risk, who shall cooperate with them. The Construction Manager at Risk shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Construction Manager at Risk shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Construction Manager at Risk, separate contractors and the Owner until subsequently revised.
- 4) Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights that apply to the Construction Manager at Risk under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.

6.2 MUTUAL RESPONSIBILITY

- 1) The Construction Manager at Risk shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Construction Manager at Risk construction and operations with theirs as required by the Contract Documents.
- 2) If part of the Construction Manager at Risk Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Construction Manager at Risk shall, prior to proceeding with that portion of the Work, promptly report to the Design Professional apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Construction Manager at Risk so to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Construction Manager at Risk Work, except as to defects not then reasonably discoverable.
- 3) The Construction Manager at Risk shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Construction Manager at Risk delays, improperly timed activities or defective construction.
- 4) The Construction Manager at Risk shall promptly remedy damage the Construction Manager at Risk wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.
- 5) N/A

6.3 OWNER'S RIGHT TO CLEAN UP

If a dispute arises among the Construction Manager at Risk, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and allocate the cost among those responsible.

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS**ARTICLE 7 - ARTICLE 7 - CHANGES IN THE WORK****7.1 GENERAL**

- 1) Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Contingency Authorization, or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.
- 2) A Change Order shall be based upon agreement among the Owner, Construction Manager at Risk and Design Professional; a Contingency Authorization requires agreement by the Owner and Design Professional and may or may not be agreed to by the Construction Manager at Risk; an order for a minor change in the Work may be issued by the Owner's Representative.
- 3) Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Construction Manager at Risk shall proceed promptly, unless otherwise provided in the Change Order, Contingency Authorization, or order for a minor change in the Work.

7.2 CHANGE ORDERS

- 1) A Change Order is a formal written instrument prepared by the Construction Manager at Risk, approved by the Design Professional, and signed by the Owner, Construction Manager at Risk and Design Professional stating their agreement upon all of the following:
 - A. The change in the Work;
 - B. The amount of the increase to the Guaranteed Maximum Price; and
 - C. The extent of the adjustment, if any, in the Contract Time.

A Change Order must be submitted to and approved by the Pinellas County Board of County Commissioners.

- 2) The total cost of a Change Order shall be based upon the subcontractors time and materials plus a 10% overhead and profit, plus a markup by the Construction Manager at Risk consistent with and equal to the CM Fee negotiated in Article 5.1.1 of the Agreement.

7.3 CONTINGENCY AUTHORIZATIONS AND ALLOWANCES

- 1) A Contingency Authorization is a written authorization prepared by the Construction Manager at Risk and signed by the Owner's Representative and Design Professional, directing a change in the Work executed in the form of a Contingency Authorization, a prior written release by the Owner's Representative of contingency funds allocated in the line item in the established Guaranteed Maximum Price. The Owner's Representative may authorize the use of contingency funds without invalidating the Contract and order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Contingency Authorization line item in the Schedule of Values shall be adjusted by the Construction Manager at Risk to reflect the amount(s) of contingency use authorized by the Owner's Representative.
- 2) Expenditure of allowances within the Guaranteed Maximum Price as indicated in the Schedule of Values shall be as authorized in writing by the Owner's Representative.

7.4 MINOR CHANGES IN THE WORK

Minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents may be approved by the Owner's Representative. Such changes will be effected by written order signed by the Owner's Representative upon recommendation of the Design Professional and shall be binding on the Owner and Construction Manager at Risk.

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS**ARTICLE 8 - TIME****8.1 DEFINITIONS**

- 1) Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.
- 2) The date of commencement of the Work is the date established in the Notice To Proceed issued by the Owner.
- 3) The date of Substantial Completion is the date certified by the Design Professional in accordance with Section 9.8.
- 4) The term “day” as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

8.2 PROGRESS AND COMPLETION

- 1) Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Construction Manager at Risk confirms that the Contract Time is a reasonable period for performing the Work.
- 2) The Construction Manager at Risk shall not, except by agreement or instruction of the Owner in writing, commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Construction Manager at Risk (except the Construction Manager at Risk shall not be required to provide Builder’s Risk Insurance until the date of commencement of construction of physical assets attributable to the Owner).
- 3) The Construction Manager at Risk shall proceed expeditiously with sufficient forces and shall achieve Substantial Completion within the Contract Time.

8.3 DELAYS AND EXTENSIONS OF TIME

- 1) If the Construction Manager at Risk is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Design Professional, or of an employee of either, or of a separate contractor employed by the Owner; or by changes ordered in the Work; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Construction Manager at Risk control; or by delay authorized by the Owner, then the Construction Manager at Risk may make a Claim.
- 2) Claims relating to time shall be made in accordance with applicable provisions of Article 15.
- 3) N/A

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS**ARTICLE 9 - PAYMENTS AND COMPLETION****9.1 CONTRACT SUM**

The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Construction Manager at Risk for performance of the Work under the Contract Documents.

9.2 SCHEDULE OF VALUES

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Construction Manager at Risk shall include in the Guaranteed Maximum Price package submitted to Owner a Schedule of Values allocating the entire Contract Sum to the various portions of the Work as previously approved by the Owner and Design Professional. This Schedule of Values, once approved, shall be used as a basis for reviewing the Construction Manager at Risk Applications for Payment (the percentage of completion of each individual line item in the Schedule of Values shall be listed and submitted in each Application for Payment).

9.3 APPLICATIONS FOR PAYMENT

- 1) The Construction Manager at Risk shall submit to the Design Professional an Application for Payment prepared on the basis of the approved Schedule of Values, if required under Section 9.2, for completed portions of the Work. Such application shall be notarized, if required, and shall reflect retainage if provided for in the Contract Documents.
 - A. As provided in Section 7.3, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Contingency Authorizations.
 - B. N/A
- 2) Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner in the Contract Documents, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Construction Manager at Risk with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.
- 3) The Construction Manager at Risk warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Construction Manager at Risk further warrants by virtue of an executed Release and Affidavit (Exhibit E) that, upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Construction Manager at Risk knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Construction Manager at Risk, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

9.4 CERTIFICATES FOR PAYMENT

- A. Each of the Construction Manager at Risk Applications for Payment shall be submitted to the Design Professional. All applications for Payment shall be processed in accordance with the Local Government Prompt Payment Act, Section 218.70, et. seq. of the Florida State Statutes.
- B. The issuance of a Certificate for Payment will constitute a representation by the Design Professional to the Owner, based on the Design Professional's evaluation of the Work and the data comprising the Application for Payment, that, to the best of the Design Professional's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Design Professional. The issuance of a Certificate for Payment will further constitute a representation that the Construction Manager at Risk is entitled to payment in the amount certified.

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS**9.5 DECISIONS TO WITHHOLD CERTIFICATION**

- A. The Design Professional may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Design Professional's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Design Professional is unable to certify payment in the amount of the Application, the Design Professional will notify the Construction Manager at Risk and Owner as provided in Section 9.4.1. If the Construction Manager at Risk and Design Professional cannot agree on a revised amount, the Design Professional will promptly issue a Certificate for Payment for the amount for which the Design Professional is able to make such representations to the Owner. The Design Professional may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Design Professional's opinion to protect the Owner from loss for which the Construction Manager at Risk is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of
- i. defective Work not remedied;
 - ii. third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Construction Manager at Risk;
 - iii. failure of the Construction Manager at Risk to make payments properly to Subcontractors or for labor, materials or equipment;
 - iv. reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
 - v. damage to the Owner or a separate contractor;
 - vi. reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
 - vii. repeated failure to carry out the Work in accordance with the Contract Documents.
- B. When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.
- C. If the Design Professional withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Construction Manager at Risk and to any Subcontractor or material or equipment suppliers to whom the Construction Manager at Risk failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Design Professional and the Design Professional will reflect such payment on the next Certificate for Payment.

9.6 PROGRESS PAYMENTS

- A. After the Design Professional has issued a Certificate for Payment, the Owner shall make payment in accordance with the Local Government Prompt Payment Act, Section 218.70, et.seq. of the Florida State Statutes.
- B. The Construction Manager at Risk shall pay each Subcontractor no later than seven (7) days after receipt of payment from the Owner the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Construction Manager at Risk on account of the Subcontractor's portion of the Work. The Construction Manager at Risk shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.
- C. The Design Professional will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Construction Manager at Risk and action taken thereon by the Design Professional and Owner on account of portions of the Work done by such Subcontractor.
- D. The Owner has the right to request written evidence from the Construction Manager at Risk that the Construction Manager at Risk has properly paid Subcontractors and material and equipment suppliers amounts paid by the Owner to the Construction Manager at Risk for subcontracted Work. If the Construction Manager at Risk fails to furnish such evidence within seven (7) days, the Owner shall have the right to contact Subcontractors to ascertain whether they have been properly paid. Neither the Owner nor Design Professional shall have an obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by law.
- E. Construction Manager at Risk payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.
- F. A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS**9.7 SUBSTANTIAL COMPLETION**

- A. Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents and a Certificate of Occupancy (CO) or a TCO which may be awarded from the jurisdiction responsible to issue such CO or TCO as described in Section 6.5.2 in the Agreement has been obtained by the Construction Manager at Risk and the Owner can occupy or utilize the Work for its intended use.
- B. When the Construction Manager at Risk considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Construction Manager at Risk shall prepare and submit to the Design Professional a "Punch List." The Punch List is a comprehensive list of items, required to make the Work complete, satisfactory and acceptable, to be completed or corrected prior to final payment. Failure to include an item on such Punch List does not alter the responsibility of the Construction Manager at Risk to complete all Work in accordance with the Contract Documents. The Punch List shall be reviewed by the Design Professional and Owner's Representative shall accept, modify or reject the Punch List within the timeframes provided by Florida State Statutes, Section 218.735(7)(a). Construction Manager at Risk shall be available to accompany the Design Professional and the Owner's Representative on a walk through of the entire Project, or phase of the Project determined by the Construction Manager at Risk to be Substantially Complete, within five (5) days of the issuance of the certificate of substantial completion, at such time during regular working hours designated by the Design Professional. In the event that the Construction Manager at Risk is not available, the ability to accompany the Design Professional and the Owner's Representative shall be deemed waived. The purpose of the walkthrough is to allow discussion, clarification or explanation relative to items which may become part of the Punch List as it is developed or modified.
- C. Upon receipt of the Construction Manager at Risk list and a Certificate of Occupancy or a TCO from the Building Department having jurisdiction over the Project, the Design Professional will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Design Professional's inspection discloses any item, whether or not included on the Construction Manager at Risk list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, Design Professional shall notify Construction Manager at Risk in writing giving the reasons therefore. The Construction Manager at Risk shall, before issuance of the Certificate of Substantial Completion, complete or correct all items not sufficiently complete, upon such notification by the Design Professional. In such case, the Construction Manager at Risk shall then submit a request for another inspection by the Design Professional to determine Substantial Completion. In such case, Construction Manager at Risk shall pay the costs of all additional Substantial Completion inspections.

The Punch List shall be completed by the Design Professional within the timeframes provided by Florida State Statute, Section 218.735(7)(a). Construction Manager at Risk shall be available to accompany the Design Professional on a walk through of the entire Project, or phase of the Project determined by the Construction Manager at Risk to be Substantially Complete, within five (5) days of the issuance of the certificate of substantial completion at such time during regular working hours designated by the Design Professional. In the event that the Construction Manager at Risk is not available, the ability to accompany the Design Professional shall be deemed waived. The purpose of the walkthrough is to allow discussion, clarification or explanation relative to items which may become part of the Punch List as it is developed.

- D. When the Work or designated portion thereof is substantially complete and a Certificate of Occupancy or a TCO has been issued, the Design Professional will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, and shall fix the time within which the Construction Manager at Risk shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.
- E. The Certificate of Occupancy and the Certificate of Substantial Completion shall be submitted to the Owner and Construction Manager at Risk for their written acceptance of responsibilities assigned to them in such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

9.8 PARTIAL OCCUPANCY OR USE

- A. Upon Substantial Completion, the Owner may occupy or use any portion of the Work, provided such occupancy or use is authorized by public authorities having jurisdiction over the Project (through a Certificate of Occupancy).

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS

When the Construction Manager at Risk considers a portion substantially complete, the Construction Manager at Risk shall prepare and submit a list to the Design Professional as provided under Section 9.8.2. Consent of the Construction Manager at Risk to partial occupancy or use shall not be unreasonably withheld.

- B. Immediately prior to such partial occupancy or use, the Owner, Construction Manager at Risk and Design Professional shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.
- C. Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

9.9 FINAL COMPLETION AND FINAL PAYMENT

- A. Upon receipt of the Construction Manager at Risk written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Design Professional will promptly make such inspection and, when the Design Professional finds the Work acceptable under the Contract Documents and the Contract fully performed, the Design Professional will promptly issue a final Certificate for Payment stating that to the best of the Design Professional's knowledge, information and belief, and on the basis of the Design Professional's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Construction Manager at Risk and noted in the final Certificate is due and payable. The Design Professional's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Construction Manager at Risk being entitled to final payment have been fulfilled.
- B. Neither final payment nor any remaining retained percentage shall become due until the Construction Manager at Risk submits to the Design Professional (1) 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, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days prior written notice has been given to the Owner, (3) a written statement that the Construction Manager at Risk knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) a duly executed copy of the surety's consent to final payment, and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Construction Manager at Risk may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Construction Manager at Risk shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.
- C. The making of final payment shall not constitute a waiver of Claims by the Owner.
- D. Acceptance of final payment by the Construction Manager at Risk, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS**ARTICLE 10 - PROTECTION OF PERSONS AND PROPERTY****10.1 SAFETY PRECAUTIONS AND PROGRAMS**

The Construction Manager at Risk shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

10.2 SAFETY OF PERSONS AND PROPERTY

- 1) The Construction Manager at Risk shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to
 - A. employees on the Work and other persons who may be affected thereby;
 - B. the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Construction Manager at Risk or the Construction Manager at Risk Subcontractors or Sub-subcontractors; and
 - C. other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
- 2) The Construction Manager at Risk shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.
- 3) The Construction Manager at Risk shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.
- 4) When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Construction Manager at Risk shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.
- 5) The Construction Manager at Risk shall promptly remedy damage and loss to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Construction Manager at Risk, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Construction Manager at Risk is responsible under Sections 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Design Professional or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Construction Manager at Risk. The foregoing obligations of the Construction Manager at Risk are in addition to the Construction Manager at Risk obligations under Section 3.18.
- 6) The Construction Manager at Risk shall designate a responsible member of the Construction Manager at Risk organization at the site whose duty shall be the prevention of accidents. This person shall be the Construction Manager at Risk superintendent unless otherwise designated by the Construction Manager at Risk in writing to the Owner and Design Professional.
- 7) The Construction Manager at Risk shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.
- 8) INJURY OR DAMAGE TO PERSON OR PROPERTY

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

10.3 HAZARDOUS MATERIALS

- 1) The Construction Manager at Risk is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials. If the Construction Manager at Risk encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Construction Manager at Risk, the Construction Manager at Risk shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Design Professional in writing.

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS

- 2) Upon receipt of the Construction Manager at Risk written notice, the Owner shall authorize the services of an environmental consultant or licensed laboratory to verify the presence or absence of the material or substance reported by the Construction Manager at Risk and, in the event such material or substance is found to be present, to cause it to be rendered harmless, which may include termination of the Project. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Construction Manager at Risk and Design Professional the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Construction Manager at Risk and the Design Professional will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Construction Manager at Risk or Design Professional has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Construction Manager at Risk and the Design Professional have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area may resume upon written agreement of the Owner and Construction Manager at Risk. Within the limits of Contingency Authorization, the Owner shall reimburse the Construction Manager at Risk reasonable additional costs of shut-down, delay and start-up, and by Change Order the Contract Time shall be extended appropriately in accordance with Article 7.
- 3) The Owner shall not be responsible under this Section 10.3 for materials or substances the Construction Manager brings to the site. The Owner shall not be responsible for the Construction Manager at Risk fault or negligence in the use and handling of materials or substances required by the Contract Documents.
- 4) The Construction Manager at Risk shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Construction Manager at Risk brings to the site and negligently handles, or (2) where the Construction Manager at Risk fails to perform its obligations under Section 10.3.1.

10.4 EMERGENCIES

In an emergency affecting safety of persons or property, the Construction Manager at Risk shall act, at the Construction Manager at Risk discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Construction Manager at Risk on account of an emergency shall be determined as provided in Article 15 and Article 7.

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS**ARTICLE 11 - INSURANCE AND BONDS****11.1 CONSTRUCTION MANAGER AT RISK INSURANCE**

- 1) Construction Manager at Risk will provide, pay and maintain the types of insurances as required in Section C of RFP. If Builders Risk is determined to be necessary by County, Construction Manager at Risk will abide with section 11.4 in addition to insurance requirements described in Section C of RFP.
- 2) The Construction Manager at Risk shall immediately submit to the Owner and Design Professional a copy of all accident reports arising out of injuries to its employees or those of any firm or individual to whom it may have subcontracted a portion of the Work, or any personal injuries or property damages arising or alleged to have arisen on account of any work by the Construction Manager at Risk under the Contract Documents, upon request.

11.2 WAIVERS OF SUBROGATION

- 1) The Construction Manager at Risk shall waive all rights against the Owner for damages caused by perils covered by insurance provided under Article 8 to the extent covered by such insurance. The Construction Manager at Risk shall require similar waivers from all subcontractors and their sub-subcontractors.
- 2) The Construction Manager at Risk shall waive all rights against the Owner for loss or damage to any equipment used in connection with the Project and covered by any property insurance. The Construction Manager at Risk shall require similar waivers from all subcontractors and their sub-subcontractors.

11.3 INDEMNIFICATION

To the full extent permitted by Florida law, the Construction Manager at Risk does hereby agree to indemnify, defend, and save harmless the Owner and members of its Board of County Commissioners, its officers, and employees from and against all losses and all claims, demands, payments, suits, actions, recoveries, expenses, attorney's fees, and judgments of every nature and description, including claims for property damage and claims for injury to or death of persons, or on account of, any claim or amounts recovered under the "Workers' Compensation Law" or of any other laws, bylaws, ordinances, orders or decrees brought or recovered against the Owner to the extent caused by negligence or omission of the Construction Manager at Risk, its agents, or employees, or by any person, firm, or corporation, or to whom any portion of the Work is subcontracted by the Construction Manager at Risk or resulting from use by the Construction Manager at Risk, or by any one for whom the Construction Manager at Risk is legally liable, of any materials, tools, machinery, or other property of the Owner. The Construction Manager at Risk agrees that the first ten dollars (\$10.00) of compensation received under this contract represents specific consideration for this indemnification obligation.

11.4 PROPERTY INSURANCE (BUILDER'S RISK INSURANCE OR INSTALLATION FLOATER COVERAGE AS APPLICABLE)

- 1) Builder's Risk Insurance, on an all risk completed value form, shall be provided by the Construction Manager at Risk on the Project for those portions of the Guaranteed Maximum Price (GMP) devoted specifically to materials, supplies, equipment, and constructed facilities until such time as the County assumes ownership of the facilities by an official and formal sign-off, with the Owner, Construction Manager at Risk, and Design Professional as named insures and including the interests of the subcontractors and sub-subcontractors as their interests may appear.
 - A. Builder's Risk Insurance shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, windstorm, false work, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Design Professional's and Construction Manager at Risk services and expenses required as a result of such insured loss. The Owner, at its discretion, may require that the perils of earthquake, sinkhole and flood be added to the Builder's Risk policy. If added, the amounts of coverage may be less than the Contract Agreement.
 - B. Loss, if any, under this coverage shall be adjusted with the Owner with the cooperation of the Construction Manager at Risk with the claim check made payable to the Owner for its own interest and the interests of the Construction Manager at Risk and all other insured parties.
 - C. Any deductibles under the Builder's Risk policy shall be the sole responsibility of the Construction Manager at Risk.

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS

- D. This Builder's Risk Insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.
- E. Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing Builder's Risk Insurance have consented to such partial occupancy or use by endorsement or otherwise. The Construction Manager at Risk shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.
- F. Builder's Risk Insurance shall be incorporated into the Agreement at the time the Guaranteed Maximum Price (GMP) is approved, and shall become effective within five (5) business days following the execution of the Guaranteed Maximum Price Amendment by the Owner. The Owner shall have the right to review the Builder's Risk Insurance proposed by the Construction Manager at Risk to verify the cost, coverage, and carrier.
- G. On all renovation projects in existing facilities, Installation Floater Coverage shall be provided by the Construction Manager at Risk on the Project for those portions of the Guaranteed Maximum Price (GMP) devoted specifically to materials, supplies, equipment, and constructed facilities until such time as the County assumes ownership of the facilities by an official and formal sign-off, with the Owner, Construction Manager at Risk, and Design Professional as named insureds and including the interests of the subcontractors and sub-subcontractors as their interests may appear.

2) Boiler and Machinery Insurance. N/A

3) Loss of Use Insurance. N/A

4) The Construction Manager at Risk shall be entitled to request approval from the Owner to include insurance for risks in the policy other than those described herein.

5) If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Sections 11.2 and 11.3 for damages caused by fire or other causes of loss covered by this separate property insurance.

6) Before an exposure to loss may occur, the Owner shall file with the Construction Manager at Risk a copy of each policy that includes insurance coverages required by this Section 11.4. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days prior written notice has been given to the Construction Manager at Risk.

11.5 PERFORMANCE BOND AND PAYMENT BOND

1) Consistent with 8.3.1 of the Agreement and within five (5) business days after the Guaranteed Maximum Price Amendment is approved and executed by both parties, the Construction Manager at Risk shall provide the Owner with Performance and Payment Bonds in the form prescribed in Exhibit C and Exhibit D, in the amount of 100% of the Guaranteed Maximum Price, the costs of which are to be paid by the Construction Manager at Risk. The Performance and Payment Bonds shall be underwritten by a surety, must comply with the following provisions, and must be otherwise acceptable to the Owner:

The Surety Company shall have a currently valid Certificate of Authority issued by the State of Florida, Department of Insurance, authorizing it to write surety bonds in the State of Florida.

The Surety Company shall have a currently valid Certificate of Authority issued by the United States Department of Treasury under Sections 9304 to 9308 of Title 31 of the United States Code.

The Surety Company shall be in full compliance with the provisions of the Florida Insurance Code.

The Surety Company shall have at least twice the minimum surplus and capital required by the Florida Insurance Code at the time the invitation to bid is issued.

If the Contract Award Amount exceeds \$500,000.00, the Surety Company shall also comply with the following provisions:

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS

A. The Surety Company shall have at least the following minimum ratings in the latest issue of Best’s Key Rating Guide:

<u>POLICY HOLDER’S CONTRACT</u>	<u>REQUIRED FINANCIAL RATING</u>	<u>RATING</u>
\\$500,000 to \\$1,000,000	A	CLASS IV
\\$1,000,000 to \\$2,500,000	A	CLASS V
\\$2,500,000 to \\$5,000,000	A	CLASS V
\\$5,000,000 to \\$10,000,000	A	CLASS VII
\\$10,000,000 to \\$25,000,000	A	CLASS VIII
\\$25,000,000 to \\$50,000,000	A	CLASS IX
\\$50,000,000 to \\$75,000,000	A	CLASS X

B. The Surety Company shall not expose itself to any loss on any one risk in an amount exceeding 10 percent of its surplus to policyholders, provided:

- a. Any risk or portion of any risk being reinsured shall be deducted in determining the limitation of the risk as prescribed in this section. These minimum requirements shall apply to the reinsuring carrier providing authorization or approval by the State of Florida, Department of Insurance to do business in this state have been met.
 - b. In the case of the surety insurance company, in addition to the deduction for reinsurance, the amount assumed by any co-surety, the value of any surety deposited, pledged, or held subject to the consent of the surety and for the protection of the surety shall be deducted.
- 2) Subcontractors over \$100,000.00 will be bonded in a form acceptable to the Owner. The Owner shall be identified as an obligee. The Subcontractor Bonds will be acceptable to the Owner only if the following are met: The Surety Company (i) is licensed to do business in the State of Florida; (ii) holds a certificate of authority authorizing it to write surety bonds in this state; (iii) has twice the minimum surplus and capital required by the Florida Insurance Code at the time the invitation to bid is issued; (iv) is otherwise in compliance with the provisions of the Florida Insurance Code; (v) holds a currently valid certificate of authority issued by the United States Department of Treasury under 31 U.S.C. §§9304-9308.
- 3) If the surety for any bond furnished by the Construction Manager at Risk is declared bankrupt, becomes insolvent, its right to do business is terminated in the State of Florida, or it ceases to meet the requirements imposed by the Contract Documents, the Construction Manager at Risk shall, within five (5) calendar days thereafter, substitute another bond and surety, both of which shall be subject to the Owner’s approval.

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS**ARTICLE 12 - UNCOVERING AND CORRECTION OF WORK****12.1 UNCOVERING OF WORK**

- 1) If a portion of the Work is covered contrary to the Design Professional's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Design Professional, be uncovered for the Design Professional's examination and be replaced at the Construction Manager at Risk expense without change in the Contract Time.
- 2) If a portion of the Work has been covered that the Design Professional has not specifically requested to examine prior to its being covered, the Design Professional may request to see such Work and it shall be uncovered by the Construction Manager at Risk. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Construction Manager at Risk expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs from Owner's Contingency.

12.2 CORRECTION OF WORK**1) BEFORE OR AFTER SUBSTANTIAL COMPLETION**

The Construction Manager at Risk shall promptly correct Work rejected by the Design Professional or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Design Professional's services and expenses made necessary thereby, shall be at the Construction Manager at Risk expense.

2) AFTER SUBSTANTIAL COMPLETION

- A. In addition to the Construction Manager at Risk obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Construction Manager at Risk shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Construction Manager at Risk a written acceptance of such condition. The Owner shall give such notice to correct such Work promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Construction Manager at Risk and give the Construction Manager at Risk an opportunity to make the correction, the Owner waives the rights to require correction by the Construction Manager at Risk and to make a claim for breach of warranty. If the Construction Manager at Risk fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Design Professional, the Owner may correct it in accordance with Section 2.4.
 - B. The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.
 - C. The one-year period for correction of Work shall not be extended by corrective Work performed by the Construction Manager at Risk pursuant to this Section 12.2.
- 3) The Construction Manager at Risk shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Construction Manager at Risk nor accepted by the Owner.
 - 4) The Construction Manager at Risk shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Construction Manager at Risk correction or removal of Work that is not in accordance with the requirements of the Contract Documents.
 - 5) Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Construction Manager at Risk has under the Contract Documents. Establishment of the one-year

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS

period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Construction Manager at Risk to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Construction Manager at Risk liability with respect to the Construction Manager at Risk obligations other than specifically to correct the Work.

12.3 ACCEPTANCE OF NONCONFORMING WORK

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS**ARTICLE 13 - MISCELLANEOUS PROVISIONS****13.1 GOVERNING LAW**

The Contract shall be governed by the law of the State of Florida.

13.2 SUCCESSORS AND ASSIGNS

- 1) The Owner and Construction Manager at Risk respectively bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract. If the Construction Manager at Risk does, with approval of the Owner, assign this Contract or any part thereof, it shall require that its assignee be bound to it and to assume toward the Construction Manager at Risk all of the obligations and responsibilities that the Construction Manager at Risk has assumed toward the Owner.

13.3 WRITTEN NOTICE

Written notice shall be deemed to have been duly served if delivered in person to the Owner's Representative or the Construction Manager at Risk; or if mailed to the respective addresses below:

For Owner: St. Pete-Clearwater International Airport, 14700 Terminal Blvd, Suite 221, Clearwater, FL 33762

For Construction Manager at Risk: Manhattan Construction Company, LLC, 5405 Cypress Center Drive, Suite 200, Tampa, FL 33609

13.4 RIGHTS AND REMEDIES

- 1) Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.
- 2) No action or failure to act by the Owner or Construction Manager at Risk shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach there under, except as may be specifically agreed in writing.

13.5 TESTS AND INSPECTIONS

- 1) Tests, inspections and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities having jurisdiction. Unless otherwise provided, the Construction Manager at Risk shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Construction Manager at Risk shall give the Design Professional forty-eight (48) hours prior notice of when and where tests and inspections are to be made so that the Design Professional may be present for such procedures. The Owner shall bear costs of tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Construction Manager at Risk.
- 2) If the Design Professional, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Section 13.5.1, the Design Professional will, upon written authorization from the Owner, instruct the Construction Manager at Risk to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Construction Manager at Risk shall give forty-eight (48) hours prior notice to the Design Professional of when and where tests and inspections are to be made so that the Design Professional may be present for such procedures. Such costs, except as provided in Section 13.5.3, shall be at the Owner's expense.
- 3) If such procedures for testing, inspection or approval under Sections 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure including those of repeated procedures and compensation for the Design Professional's services and expenses shall be at the Construction Manager at Risk expense.
- 4) Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Construction Manager at Risk and promptly delivered to the Design Professional.

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS

- 5) If the Design Professional is to observe tests, inspections or approvals required by the Contract Documents, the Design Professional will do so promptly and, where practicable, at the normal place of testing.
- 6) Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

13.6 INTEREST

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at such rate as the parties may agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

13.7 PUBLIC RECORD CONTRACTORS DUTY

Construction Manager at Risk acknowledges that information and data it manages as part of the services may be public records in accordance with Chapter 119, Florida Statutes and Pinellas County public records policies. Construction Manager at Risk agrees that prior to providing services it will implement policies and procedures to maintain, produce, secure, and retain public records in accordance with applicable laws, regulations, and County policies, including but not limited to the Section 119.0701, Florida Statutes.

The Construction Manager at Risk shall:

- i. Keep and maintain public records required by the County to perform the service.
- ii. Upon request from the County, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at no cost.
- iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law for the duration of the contract term and following the completion of the Agreement if the Construction Manager at Risk does not transfer the records to the County.
- iv. Upon completion of the Agreement, transfer, at no cost, to the County all public records in possession of the Construction Manager at Risk or keep and maintain public records required by the County to perform the service. If the Construction Manager at Risk transfers all public records to the County upon completion of the contract, the Construction Manager at Risk shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Construction Manager at Risk keeps and maintains public records upon completion of the Agreement, the Owners Representative 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.

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS**CONTRACTOR'S DUTY:**

IF THE CONTRACTOR (CONSTRUCTION MANAGER AT RISK) HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, F.S., TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE TELEPHONE NUMBER, EMAIL ADDRESS, AND MAILING ADDRESS PROVIDED BELOW::

**Pinellas County Board of County Commissioners
Purchasing and Risk Management Division
400 S. Ft. Harrison Ave, 6th Floor,
Clearwater, FL 33756
Public Records Liaison
Phone: 727-464-3237
Email: mcchartier@pinellas.gov**

Requests to inspect or copy public records relating to the Agreement must be made directly to the County. If Construction Manager at Risk receives any such request, Construction Manager at Risk shall instruct the requestor to contact the County. If the County does not possess the records requested, the County shall immediately notify the Construction Manager at Risk of such request, and the Construction Manager at Risk must provide the records to the County or otherwise allow the records to be inspected or copied within a reasonable time. Construction Manager at Risk acknowledges that failure to provide the public records to the County within a reasonable time may be subject to penalties under section 119.10, Florida Statutes. Construction Manager at Risk further agrees not to release any records that are statutorily confidential or otherwise exempt from disclosure without first receiving prior written authorization from the County. Construction Manager at Risk shall indemnify, defend, and hold the County harmless for and against any and all claims, damage awards, and causes of action arising from the Construction Manager at Risk's failure to comply with the public records disclosure requirements of section 119.07(1), Florida Statutes, or by Construction Manager at Risk's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorney's fees and costs arising therefrom. Construction Manager at Risk authorizes County to seek declaratory, injunctive, or other appropriate relief against Construction Manager at Risk from a Circuit Court in Pinellas County on an expedited basis to enforce the requirements of this section.

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS**ARTICLE 14 - TERMINATION OR SUSPENSION OF THE CONTRACT****14.1 TERMINATION BY THE CONSTRUCTION MANAGER AT RISK**

N/A

14.2 TERMINATION BY THE OWNER FOR CAUSE

- 1) The Construction Manager at Risk shall be considered in material default of the Contract and such default shall be considered cause for the Owner to terminate the Contract, in whole or in part, as further set forth in this Article, if the Construction Manager at Risk
 - A. fails to begin the Work under the Contract Documents within the time specified herein; or
 - B. fails to properly and timely perform the Work as directed by the Owner or the Design Professional or as provided for in the approved Master Project Schedule; or
 - C. performs the Work unsuitably or neglects or refuses to remove materials or to correct or replace such Work as may be rejected as unacceptable or unsuitable; or
 - D. discontinues the prosecution of the Work contrary to the requirements of the Contract; or
 - E. fails to resume Work which has been suspended within a reasonable time after being notified to do so; or
 - F. becomes insolvent or is declared bankrupt or commits any act of bankruptcy; or
 - G. allows any final judgment to stand against it unsatisfied for more than ten (10) days; or
 - H. makes an assignment for the benefit of creditors; or
 - I. fails to obey any applicable codes, laws, ordinances, rules or regulations with respect to the Work; or
 - J. fails to promptly pay its subcontractors and suppliers; or
 - K. materially breaches any other provision of the Contract Documents.
- 2) If the Owner determines that the Construction Manager at Risk is in default under this Contract, the Owner shall notify the Construction Manager at Risk in writing of the Construction Manager at Risk default(s). If the Owner determines that the Construction Manager at Risk has not remedied and cured the default(s) within seven (7) calendar days following receipt by the Construction Manager at Risk of said written notice, then the Owner, at its option, without releasing or waiving its rights and remedies against the Construction Manager at Risk Sureties and without prejudice to any other right or remedy it may be entitled to hereunder or by law, may terminate the Construction Manager at Risk right to proceed under the Contract, in whole or in part, and take possession of all or any portion of the Work and any materials, tools, equipment, and appliances of the Construction Manager at Risk, take assignments of any of the Construction Manager at Risk subcontracts and purchase orders that the Owner may designate, and complete all or any portion of the Construction Manager at Risk Work by whatever means, method, or agency which the Owner, in its sole discretion, may choose.
- 3) If the Owner deems any of the foregoing remedies necessary, the Construction Manager at Risk agrees that it shall not be entitled to receive any further payments hereunder until after the Work is completed. All monies expended and all of the costs, losses, damages, and extra expenses, including all management, administrative, and other overhead and other direct and indirect expenses (including the Design Professional fees) or damages incurred by the Owner incident to such completion, shall be deducted from the unpaid balance of the Contract Amount, and if such expenditures exceed the unpaid balance of the Contract Amount, the Construction Manager at Risk agrees to pay promptly to the Owner on demand the full amount of such excess, including costs of collection, and interest thereon at the maximum legal rate of interest paid. If the unpaid balance of the Contract Amount exceeds all such costs, expenditures, and damages incurred by the Owner to complete the Work, the Construction Manager at Risk shall not be entitled to any portion of such excess, except for the unpaid portion of the Construction Management Fee earned and the Cost of Work incurred prior to the Construction Manager at Risk right to continue performance under this Contract being terminated. Any amounts to be paid to the Owner by the Construction Manager at Risk pursuant to this paragraph 14.2.3 shall be certified by the Design Professional, upon application, and this obligation for payment shall survive termination of the contract.
- 4) The liability of the Construction Manager at Risk hereunder shall extend to and include the full amount of any and all sums paid, expenses and losses uncured, damages sustained, and obligations assumed by the Owner in good faith under the belief that such payments or assumptions were necessary or required, in completing the Work and providing labor, materials, equipment, supplies, and other items therefore or re-letting the Work, and in

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS

settlement, discharge, or compromise of any claims, demands, suits, and judgments pertaining to or arising out of the Work hereunder. Further, in the event the Owner has exercised its right to terminate due to the Construction Manager at Risk default, the Construction Manager at Risk shall be prohibited from bidding or otherwise seeking additional work from the Owner in accordance with the Owner's then current debarment policy.

- 5) If, after notice of termination of the Construction Manager at Risk right to proceed pursuant to this Article, it is determined for any reason that the Construction Manager at Risk was not in default, or that its default was excusable, or that the Owner is not entitled to the remedies against the Construction Manager at Risk provided herein, then such termination shall be deemed a termination for the Owner's convenience and the Construction Manager at Risk remedies against the Owner shall be the same as and limited to those afforded the Construction Manager at Risk under Section 14.4.1 below.

14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

- 1) The Owner shall have the right to suspend all or any portions of the Work upon giving the Construction Manager at Risk two (2) calendar days prior written notice of such suspension. If all or any portion of the Work is so suspended, the Construction Manager at Risk sole and exclusive remedy shall be to seek an extension to the Contract Time in accordance with the procedures set forth in the Contract Documents. In no event shall the Construction Manager at Risk be entitled to any additional compensation or damages except as otherwise expressly provided for in the Contract Documents. In the event that a suspension continues for a period exceeding thirty (30) days, Construction Manager at Risk may, at its option, terminate the Contract as to the portion of Work suspended, or elect to negotiate a Change Order.

14.4 TERMINATION BY THE OWNER FOR CONVENIENCE

- 1) The Owner shall have the right to terminate this Contract without cause upon seven (7) calendar days written notice to the Construction Manager at Risk. In the event of such termination for convenience, the Construction Manager at Risk recovery against the Owner shall be limited to that portion of the Contract Amount earned through the date of termination, together with any retainage withheld and reasonable termination expenses incurred, but the Construction Manager at Risk shall not be entitled to any other or further recovery against the Owner, including, but not limited to, damages or any anticipated profit on portions of the Work not performed.

In the event that conditions arise, such as lack of available funds, which in the Owner's opinion make it advisable and in the public interest to terminate this Agreement, it may do so upon written notice.

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS**ARTICLE 15 - CLAIMS AND DISPUTES****15.1 CLAIMS****1) DEFINITION**

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract and Contract Documents. The term "Claim" also includes other disputes and matters in question between the Owner and Construction Manager at Risk arising out of or relating to the Contract and Contract Documents. The responsibility to substantiate Claims shall rest with the party making the Claim.

2) NOTICE OF CLAIMS

Claims by either the Owner or Construction Manager at Risk must be initiated by separate and specific written notice to the other party and to the Design Professional within seven (7) calendar days after the first day of the event giving rise to such claim or after the claimant first recognizes the condition giving rise to the Claim, whichever is later. If this initial written notice is not given, then the claimant shall be deemed to have waived the Claim. The claimant shall submit written supporting data to the other party and the Design Professional within thirty (30) calendar days after the occurrence (or date when the claimant first noticed the occurrence), unless the other party grants additional time in writing, or else the claimant shall be deemed to have waived the Claim. All Claims shall be priced in accordance with the provisions of Article 7 hereof.

3) CONTINUING CONTRACT PERFORMANCE

Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Construction Manager at Risk shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

4) CLAIMS FOR ADDITIONAL COST

If the Construction Manager at Risk wishes to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

5) CLAIMS FOR ADDITIONAL TIME

- A. If the Construction Manager at Risk wishes to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Construction Manager at Risk Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.
- B. If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

6) CLAIMS FOR CONSEQUENTIAL DAMAGES

The Construction Manager at Risk and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- A. damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- B. damages incurred by the Construction Manager at Risk for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.6 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

EXHIBIT A - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION TABLE OF CONTENTS**15.2 ALTERNATIVE DISPUTE RESOLUTION**

Prior to the initiation of any action or proceeding permitted by this Contract to resolve disputes between the parties, the parties shall make a good faith effort to resolve any such disputes by negotiation between representatives with decision-making power. Failing resolution, and prior to the commencement of depositions in any litigation between the parties with respect to the Project, the parties shall attempt to resolve the dispute through mediation before an agreed-upon Circuit Court Mediator certified by the State of Florida. Should either party fail to submit to mediation as required hereunder, the other party may request a court of law to order mediation under Florida State Statutes, Section 44.102.

15.3 VENUE

Any litigation between Owner and Construction Manager at Risk (which term for the purposes of this subparagraph shall include Construction Manager at Risk surety), whether arising out of any Claim or arising out of the Contract or any breach thereof, shall be brought, maintained and pursued only in the appropriate State courts of the State of Florida; and Owner and Construction Manager at Risk each hereby waive and renounce any and all rights and options which they, or either of them, have or might have to bring or maintain any such litigation or action in the Federal Court system of the United States or in any United States Federal District Court. Venue of any such litigation between Owner and Construction Manager at Risk shall lie and be only in the appropriate State courts of the State of Florida's Sixth Judicial Circuit in and for Pinellas County, Florida. Construction Manager at Risk consents and submits to the exclusive jurisdiction of any such court and agrees to accept service of process from the State of Florida in any matter to be submitted to any such court. Owner and Construction Manager at Risk EXPRESSLY WAIVE ALL RIGHTS TO TRIAL BY JURY REGARDING ANY SUCH LITIGATION except in cases that involve third parties that are involved which do not have similar waivers in their contract or have no subcontract at all.

15.4 SURVIVAL OF ARTICLE

This Article shall survive completion or termination of this Agreement.

EXHIBIT B - SPECIAL CONDITIONS

EXHIBIT B - SPECIAL CONDITIONS

EXHIBIT C - FORM OF PAYMENT BOND

EXHIBIT C - FORM OF PAYMENT BOND

The exact language in Exhibit C must be used when submitting bonds

BOND NO.

BY THIS BOND, We _____
(hereinafter called the (“Principal” and _____
(hereinafter called the (“Surety”), located at _____

A surety insurer chartered and existing under the laws of the state of _____
and authorized to do Business in the State of Florida, are held and firmly bound unto Pinellas County
(hereinafter called the “County”) in the sum of _____
_____ DOLLARS \$ _____

For payment of which we bond ourselves, our heirs, our personal representatives, our successors and our assignees,
jointly and severally.

For payment of which we bond ourselves, our heirs, our personal representatives, our successors and our assignees,
jointly and severally.

WHEREAS, Principal and County have reached a mutual agreement (hereinafter referred to as the “Agreement”) for

Bid Title: **Passenger Terminal Improvements – Construction Manager at Risk (CMAR)** (PID #003343A), Bid No: **24-0333-RFP-CMAR** said Agreement being made a part of this Bond by this reference.

NOW, THEREFORE, THE CONDITION OF THIS BOND IS THAT IF THE PRINCIPAL:

- 1) Shall promptly make payments to all claimants as defined in section 255.05(l), Florida Statutes, Supplying the Principal with labor, materials or supplies, as used directly or indirectly by the Principal in the prosecution of the Work provided for in the Agreement and;
- 2) Shall pay the County for all losses, damages, expenses, costs and attorneys’ fees, including appellate proceedings, that the County sustains because of a default by the Principal in contravention to the Agreement in regard to payment for such labor, materials, or supplies furnished to the Principal; then this bond is void; otherwise this Bond remains in full force and effect.

BE IT FURTHER KNOWN:

- 1) Any changes in or under the Agreement and compliance or noncompliance with any formalities Connected with the said Agreement or alterations, which may be made in the terms of said Agreement, or in the Work to be done under it, or the giving by the County of any extension of time for the performance of the said Agreement, or any other forbearance on the part of the County or Principal to the other, shall not in any way release the Principal and the Surety, or either of them, their heirs, personal representatives, successors or assigns from liability hereunder, notice to the Surety of any such changes, alterations, extensions or forbearance being hereby waived.
- 2) Certain claimants seeking the protection of this Bond must timely comply with the strict Requirements set forth in Section 255.05, Florida Statutes, and as otherwise provided by law.
- 3) The Provisions of this bond are subject to the limitation of Section 255.05(2).

EXHIBIT C - FORM OF PAYMENT BOND

BOND NO.

By execution of this bond, the Surety acknowledges that it has read the Surety qualifications and obligations imposed by the construction Agreement and hereby satisfies those conditions.

THIS BOND DATE THE _____ DAY OF _____, 20____

(the date of issue by the Surety or by the Surety's agent and the date of such agent's power-or-attorney)

PRINCIPAL:

(Authorized Signature)

(Print Name)

(Title)

(Business Address)

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this

By

Of _____, a _____

Corporation, on behalf of the Corporation. He/She is personally known to me or has produced Florida Driver's License as identification and who did (did not) take an oath.

Notary: _____

Print Name: _____

Commission Number: _____

My Commission Expires: _____

EXHIBIT C - FORM OF PAYMENT BOND

BOND NO.

SURETY:

(Print)

(Business Address)

(Attach Power of Attorney)

(Signature As Attorney In Fact)

(Print Name)

(Title)

(Business Address)

(Telephone Number)

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this

By

Of _____, a _____

Corporation, on behalf of the Corporation. He/She is personally known to me or has produced Florida Driver's License as identification and who did (did not) take an oath.

Notary: _____

Print Name: _____

Commission Number: _____

My Commission Expires: _____

EXHIBIT D - FORM OF PERFORMANCE BOND

EXHIBIT D - FORM OF PERFORMANCE BOND

The exact language in Exhibit C must be used when submitting bonds

KNOW ALL MEN BY THESE PRESENTS:

That _____, as Principal,

and _____, as Surety,

Located at: _____

(Business Address)

(Phone Number)

Are held and firmly bound unto Pinellas County, Florida, as Obligee in the sum of

_____ DOLLARS \$

_____ For the payment whereof we bind ourse

our heirs, executors, personal representatives, successors and assigns, jointly and severally.

WHEREAS, Principal has entered into an Agreement with Obligee for Bid Title: **Passenger Terminal Improvements – Construction Manager at Risk (CMAR)**, (PID #003343A) , Bid No: **24-0333-RFP-CMAR** in accordance with Plans and Specifications, which Agreement is incorporated by reference and made a part hereof, and is referred to as the Agreement.

THE CONDITIONS OF THIS BOND is that if Principal:

- 1) Performs the Agreement at the times and in the manner prescribed in the Agreement; and
- 2) Pays Obligee any and all losses, damages, costs and attorneys' fees, including appellate

proceedings, that Obligee sustains because of any default by Principal under the Agreement, including, but not limited to, all delay damages, whether liquidated or actual, incurred by

Obligee; and

- 3) Performs the guarantee of all Work and materials furnished under the Agreement for the time specified in the Agreement; then this bond is void; otherwise it remains in full force.

Any changes in or under the Agreement and compliance or noncompliance with any formalities connected with the Agreement or the changes do not affect Surety's obligations under this bond.

The Surety, for value received, hereby stipulates and agrees that no changes, extensions of time, alterations or additions to the terms of the Agreement or other Work to be performed hereunder, or the Specifications referred to therein shall in anyway affect its obligation under this bond, and it does hereby waive notice of any such changes, extensions of time, alterations or additions to the terms of the Agreement or to Work or to the Specifications.

This instrument shall be construed in all respects as a statutory bond. It is expressly understood the time provisions and statute of limitation under Section 255.05 Florida Statutes, shall apply to this bond.

EXHIBIT D - FORM OF PERFORMANCE BOND

BOND NO.

By execution of this bond, the Surety acknowledges that is has read the Surety qualifications and obligations imposed by the construction Agreement and hereby satisfies those conditions.

IN WITNESS WHEREOF, the above bound parties have executed this instrument this _____ day of _____, 20____, the name of each party being affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

PRINCIPAL:

(Authorized Signature)

(Print Name)

(Title)

(Business Address)

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____

by _____

of _____, a _____

Corporation, on behalf of the Corporation. He/She is personally known to me or has produced Florida Driver's License as identification and who did (did not) take an oath.

Notary: _____

Print Name: _____

Commission Number: _____

My Commission Expires: _____

EXHIBIT D - FORM OF PERFORMANCE BOND

BOND NO. _____

SURETY:

(Print)

(Business Address)

(Signature As Attorney In Fact)

(Attach Power of Attorney)

(Print Name)

(Title)

(Business Address)

(Telephone Number)

Witness as to Attorney in Fact

(Print Name)

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____

by _____

of _____

_____, a _____

Corporation, on behalf of the Corporation. He/She is personally known to me or has produced Florida

Driver's License as identification and who did (did not) take an oath.

Notary: _____

Print Name: _____

Commission Number: _____

My Commission Expires: _____

EXHIBIT E - RELEASE AND AFFIDAVIT

EXHIBIT E - RELEASE AND AFFIDAVIT

STATE OF FLORIDA)

COUNTY OF _____)

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 at Risk") 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 County Commissioners of Pinellas County, Florida, a political subdivision of the State of Florida ("Owner") relating in any way to the performance of the Agreement between Construction Manager at Risk and Owner, dated _____, 200____, for the period from _____ to _____.
2) Construction Manager at Risk certifies for itself and its subcontractors, materialmen, successors and assigns, that all charges for labor, materials, supplies, lands, licenses and other expenses for which Owner 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 at Risk agrees to indemnify, defend and save harmless Owner from all demands or suits, actions, claims of liens or other charges filed or asserted against Owner arising out of the performance by Construction Manager at Risk of the Work covered by this Release and Affidavit.
4) Construction Manager at Risk certifies that it has paid all its subcontractors and materialmen in full all amounts owed them from any previous payments received by Construction Manager at Risk from Owner and has not withheld any such amounts. In the event Construction Manager at Risk withholds any unpaid amounts due to its subcontractors and/or materialmen from the payment it receives from Owner with respect to the Application for Payment referenced in paragraph 5 below, Construction Manager at Risk agrees to immediately refund all such unpaid amounts to Owner.
5) This Release and Affidavit is given in connection with Construction Manager at Risk [monthly/final] Application for Payment No._____.

Construction Manager at Risk:

By: _____

Its: _____

Date: _____

Witnesses

[Corporate Seal]

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 200__, by _____, as _____ of _____, a _____ corporation, on behalf of the corporation. He/She is personally known to me or has produced a _____ (state) driver's license no. _____ as identification.

My Commission Expires: _____

Notary Public (Signature)

(AFFIX NOTARY SEAL)

(Printed Name)

(Title or Rank)

(Serial Number, if any)

EXHIBIT F - CONSTRUCTION MANAGER AT RISK APPLICATION FOR PAYMENT

EXHIBIT F - CONSTRUCTION MANAGER AT RISK APPLICATION FOR PAYMENT

[INSERT FORM OF PAYMENT APPLICATION, MWBE STATUS REPORT,
AND SCHEDULE OF VALUES]

EXHIBIT G - CHANGE ORDER

EXHIBIT G - CHANGE ORDER

CHANGE ORDER NO. _____ CONTRACT NO. _____

TO: _____

DATE: _____

PROJECT NAME: _____

PROJECT NO.: _____

Under our AGREEMENT dated _____, 200__.

You hereby are authorized and directed to make the following change(s) in accordance with terms and conditions of the Agreement:

For the (Additive) (Deductive) Sum of: _____
(\$ _____).

Original Agreement Amount	\$ _____
Sum of Previous Changes	\$ _____
This Change Order (Add) (Deduct)	\$ _____
Present Agreement Amount	\$ _____

The time for completion shall be (increased/decreased) by _____ calendar days due to this Change Order. Accordingly, the Contract Time is now _____ (_____) calendar days and the Substantial Completion date is _____. Your acceptance of this Change Order shall constitute a modification to our Agreement and will be performed subject to all 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.

Accepted: _____, 200__

Construction Manager at Risk:

OWNER:
Pinellas County acting by and through its Board of County
Commissioners

By: _____

By: _____

DESIGN PROFESSIONAL:

By: _____

EXHIBIT H - CONSTRUCTION MANAGER AT RISK STAFFING SCHEDULE

EXHIBIT H - CONSTRUCTION MANAGER AT RISK STAFFING SCHEDULE

Pre-Construction Phase Services: (REFER TO EXHIBIT “L”)

<u>Name</u>	<u>Title/Position</u>	<u>Company Affiliation</u>	<u>% Assigned to Project</u>
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II Construction Phase Services:

<u>Name</u>	<u>Title/Position</u>	<u>Company Affiliation</u>	<u>% Assigned to Project</u>
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EXHIBIT I - GMP AMENDMENT TO AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER AT RISK

EXHIBIT I - GMP AMENDMENT TO AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER AT RISK

AMENDMENT NO. 1 TO AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER AT RISK FOR
 _____ AGREEMENT NO. _____

Pursuant to Sections 2.2 6.1, and 6.2 of the Agreement, dated _____, between The County Commissioners of Pinellas County, Florida (“Owner”) and _____ (“Construction Manager at Risk”), with respect to the construction of the Owner’s _____ (“Project”), the Owner and Construction Manager at Risk hereby agree to amend and modify the Agreement by this Amendment and establish a Guaranteed Maximum Price and Contract Time for all the Work as set forth below:

ARTICLE 1
SCOPE OF WORK

The scope of the Work consists of the construction of a _____,

In accordance with the Agreement, this Amendment and the other Contract Documents listed as attachments 1 through _____ below, which are hereby incorporated into and made a part of the Amendment by this reference:

<u>Attachment No.</u>	<u>Description</u>	<u>Pages</u>	<u>Date</u>
1.	List of Drawings & Specifications	_____ through _____	_____
2.	Allowances	_____ through _____	_____
3.	Clarifications & Exclusions	_____ through _____	_____
4.	Completion Schedule	_____ through _____	_____
5.	Schedule of Values	_____ through _____	_____
6.	List of Itemized General Conditions	_____ through _____	_____
7.	List of Subcontractors & Major Suppliers	_____ through _____	_____

EXHIBIT I - GMP AMENDMENT TO AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER AT RISK

ARTICLE 2

GUARANTEED MAXIMUM PRICE

- 1) Construction Manager at Risk Guaranteed Maximum Price (GMP) for the Work, including the estimated Cost of the Work as defined in Section 5 of the Agreement and Construction Manager at Risk Fee as defined in Section 4 of the Agreement, is _____ (\$_____).
- 2) The GMP includes material that may be purchased directly by the Owner (“Owner Direct Purchases”). The estimated value of materials that may be purchased directly by the Owner is _____ (\$_____). Construction Manager at Risk will initially process one (1) deductive Change Order under this Agreement for the entire estimated amount of Owner Direct Purchases, inclusive of sales taxes. Prior to final payment, a final reconciliation of the Owner Direct Purchases against the GMP will be performed and such deductive Change Order will be prepared for the Owner’s review and execution.
- 3) The Construction Manager at Risk Fee for the entire Work anticipated on this Project is hereby established as a lump sum amount of _____ (\$_____), said lump sum amount is included within the above noted GMP.
- 4) The General conditions expenses for the entire Work anticipated on this Project are hereby established as a lump sum amount of _____ (\$_____), said lump sum amount is included within the above noted GMP. The items included as General Conditions expenses are listed in the List of Itemized General Conditions attached hereto and incorporated herein as Attachment No. _____. Except as said lump sum amount for General Conditions expenses may be expressly adjusted by Change Order or Construction Change Directive, Construction Manager at Risk acknowledges and agrees that Owner shall have no liability for any General Conditions expenses beyond payment of the above noted lump sum amount and Construction Manager at Risk agrees that it shall not be entitled to receive any additional compensation from Owner for the General Conditions beyond the above lump sum amount.
- 5) Monthly installment payment of the Construction Manager at Risk Fee and the General Condition expenses shall be based upon the percent completion of the designated portion of the Work for each particular month.
- 6) In order to efficiently and timely address any unknown or unanticipated conditions that are within the scope of the required Work and are otherwise reimbursable without duplication as a Cost of the Work, but excluding all items that are to be reimbursed under the lump sum General conditions expense amount noted in paragraph 2.4 above, the parties have agreed to establish a contingency within the GMP in an amount not-to-exceed amount _____ (\$_____). Contingency funds shall be used to cover costs that may result from incomplete design and unanticipated costs that arise during construction that are not identified by the construction documents. Construction Manager at Risk shall not proceed with any portion of the Work which it intends to charge against this contingency without first obtaining Owner’s express written authorization to proceed. The Construction Manager at Risk acknowledges and agrees that any work which is to be charged against the contingency allowance that does not receive such prior written approval from the Owner shall be deemed to be a part of Construction Manager at Risk basic Work compensated within the GMP and not chargeable against the Owner’s Contingency Allowance. The Owner reserves the right, at its sole discretion, to withhold its consent on contingency expenditures. Further, any contingency expenditures become part of the Contract Documents and are incorporated by reference herein. Unused contingency remaining at the end of the job will be credited from the GMP. Construction Manager at Risk has no entitlement to any portion of any unused contingency.
- 7) The parties have agreed to establish an allowance within the GMP for _____ in the amount of _____ (\$_____). Construction Manager at Risk shall not proceed with any portion of the Work associated with the aforesaid allowance (“Allowance Work”) without first obtaining Owner’s express written authorization to proceed with said Allowance Work. Allowance Amounts are reflected in Attachments _____ through _____.
- 8) Pursuant to Exhibit A, Paragraph 12.4 of the Agreement, if, at the time final payment is made to Construction Manager at Risk, the total Cost of the Work has been increased by approved Change Orders in an amount causing the original GMP as set forth in this Amendment to be exceeded by more than _____ (\$_____), then Construction Manager at Risk shall be entitled to an increase in the Construction Manager at Risk Fee in the amount of _____ (_____%) of the amount exceeding the sum of _____ (\$_____) plus that original GMP amount.

EXHIBIT I - GMP AMENDMENT TO AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER AT RISK

- 9) Construction Manager at Risk recognizes that this Contract includes work for trench excavation in excess of five feet deep. Construction Manager at Risk acknowledges the requirements set forth in Section 553.63 of the Florida Statutes titled Trench Safety Act. Construction Manager at Risk certifies that the required trench safety standards will be in effect during the period of construction of the Project and Construction Manager at Risk agrees to comply with all such required trench safety standards.
 - a. The amount of _____ dollars (\$ _____) has been separately identified for the cost of compliance with the required trench safety standards; said amount is included within the GMP.
- 10) Construction Manager at Risk is responsible, without reimbursement from Owner, for re-inspection fees and costs; to the extent such re-inspections are due to the fault or neglect of Construction Manager at Risk.

EXHIBIT I - GMP AMENDMENT TO AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER AT RISK

ARTICLE 3

CONTRACT TIME

- 1) The Construction Phase Commencement Date for the Work is _____. The total period of time beginning with the Construction Phase Commencement Date through the date required for Substantial Completion of the Work is _____ (_____) days ("Contract Time") THE SUBSTANTIAL COMPLETION DATE IS THEREFORE ESTABLISHED AS _____.
- 2) Pursuant to this Agreement, the parties have established a liquidated damage rate for reasons stated therein, which the parties acknowledge and agree apply to this Amendment and Construction Manager at Risk responsibility to complete the Work within the Contract Time as stated herein. Accordingly, the liquidated damage rate established in this Agreement shall be assessed from Construction Manager at Risk for each calendar day Construction Manager at Risk fails to achieve Substantial Completion for the Designated Work within the Contract Time.

ARTICLE 4

MISCELLANEOUS

- 1) Except as expressly modified herein, the terms and conditions of the Agreement remain unchanged. In the event of a conflict between the terms of this Amendment and those of the Agreement, Owner and Construction Manager at Risk agree that the terms of this Amendment shall prevail and control.

OWNER _____

Construction Manager at Risk

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____

Attest: _____

Attest: _____

EXHIBIT J - TRUTH-IN-NEGOTIATION CERTIFICATE

EXHIBIT J - TRUTH-IN-NEGOTIATION CERTIFICATE

In compliance with the Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes, «Company» hereby certifies that wage rates and other factual unit costs supporting the compensation for the construction management services of CONSTRUCTION MANAGER AT RISK to be provided under this Agreement, concerning «Project» are accurate, complete and current as of the time of contracting. Further, the original contract amount and any additions thereto shall be adjusted to exclude any significant sums where the Owner determines the contract price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. Such adjustments must be made within one (1) year following the end of the contract.

CONSTRUCTION MANAGER AT RISK:

«COMPANY»

By:

Print Name: «Signatory»

Title: «Sigtitle»

Date:

EXHIBIT K – INSURANCE REQUIREMENTS**LIMITATIONS ON LIABILITY**

By submitting a Proposal, the Construction Manager at Risk acknowledges and agrees that the services will be provided without any limitation on the Construction Manager at Risk liability. The County objects to and shall not be bound by any term or provision that purports to limit the Construction Manager at Risk liability to any specified amount in the performance of the services. The Construction Manager at Risk shall state any exceptions to this provision in its response, including specifying the proposed limits of liability in the stated exception to be included in the Services Agreement. The Construction Manager at Risk is deemed to have accepted and agreed to provide the services without any limitation on the Construction Manager at Risk liability that the Construction Manager at Risk does not take exception to in its response. Notwithstanding any exceptions by the Construction Manager at Risk, the County reserves the right to declare its prohibition on any limitation on the Construction Manager at Risk liability as non-negotiable, to disqualify any Proposal that includes exceptions to this prohibition on any limitation on the Construction Manager at Risk liability, and to proceed with another responsive, responsible proposal, as determined by the County in its sole discretion.

INDEMNIFICATION

If the Construction Manager at Risk is an individual or entity licensed by the State of Florida who holds a current certificate of registration or is qualified under Chapter 481, Florida Statutes, to practice architecture or landscape architecture, under Chapter 472, Florida Statutes, to practice land surveying and mapping, or under Chapter 471, Florida Statutes, to practice engineering, and who enters into a written agreement with the County relating to the planning, design, construction, administration, study, evaluation, consulting, or other professional and technical support services furnished in connection with any actual or proposed construction, improvement, alteration, repair, maintenance, operation, management, relocation, demolition, excavation, or other facility, land, air, water, or utility development or improvement, the Construction Manager at Risk will indemnify and hold harmless the County, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct, or for any violation of requirements of the Americans with Disabilities Act of 1990, as may be amended, and all rules and regulations issued pursuant thereto (collectively the "ADA") of the Construction Manager at Risk and other persons employed or utilized by the Construction Manager at Risk in the performance of the Agreement.

INSURANCE REQUIREMENTS

The Construction Manager at Risk must provide a certificate of insurance and endorsement in accordance with the insurance requirements listed below, prior to recommendation for award.

The Construction Manager at Risk shall obtain and maintain, and require any subcontractor to obtain and maintain, at all times during its performance of the Agreement, insurance of the types and in the amounts set forth. For projects with a Completed Operations exposure, Construction Manager at Risk shall maintain coverage and provide evidence of insurance for 2 years beyond final acceptance. All insurance policies shall be from responsible companies duly authorized to do business in the State of Florida and have an AM Best rating of A- VIII or better.

- A. Submittals should include the Construction Manager at Risk current Certificate(s) of Insurance. If Construction Manager at Risk does not currently meet insurance requirements, Construction Manager at Risk shall also include verification from their broker or agent that any required insurance not provided at that time of submittal will be in place prior to the award of contract.

Upon selection of Construction Manager at Risk for award, the selected Construction Manager at Risk shall email certificate that is compliant with the insurance requirements. If the certificate received is compliant, no further action may be necessary. The Certificate(s) of Insurance shall be signed by authorized representatives of the insurance companies shown on the Certificate(s). **The Certificate holder section shall indicate Pinellas County, a Subdivision of the State of Florida, 400 S Fort Harrison Ave, Clearwater, FL 33756. Pinellas County shall be named as an Additional Insured for General Liability. A Waiver of Subrogation for Workers Compensation shall be provided if Workers Compensation coverage is a requirement.**

- B. Approval by the County of any Certificate(s) of Insurance does not constitute verification by the County that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate(s) of Insurance is in compliance with the requirements of the Agreement. The County reserves the right to require a certified copy of the entire insurance policy, including endorsement(s), at any time during the RFP and/or contract period.
- C. If any insurance provided pursuant to the Agreement expires or cancels prior to the completion of the work you will be notified by CTrax, the authorized Construction Manager at Risk of Pinellas County. Upon notification, renewal certificate(s) of Insurance and endorsement(s) should be furnished to Pinellas County Risk Management at InsuranceCerts@pinellascounty.org and to CTrax c/o JDi Data at PinellasSupport@jdidata.com by the Construction Manager at Risk or their agent prior to the expiration date.

EXHIBIT K – INSURANCE REQUIREMENTS

- 1) The Construction Manager at Risk shall also notify the County within 72 hours after receipt, of any notices of expiration, cancellation, nonrenewal or adverse material change in coverage received by said Construction Manager at Risk from its insurer. Notice shall be given by email to Pinellas County Risk Management at InsuranceCerts@pinellascounty.org. Nothing contained herein shall absolve Construction Manager at Risk of this requirement to provide notice.
 - 2) Should the Construction Manager at Risk, at any time, not maintain the insurance coverages required herein, the County may terminate the Agreement.
- D. If subcontracting is allowed under this RFP, the Construction Manager at Risk shall obtain and maintain, at all times during its performance of the Agreement, insurance of the types and in the amounts set forth; and require any sub-Contractors to obtain and maintain, at all times during its performance of the Agreement, insurance limits as it may apply to the portion of the Work performed by the subcontractor; but in no event will the insurance limits be less than \$500,000 for Workers' Compensation/Employers' Liability, and \$1,000,000 for General Liability and Auto Liability if required below.

All subcontracts between the Construction Manager at Risk and its subcontractor shall be in writing and are subject to the County's prior written approval. Further, all subcontracts shall;

- 1) Require each subcontractor to be bound to the Construction Manager at Risk to the same extent the Construction Manager at Risk is bound to the 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 the Construction Manager at Risk to the County at the election of Owner upon termination of the Contract;
 - 3) Provide that County will be an additional indemnified party of the subcontract;
 - 4) Provide that the County will be an additional insured on all insurance policies required to be provided by the subcontractor except workers compensation and professional liability;
 - 5) Provide a waiver of subrogation in favor of the County and other insurance terms and/or conditions as outlined below;
 - 6) Assign all warranties directly to the County;
 - 7) Identify the County as an intended third-party beneficiary of the subcontract. The Construction Manager at Risk shall make available to each proposed subcontractor, prior to the execution of the subcontract, copies of the Contract Documents to which the subcontractor will be bound by this Section C and identify to the subcontractor any terms and conditions of the proposed subcontract which may be at variance with the Contract Documents.
- E. Each insurance policy and/or certificate shall include the following terms and/or conditions:
- 1) The Named Insured on the Certificate of Insurance and insurance policy must match the entity's name that responded to the solicitation and/or is signing the agreement with the County.
 - 2) Companies issuing the insurance policy, or policies, shall have no recourse against County for payment of premiums or assessments for any deductibles which all are at the sole responsibility and risk of Construction Manager at Risk.
 - 3) The term "County" or "Pinellas County" shall include all Authorities, Boards, Bureaus, Commissions, Divisions, Departments and Constitutional offices of County and individual members, employees thereof in their official capacities, and/or while acting on behalf of Pinellas County.
 - 4) All policies shall be written on a primary, non-contributory basis.

The minimum insurance requirements and limits for this Agreement, which shall remain in effect throughout its duration and for 2 years beyond final acceptance for projects with a Completed Operations exposure, are as follows:

PHASE 1 INSURANCE REQUIREMENTS – DESIGN

1. **Workers' Compensation Insurance** Worker's Compensation Insurance is required if required pursuant to Florida law. If, pursuant to Florida law, Worker's Compensation Insurance is required, employer's liability, also known as Worker's Compensation Part B, is also required in the amounts set forth herein.

Limits

EXHIBIT K – INSURANCE REQUIREMENTS

Employers' Liability Limits	Florida Statutory
Per Employee	\$ 500,000
Per Employee Disease	\$ 500,000
Policy Limit Disease	\$ 500,000

If Vendor/Contractor is not required by Florida law, to carry Workers Compensation Insurance in order to perform the requirements of this Agreement, County Waiver Form for workers compensation must be executed, submitted, and accepted by Risk Management. Failure to obtain required Worker's Compensation Insurance without submitting and receiving a waiver from Risk Management constitutes a material breach of this Agreement.

2. Commercial General Liability Insurance including, but not limited to, Independent Vendor, Contractual Liability Premises/Operations, Products/Completed Operations, and Personal Injury.

Limits

Combined Single Limit Per Occurrence	\$ 1,000,000
Products/Completed Operations Aggregate	\$ 2,000,000
Personal Injury and Advertising Injury	\$ 1,000,000
General Aggregate	\$ 2,000,000

3. Pollution Legal/Environmental Legal Liability Insurance for pollution losses arising from all services performed to comply with this contract. Coverage shall apply to sudden and gradual pollution conditions including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water, which results in Bodily Injury or Property Damage. If policy is written on a Claims Made form, a retroactive date is required, and coverage must be maintained for 3 years after completion of contract or "tail coverage must be purchased. Coverage should include and be for the at least the minimum limits listed below:

- a. Bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death; property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed.
- b. Defense including costs, charges and expenses incurred in the investigation, adjustment, or defense of claims for such compensation damages.
- c. Cost of Cleanup/Remediation.

Limits

Per Claim or Occurrence	\$ 1,000,000
General Aggregate	\$ 1,000,000

For acceptance of Pollution Legal/Environmental Legal Liability coverage included within another policy coverage required herein, a statement notifying the certificate holder must be included on the certificate of insurance and the total amount of said coverage per occurrence must be greater than or equal to the amount of Pollution Legal/Environmental Legal Liability and other coverage combined.

4. Professional Liability (Errors and Omissions) Insurance with at least minimum limits as follows. If "claims made" coverage is provided, "tail coverage" extending three (3) years beyond completion and acceptance of the project with proof of "tail coverage" to be submitted with the invoice for final payment. In lieu of "tail coverage", Proposer may submit annually to the County, for a three (3) year period, a current certificate of insurance providing "claims made" insurance with prior acts coverage in force with a retroactive date no later than commencement date of this contract.

Limits

Each Occurrence or Claim	\$ 5,000,000
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EXHIBIT K – INSURANCE REQUIREMENTS

General Aggregate

\$ 5,000,000

For acceptance of Professional Liability coverage included within another policy required herein, a statement notifying the certificate holder must be included on the certificate of insurance and the total amount of said coverage per occurrence must be greater than or equal to the amount of Professional Liability and other coverage combined.

PHASE 2 INSURANCE REQUIREMENTS – CONSTRUCTION SERVICES

The recommended Construction Manager at Risk must provide a certificate of insurance and endorsement in accordance with the insurance requirements listed below, prior to award of contract for Construction Services.

The Construction Manager at Risk shall obtain and maintain, and require any sub-contractors to obtain and maintain, at all times during its performance of the Agreement, insurance of the types and in the amounts set forth. For projects with a Completed Operations exposure, Construction Manager at Risk shall maintain coverage and provide evidence of insurance for 2 years beyond final acceptance. All insurance policies shall be from responsible companies duly authorized to do business in the State of Florida and have an AM Best rating of A- VIII or better.

- a. Submittals should include the Construction Manager at Risk current Certificate(s) of Insurance in accordance with the insurance requirements listed below. If Construction Manager at Risk does not currently meet insurance requirements, Construction Manager at Risk shall also include verification from their broker or agent that any required insurance not provided at that time of submittal will be in place prior to the award of contract.
- b. Construction Manager at Risk shall email certificate that is compliant with the insurance requirements to (Procurement Analyst email). If certificate received is compliant certificate no further action may be necessary. The Certificate(s) of Insurance shall be signed by authorized representatives of the insurance companies shown on the Certificate(s). A copy of the endorsement(s) referenced in paragraph d) for Additional Insured shall be attached to the certificate(s) referenced in this paragraph.
- c. No work shall commence at any project site unless and until the required Certificate(s) of Insurance are received and approved by the County. Approval by the County of any Certificate(s) of Insurance does not constitute verification by the County that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate(s) of Insurance is in compliance with the requirements of the Agreement. County reserves the right to require a certified copy of the entire insurance policy, including endorsement(s), at any time during the RFP and/or contract period.
- d. All policies providing liability coverage(s), other than professional liability and workers compensation policies, obtained by the Construction Manager at Risk and any subcontractors to meet the requirements of the Agreement shall be endorsed to include Pinellas County a Political subdivision of the State of Florida as an Additional Insured.
- e. If any insurance provided pursuant to the Agreement expires prior to the completion of the Work, renewal Certificate(s) of Insurance and endorsement(s) shall be furnished by the Construction Manager at Risk to the County at least thirty (30) days prior to the expiration date.
 - 1) Construction Manager at Risk shall also notify County within twenty-four (24) hours after receipt, of any notices of expiration, cancellation, nonrenewal or adverse material change in coverage received by said Construction Manager at Risk from its insurer. Notice shall be given by certified mail to: Pinellas County Risk Management 400 South Fort Harrison Ave Clearwater FL 33756; be sure to include your organization's unique identifier, which will be provided upon notice of award. Nothing contained herein shall absolve Construction Manager at Risk of this requirement to provide notice.
 - 2) Should the Construction Manager at Risk, at any time, not maintain the insurance coverages required herein, the County may terminate the Agreement.
- f. The County reserves the right, but not the duty, to review and request a copy of the Contractor's most recent annual report or audited financial statement when a self-insured retention (SIR) or deductible exceeds \$50,000.
- g. If subcontracting is allowed under this RFP, the Prime Construction Manager at Risk shall obtain and maintain, at all times during its performance of the Agreement, insurance of the types and in the amounts set forth; and require any subcontractors to obtain and maintain, at all times during its performance of the Agreement, insurance limits as it may apply to the portion of the Work performed by the subcontractor; but in no event will the insurance limits be less than \$500,000 for Workers' Compensation/Employers' Liability, and \$1,000,000 for General Liability and Auto Liability if required below.

EXHIBIT K – INSURANCE REQUIREMENTS

- 1) All subcontracts between Construction Manager at Risk and its subcontractors shall be in writing and are subject to the County’s prior written approval. Further, all subcontracts shall (1) require each subcontractor to be bound to Construction Manager at Risk to the same extent Construction Manager at Risk is bound to the 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 at Risk to the County at the election of Owner upon termination of the Contract; (3) provide that County will be an additional indemnified party of the subcontract; (4) provide that the County will be an additional insured on all insurance policies required to be provided by the subcontractor except workers compensation and professional liability; (5) provide waiver of subrogation in favor of the County and other insurance terms and/or conditions as outlined below; (6) assign all warranties directly to the County; and (7) identify the County as an intended third-party beneficiary of the subcontract. Construction Manager at Risk shall make available to each proposed subcontractor, prior to the execution of the subcontract, copies of the Contract Documents to which the subcontractor will be bound by this Section C and identify to the subcontractor any terms and conditions of the proposed subcontract which may be at variance with the Contract Documents.

- h. Each insurance policy and/or certificate shall include the following terms and/or conditions:
 - 1) The Named Insured on the Certificate of Insurance and insurance policy must match the entity’s name that responded to the solicitation and/or is signing the agreement with the County. If Construction Manager at Risk is a Joint Venture per Section A. titled Joint Venture of this RFP, Certificate of Insurance and Named Insured must show Joint Venture Legal Entity name and the Joint Venture must comply with the requirements of Section C with regard to limits, terms and conditions, including completed operations coverage.
 - 2) Companies issuing the insurance policy, or policies, shall have no recourse against County for payment of premiums or assessments for any deductibles which all are at the sole responsibility and risk of Construction Manager at Risk.
 - 3) The term "County" or "Pinellas County" shall include all Authorities, Boards, Bureaus, Commissions, Divisions, Departments and Constitutional offices of County and individual members, employees thereof in their official capacities, and/or while acting on behalf of Pinellas County.
 - 4) The policy clause "Other Insurance" shall not apply to any insurance coverage currently held by County or any such future coverage, or to County’s Self-Insured Retentions of whatever nature.
 - 5) All policies shall be written on a primary, non-contributory basis. Any Certificate(s) of Insurance evidencing coverage provided by a leasing company for either workers compensation or commercial general liability shall have a list of covered employees certified by the leasing company attached to the Certificate(s) of Insurance. The County shall have the right, but not the obligation to determine that the Construction Manager at Risk is only using employees named on such list to perform work for the County. Should employees not named be utilized by Construction Manager at Risk, the County, at its option may stop work without penalty to the County until proof of coverage or removal of the employee by the contractor occurs, or alternatively find the Construction Manager at Risk to be in default and take such other protective measures as necessary.
 - 6) Insurance policies, other than Professional Liability, shall include waivers of subrogation in favor of Pinellas County from both the Construction Manager at Risk and subcontractor(s).

- i. The minimum insurance requirements and limits for this Agreement, which shall remain in effect throughout its duration and for 2 years beyond final acceptance for projects with a Completed Operations exposure, are as follows:
 1. **Workers’ Compensation Insurance** Worker’s Compensation Insurance is required if required pursuant to Florida law. If, pursuant to Florida law, Worker’s Compensation Insurance is required, employer’s liability, also known as Worker’s Compensation Part B, is also required in the amounts set forth herein.

Limits

Employers’ Liability Limits	Florida Statutory
Per Employee	\$ 500,000
Per Employee Disease Policy	\$ 500,000
Limit Disease	\$ 500,000

EXHIBIT K – INSURANCE REQUIREMENTS

If Vendor/Contractor is not required by Florida law, to carry Workers Compensation Insurance in order to perform the requirements of this Agreement, County Waiver Form for workers compensation must be executed, submitted, and accepted by Risk Management. Failure to obtain required Worker’s Compensation Insurance without submitting and receiving a waiver from Risk Management constitutes a material breach of this Agreement.

2. **Commercial General Liability Insurance** including, but not limited to, Independent Vendor, Contractual Liability Premises/Operations, Products/Completed Operations, and Personal Injury. No explosion, collapse, or underground damage, crane length or boom weight exclusions allowed.

Limits

Combined Single Limit Per Occurrence	\$ 1,000,000
Products/Completed Operations Aggregate	\$ 2,000,000
Personal Injury and Advertising Injury	\$ 1,000,000
General Aggregate	\$ 2,000,000

3. **Business Automobile or Trucker’s/Garage Liability Insurance** covering owned, hired, and non- owned vehicles. If the Consultant does not own any vehicles, then evidence of Hired and Non-owned coverage is sufficient. Coverage shall be on an "occurrence" basis, such insurance to include coverage for loading and unloading hazards, unless Consultant can show that this coverage exists under the Commercial General Liability policy.

Limit

Combined Single Limit Per Accident	\$1,000,000
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4. **Excess or Umbrella Liability Insurance** excess of the primary coverage required, in paragraphs (1), (2), and (3) above. No explosion, collapse, or underground damage, crane length or boom weight exclusions allowed.

Limits

Each Occurrence	\$ 10,000,000
General Aggregate	\$ 10,000,000

5. **Pollution Legal/Environmental Legal Liability Insurance** for pollution losses arising from all services performed to comply with this contract. Coverage shall apply to sudden and gradual pollution conditions including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water, which results in Bodily Injury or Property Damage. If policy is written on a Claims Made form, a retroactive date is required, and coverage must be maintained for 3 years after completion of contract or “tail coverage must be purchased. Coverage should include and be for the at least the minimum limits listed below:

- a. Bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death; property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed;
- b. Defense including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensation damages.
- c. Cost of Cleanup/Remediation.

Limits

Per Claim or Occurrence	\$ 1,000,000
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EXHIBIT K – INSURANCE REQUIREMENTS

General Aggregate \$ 1,000,000

For acceptance of Pollution Legal/Environmental Legal Liability coverage included within another policy coverage required herein, a statement notifying the certificate holder must be included on the certificate of insurance and the total amount of said coverage per occurrence must be greater than or equal to the amount of Pollution Legal/Environmental Legal Liability and other coverage combined.

- 6. **Professional Liability (Errors and Omissions) Insurance** with at least minimum limits as follows. If “claims made” coverage is provided, “tail coverage” extending three (3) years beyond completion and acceptance of the project with proof of “tail coverage” to be submitted with the invoice for final payment. In lieu of “tail coverage”, Proposer may submit annually to the County, for a three (3) year period, a current certificate of insurance providing “claims made” insurance with prior acts coverage in force with a retroactive date no later than commencement date of this contract.

Limits

Each Occurrence or Claim \$ 5,000,000
 General Aggregate \$ 5,000,000

For acceptance of Professional Liability coverage included within another policy required herein, a statement notifying the certificate holder must be included on the certificate of insurance and the total amount of said coverage per occurrence must be greater than or equal to the amount of Professional Liability and other coverage combined.

- 7. **Builders Risk/Installation Floater Insurance** County property shall be covered by proof of a Builders Risk policy and/or Installation Floater policy covering the interests of Pinellas County property until final acceptance of building or of installed equipment is granted and coverage period shall include testing. Coverage shall be maintained for the entire time the property and/or equipment is in the Proposer’s care, custody, and/or control, including onsite and offsite storage and transit. Limit and valuation shall be replacement cost. If the Proposer delivers materials and/or equipment and loads same using a crane, then no crane, boom, jig, or weight exclusion shall apply. Proposer’s property, installation floater, builders risk, if required, and/or equipment policy shall contain a waiver of subrogation in favor of the County. All deductibles will be the responsibility of the Proposer unless County agrees in writing. Builders Risk policies shall be written in the name of the County, the contractor and all subcontractors as their interests may appear. Installation and/or Equipment policies must name the County as a Loss Payee.

Limit Guaranteed Maximum Price of New Construction

- 8. **Property Insurance** Vendor will be responsible for all damage to its own property, equipment and/or materials.

EXHIBIT L - CONSTRUCTION PHASE FEE PROPOSAL

EXHIBIT L - CONSTRUCTION MANAGER AT RISK
PRE-CONSTRUCTION PHASE FEE PROPOSAL



October 3, 2024

Attn.: Scott Yarley
St. Pete-Clearwater International Airport
14700 Terminal Blvd.; Suite 221
Clearwater, Fl 33762

Re: Preconstruction Services Proposal

Mr. Yarley:

Manhattan Construction Company is grateful for the opportunity to present this proposal for Preconstruction Services for review and consideration. This Preconstruction Services proposal is based on an anticipated cost for construction of \$100M and has been adjusted for the preconstruction duration of 19 months per your schedule forwarded on August 6, 2024.

SITE VISIT AND INVESTIGATION:

The following Manhattan Employees will travel to the project site:

- 1) Jack Fletcher
- 2) Carl Giovenco
- 3) Roberto Moreno

The site visit will allow Manhattan precon and project teams to better understand the challenges and constraints associated with the project and its associated site.

PROJECT MEETINGS:

Design Phase Review Meetings:

Manhattan will participate in milestone design review meetings starting November 2024 with the final design review meeting anticipated for June 2026. Manhattan will attend 5 design review meetings during this period.

Conference Calls:

Manhattan will participate in bi-weekly conference calls starting November 2024 with the final conference call anticipated for June 2026. Manhattan will attend 16 conference calls.

Pre-bid Meetings:

Manhattan will prepare and participate in two Pre-bid meeting anticipated for August 2025 and January 2026.

DOCUMENT REVIEW REPORTING:

- 1) A Logistics Plan will be prepared and included with the Design Development Budget Update and updated at each consecutive design deliverable thereafter.
- 2) A Staging Plan will be prepared and included with the Design Development Budget Update and updated at each consecutive design deliverable thereafter.
- 3) Constructability Reviews will be completed at each design deliverable starting at Schematic Design.

**BUDGET UPDATES:**

Manhattan will prepare the following Budget Updates:

- 1) Conceptual Estimate
- 2) Project Specific SD Budget Update - The Schematic Budget will be provided 20 days following receipt of the Schematic Documents as defined by the AIA Checklist.
- 3) Project Specific DD Budget Update - The Design Development Budget will be provided 30 days following receipt of the Design Development Documents as defined by the attached AIA Checklist.
- 4) Manhattan has included 60 hours of Value Management Analysis and Case Studies in this proposal. Additional Analysis and Studies will be provided at agreed staff rates.
- 5) Phasing analysis and recommendations for cost savings will be included in each budget package as needed.

CASH FLOW ANALYSIS:

Manhattan will prepare and provide a cash flow analysis with both the Design Development Budget Update document and the Construction Document Review Update.

BID DOCUMENT PREPARATION:

Manhattan anticipates two (2) Bid Packages for this project. An Enabling Bid Package consisting of the following scopes of work:

- 1) Demolition
- 2) Earthwork
- 3) Utilities
- 4) Long lead items, major equipment, Owner Direct Purchases

A second Bid Package is anticipated for the balance of the scopes for this project.

The following documents will be prepared for bidding purposes:

- 1) Construction Manager's Bid Instructions
- 2) Scope Packages
- 3) Construction Schedule
- 4) Logistics Plan
- 5) Safety Plan

Manhattan will solicit contractors and vendors specifically for this project.

GMP PREPARATION AND PRESENTATION:

Manhattan will prepare and present an Initial GMP Thirty "30" Days following the bid day of the Enabling Bid Package.

Manhattan will prepare and present a Final GMP six (6) weeks following the bid day of the Final Bid Package.

Both Bid Packages will include the following documents:



- 1) A letter of recommendation will provide for each bid package identifying the scope package number, scope package description, name of the recommended contractor and award amount.
- 2) Bid Day and Bid Leveling tabs
- 3) Schedule
- 4) Clarifications and Assumptions
- 5) GMP Contract Amendment

CONSTRAINTS AND EXCLUSIONS:

- 1) Manhattan shall provide formal estimates of construction costs. The estimate shall be based on relevant and reliable estimating techniques, historical analysis of cost, vendor input. Manhattan shall provide as accurate of an estimate as is reasonably possible based on the project information available.
- 2) Manhattan will provide a cost estimate by Master Format Divisional breakdown. Additionally, the building will be identified separately from the site.
- 3) Manhattan will provide allowances for undefined items required for the completion of construction.
- 4) Manhattan is not liable for code compliance and/or interpretations relating to design performed by the Designer or any of its consultants or any Owner Consultant. Manhattan will assume design as provided is code compliant.

Manhattan Construction is proposing providing staff and personnel to perform the above noted services for a Lump Sum of ***Three Hundred Seventy Four Thousand Eight Hundred and Ninety Five Dollars (\$374,895.00)***:

We have attached to this proposal a detailed schedule and corresponding cost estimate for your review based on the anticipated timeline of design progression.

Sincerely,

A handwritten signature in blue ink that reads "J. Michael Miller".

J. Michael Miller

Vice President

Manhattan Construction Company

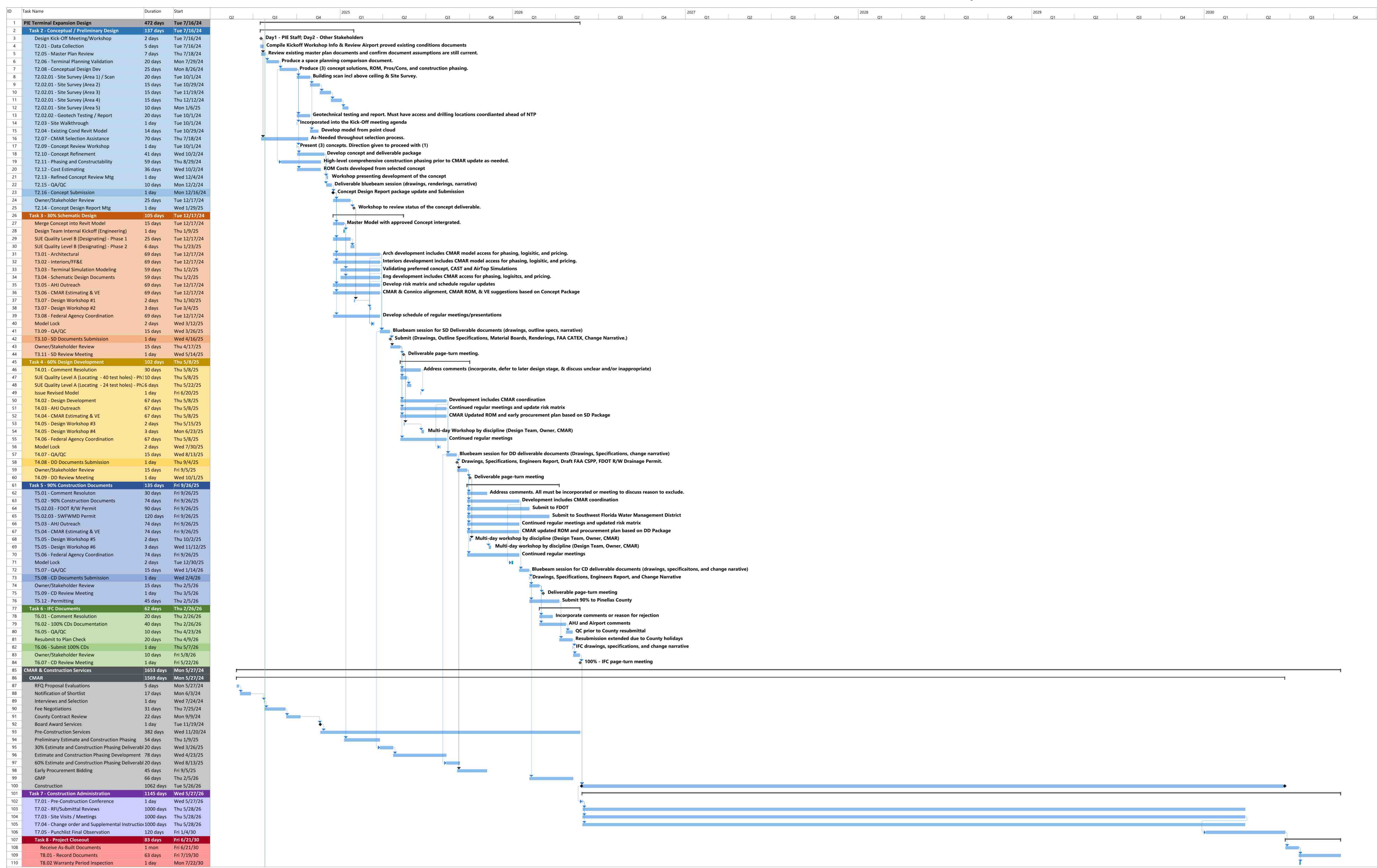


EXHIBIT "A"
PIE TERMINAL EXPANSION - PRECONSTRUCTION RATES
STANDARD RATES SCHEDULE

Hourly Professional Staff Rates		
Description	Effective until 6/30/25	Effective 7/1/25 to 6/30/26
Project Principal	\$ 308	\$ 324
Operations Manager	\$ 279	\$ 292
Project Director	\$ 222	\$ 233
Senior Project Manager	\$ 183	\$ 192
Project Manager 1 & 2	\$ 129	\$ 136
Asst. Project Manager	\$ 108	\$ 114
Senior Superintendent	\$ 191	\$ 201
Superintendent 1 & 2	\$ 145	\$ 152
Preconstruction Director	\$ 220	\$ 231
Sr. Preconstruction Manager	\$ 201	\$ 211
Preconstruction Manager	\$ 175	\$ 184
Sr. Mechanical Estimator	\$ 154	\$ 161
Sr. Electrical Estimator	\$ 154	\$ 161
Senior Estimator	\$ 150	\$ 158
Mechanical Estimator	\$ 107	\$ 112
Electrical Estimator	\$ 107	\$ 112
Estimator 2	\$ 100	\$ 105
Estimator 1	\$ 83	\$ 88
Sr. Safety Manager	\$ 164	\$ 172
Safety Manager 1	\$ 116	\$ 121
Sr. Scheduler	\$ 170	\$ 178
Scheduler 1	\$ 106	\$ 111
Hourly Professional Staff Rates		
Description	Effective until 6/30/25	Effective 7/1/25 to 6/30/26
Project Accountant 1 & 2	\$ 80	\$ 84
VDC Director	\$ 167	\$ 175
Sr. VDC Manager	\$ 143	\$ 150
VDC Manager 1 & 2	\$ 126	\$ 132
Contract Administrator 1	\$ 59	\$ 62

Notes:

- 1 The agreed upon rates set forth above shall be applied as costs for project workers. The above rates are based upon 2,080 annual work hours and the understanding that sick leave, holiday and vacation time are job chargeable as allowable cost of work. The application of the rates can be validated during the project; however, the rates themselves are not subject to audit.
- 2 Staff Rates are valid through June 30, 2026.
Beginning July 1st of each following year, the staff rates will increase year over year by: 5%.
- 3 Staff Rates Include:
 - A Compensation, insurance, taxes, group medical, 401K matching, training and other compensation benefits
 - B Project office computers, server, frame relay and network connection
 - C Cell phone equipment & service plan
 - D Senior Superintendent, Superintendent, Sr Safety Manager and Safety Manager rates above include Truck lease, fuel and routine maintenance (such as oil changes, tires and brakes).



EXHIBIT "A"
PIE TERMINAL EXPANSION - PRECONSTRUCTION RATES
STANDARD RATES SCHEDULE

Hourly Professional Staff Rates		
Description	Effective until 6/30/25	Effective 7/1/25 to 6/30/26
Project Director	\$ 208	\$ 217
Project Manager 1 & 2	\$ 110	\$ 118
Asst. Project Manager	\$ 85	\$ 94
Senior Superintendent	\$ 164	\$ 175
Superintendent 1 & 2	\$ 97	\$ 108
Preconstruction Director	\$ 175	\$ 184
Sr. Preconstruction Manager	\$ 145	\$ 154
Preconstruction Manager	\$ 110	\$ 118
Estimator 2	\$ 92	\$ 100
Estimator 1	\$ 85	\$ 94
Sr. Safety Manager	\$ 153	\$ 161

24-0333-RFP-CMAR

Passenger Terminal Improvements – Construction Manager at Risk (CMAR)

Page 94 of 174

EXHIBIT M –REQUEST FOR PROPOSAL SOLICITATION

PINELLAS COUNTY BOARD OF COUNTY COMMISSIONERS
400 S. FT. HARRISON AVENUE
ANNEX BUILDING – 6TH FLOOR
CLEARWATER, FL 33756



REQUEST FOR PROPOSAL

CCNA PROFESSIONAL SERVICES NON-CONTINUING CONTRACT

*SUBMITTALS ARE OPENED PUBLICLY AND
ARE ACCEPTED VIA OPENGOV*

THE MISSION OF PINELLAS COUNTY

Pinellas County Government is committed to progressive public policy, superior public service, courteous public contact, judicious exercise of authority and sound management of public resources to meet the needs and concerns of our citizens today and tomorrow.

ISSUE DATE: April 5, 2024

SOLICITATION NUMBER: 24-0333-RFP-CMAR

SOLICITATION TITLE: Passenger Terminal Improvements - Construction Manager at Risk (CMAR)

DEADLINE FOR WRITTEN QUESTIONS: May 10, 2024 by 3:00 PM Eastern Time

SUBMIT QUESTIONS: ALL QUESTIONS MUST BE SUBMITTED IN OPENGOV WITHIN THE Q&A - SECTION.

ALL SUBMITTALS ARE DUE BY: May 24, 2024 by 3:00 PM Eastern Time

PRE-CONFERENCE INFORMATION: N/A

SITE VISIT INFORMATION: See Section B No. 4 below

SOLICITATION CONTACT INFORMATION:

NAME: Pamela Ulrich, Lead Procurement Analyst

EMAIL: plulrich@pinellas.gov

SUBMITTALS MAY NOT BE WITHDRAWN FOR 120 DAYS AFTER OPENING DATE.

The Purchasing and Risk Management Division for the Pinellas County Board of County Commissioners has transitioned to OpenGov Procurement for contractor/vendor registration, and for posting, submitting and receiving bids, quotes and proposals for active solicitations. Contractors/Vendors must register with OpenGov Procurement (<https://procurement.opengov.com/signup>) to bid on active County solicitations.

Should you need technical assistance with OpenGov, the following options are available for assistance:

- Phone: (855) 680-4747, 8 a.m. to 8 p.m., Monday - Friday
- Email: procurement-support@opengov.com
- Chat is available in the OpenGov application
- Web: <https://help.procurement.opengov.com>

Please Note:

From time to time, addenda may be issued to this solicitation. Any such addenda will be posted on the same Web site, www.pinellascounty.org/purchase/Current_Bids1.htm, from which you obtained this solicitation.

Before submitting, you should check our Web site to download any addenda that may have been issued. Please remember to sign and return Addenda Acknowledgement Form with completed bid package if applicable.

AUTHORIZED BY:

Merry Celeste, CPPB

Division Director of Purchasing and Risk Management

VENDORS MUST COMPLETE THE FOLLOWING

NO CHANGES REQUESTED BY A PROPOSER WILL BE CONSIDERED AFTER THE RFP OPENING DATE AS ADVERTISED. BY SIGNING THIS PROPOSAL FORM YOU ARE AGREEING TO ALL PROPOSAL TERMS AND CONDITIONS INCLUDING ALL INSURANCE REQUIREMENTS.

VENDOR NAME: _____ (As shown on W-9)
DBA: _____ (If applicable)
MAILING ADDRESS: _____ (As shown on W-9)
CITY / STATE / ZIP: _____ (As shown on W-9)
VENDOR EMAIL: _____ (Primary Company Email Address)
REMIT TO NAME: _____ (As Shown on Vendor Invoice)
FEIN#: _____ (As shown on W-9)

PAYMENT TERMS: ____% ____DAYS, NET 45 (PER F.S. 218.73)
DEPOSIT, IF REQUIRED, IS ATTACHED IN THE AMOUNT OF \$ _____

Proper Corporate Identity is needed when you submit your quote, especially how your firm is registered with the Florida Division of Corporations. Please visit dos.myflorida.com/sunbiz/ for this information. It is essential to return a copy of your W-9 with your quote. Thank you.

VENDOR CONTACT INFORMATION

CONTACT NAME: _____
PHONE NUMBER: _____
FAX NUMBER: _____
EMAIL ADDRESS: _____

I HEREBY AGREE TO ABIDE BY ALL TERMS AND CONDITIONS OF THIS SOLICITATION, INCLUDING ALL INSURANCE REQUIREMENTS, AND CERTIFY THAT I AM AUTHORIZED TO SIGN THIS SOLICITATION FOR THE VENDOR.

AUTHORIZED SIGNATURE: _____
PRINT NAME: _____
TITLE: _____

THIS FORM MUST BE RETURNED WITH YOUR RESPONSE

TABLE OF CONTENTS

TABLE OF CONTENTS 4

SECTION A - GENERAL CONDITIONS 6

1. CONTRACTOR SUBMISSION 6

2. WRITTEN REQUESTS FOR INTERPRETATIONS/CLARIFICATIONS..... 6

3. RIGHTS OF PINELLAS COUNTY IN REQUEST FOR PROPOSAL PROCESS..... 6

4. COSTS INCURRED BY PROPOSERS 6

5. ORAL PRESENTATION 6

6. CONFLICT OF INTEREST 6

7. WITHDRAWAL OF PROPOSAL..... 7

8. LATE PROPOSAL OR MODIFICATIONS 7

9. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS..... 7

10. RIGHT TO AUDIT 7

11. SCRUTINIZED COMPANIES AND PUBLIC ENTITIES CRIME ACT 7

12. COUNTY INDEMNIFICATION..... 7

13. TERMINATION 8

14. ASSIGNMENT/SUBCONTRACTING/CORPORATE ACQUISITIONS AND/OR MERGERS 8

15. LOBBYING 8

16. PROTEST PROCEDURE 9

17. INTEGRITY OF REQUEST FOR PROPOSAL (RFP) DOCUMENTS..... 10

18. AGREEMENT 10

19. OWNERSHIP OF DOCUMENTS..... 10

20. INDEPENDENT CONTRACTOR STATUS AND COMPLIANCE WITH THE IMMIGRATION REFORM AND CONTROL ACT OF 1986 10

21. PROHIBITION AGAINST CONTINGENT FEE 11

22. TRUTH IN NEGOTIATIONS:..... 11

23. JOINT VENTURES 11

24. PAYMENT/INVOICES..... 11

25. TAXES 12

26. DISPUTE RESOLUTION FOR PINELLAS COUNTY BOARD OF COUNTY COMMISSIONERS IN MATTERS OF INVOICE PAYMENTS..... 12

27. INSURANCE 13

28. PUBLIC RECORDS/TRADE SECRETS 13

29. PUBLIC RECORDS – CONTRACTOR’S DUTY..... 14

30. SMALL BUSINESS ENTERPRISE (SBE) PROGRAM..... 14

31. E-VERIFY..... 14

SECTION B – SPECIAL CONDITIONS 16

1. INTENT 16

2. PERIOD OF CONTRACT 16

3. TERM EXTENSION(S) OF CONTRACT 16

4. NON-MANDATORY SITE VISIT..... 16

5. PRE-COMMENCEMENT MEETING – Not Applicable 16

6. EVALUATION CRITERIA FOR WRITTEN PROPOSALS..... 16

7. EVALUATION CRITERIA FOR ORAL PRESENTATIONS 18

8. INFORMATION PACKAGE..... 18

9. SUBMITTAL REQUIREMENTS 18

10. PROPOSAL SUBMITTAL COPIES..... 20

11. EQUAL OPPORTUNITY / GIFT & GRATUITY POLICY 20

12. BREACH OF CONTRACT..... 21

LIMITATIONS ON LIABILITY 21

INDEMNIFICATION..... 21

INSURANCE REQUIREMENTS..... 22

PHASE 1 INSURANCE REQUIREMENTS – DESIGN..... 23

PHASE 2 INSURANCE REQUIREMENTS – CONSTRUCTION SERVICES..... 25

SECTION D – CONTRACTOR REFERENCES 29

SECTION E – SCOPE OF WORK..... 30

ELECTRONIC PAYMENT (EPAYABLES)..... 37

W-9 REQUEST FOR TAXPAYER ID NUMBER AND CERTIFICATION 38

SECTION G - ADDENDUM 39
SECTION H – STATEMENT OF NO BID 40
APPENDIX 1 – E-VERIFY AFFIDAVIT 41
ATTACHMENT A: SMALL BUSINESS ENTERPRISE (SBE) STATUS FORM 42
EXHIBIT N - CONSTRUCTION PHASE FEE PROPOSAL..... 43
EXHIBIT O - FDOT CONTRACT PROVISIONS..... 45
EXHIBIT P - FAA CONTRACT PROVISIONS..... 47

SECTION A - GENERAL CONDITIONS**SECTION A - GENERAL CONDITIONS****1. CONTRACTOR SUBMISSION**

Submittals shall be uploaded utilizing OpenGov procurement website (<https://secure.procurenow.com/portal/pinellasfl>)

- a. Failure to comply could result in the submittal being rejected.
- b. Submittals must be on the forms furnished. Submittals sent via email will not be considered.

2. WRITTEN REQUESTS FOR INTERPRETATIONS/CLARIFICATIONS

No oral interpretations will be made to any firms as to the meaning of specifications or any other contractor documents. All questions pertaining to the terms and conditions or scope of work of this solicitation must be sent in writing (electronically) to the Purchasing and Risk Management Division and received by the date specified in solicitation. Responses to questions may be handled as an addendum if the response would provide clarification to requirements of the solicitation. All such addenda shall become part of the agreement documents. The County will not be responsible for any other explanation or interpretation of the proposed solicitation made or given prior to the award of the agreement. The Purchasing and Risk Management Division will be unable to respond to questions received after the specified time frame.

3. RIGHTS OF PINELLAS COUNTY IN REQUEST FOR PROPOSAL PROCESS

In addition to all other rights of the County under Florida law, the County specifically reserves the following:

- a. Pinellas County reserves the right to rank firms and negotiate with the highest-ranking firm. Negotiation with an individual proposer does not require negotiation with others.
- b. Pinellas County reserves the right to select the proposal that it believes will serve the best interest of Pinellas County.
- c. Pinellas County reserves the right to reject any or all submittals. The respective constitutional officer, county administrator on behalf of the board of county commissioners or within their delegated financial approval authority, or director of purchasing, within their delegated financial approval authority shall have the authority when the public interest will be served thereby to reject all submittals or parts of submittals at any stage of the procurement process through the award of the agreement.
- d. Pinellas County reserves the right to cancel the entire Request for Proposal.
- e. Pinellas County reserves the right to remedy or waive minor informalities or irregularities, or immaterial errors in the Request for Proposal or in proposals submitted.
- f. Pinellas County reserves the right to request any necessary clarifications or proposal data without changing the terms of the proposal.

4. COSTS INCURRED BY PROPOSERS

All expenses involved with the preparations and submissions to the County and any oral presentations, or any work performed in connection therewith, shall be borne solely by the contractor(s). No payment will be made for any responses received, or for any other effort required of, or made by, the contractor(s) prior to contract commencement unless otherwise specified in the Scope of Work in this solicitation.

5. ORAL PRESENTATION

An oral presentation may be requested of any contractor, at the Evaluation Committee's discretion. If an oral presentation is requested the written evaluation process shall be utilized to short list proposals. If required as part of the evaluation process, the oral presentation shall be scored as specified in the Scope of Work of the RFP. The most qualified contractor as determined by evaluation process shall proceed with the contracting process.

6. CONFLICT OF INTEREST

- a. The contractor represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder. The contractor further represents that no person having any such interest shall be employed during the agreement term and any extensions. In addition, the contractor shall not offer gifts or gratuities to County employees as County employees are not permitted to accept gifts or gratuities. By signing this document, the contractor acknowledges that no gifts

SECTION A - GENERAL CONDITIONS

or gratuities have been offered to County employees or anyone else involved in this competitive solicitation process.

- b. The contractor shall promptly notify the County's representative, in writing, by certified mail, of all potential conflicts of interest for any prospective business association, interest, or other circumstance, which may influence or appear to influence the contractor's judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the contractor may undertake and request an opinion of the County as to whether the association, interest or circumstance would, in the opinion of the County, constitute a conflict of interest if entered into by the contractor. The County agrees to notify the contractor of its opinion, by certified mail, within thirty days of receipt of notification by the contractor.
- c. It is essential to government procurement that the process be open, equitable and ethical. To this end, if potential unethical practices including but not limited to collusion, receipt or solicitation of gifts and conflicts of interest (direct/indirect) etc. are observed or perceived, please report such activity to:

Pinellas County Clerk of Circuit Court – Division of Inspector General

Phone – (727) 45FRAUD (453-7283)

Fax – 727-464-8386

7. WITHDRAWAL OF PROPOSAL

The submittal may be withdrawn prior to the bid opening date, however, a submittal may not be withdrawn for a period of time as specified in this solicitation document.

8. LATE PROPOSAL OR MODIFICATIONS

- a. Submittals and modifications received after the time set for the submission will not be considered. This upholds the integrity of the process.
- b. Modifications in writing received prior to the time set for the submittal will be accepted.

9. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

The laws of the State of Florida apply to any purchase made under this solicitation. Contractors shall comply with all local, state, and federal directives, orders and laws as applicable to this solicitation and subsequent agreement(s) including but not limited to Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, Equal Employment Opportunity (EEO), Minority Business Enterprise (MBE), and OSHA as applicable to this agreement.

10. RIGHT TO AUDIT

Pinellas County reserves the privilege of auditing a contractor's records as such records relate to purchases between Pinellas County and said contractor. Such audit privilege is provided for within the text of the Pinellas County Code §2-187. Records should be maintained for five (5) years from the date of final payment.

11. SCRUTINIZED COMPANIES AND PUBLIC ENTITIES CRIME ACT

Contractor is directed to the Florida Public Entity Crime Act, Fla. Stat. 287.133, and Fla. Stat. 287.135 regarding Scrutinized Companies, and Contractor agrees that its bid and, if awarded, its performance of the agreement will comply with all applicable laws including those referenced herein. Contractor represents and certifies that Contractor is and will at all times remain eligible to bid for and perform the services subject to the requirements of these, and other applicable, laws. Contractor agrees that any contract awarded to Contractor will be subject to termination by the County if Contractor fails to comply or to maintain such compliance.

12. COUNTY INDEMNIFICATION

If the CONSULTANT is an individual or entity licensed by the State of Florida who holds a current certificate of registration or is qualified under Chapter 481, Florida Statutes, to practice architecture or landscape architecture, under Chapter 472, Florida Statutes, to practice land surveying and mapping, or under Chapter 471, Florida Statutes, to practice engineering, and who enters into a written agreement with the COUNTY relating to the planning, design, construction, administration, study, evaluation, consulting, or other professional and technical support services furnished in connection with any actual or proposed construction, improvement, alteration,

SECTION A - GENERAL CONDITIONS

repair, maintenance, operation, management, relocation, demolition, excavation, or other facility, land, air, water, or utility development or improvement, the CONSULTANT will indemnify and hold harmless the COUNTY, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct, or for any violation of requirements of the Americans with Disabilities Act of 1990, as may be amended, and all rules and regulations issued pursuant thereto (collectively the "ADA") of the CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of the Agreement.

13. TERMINATION

- a. Pinellas County reserves the right to terminate this agreement, without cause by giving thirty (30) days prior written notice to the Contractor of the intention to terminate or with cause if at any time the Contractor fails to fulfill or abide by any of the terms or conditions specified.
- b. Failure of the Contractor to comply with any of the provisions of this Agreement shall be considered a material breach of Agreement and shall be cause for immediate termination of the Agreement at the sole discretion of Pinellas County.
- c. In addition to all other legal remedies available to the Pinellas County, the Pinellas County reserves the right to terminate and obtain from another source any services which have not been provided within the period of time stated in the proposal, or if no such time is stated, within a reasonable period of time from the date of request, as determined by the Pinellas County.
- d. In the event that sufficient budgeted funds are not available for a new fiscal period, the Pinellas County shall notify the Contractor of such occurrence and the Agreement shall terminate on the last day of the then current fiscal year period without penalty or expense to the Pinellas County.

14. ASSIGNMENT/SUBCONTRACTING/CORPORATE ACQUISITIONS AND/OR MERGERS

The contractor shall perform this agreement. If a contractor intends to subcontract a portion of this work, the contractor must disclose that intent in the solicitation. No assignment or subcontracting shall be allowed without prior written consent of the County. In the event of a corporate acquisition and/or merger, the contractor shall provide written notice to the County within thirty (30) business days of contractor's notice of such action or upon the occurrence of said action, whichever occurs first. The right to terminate this agreement, which shall not be unreasonably exercised by the County, shall include, but not be limited to, instances in which a corporate acquisition and/or merger represent a conflict of interest or are contrary to any local, state, or federal laws. Action by the County awarding an agreement to a contractor, which has disclosed its intent to assign or subcontract in its response to the solicitation, without exception shall constitute approval for purposes of this agreement. The contractor must inform the County in writing within forty-five (45) business days if the contractor's business entity's name changes. The contractor will bear all responsibility and waive any rights it may have to relief for any delay in processing a payment associated with the County's inability to issue payment to the contractor for a business entity name change that the County was not made aware of as reflected herein.

15. LOBBYING

"Lobbying shall be prohibited on all county competitive selection processes and purchasing contract awards pursuant to this division, including, but not limited to, requests for proposals, requests for quotations, requests for qualifications, bids or the award of purchasing contracts of any type. The purpose of this prohibition is to protect the integrity of the procurement process by shielding it from undue influences prior to the contract award, or the competitive selection process is otherwise concluded. However, nothing herein shall prohibit a prospective bidder/proposer/protestor from contacting the purchasing department or the county attorney's office to address situations such as clarification and/or pose questions related to the procurement process.

Lobbying of evaluation committee members, county government employees, elected/appointed officials, or advisory board members regarding requests for proposals, requests for quotations, requests for qualifications, bids, or purchasing contracts, by the bidder/proposer, any member of the bidder's/proposer's staff, any agent or representative of the bidder/proposer, or any person employed by any legal entity affiliated with or representing a bidder/proposer/protestor, is strictly prohibited from the date of the advertisement, or on a date otherwise established by the board, until either an award is final, or the competitive selection process is otherwise concluded. Any lobbying

SECTION A - GENERAL CONDITIONS

activities in violation of this section by or on behalf of a bidder/proposer shall result in the disqualification or rejection of the proposal, quotation, statement of qualification, bid or contract.

For purposes of this provision, "lobbying" shall mean influencing or attempting to influence action or non-action, and/or attempting to obtain the goodwill of persons specified herein relating to the selection, ranking, or contract award in connection with any request for proposal, request for quotation, request for qualification, bid or purchasing contract through direct or indirect oral or written communication. The final award of a purchasing contract shall be the effective date of the purchasing contract.

Any evaluation committee member, county government employee, elected/appointed official, or advisory board member who has been lobbied shall immediately report the lobbying activity to the director."

(Ord. No. 02-35, 5-7-02; Ord. No. 04-64, § 12, 9-21-04; Ord. No. 04-87, § 1, 12-7-04; Ord. No. 10-09, § 6, 2-16-10; Ord. No. 11-23, § 2, 7-26-11; Ord. No. 14-11, § 5, 2-11-14; Ord. No. 18-34, 10-23-18).

16. PROTEST PROCEDURE

As per Section 2-162 of County Code

- a. Right to Protest. "A vendor who is aggrieved by the contents of the bid or proposal package, or a vendor who is aggrieved in connection with the recommended award on a bid or proposal solicitation, may file a written protest to the director, as provided herein. This right to protest is strictly limited to those procurements of goods and/or services solicited through invitations to bid or requests for proposals, including solicitations pursuant to F.S. § 287.055, the "Consultants' Competitive Negotiation Act." No other actions or recommendations in connection with a solicitation can be protested, including: (i) requests for quotations, negotiations, qualifications or letters of interest; (ii) rejection of some, all or parts of bids or proposals; (iii) disqualification of bidders or proposers as non-responsive or non-responsible; or (iv) recommended awards less than the mandatory bid or proposal amount. Protests failing to comply with the provisions of this section shall not be reviewed."
- b. "Posting. The purchasing department shall post the recommended award on or through the departmental website."
- c. Requirements to protest.
 1. "If the protest relates to the content of the bid or proposal package, a formal written protest must be filed no later than 5:00 p.m. EST on the fifth full business day after issuance of the bid or proposal package."
 2. "If the protest relates to the recommended award of a bid or proposal, a formal written protest must be filed no later than 5:00 p.m. EST on the fifth full business day after posting of the award recommendation."
 3. "The formal written protest shall identify the protesting party and the solicitation involved; include a statement of the grounds on which the protest is based; refer to the statutes, laws, ordinances or other legal authorities which the protesting party deems applicable to such grounds; and specifically request the relief to which the protesting party deems itself entitled by application of such authorities to such grounds."
 4. "A formal written protest is considered filed with the county when the purchasing department receives it. Accordingly, a protest is not timely filed unless it is received within the time specified above by the purchasing department. Failure to file a formal written protest within the time period specified shall constitute a waiver of the right to protest and result in relinquishment of all rights to protest by the bidder or proposer."
- d. "Sole remedy. These procedures shall be the sole remedy for challenging the content of the bid or proposal package or the recommended award."
- e. "Lobbying. Protestors and anyone acting on their behalf, are prohibited from attempts to influence, persuade, or promote a bid or proposal protest through any other channels or means, and contacting any county official, employee, advisory board member, or representative to discuss any matter relating in any way to the solicitation being protested, other than the purchasing department's or county attorney's office to address situations such as clarification and/or pose questions related to the procurement process. The prohibitions provided for herein shall begin with the filing of the protest and end upon the final disposition of the protest; provided, however, at all times protestors shall be subject to the procurement lobbying prohibitions in section 2-189 of this Code. Failure to adhere to the prohibitions herein shall result in the rejection of the protest without further consideration."

SECTION A - GENERAL CONDITIONS

- f. "Time limits. The time limits in which protests must be filed as specified herein may be altered by specific provisions in the bid or proposal."
- g. "Authority to resolve. The director shall resolve the protest in accordance with the documentation and applicable legal authorities and shall issue a written decision to the protestor no later than 5:00 p.m. EST on the tenth full business day after the filing thereof."
- h. "Review of director's decision."
 - 1. "The protesting party may request a review of the director's decision to the county administrator by delivering written request for review of the decision to the director by 5:00 p.m. EST on the fifth full business day after the date of the written decision. The written notice shall include any materials, statements, and arguments which the bidder or proposer deems relevant to the issues raised in the request to review the decision of the director."
 - 2. "The county administrator shall issue a decision in writing stating the reason for the action with a copy furnished to the protesting party no later than 5:00 p.m. EST on the seventh full business day after receipt of the request for review. The decision shall be final and conclusive as to the county unless a party commences action in a court of competent jurisdiction."
- i. "Stay of procurement during protests. There shall be no stay of procurement during protests."

(Ord. No. 94-51, § 5, 6-7-94; Ord. No. 04-87, § 1, 12-7-04; Ord. No. 14-11, § 2, 2-11-14; Ord. No. 18-34, 10-23-18)

17. INTEGRITY OF REQUEST FOR PROPOSAL (RFP) DOCUMENTS

Contractors shall use the original solicitation form(s) provided by the Purchasing & Risk Management Division and enter information only in the spaces where a response is requested. Contractors may use an attachment as an addendum to the solicitation form(s) if sufficient space is not available on the original form for the contractor to enter a complete response. Any modifications or alterations to the original solicitation documents by the contractor, whether intentional or otherwise, will constitute grounds for rejection of a solicitation. Any such modifications or alterations a contractor wishes to propose must be clearly stated in the contractor's submittal response and presented in the form of an addendum to the original solicitation documents.

18. AGREEMENT

In addition to being subject to all terms and conditions in this solicitation, all responses are subject to the terms and conditions in the agreement attached to the solicitation. Additional or modified terms and conditions in the agreement may be necessary depending on the responses to the solicitation, including any exceptions stated by the contractor as required by Section A, PREPARATION OF SUBMITTAL of this solicitation. However, the County may reject any exception proposed by the contractor and shall not be bound by any additional or modified terms and conditions that are in conflict with the terms and conditions in the agreement, or are not acceptable to, or have been declared to be non-negotiable by the County, as determined in its sole discretion.

19. OWNERSHIP OF DOCUMENTS

- a. Drawings, specifications, designs, models, photographs, reports, surveys, calculations, and other data provided in connection with this solicitation are and shall remain the property of the County whether the project for which they are made is executed or not. Such finished or unfinished documents, data, calculations, studies, surveys, specifications, drawings, maps, models, photographs and reports prepared by the contractor shall be delivered by the contractor to the County at the conclusion of the project or the termination of the contractor's services.
- b. When such documents are provided to other parties, the contractor shall ensure return of the County's property.

20. INDEPENDENT CONTRACTOR STATUS AND COMPLIANCE WITH THE IMMIGRATION REFORM AND CONTROL ACT OF 1986

Contractor acknowledges that it is functioning as an independent contractor in performing under the terms of this agreement, and it is not acting as an employee of Pinellas County. The contractor acknowledges that it is responsible for complying with the provisions of the Immigration Reform and Control Act of 1986, located at 8 U.S.C. Section 1324, et seq., and regulations relating thereto. Failure to comply with the above provisions of the agreement shall be considered a material breach and shall be ground for immediate termination of the agreement.

SECTION A - GENERAL CONDITIONS**21. PROHIBITION AGAINST CONTINGENT FEE**

The contractor warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the contractor to solicit or secure this agreement and that he has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for the contractor, any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this agreement.

22. TRUTH IN NEGOTIATIONS:

The contractor certifies to truth-in-negotiation and that wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting. Further, the original agreement amount and any additions thereto shall be adjusted to exclude any significant sums where the County determines the agreement price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. Such adjustments must be made within one (1) year following the end of the agreement.

23. JOINT VENTURES

All contractors intending to submit as a joint venture are required to have filed proper documents with the Florida Department of State, the Division of Professions, Construction Industry Licensing Board and any other state or local licensing Agency prior to submitting (see Section 489.119 Florida Statutes).

Joint ventures must provide an affidavit attesting to the formulation of a joint venture and provide either proof of incorporation as a joint venture or a copy of the formal joint venture agreement between all joint venture parties, indicating their respective roles, responsibilities and levels of participation for the project.

24. PAYMENT/INVOICES

Contractor shall submit invoices for payment as provided herein with such documentation as required by Pinellas County and all payments shall be made in accordance with the requirements of Section 218.70 et. Seq, Florida Statutes, "The Local Government Prompt Payment Act." Invoices shall be submitted to the address below unless instructed otherwise on the purchase order, or if no purchase order, by the ordering department:

Finance Division Accounts Payable

Pinellas County Board of County Commissioners

P.O. Box 2438

Clearwater, FL 33757

Email: FinanceAccountsPay@MyPinellasClerk.org

Each invoice shall include, at a minimum, the contractor's name, contact information and the standard purchase order number. In order to expedite payment, it is recommended the contractors also include the information shown in below. The County may dispute any payments invoiced by contractor in accordance with the County's Dispute Resolution Process for Invoiced Payments, established in accordance with Section 218.76, Florida Statutes, and any such disputes shall be resolved in accordance with the County's Dispute Resolution Process.

Remit To: Billing address to which you are requesting payment be sent

Invoice Date: Creation date of the invoice

Contractor Information: Company name, mailing address, phone number, contact name and email address as provided on the purchase order

Invoice Number: Company tracking number

Shipping Address: Address where goods and/or services were delivered

Ordering Department: Name of ordering department, including name and phone number of contact person

Purchase order Number: Standard purchase order number

SECTION A - GENERAL CONDITIONS

Ship Date: Date the goods/services were sent/provided

Quantity: Quantity of goods or services billed

Description: Description of services or goods delivered

Unit Price: Unit price for the quantity of goods/services delivered

Line Total Amount due by line item

Invoice Total: Sum of all line totals for the invoice

Pinellas County offers a credit card payment process (ePayables) through Bank of America. Pinellas County does not charge contractor to participate in the program; however, there may be a charge by the company that processes your credit card transactions. For more information please visit Pinellas County purchasing website at:

www.pinellascounty.org/purchase.

25. TAXES

- a. The County is exempt from all state and federal sales, use, transportation and excise taxes. The Laws of the State of Florida provide that sales and use taxes are payable by the contractor upon the tangible personal property incorporated in the work and such taxes shall be paid by the contractor and be deemed to have been included in the solicitation.
- b. Payments to Pinellas County are subject to applicable Florida taxes.

26. DISPUTE RESOLUTION FOR PINELLAS COUNTY BOARD OF COUNTY COMMISSIONERS IN MATTERS OF INVOICE PAYMENTS

Payment of invoices for work performed for Pinellas County Board of County Commissioners is made, by standard, in arrears in accordance with Section 218.70, et. seq., Florida Statutes, the Local Government Prompt Payment Act. If a dispute should arise as a result of non-payment of a payment request or invoice the following Dispute Resolution process shall apply:

- a. Pinellas County shall notify a contractor in writing within ten (10) days after receipt of an improper invoice, that the invoice is improper. The notice should indicate what steps the contractor should undertake to correct the invoice and resubmit a proper invoice to the County. The steps taken by the contractor shall be that of initially contacting the requesting department to validate their invoice and receive a sign off from that entity that would indicate that the invoice in question is in keeping with the terms and conditions of the agreement. Once sign off is obtained, the contractor should then resubmit the invoice as a corrected invoice to the requesting department which will initiate the payment timeline.
 1. Requesting department for this purpose is define as the County department for whom the work is performed.
 2. Proper invoice for this purpose is defined as an invoice submitted for work performed that meets prior agreed upon terms or conditions to the satisfaction of Pinellas County.
- b. Should a dispute result between the contractor and the County about payment of a payment request or an invoice then the contractor should submit their dissatisfaction in writing to the requesting department. Each Requesting Department shall assign a representative who shall act as a dispute manager to resolve the issue at departmental level.
- c. The dispute manager shall first initiate procedures to investigate the dispute and document the steps taken to resolve the issue in accordance with section 218.76 Florida Statutes. Such procedures shall be commenced no later than forty-five (45) days after the date on which the payment request or invoice was received by Pinellas County, and shall not extend beyond sixty (60) days' after the date on which the payment request or invoice was received by Pinellas County.
- d. The dispute manager should investigate and ascertain that the work, for which the payment request or invoice has been submitted, was performed to Pinellas County's satisfaction and duly accepted by the proper authority. Proper authority for this purpose is defined as the Pinellas County representative who is designated as the approving authority for the work performed in the contractual document. The dispute manager shall perform the required investigation and arrive at a solution before or at the sixty (60) days' timeframe for resolution of the

SECTION A - GENERAL CONDITIONS

dispute, per section 218.76, Florida Statutes. The County Administrator or his or her designee shall be the final arbiter in resolving the issue before it becomes a legal matter. The County Administrator or his or her designee will issue their decision in writing.

- e. Pinellas County dispute resolution procedures shall not be subject to Chapter 120 of the Florida Statutes. The procedures shall also, per section 218.76, Florida Statutes, not be intended as an administrative proceeding which would prohibit a court from ruling again on any action resulting from the dispute.
- f. Should the dispute be resolved in the County's favor interest charges begin to accrue fifteen (15) days after the final decision made by the County. Should the dispute be resolved in the contractor's favor the County shall pay interest as of the original date the payment was due.
- g. Pursuant to sections 218.70 et. seq., Florida Statutes, an award will be made to cover court costs and reasonable attorney fees, including fees incurred as a result of an appeal to the prevailing party. This provision is applicable if the non-prevailing party held back payment that was the reason for the dispute without any reasonable lawful basis or fact to dispute the prevailing party's claim to those amounts.

27. INSURANCE

Notice: The contractor must provide a certificate of insurance and endorsement in accordance with the insurance requirements listed in the insurance section below. Failure to provide the required insurance within a ten (10) day period following the determination or recommendation of lowest responsive, responsible submitter may result in the County to vacate the original determination or recommendation and proceed with recommendation to the second lowest, responsive, responsible submitter.

28. PUBLIC RECORDS/TRADE SECRETS

Pinellas County Government is subject to the Florida Public Records law (Chapter 119, Florida Statutes), and all documents, materials, and data submitted to any solicitation as part of the response are governed by the disclosure, exemption and confidentiality provisions relating to public records in Florida Statutes. Except for materials that are "trade secrets" or "confidential" as defined by applicable Florida law, ownership of all documents, materials, and data submitted in response to the solicitation shall belong exclusively to the County.

To the extent that contractor desires to maintain the confidentiality of materials that constitute trade secrets pursuant to Florida law, trade secret material submitted must be identified by some distinct method that the materials that constitute a trade secret, and contractor shall provide an additional copy of the contractor's submittal that redacts all designated trade secrets. By submitting materials that are designated as trade secrets and signature of the contractor signature page, contractor acknowledges and agrees:

- i. That after notice from the County that a public records request has been made for the materials designated as a trade secret, the contractor shall be solely responsible for defending its determination that submitted material is a trade secret that is not subject to disclosure at its sole cost, which action shall be taken immediately, but no later than ten (10) calendar days from the date of notification or contractor will be deemed to have waived the trade secret designation of the materials;
- ii. That to the extent that the contractor with trade secret materials is evaluated, the County and its officials, employees, agents, and representatives in any way involved in processing, evaluating, negotiating agreement terms, approving any agreement based on the contractor, or engaging in any other activity relating to the competitive selection process are hereby granted full rights to access, view, consider, and discuss the materials designated as trade secrets through the final agreement award;
- iii. To indemnify and hold the County, and its officials, employees, agents and representatives harmless from any actions, damages (including attorney's fees and costs), or claims arising from or related to the designation of trade secrets by the contractor, including actions or claims arising from the County's non-disclosure of the trade secret materials.
- iv. That information and data it manages as part of the services may be public record in accordance with Chapter 119, Florida Statutes and Pinellas County public record policies. contractor agrees prior to providing goods/services it will implement policies and procedures to maintain, produce, secure and retain public records in accordance with applicable laws, regulations, and County policies, which are subject to approval by the County, including but limited to the Section 119.0701, Florida Statutes.

SECTION A - GENERAL CONDITIONS

Notwithstanding any other provision in the solicitation, the classification as trade secret of the entire submission document, line item and/or total contractor prices, the work, services, project, goods, and/or products to be provided by contractor, or any information, data, or materials that may be part of or incorporated into an agreement between the County and the contractor is not acceptable to the County and will result in a determination that the contractor submittal is nonresponsive; the classification as trade secret of any other portion of a submittal document may result in a determination that the submittal is nonresponsive.

29. PUBLIC RECORDS – CONTRACTOR'S DUTY

If the contractor has questions regarding the application of Chapter 119, Florida Statutes, to the contractor's duty to provide public records relating to this agreement, the contractor shall contact:

Pinellas County Board of County Commissioners

Purchasing and Risk Management Division

400 S. Ft. Harrison Ave, 6th Floor,

Clearwater, FL 33756

Public Records Liaison

Phone: 727-464-3237

Email: mcchartier@pinellas.gov

30. SMALL BUSINESS ENTERPRISE (SBE) PROGRAM

It is the policy of the Board of County Commissioners that SBE certified firms have the maximum opportunity to participate on County projects either as a prime or sub-consultant. To be certified as a Pinellas County SBE, firms must apply through Pinellas County Economic Development. To qualify for the SBE program, your firm must serve a commercially useful function; must be located in one of four (4) counties (Pinellas / Hillsborough / Pasco / Manatee) and have annual sales of goods and services not exceeding the maximum three (3) year average of three (3) million dollars for goods/services or gross revenues not exceeding eight (8) million dollars for construction and not exceed a maximum of three (3) year average of fifty (50) employees.

To apply for the SBE Program, please visit the Pinellas County Economic Development website at pinellascounty.sbecompliance.com

31. E-VERIFY

The contractor and their subcontractor(s) must register with and use the E-verify system in accordance with Florida Statute 448.095. A contractor and subcontractor may not enter into a contract with the County unless each party registers with and uses the E-verify system.

If a contractor enters a contract with a subcontractor, the subcontractor must provide the contractor with an affidavit stating that the Subcontractor does not employ, contract with, or subcontract with unauthorized aliens. The contractor must maintain a copy of the affidavit for the duration of the contract.

If the County, Contractor, or Subcontractor has a good faith belief that a person or entity with which it is contracting has knowingly violated Florida Statute 448.09(1) they shall immediately terminate the contract with the person or entity.

If the County has a good faith belief that a Subcontractor knowingly violated this provision, but the Contractor otherwise complied with this provision, the County will notify the Contractor and order that the Contractor immediately terminate the contract with the Subcontractor.

SECTION A - GENERAL CONDITIONS

A contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Any contract termination under the provisions of this section may be challenged to Section 448.095(2)(d), Florida Statute. Contractor acknowledges upon termination of this agreement by the County for violation of this section by Contractor, Contractor may not be awarded a public contract for at least one (1) year. Contractor acknowledges that Contractor is liable for any additional costs incurred by the County as a result of termination of any contract for a violation of this section.

Contractor or Subcontractor shall insert in any subcontracts the clauses set forth in this section, requiring the subcontracts to include these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any Subcontractor or Lower Tier Subcontractor with the clause set for in this section.

SECTION B – SPECIAL CONDITIONS**Proposal Title: Construction Manager at Risk for Passenger Terminal Improvements****Proposal Number: 24-0333-RFP-CMAR****1. INTENT:**

The County is designing and constructing an expanded passenger terminal facility to meet current and future passenger demands. It is the County's intent to hire a Construction Manager at Risk (CMAR) to perform preconstruction and construction services for the project.

There will be a two-step evaluation process in the selection of the CMAR.

Step 1 will be a qualifications-based criteria to rank and short list firms that will move forward to the next step. Step 2 will involve oral presentations and anticipated price information related to preconstruction and construction services.

2. PERIOD OF CONTRACT:

Services performed pursuant to this contract shall remain in effect for two thousand (2000) consecutive calendar days/months/years from the commencement date on the Notice to Proceed. This Agreement shall become effective on the date of execution of the Agreement.

3. TERM EXTENSION(S) OF CONTRACT

The contract may be extended subject to written notice of agreement from the County and successful proposer, for two (2) additional six (6) months beyond the primary contract period. The extension shall be exercised only if all prices, terms and conditions remain the same and approval is granted by the County Administrator or Director of Purchasing. The County reserves the right to re-negotiate rates based on current market conditions.

4. NON-MANDATORY SITE VISIT

Site Visit will be held April 22 thru April 26. Please email the Airport Engineer, Scott Yarley, PE at syarley@fly2pie.com. Site visit location is 14700 Terminal Blvd, Clearwater, FL 33762. Please limit the number of individuals attending to five (5) people per firm.

5. PRE-COMMENCEMENT MEETING – Not Applicable**6. STEP 1 - EVALUATION CRITERIA for Written Proposals:**

The following is the criteria that will be used by the County to evaluate and score responsive written proposals. Proposers shall include sufficient information to allow the County to thoroughly evaluate and score their proposals. Each proposal submitted shall be evaluated and ranked by an evaluation committee of five County employees. If an oral presentation is requested, a minimum of three (3) highest ranked firms (if at least three firms submitted and are deemed qualified to proceed) shall be shortlisted and invited to an oral presentation. The average written scores from the short-listed firms are carried forward. Final ranking recommendation is based on the combined average scores obtained for a total potential 2,000 points.

a. Ability of Firm and its Professional Personnel. Willingness and Ability to Meet Schedule and Budget Based on Current and Projected Workload. **375 Points**

1. Reviews the level of qualifications and experience of the firm and project team and appropriateness of the organization of the project team.
2. Reviews the professional resources available to properly provide services as requested in the RFP document.
3. Reviews the project team to ensure the team proposed contains all of the critical disciplines required.
4. Prime team proposed should have exceptional professional resources to properly provide services.
5. The project manager and proposed team should be uniquely qualified to provide the desired services.
6. Evaluates the workload commitments that will impact the firm's ability to complete services on schedule.
7. The submittal should demonstrate that the firm has adequate time available and personnel to complete services on schedule and additional backup staffing capability in the event of unforeseen circumstances.
8. Reviews the firms Construction Management, DBE, and Buy American Plans.

SECTION B – SPECIAL CONDITIONS**b. Firm Experience with Projects of Similar Size and Past Performance****325 Points**

1. Reviews the firms experience with projects of similar size, type and scope and the performance on those specific projects.
2. The prime firm must have adequate, recent (within the past five years) experience with projects of similar type as defined in the RFP document.
3. Experience pertaining to specific Pinellas County projects may also be considered. Pinellas County staff shall not however furnish references for such projects.
4. The scope of services provided should represent projects that are similar to those defined in the RFP document.
5. The overall performance of the firm relative to projects of similar size and scope should be evaluated.

c. Volume of Work Previously Awarded by the County**50 Points**

Pre-populated by the Purchasing Department, the purpose of this criterion is to affect an equitable distribution of contracts. This criterion is evaluated based on all CCNA Non-Continuing contracts awarded to a firm during the two (2) previous completed fiscal years through to current date. The date utilized for establishing award shall be the date the Board of County Commissioners or County Administrator initially awards the contract. The points are worth 5 percent of the overall points available and are distributed as follows:

\$0 - \$200,000 – five (5%) percent of points available

\$200,001 - \$400,000 – four (4%) percent of points available

\$400,001 – 600,000 – three (3%) percent of points available

\$600,001- \$800,000 – two (2%) percent of points available

\$800,001 - \$1,000,000 – one (1%) percent of points available

Over \$1,000,000 – zero (0%) percent of points available

Based on a typical 1,000 point evaluation scoring process, a firm deemed to be in the \$0-\$200,000 category threshold would be allotted 50 points etc.

d. Minority Business Status**25 Points**

Provides points pre-populated by the Purchasing Department for minority business status as designated by the State of Florida. If the firm, or its sub-consultant, is designated as a minority business by the Florida State Office of Supplier Diversity, Department of Management Services, two and one half (2.5%) percent of the total evaluation points are awarded. If the firm does not have minority business status as per the Florida State Office of Supplier Diversity, Department of Management Services, zero (0%) percent of the points available are awarded.

e. Disadvantage Business Enterprise (DBE) Plan**100 Points**

Provides points pre-populated by the Purchasing Department for a detailed DBE plan for the project. Requirements for DBE are shown in the FAA/FDOT Contract Provisions.

f. Pinellas County Small Business Enterprise (SBE) Status**100 Points**

Provides points pre-populated by the Purchasing Department for SBE status as designated by Pinellas County. To qualify, a firm or its sub consultants must be located in one of four (4) counties (Pinellas / Hillsborough / Pasco / Manatee) and have annual sales of goods/services not exceeding the maximum three (3) year average of three (3) million dollars or gross revenues not exceeding eight (8) million dollars for construction and not exceed a maximum three (3) year average of fifty (50) employees.

Prime firm or sub-consultant must directly associate Small Business Enterprise (SBE) and be an integral part as defined by CCNA Florida Statute Section 287.055 and cannot consist of vendors or suppliers from office supply, printing services, etc.

If the prime firm is certified as a Pinellas County SBE, 100 points will be awarded. If the prime firm is not a certified Pinellas County SBE and utilizes one (1) certified Pinellas County SBE as sub-consultant, fifty (50) points will be awarded. If the prime firm utilizes more than one (1) certified Pinellas County SBE as sub-consultant, seventy-five (75) points will be awarded. Failure to utilize certified sub-consultants, as presented in

RFP Title: Passenger Terminal Improvements – Construction Manager at Risk (CMAR)

SECTION B – SPECIAL CONDITIONS

your submittal and evaluated accordingly may affect future awards to your company. A prime firm or sub-consultant must be certified through Pinellas County Economic Development as an SBE prior to submission of your proposal document. If the prime firm nor any of its sub-consultants are not certified as a Pinellas County SBE, zero (0%) percent of the points available will be awarded.

Proposer must provide complete SBE Status Form (Attachment A).

- g. Location 25 Points**
 Provides points pre-populated by the Purchasing Department. Evaluates the location of the project team relative to Pinellas County including the prime firm and project manager. If firm has an established office located in Pinellas, Manatee, Hillsborough or Pasco counties, 25 points are awarded. If not, no points will be awarded.

Total 1,000 Points

7. STEP 2 - EVALUATION CRITERIA for Oral Presentations

An oral presentation may be requested at the evaluation committee’s discretion. The average scores from the written evaluation phase will be carried forward (for the shortlisted firms deemed qualified to proceed) and combined with average scores from the oral presentation process for one total average score potential of 2,000 points. The Purchasing Department will provide a script for the shortlisted firms for the presentation.

- a. Understanding of Project /Firm Qualifications 450 Points**
1. Evaluation of the firm’s understanding of the overall project including the scope of work which may include but is not limited to; studies performed that affect the project, key design elements and effect on the community involved.
 2. Evaluation of the firm’s qualifications and qualifications of the individuals proposed for the project including the project manager and staff of the firm to be assigned. Qualifications shall include but not be limited to experience with similar projects, management experience, firm experience etc.

- b. Fees and General Conditions Costs 150 Points**
1. The firm shall provide written documentation showing anticipated costs related to Preconstruction Fee, Bonds, Insurance, CMAR Fee, Overhead and Profit, and Field Office. Refer to Exhibit N – Price Proposal Form.
 2. **These documents will be submitted to the Purchasing Department before the close of business on the date specified on the invitation to proceed to Step 2.**

- c. Ability to Provide Required Services Within the Schedule and Budget 200 Points**
 Evaluation of the firm’s overall approach including experience in scheduling projects, systems that will be used to keep track of the project schedule, cost control, quality assurance and quality control, issues and methods employed to avoid cost overruns and project delays.

- d. Managerial Methods used to Plan, Design and Administer the Project 200 Points**
 Evaluation of the overall approach to the project proposed by the firm and the appropriateness of the methods proposed to plan, design and administer the project in relation to the scope of work and County requirements.

Total: 1,000 Points

8. TIME LINE:

Following is a listing of actions and anticipated dates; the County reserves the right to change the dates, if necessary.

DATE	DESCRIPTION
April 5, 2024	Advertisement of RFP
April 22 thru April 26	Site Tours
May 10, 2024	Deadline for Questions/Clarifications
May 24, 2024	Step 1 - Written Proposals Due by 3:00 pm
June 25, 2024	Step 1 - Evaluation of Written Proposals and Shortlist of CMARs
July 24, 2024	Step 2 - Oral Presentations and Selection of CMAR

RFP Title: Passenger Terminal Improvements – Construction Manager at Risk (CMAR)**SECTION B – SPECIAL CONDITIONS**

September 6, 2024	Scope of Work and Fee Negotiations
October 8, 2024	Complete County Contract Review
November 19, 2024	Board Award of Pre-Construction Services

9. INFORMATION PACKAGE:**Request for Letters of Interest for Professional Services As Governed by Florida Statute 287.055**

- 1) "Professional services" is defined as those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.
- 2) An award may not be issued without proof that your firm is registered with the Florida Division of Corporations, as per Florida Statute §607.1501 (<http://www.flsenate.gov/Laws/Statutes/2011/607.1501>).
- 3) A foreign corporation (foreign to the State of Florida) may not transact business in this state until it obtains a certificate of authority from the Department of State. Please visit www.sunbiz.org for this information on how to become registered.

10. SUBMITTAL REQUIREMENTS:

Submittal of current SF-330 (federal Standard Form), Part I and II, with all sections completed. SF-330 can be obtained from U. S. General Services Administration (GSA) website - <http://gsa.gov/forms> , then select Standard Form on the menu and go to the 330.

The submittals shall be in the format of Standard Forms (SF) 330. The submittal shall be limited to one hundred (100) pages (includes ALL pages). The selection of the firms will be based on the information provided on the forms and in the additional sections.

A contractor may submit a response as a prime and also be a subcontractor to another firm.

Note: Standard Form (SF) 330 - Part II should be submitted for each firm and for each subcontractor.

Submittal requirements must be indexed and listed in the order described below:

A. Introduction Tab

- 1) Letter of Interest by corporate office or principal of the firm.
- 2) Specific Professional services to be offered (please delineate each service your firm offers).
- 3) Table of Contents.
- 4) Organizational Chart

B. Tab 1 - Standard Form (SF) 330 – Part I & II

Should be a Maximum of 50 pages and fully completed as required by the law governing Standard Form (SF) 330.

Please furnish a list of ten (10) projects, where multiple team members worked together, if possible, illustrating the proposed team's qualifications for performance pertaining to this project. The County does not request nor require an amount greater than ten (10) projects be submitted. Your firm will not be penalized if more than ten (10) projects are furnished as part of your submittal; however, submitting more than ten (10) projects will not provide your firm an advantage during the evaluation process.

Note: Information submitted in Tab 2 through Tab 6 should be a maximum of 50 pages.

C. Tab 2 - Statements and Documentation

- 1) Proof of licenses/certifications
- 2) Provide proof of proper State of Florida business licensure and professional certifications/registration(s) in the State of Florida.
- 3) Provide proof of corporate registration to operate in the State of Florida by the Department of State, Division of Corporations. Information concerning certification with the Secretary of State can be obtained at:

RFP Title: Passenger Terminal Improvements – Construction Manager at Risk (CMAR)**SECTION B – SPECIAL CONDITIONS**

<http://ccfcorp.dos.state.fl.us/index.html> . Must be active status.

- 4) Provide Certificate of Florida Small and Minority Business issued by the Florida State Office of Supplier Diversity, Department of Management Services (if applicable).
- 5) Provide Attachment A: Small Business Enterprise (SBE) Status Form
- 6) Provide certificate for each firm claiming Pinellas County SBE status, issued by the Pinellas County Economic Development (if applicable).
- 7) State and provide address, phone number, contact, etc., if firm has an established office located in Pinellas, Manatee, Hillsborough or Pasco counties.

D. Tab 3 - Certificate(s) of Insurance

Section C reflects the insurance requirements deemed necessary for this project by County Risk Management. It is not necessary to have this level of insurance in effect at the time of submission, but certificates indicating that the insurance is currently carried, or acknowledgment from the carrier indicating upgrade availability will speed the review process.

E. Tab 4 - Key Personnel Statement

Submit a statement that personnel listed in the submittal will be available for and shall be assigned to this project. Failure to produce the proposed key personnel may be grounds for dismissal.

- F. Tab 5 -**
1. **Acknowledgment of Addenda (if applicable).**
 2. **W-9 Request for Taxpayer Identification Number and Certification**
 3. **Section D Vendor References**
 4. **Page 1, Signature Page of the RFP**
 5. **Section F – Electronic Payment (ePayable) form**
 6. **Attachment A: Small Business Enterprise (SBE) Status Form**

G. Tab 6 – Include Construction Management Plan, DBE Plan, Buy American Plan, project approach, and any additional information to represent your firm for consideration.

Original letters shall be signed by an authorized representative of the firm. All information requested must be submitted. Failure to submit all information may delay evaluation of the proposal. Letters, which are substantially incomplete or lack key information, may be rejected by the County at its discretion.

The submittals shall be in the format of Standard Forms (SF) 330. The submittal should be limited to one hundred (100) pages (includes **ALL** possible pages). The selection of the firms will be based on the information provided on the forms and in the additional sections.

Information submitted with your letter of interest should include documentation to demonstrate your firm's qualifications and abilities to perform as noted in the scope of services and also include information to allow for a clear understanding of past projects, especially in Florida, staff experience and abilities, and any additional information to present your firm for consideration.

An evaluation committee will review the information submitted. Once review is complete and the firm confirms the maximum ceiling for establishing a fee schedule, a recommendation to the Board of County Commissioners will be prepared. This contract will result in negotiated rates that will be fully loaded and will encompass all profit, markup, and local travel expenses. Award(s) resulting from this solicitation shall be subject to the provisions of Section 2-178, contracting for Designated Professional Services of the Ordinances of Pinellas County and Section 10 of the Purchasing Policies and Procedures of Pinellas County.

For questions and additional information, contact person indicated on page 1.

Letters of Interest will be evaluated using the criteria **listed in Item 3 of this Section**. Firms will be notified in writing if they have been selected in a reasonable time after submittal date.

All proposals shall be signed by authorized principals of the firm.

11. PROPOSAL SUBMITTAL COPIES

The preferred method is PDF conversion from the Proposer's source files (to minimize file size and maximize quality and accessibility) rather than scanning.

RFP Title: Passenger Terminal Improvements – Construction Manager at Risk (CMAR)**SECTION B – SPECIAL CONDITIONS****Instructions for Providing Files in PDF Format to Pinellas County Government****A. How do I convert my files to PDF format?**

Answer- If you have a program such as Adobe Acrobat, creating a PDF of any file is a simple print function. Rather than printing to a traditional printer, the file converts to a PDF format copy of your original. Any program (such as Word, PowerPoint, Excel, etc.) can be converted this way by simply selecting the print command and choosing PDF as the printer.

B. Should I scan everything and save as PDF?

Answer- Not unless you are scanning with OCR (optical character recognition). Scanning will create unnecessarily large files because a scan is just a picture of a page rather than actual page text. Furthermore, the result of scanning is that your pages will not look nearly as “clean” or professional as simply using the print to PDF method from the program from which the file originates. Additionally, since scan pages are pictures of text, not really text, they may not be considered accessible* under Federal ADA guidelines (*unless the scans are OCR.)

C. My document is a compilation of multiple sources. Should I send multiple PDF files?

Answer- You may, however merging pages/files is a very simple process within PDF.

SECTION C – INSURANCE REQUIREMENTS**LIMITATIONS ON LIABILITY**

By submitting a Proposal, the Construction Manager at Risk acknowledges and agrees that the services will be provided without any limitation on the Construction Manager at Risk liability. The County objects to and shall not be bound by any term or provision that purports to limit the Construction Manager at Risk liability to any specified amount in the performance of the services. The Construction Manager at Risk shall state any exceptions to this provision in its response, including specifying the proposed limits of liability in the stated exception to be included in the Services Agreement. The Construction Manager at Risk is deemed to have accepted and agreed to provide the services without any limitation on the Construction Manager at Risk liability that the Construction Manager at Risk does not take exception to in its response. Notwithstanding any exceptions by the Construction Manager at Risk, the County reserves the right to declare its prohibition on any limitation on the Construction Manager at Risk liability as non-negotiable, to disqualify any Proposal that includes exceptions to this prohibition on any limitation on the Construction Manager at Risk liability, and to proceed with another responsive, responsible proposal, as determined by the County in its sole discretion.

INDEMNIFICATION

If the Construction Manager at Risk is an individual or entity licensed by the State of Florida who holds a current certificate of registration or is qualified under Chapter 481, Florida Statutes, to practice architecture or landscape architecture, under Chapter 472, Florida Statutes, to practice land surveying and mapping, or under Chapter 471, Florida Statutes, to practice engineering, and who enters into a written agreement with the County relating to the planning, design, construction, administration, study, evaluation, consulting, or other professional and technical support services furnished in connection with any actual or proposed construction, improvement, alteration, repair, maintenance, operation, management, relocation, demolition, excavation, or other facility, land, air, water, or utility development or improvement, the Construction Manager at Risk will indemnify and hold harmless the County, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct, or for any violation of requirements of the Americans with Disabilities Act of 1990, as may be amended, and all rules and regulations issued pursuant thereto (collectively the "ADA") of the Construction Manager at Risk and other persons employed or utilized by the Construction Manager at Risk in the performance of the Agreement.

INSURANCE REQUIREMENTS

The Construction Manager at Risk must provide a certificate of insurance and endorsement in accordance with the insurance requirements listed below, prior to recommendation for award.

The Construction Manager at Risk shall obtain and maintain, and require any subcontractor to obtain and maintain, at all times during its performance of the Agreement, insurance of the types and in the amounts set forth. For projects with a Completed Operations exposure, Construction Manager at Risk shall maintain coverage and provide evidence of insurance for 2 years beyond final acceptance. All insurance policies shall be from responsible companies duly authorized to do business in the State of Florida and have an AM Best rating of A- VIII or better.

- A. Submittals should include the Construction Manager at Risk current Certificate(s) of Insurance. If Construction Manager at Risk does not currently meet insurance requirements, Construction Manager at Risk shall also include verification from their broker or agent that any required insurance not provided at that time of submittal will be in place prior to the award of contract.

Upon selection of Construction Manager at Risk for award, the selected Construction Manager at Risk shall email certificate that is compliant with the insurance requirements. If the certificate received is compliant, no further action may be necessary. The Certificate(s) of Insurance shall be signed by authorized representatives of the insurance companies shown on the Certificate(s). **The Certificate holder section shall indicate Pinellas County, a Subdivision of the State of Florida, 400 S Fort Harrison Ave, Clearwater, FL 33756. Pinellas County shall be named as an Additional Insured for General Liability. A Waiver of Subrogation for Workers Compensation shall be provided if Workers Compensation coverage is a requirement.**

- B. Approval by the County of any Certificate(s) of Insurance does not constitute verification by the County that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate(s) of Insurance is in compliance with the requirements of the Agreement. The County reserves the right to require a certified copy of the entire insurance policy, including endorsement(s), at any time during the RFP and/or contract period.
- C. If any insurance provided pursuant to the Agreement expires or cancels prior to the completion of the work you will be notified by CTrax, the authorized Construction Manager at Risk of Pinellas County. Upon notification, renewal certificate(s) of Insurance and endorsement(s) should be furnished to Pinellas County Risk Management at InsuranceCerts@pinellascounty.org and to CTrax c/o JDi Data at PinellasSupport@jdidata.com by the Construction Manager at Risk or their agent prior to the expiration date.

SECTION C – INSURANCE REQUIREMENTS

- 1) The Construction Manager at Risk shall also notify the County within 72 hours after receipt, of any notices of expiration, cancellation, nonrenewal or adverse material change in coverage received by said Construction Manager at Risk from its insurer. Notice shall be given by email to Pinellas County Risk Management at InsuranceCerts@pinellascounty.org. Nothing contained herein shall absolve Construction Manager at Risk of this requirement to provide notice.
 - 2) Should the Construction Manager at Risk, at any time, not maintain the insurance coverages required herein, the County may terminate the Agreement.
- D. If subcontracting is allowed under this RFP, the Construction Manager at Risk shall obtain and maintain, at all times during its performance of the Agreement, insurance of the types and in the amounts set forth; and require any sub-Contractors to obtain and maintain, at all times during its performance of the Agreement, insurance limits as it may apply to the portion of the Work performed by the subcontractor; but in no event will the insurance limits be less than \$500,000 for Workers' Compensation/Employers' Liability, and \$1,000,000 for General Liability and Auto Liability if required below.

All subcontracts between the Construction Manager at Risk and its subcontractor shall be in writing and are subject to the County's prior written approval. Further, all subcontracts shall;

- 1) Require each subcontractor to be bound to the Construction Manager at Risk to the same extent the Construction Manager at Risk is bound to the 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 the Construction Manager at Risk to the County at the election of Owner upon termination of the Contract;
 - 3) Provide that County will be an additional indemnified party of the subcontract;
 - 4) Provide that the County will be an additional insured on all insurance policies required to be provided by the subcontractor except workers compensation and professional liability;
 - 5) Provide a waiver of subrogation in favor of the County and other insurance terms and/or conditions as outlined below;
 - 6) Assign all warranties directly to the County;
 - 7) Identify the County as an intended third-party beneficiary of the subcontract. The Construction Manager at Risk shall make available to each proposed subcontractor, prior to the execution of the subcontract, copies of the Contract Documents to which the subcontractor will be bound by this Section C and identify to the subcontractor any terms and conditions of the proposed subcontract which may be at variance with the Contract Documents.
- E. Each insurance policy and/or certificate shall include the following terms and/or conditions:
- 1) The Named Insured on the Certificate of Insurance and insurance policy must match the entity's name that responded to the solicitation and/or is signing the agreement with the County.
 - 2) Companies issuing the insurance policy, or policies, shall have no recourse against County for payment of premiums or assessments for any deductibles which all are at the sole responsibility and risk of Construction Manager at Risk.
 - 3) The term "County" or "Pinellas County" shall include all Authorities, Boards, Bureaus, Commissions, Divisions, Departments and Constitutional offices of County and individual members, employees thereof in their official capacities, and/or while acting on behalf of Pinellas County.
 - 4) All policies shall be written on a primary, non-contributory basis.

The minimum insurance requirements and limits for this Agreement, which shall remain in effect throughout its duration and for 2 years beyond final acceptance for projects with a Completed Operations exposure, are as follows:

PHASE 1 INSURANCE REQUIREMENTS – DESIGN

1. **Workers' Compensation Insurance** Worker's Compensation Insurance is required if required pursuant to Florida law. If, pursuant to Florida law, Worker's Compensation Insurance is required, employer's liability, also known as Worker's Compensation Part B, is also required in the amounts set forth herein.

Limits

SECTION C – INSURANCE REQUIREMENTS

Employers' Liability Limits	Florida Statutory
Per Employee	\$ 500,000
Per Employee Disease	\$ 500,000
Policy Limit Disease	\$ 500,000

If Vendor/Contractor is not required by Florida law, to carry Workers Compensation Insurance in order to perform the requirements of this Agreement, County Waiver Form for workers compensation must be executed, submitted, and accepted by Risk Management. Failure to obtain required Worker's Compensation Insurance without submitting and receiving a waiver from Risk Management constitutes a material breach of this Agreement.

2. Commercial General Liability Insurance including, but not limited to, Independent Vendor, Contractual Liability Premises/Operations, Products/Completed Operations, and Personal Injury.

Limits

Combined Single Limit Per Occurrence	\$ 1,000,000
Products/Completed Operations Aggregate	\$ 2,000,000
Personal Injury and Advertising Injury	\$ 1,000,000
General Aggregate	\$ 2,000,000

3. Pollution Legal/Environmental Legal Liability Insurance for pollution losses arising from all services performed to comply with this contract. Coverage shall apply to sudden and gradual pollution conditions including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water, which results in Bodily Injury or Property Damage. If policy is written on a Claims Made form, a retroactive date is required, and coverage must be maintained for 3 years after completion of contract or "tail coverage must be purchased. Coverage should include and be for the at least the minimum limits listed below:

- a. Bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death; property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed.
- b. Defense including costs, charges and expenses incurred in the investigation, adjustment, or defense of claims for such compensation damages.
- c. Cost of Cleanup/Remediation.

Limits

Per Claim or Occurrence	\$ 1,000,000
General Aggregate	\$ 1,000,000

For acceptance of Pollution Legal/Environmental Legal Liability coverage included within another policy coverage required herein, a statement notifying the certificate holder must be included on the certificate of insurance and the total amount of said coverage per occurrence must be greater than or equal to the amount of Pollution Legal/Environmental Legal Liability and other coverage combined.

4. Professional Liability (Errors and Omissions) Insurance with at least minimum limits as follows. If "claims made" coverage is provided, "tail coverage" extending three (3) years beyond completion and acceptance of the project with proof of "tail coverage" to be submitted with the invoice for final payment. In lieu of "tail coverage", Proposer may submit annually to the County, for a three (3) year period, a current certificate of insurance providing "claims made" insurance with prior acts coverage in force with a retroactive date no later than commencement date of this contract.

Limits

Each Occurrence or Claim	\$ 5,000,000
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SECTION C – INSURANCE REQUIREMENTS

General Aggregate

\$ 5,000,000

For acceptance of Professional Liability coverage included within another policy required herein, a statement notifying the certificate holder must be included on the certificate of insurance and the total amount of said coverage per occurrence must be greater than or equal to the amount of Professional Liability and other coverage combined.

PHASE 2 INSURANCE REQUIREMENTS – CONSTRUCTION SERVICES

The recommended Construction Manager at Risk must provide a certificate of insurance and endorsement in accordance with the insurance requirements listed below, prior to award of contract for Construction Services.

The Construction Manager at Risk shall obtain and maintain, and require any sub-contractors to obtain and maintain, at all times during its performance of the Agreement, insurance of the types and in the amounts set forth. For projects with a Completed Operations exposure, Construction Manager at Risk shall maintain coverage and provide evidence of insurance for 2 years beyond final acceptance. All insurance policies shall be from responsible companies duly authorized to do business in the State of Florida and have an AM Best rating of A- VIII or better.

- a. Submittals should include the Construction Manager at Risk current Certificate(s) of Insurance in accordance with the insurance requirements listed below. If Construction Manager at Risk does not currently meet insurance requirements, Construction Manager at Risk shall also include verification from their broker or agent that any required insurance not provided at that time of submittal will be in place prior to the award of contract.
- b. Construction Manager at Risk shall email certificate that is compliant with the insurance requirements to (Procurement Analyst email). If certificate received is compliant certificate no further action may be necessary. The Certificate(s) of Insurance shall be signed by authorized representatives of the insurance companies shown on the Certificate(s). A copy of the endorsement(s) referenced in paragraph d) for Additional Insured shall be attached to the certificate(s) referenced in this paragraph.
- c. No work shall commence at any project site unless and until the required Certificate(s) of Insurance are received and approved by the County. Approval by the County of any Certificate(s) of Insurance does not constitute verification by the County that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate(s) of Insurance is in compliance with the requirements of the Agreement. County reserves the right to require a certified copy of the entire insurance policy, including endorsement(s), at any time during the RFP and/or contract period.
- d. All policies providing liability coverage(s), other than professional liability and workers compensation policies, obtained by the Construction Manager at Risk and any subcontractors to meet the requirements of the Agreement shall be endorsed to include Pinellas County a Political subdivision of the State of Florida as an Additional Insured.
- e. If any insurance provided pursuant to the Agreement expires prior to the completion of the Work, renewal Certificate(s) of Insurance and endorsement(s) shall be furnished by the Construction Manager at Risk to the County at least thirty (30) days prior to the expiration date.
 - 1) Construction Manager at Risk shall also notify County within twenty-four (24) hours after receipt, of any notices of expiration, cancellation, nonrenewal or adverse material change in coverage received by said Construction Manager at Risk from its insurer. Notice shall be given by certified mail to: Pinellas County Risk Management 400 South Fort Harrison Ave Clearwater FL 33756; be sure to include your organization's unique identifier, which will be provided upon notice of award. Nothing contained herein shall absolve Construction Manager at Risk of this requirement to provide notice.
 - 2) Should the Construction Manager at Risk, at any time, not maintain the insurance coverages required herein, the County may terminate the Agreement.
- f. The County reserves the right, but not the duty, to review and request a copy of the Contractor's most recent annual report or audited financial statement when a self-insured retention (SIR) or deductible exceeds \$50,000.
- g. If subcontracting is allowed under this RFP, the Prime Construction Manager at Risk shall obtain and maintain, at all times during its performance of the Agreement, insurance of the types and in the amounts set forth; and require any subcontractors to obtain and maintain, at all times during its performance of the Agreement, insurance limits as it may apply to the portion of the Work performed by the subcontractor; but in no event will the insurance limits be less than \$500,000 for Workers' Compensation/Employers' Liability, and \$1,000,000 for General Liability and Auto Liability if required below.

SECTION C – INSURANCE REQUIREMENTS

- 1) All subcontracts between Construction Manager at Risk and its subcontractors shall be in writing and are subject to the County’s prior written approval. Further, all subcontracts shall (1) require each subcontractor to be bound to Construction Manager at Risk to the same extent Construction Manager at Risk is bound to the 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 at Risk to the County at the election of Owner upon termination of the Contract; (3) provide that County will be an additional indemnified party of the subcontract; (4) provide that the County will be an additional insured on all insurance policies required to be provided by the subcontractor except workers compensation and professional liability; (5) provide waiver of subrogation in favor of the County and other insurance terms and/or conditions as outlined below; (6) assign all warranties directly to the County; and (7) identify the County as an intended third-party beneficiary of the subcontract. Construction Manager at Risk shall make available to each proposed subcontractor, prior to the execution of the subcontract, copies of the Contract Documents to which the subcontractor will be bound by this Section C and identify to the subcontractor any terms and conditions of the proposed subcontract which may be at variance with the Contract Documents.

- h. Each insurance policy and/or certificate shall include the following terms and/or conditions:
 - 1) The Named Insured on the Certificate of Insurance and insurance policy must match the entity’s name that responded to the solicitation and/or is signing the agreement with the County. If Construction Manager at Risk is a Joint Venture per Section A. titled Joint Venture of this RFP, Certificate of Insurance and Named Insured must show Joint Venture Legal Entity name and the Joint Venture must comply with the requirements of Section C with regard to limits, terms and conditions, including completed operations coverage.
 - 2) Companies issuing the insurance policy, or policies, shall have no recourse against County for payment of premiums or assessments for any deductibles which all are at the sole responsibility and risk of Construction Manager at Risk.
 - 3) The term "County" or "Pinellas County" shall include all Authorities, Boards, Bureaus, Commissions, Divisions, Departments and Constitutional offices of County and individual members, employees thereof in their official capacities, and/or while acting on behalf of Pinellas County.
 - 4) The policy clause "Other Insurance" shall not apply to any insurance coverage currently held by County or any such future coverage, or to County’s Self-Insured Retentions of whatever nature.
 - 5) All policies shall be written on a primary, non-contributory basis. Any Certificate(s) of Insurance evidencing coverage provided by a leasing company for either workers compensation or commercial general liability shall have a list of covered employees certified by the leasing company attached to the Certificate(s) of Insurance. The County shall have the right, but not the obligation to determine that the Construction Manager at Risk is only using employees named on such list to perform work for the County. Should employees not named be utilized by Construction Manager at Risk, the County, at its option may stop work without penalty to the County until proof of coverage or removal of the employee by the contractor occurs, or alternatively find the Construction Manager at Risk to be in default and take such other protective measures as necessary.
 - 6) Insurance policies, other than Professional Liability, shall include waivers of subrogation in favor of Pinellas County from both the Construction Manager at Risk and subcontractor(s).

- i. The minimum insurance requirements and limits for this Agreement, which shall remain in effect throughout its duration and for 2 years beyond final acceptance for projects with a Completed Operations exposure, are as follows:
 - 1. **Workers’ Compensation Insurance** Worker’s Compensation Insurance is required if required pursuant to Florida law. If, pursuant to Florida law, Worker’s Compensation Insurance is required, employer’s liability, also known as Worker’s Compensation Part B, is also required in the amounts set forth herein.

Limits

Employers’ Liability Limits	Florida Statutory
Per Employee	\$ 500,000
Per Employee Disease Policy	\$ 500,000
Limit Disease	\$ 500,000

SECTION C – INSURANCE REQUIREMENTS

If Vendor/Contractor is not required by Florida law, to carry Workers Compensation Insurance in order to perform the requirements of this Agreement, County Waiver Form for workers compensation must be executed, submitted, and accepted by Risk Management. Failure to obtain required Worker’s Compensation Insurance without submitting and receiving a waiver from Risk Management constitutes a material breach of this Agreement.

- 2. **Commercial General Liability Insurance** including, but not limited to, Independent Vendor, Contractual Liability Premises/Operations, Products/Completed Operations, and Personal Injury. No explosion, collapse, or underground damage, crane length or boom weight exclusions allowed.

Limits

Combined Single Limit Per Occurrence	\$ 1,000,000
Products/Completed Operations Aggregate	\$ 2,000,000
Personal Injury and Advertising Injury	\$ 1,000,000
General Aggregate	\$ 2,000,000

- 3. **Business Automobile or Trucker’s/Garage Liability Insurance** covering owned, hired, and non- owned vehicles. If the Consultant does not own any vehicles, then evidence of Hired and Non-owned coverage is sufficient. Coverage shall be on an "occurrence" basis, such insurance to include coverage for loading and unloading hazards, unless Consultant can show that this coverage exists under the Commercial General Liability policy.

Limit

Combined Single Limit Per Accident	\$1,000,000
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- 4. **Excess or Umbrella Liability Insurance** excess of the primary coverage required, in paragraphs (1), (2), and (3) above. No explosion, collapse, or underground damage, crane length or boom weight exclusions allowed.

Limits

Each Occurrence	\$ 10,000,000
General Aggregate	\$ 10,000,000

- 5. **Pollution Legal/Environmental Legal Liability Insurance** for pollution losses arising from all services performed to comply with this contract. Coverage shall apply to sudden and gradual pollution conditions including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water, which results in Bodily Injury or Property Damage. If policy is written on a Claims Made form, a retroactive date is required, and coverage must be maintained for 3 years after completion of contract or “tail coverage must be purchased. Coverage should include and be for the at least the minimum limits listed below:

- a. Bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death; property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed;
- b. Defense including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensation damages.
- c. Cost of Cleanup/Remediation.

Limits

Per Claim or Occurrence	\$ 1,000,000
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SECTION C – INSURANCE REQUIREMENTS

General Aggregate \$ 1,000,000

For acceptance of Pollution Legal/Environmental Legal Liability coverage included within another policy coverage required herein, a statement notifying the certificate holder must be included on the certificate of insurance and the total amount of said coverage per occurrence must be greater than or equal to the amount of Pollution Legal/Environmental Legal Liability and other coverage combined.

6. **Professional Liability (Errors and Omissions) Insurance** with at least minimum limits as follows. If “claims made” coverage is provided, “tail coverage” extending three (3) years beyond completion and acceptance of the project with proof of “tail coverage” to be submitted with the invoice for final payment. In lieu of “tail coverage”, Proposer may submit annually to the County, for a three (3) year period, a current certificate of insurance providing “claims made” insurance with prior acts coverage in force with a retroactive date no later than commencement date of this contract.

Limits

Each Occurrence or Claim	\$ 5,000,000
General Aggregate	\$ 5,000,000

For acceptance of Professional Liability coverage included within another policy required herein, a statement notifying the certificate holder must be included on the certificate of insurance and the total amount of said coverage per occurrence must be greater than or equal to the amount of Professional Liability and other coverage combined.

7. **Builders Risk/Installation Floater Insurance** County property shall be covered by proof of a Builders Risk policy and/or Installation Floater policy covering the interests of Pinellas County property until final acceptance of building or of installed equipment is granted and coverage period shall include testing. Coverage shall be maintained for the entire time the property and/or equipment is in the Proposer’s care, custody, and/or control, including onsite and offsite storage and transit. Limit and valuation shall be replacement cost. If the Proposer delivers materials and/or equipment and loads same using a crane, then no crane, boom, jig, or weight exclusion shall apply. Proposer’s property, installation floater, builders risk, if required, and/or equipment policy shall contain a waiver of subrogation in favor of the County. All deductibles will be the responsibility of the Proposer unless County agrees in writing. Builders Risk policies shall be written in the name of the County, the contractor and all subcontractors as their interests may appear. Installation and/or Equipment policies must name the County as a Loss Payee.

Limit Guaranteed Maximum Price of New Construction

8. **Property Insurance** Vendor will be responsible for all damage to its own property, equipment and/or materials.

SECTION D – CONTRACTOR REFERENCES

SECTION D – CONTRACTOR REFERENCES

THE FOLLOWING INFORMATION IS REQUIRED IN ORDER THAT YOUR PROPOSAL MAY BE REVIEWED AND PROPERLY EVALUATED.

COMPANY NAME: _____

LENGTH OF TIME COMPANY HAS BEEN IN BUSINESS: _____

BUSINESS ADDRESS: _____

HOW LONG IN PRESENT LOCATION: _____

TELEPHONE NUMBER: _____

FAX NUMBER: _____

TOTAL NUMBER OF CURRENT EMPLOYEES: _____ FULL TIME _____ PART TIME

NUMBER OF EMPLOYEES YOU PLAN TO USE TO SERVICE THIS CONTRACT: _____

All references will be contacted by a County Designee via email, fax or phone call to obtain answers to questions, as applicable before an evaluation decision is made.

Bidders must have experience in work of the same or similar nature, and must provide references that will satisfy the County. Proposer must furnish a reference list of at least four (4) customers for whom they have performed similar services.

EITHER LOCAL COMMERCIAL OR GOVERNMENTAL REFERENCE(S) (PINELLAS COUNTY GOVERNMENT REFERENCES WILL NOT BE ACCEPTED) THAT YOU HAVE PREVIOUSLY PERFORMED SIMILAR CONTRACT SERVICES FOR:

1.	2.
COMPANY:	COMPANY:
ADDRESS:	ADDRESS:
TELEPHONE/FAX:	TELEPHONE/FAX:
CONTACT:	CONTACT:
CONTACT EMAIL:	CONTACT EMAIL:
COMPANY EMAIL ADDRESS:	COMPANY EMAIL ADDRESS:
3.	4.
COMPANY:	COMPANY:
ADDRESS:	ADDRESS:
TELEPHONE/FAX:	TELEPHONE/FAX:
CONTACT:	CONTACT:
CONTACT EMAIL:	CONTACT EMAIL:
COMPANY EMAIL ADDRESS:	COMPANY EMAIL ADDRESS:

SECTION E – SCOPE OF WORK**SECTION E – SCOPE OF WORK****A. OBJECTIVE:**

The project consists of pre-construction and construction services for improvements to the passenger terminal building.

B. BACKGROUND

The St Pete-Clearwater International Airport (PIE) is located on the west shoreline of Old Tampa Bay in Pinellas County, Florida. This county-owned and operated airport was originally built during World War II as a United States Army Air Base. After the war, the property was returned to Pinellas County to operate as a civil airport.

The original terminal building was dedicated in 1957. Since that time, various building expansions and renovations have been made to the facility. The most recent building improvements have been to the Federal Inspection Services area, Gates 7-11 passenger security screening and hold room area, and the Ticketing “A” check-in and baggage screening and make-up areas.

Since 2013, the airport has experienced double-digit growth in total passenger traffic annually. Increasing from 1,017,049 passengers in 2013 to 2,366,029 in 2022. This represents an increase of two hundred and nineteen percent (233%) over nine years.

In the spring of 2021, the airport completed its Master Plan Study. This long-awaited study provided an assessment of the existing conditions of the facility, and a recommended path forward for the expansion of the terminal building, (and associated apron), to meet the needs and demands for the present and future conditions.

In the study, the 20-year planning period for the terminal building used a demand-based approach to determine the space requirements for the various functional areas of the building when a certain “Planning Activity Level” (PAL), (based on annual/peak hour enplanements), is reached.

Table 1 below, (referred to as a “Stoplight Chart” in the Master Plan Study), shows the results of the assessment of the existing terminal building’s functional spaces, (as related to the PAL), and the recommended additional area needed to meet those needs. In this table, green is “acceptable”, yellow is “congested but operational”, and red is “crowded and uncomfortable”.

The ultimate terminal build-out, as shown in Figure 1, will meet the PAL 3 requirements. To meet current demands, the airport will construct to the PAL 2 requirements, which represents an annual passenger enplanement level of 1,750,000, and/or annual operations of 145,000.

Note that from Table 1, for PAL-2 conditions, the existing terminal building lacks the needed area for passenger security screening, hold room and boarding gates, concessions, restrooms, office space, and aircraft parking positions.

Figure 2 represents the existing conditions of the terminal building and the apron layout. Figure 3 shows the conceptual layout of the new facility to meet PAL 2 needs.

Figures 4 and 5 shows the conceptual layout of the functional area needs for the first and second floors of the new facility. These two figures show that there is approximately 140,730 square feet of new space to be added to the existing facility and 26,540 square feet of renovated space. At the end of this project, the terminal building will be expanded from its existing area of 151,580 square feet to 292,310 square feet. A ninety-three percent (93%) increase of space.

SECTION E – SCOPE OF WORK

	EXISTING	BASE YEAR	PAL-1	PAL-2	PAL-3	PAL-4
ANNUAL ENPLANEMENTS	1,021,361	1,021,361	1,250,000	1,750,000	2,250,000	2,750,000
PEAK HOUR ENPLANEMENTS	904	904	1,060	1,220	1,400	1,750
PASSENGER CHECK-IN/BAG DROP						
FULL SERVICE POSITIONS	34	3	2	2	2	2
SELF-SERVICE BAG DROP KIOSK	0	7	9	10	12	15
PREMIUM	2	1	2	2	2	2
ONLINE CHECK-IN, CARRY-ON ONLY	0	N/A	N/A	N/A	N/A	N/A
TOTAL CHECK-IN/TICKETING AREA	6,790	5,220	5,370	5,490	5,670	6,560
EXPLOSIVE DETECTION SYSTEM BAGGAGE SCREENING						
NUMBER OF LEVEL 1 EDS REQUIRED	4	2	3	3	3	4
OUTBOUND BAGGAGE SCREENING AREA	9,987	2,880	4,320	4,320	4,320	4,400
OUTBOUND BAGGAGE MAKE-UP AREA	7,905	20,410	25,510	30,620	33,170	34,560
PASSENGER SECURITY SCREENING						
REGULAR PASSENGER LANES	4	5	7	8	8	11
PRE-CHECK PASSENGER LANES	2	2	2	2	2	2
REQUIRED MODULES		4	5	5	5	7
TOTAL SECURITY SCREENING AND QUEUE AREA	11,114	16,170	20,080	20,380	20,710	28,600
HOLDROOMS AND BOARDING GATES						
NARROW-BODY HOLDROOMS		5,000	5,000	5,000	5,000	5,000
WIDE-BODY HOLDROOMS		16,600	23,720	28,460	30,830	37,950
TOTAL HOLDROOM AREA	19,380	21,600	28,720	33,460	35,830	42,950
CONCESSIONS						
CONCESSIONS AREA (PRE-SECURITY)	2,510	1,270	1,560	1,890	2,450	2,940
CONCESSIONS AREA (POST-SECURITY)	6,560	11,400	14,060	16,980	22,050	26,420
REMOTE CONCESSIONS STORAGE		2,940	3,620	4,370	5,680	6,840
BAGGAGE CLAIM						
REQUIRED CAROUSELS	4	2	3	3	4	4
BAGGAGE CLAIM AREA	19,590	17,880	24,310	24,310	30,750	30,750
INBOUND BAGGAGE HANDLING AREA	6,200	5,250	7,875	7,875	10,500	10,500
RESTROOMS						
RESTROOMS (PRE-SECURITY)	2,450	850	1,040	1,240	1,560	1,800
RESTROOMS (POST-SECURITY)	2,140	2,540	3,110	3,710	4,670	5,380
AIRCRAFT PARKING POSITIONS						
DOMESTIC ACTIVE GATES	11	8	11	12	13	16
REMOTE POSITIONS	3	3	3	4	5	6
DOMESTIC/INTERNATIONAL ACTIVE GATES	1	1	1	1	1	1
TOTAL	15	12	15	17	19	23

Table 1 – Terminal Facility Requirements Stoptlight Chart



Figure 1 – Preferred Alternative for Terminal Expansion

(Meets PAL-3 Requirements)

SECTION E – SCOPE OF WORK

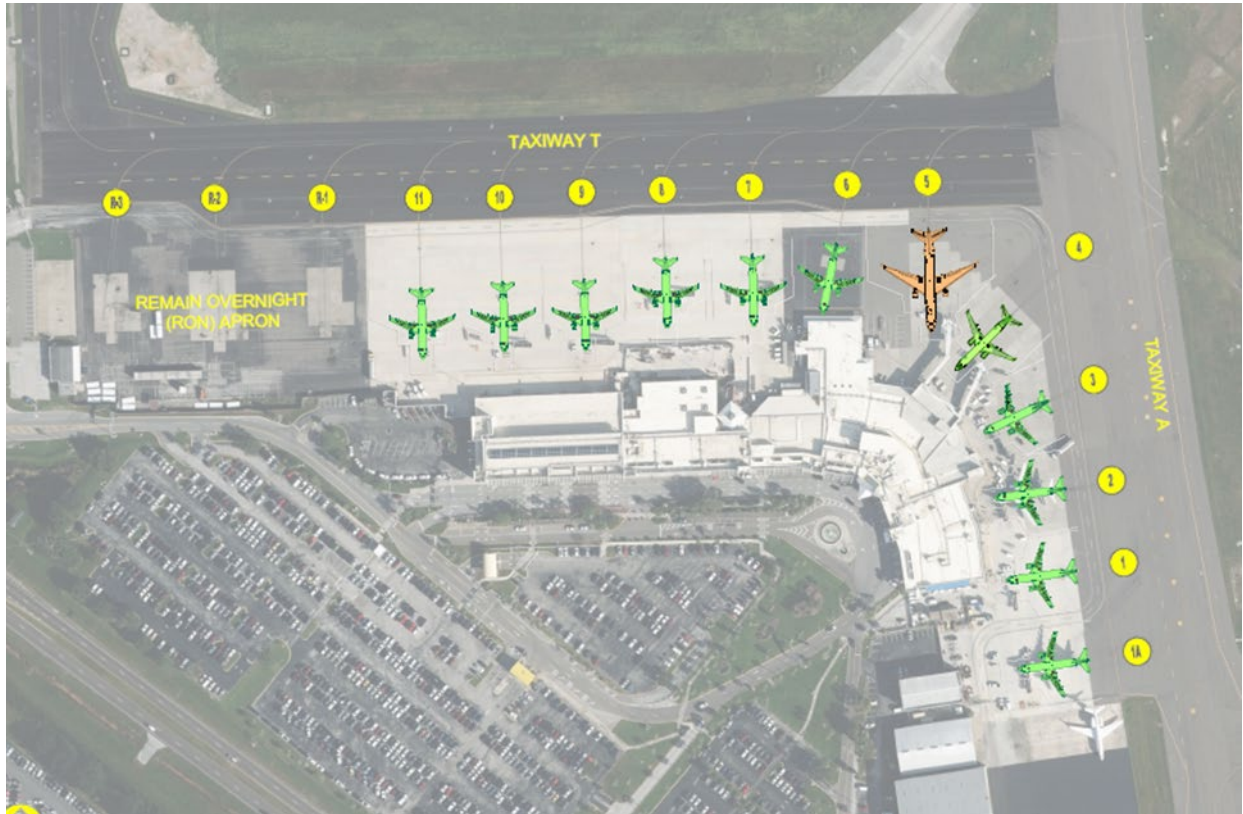


Figure 2 – Existing Conditions

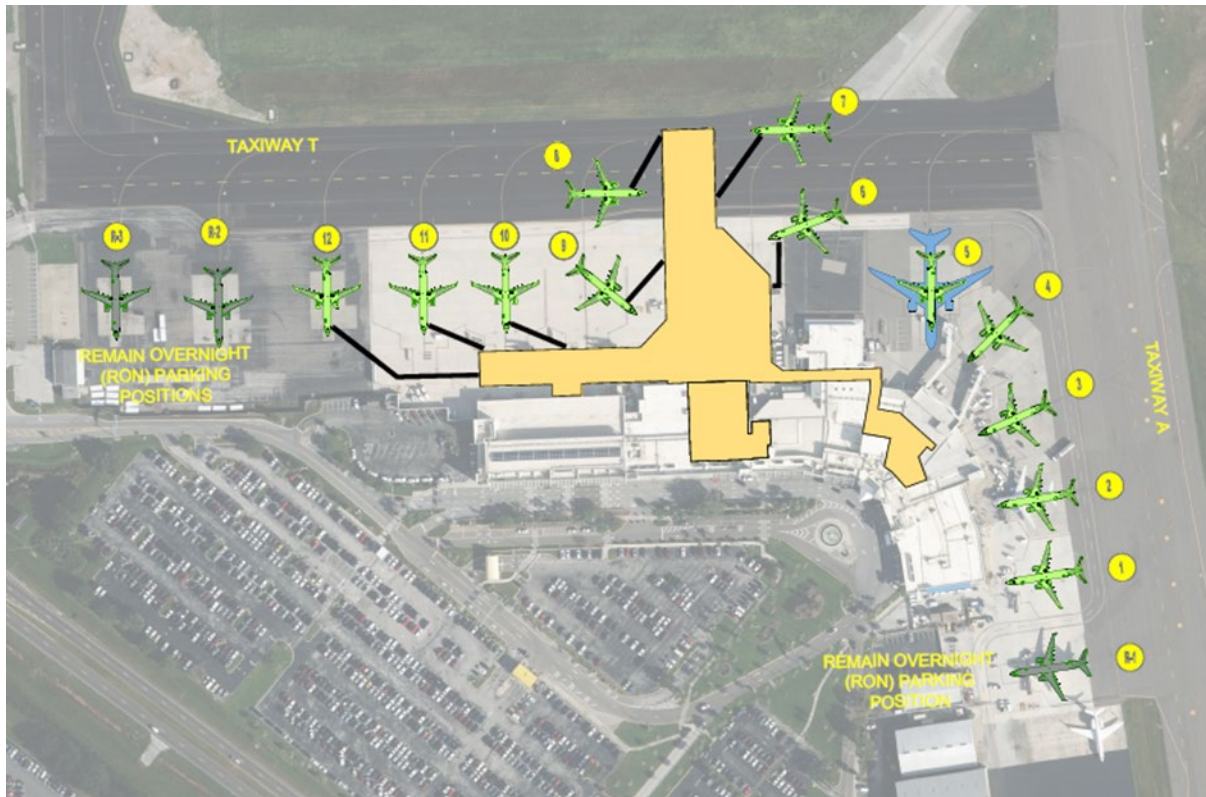


Figure 3 – PAL 2 Requirements

SECTION E – SCOPE OF WORK

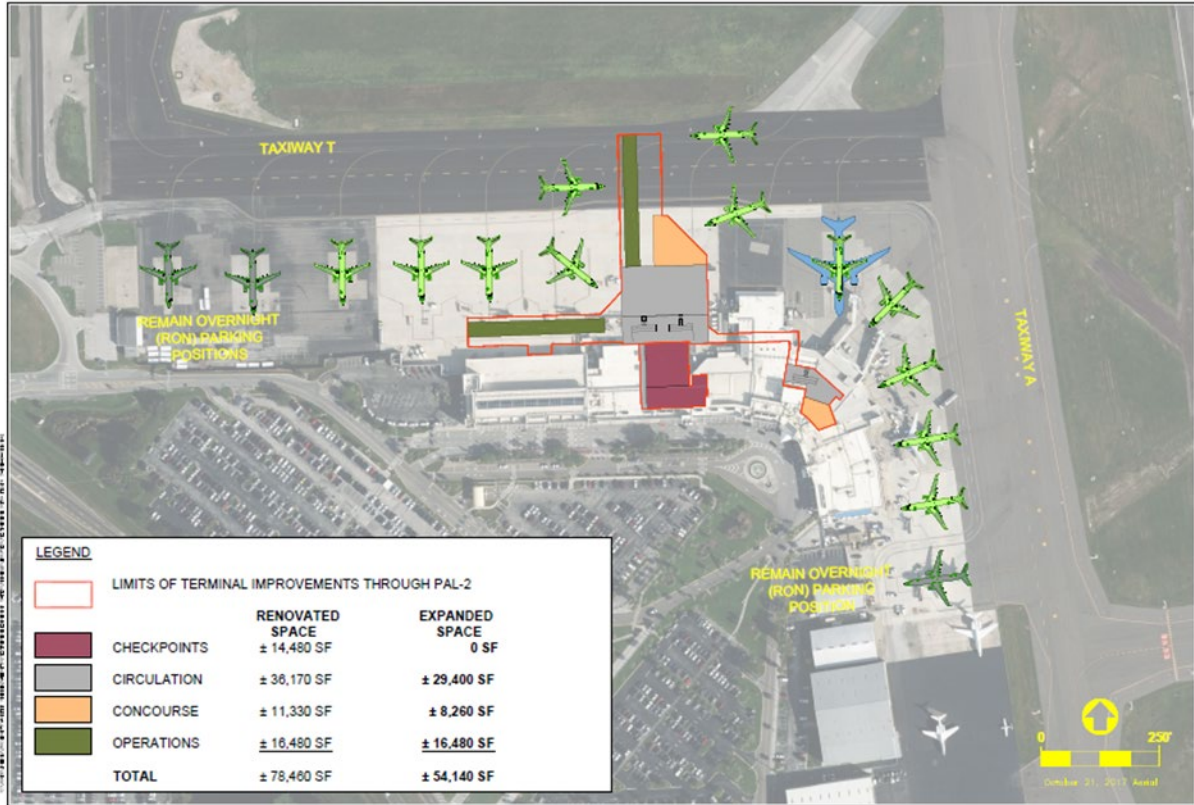


Figure 4 – First Floor Improvements

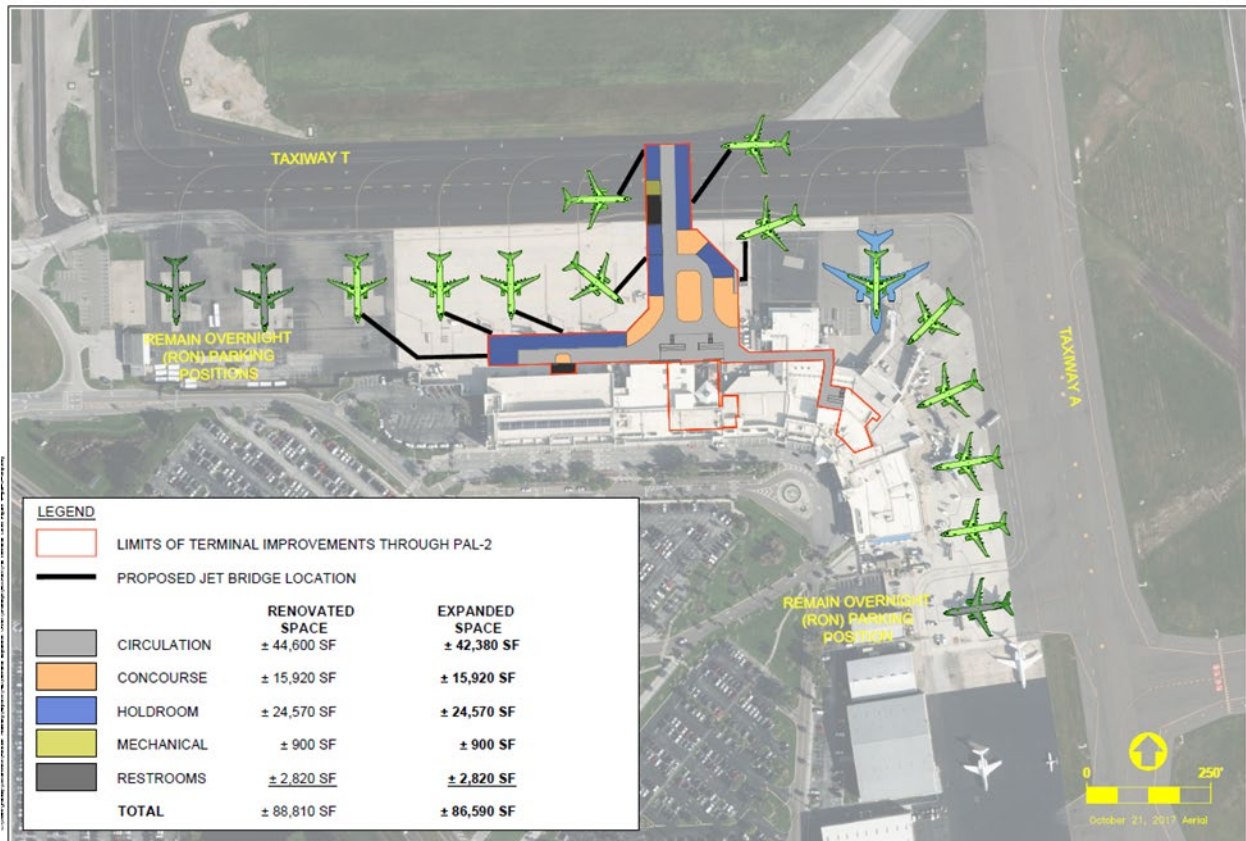


Figure 5 – Second Floor Improvements

SECTION E – SCOPE OF WORK

The current construction phasing concepts presented in the Master Plan Study to meet the PAL-2 needs are shown in Figures 6 through 8 below. The selected design team will validate the functional space needs from the Master Plan Study and provide alternative phasing concepts, as needed, with input from the Construction Manager at Risk (CMAR).

The goal of the construction phasing is to minimize impacts to airport operations and maximize work area for the CMAR.

A brief description of the construction phasing is shown below.

- Phase 1 involves the construction a new second floor hold room for Gates 7-11 to the north of the existing baggage claim area to offset the future loss of the existing Gates 7-11 hold room space that will occur during Phase 2.
- Phase 2 involves the construction of the future consolidated security checkpoint, as well as the future concourse expansion.
- Phase 3 involves the completion of the consolidated checkpoint and the elevated walkway to allow post-security passengers to access the Gate 2-6 area.



Figure 6 – Conceptual Construction Phasing – Phase 1

SECTION E – SCOPE OF WORK

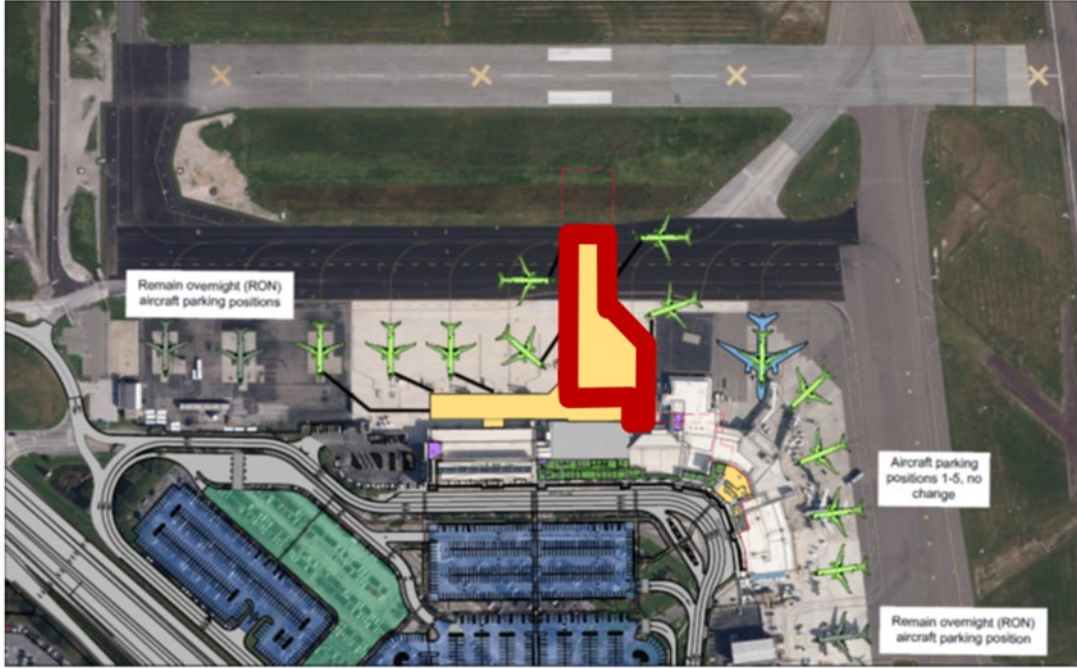


Figure 7 – Conceptual Construction Phasing – Phase 2



Figure 8 – Conceptual Construction Phasing – Phase 3

C. SCOPE OF WORK:

The CMAR is expected to join the design team during the Schematic Design Phase after the preferred conceptual layout of the new and renovated facility has been selected. The CMAR will participate in design meetings and provide input relating to schedule, budget, construction phasing, long-lead items, early-release packages, etc. Once the design documents have reached the level where the CMAR is able to provide the Guaranteed Maximum Price (GMP), and the parties agree to the GMP, the agreement will be amended accordingly, and the CMAR will proceed with the construction of the project.

SECTION E – SCOPE OF WORK

ATTACHMENTS:

1. Attachment A: Small Business Enterprise (SBE) Status Form
2. EXHIBIT N – CONSTRUCTION PHASE FEE PROPOSAL
3. EXHIBIT O - FDOT CONTRACT PROVISIONS
4. EXHIBIT P - FAA CONTRACT PROVISIONS
5. Sample Agreement

SECTION F - ELECTRONIC PAYMENT (EPAYABLES)

ELECTRONIC PAYMENT (EPAYABLES)

The Board of County Commissioners (County) is offering faster payments. The County would prefer to make payment using credit card through the ePayables system. See above.

Would your company accept to participate in the ePayables credit card program?

Yes _____ No _____

For more information about ePayables credit card program please visit Purchasing Department website

www.pinellascounty.org/purchase/

Company Name

Signature

Printed Signature

Phone Number

Email

W9 REQUEST FOR TAXPAYER ID NUMBER AND CERTIFICATION

W-9 REQUEST FOR TAXPAYER ID NUMBER AND CERTIFICATION

***Instructions to form W-9 available upon request**

The contractor must complete and submit to the County Form W-9 available: Through the following link:

www.irs.gov/forms-pubs/about-form-w-9

Section 119.071(5), Florida Statutes Notice:

Your Tax Identification Number (which for individuals is your social security number) is collected on Form W9 for use in filing information returns with the IRS as described more fully below. Collection of the Internal Revenue Code (26 U.S.C § 6109).

Privacy Act Notice:

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA, or Archer MSA or HAS. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, and District of Columbia, and U.S. possessions to carry out their tax laws. We may also disclose this information to other countries under the tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 28% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer.

SECTION G - ADDENDUM

SECTION G - ADDENDUM

PLEASE ACKNOWLEDGE RECEIPT OF ADDENDA FOR THIS SOLICITATION BY SIGNING AND DATING BELOW:

ADDENDA NO.	SIGNATURE/PRINTED NAME	DATE RECEIVED

Note: Prior to submitting the response to this solicitation, it is the responsibility of the firm submitting a response to confirm if any addenda have been issued. If such document(s) have been issued, acknowledge receipt by signature and date in section above. Failure to do so may result in response being considered non-responsive or result in lowering the rating of a firm's proposal.

Information regarding addenda issued is available on the OpenGov website, <https://secure.procurenw.com/portal/pinellasfl>, listed under the bid attachments.

SECTION H – STATEMENT OF NO BID

SECTION H – STATEMENT OF NO BID

NOTE: If you do not intend to bid on this requirement, please complete this form. **Thank you.**

We, the undersigned have declined to submit a bid for No. **24-0333-RFP-CMAR** for **Passenger Terminal Improvements - Construction Manager at Risk (CMAR)**.

_____ Specifications too "tight", i.e., geared toward one brand or manufacturer only (explain below).

_____ Insufficient time to respond to the Invitation to Bid.

_____ We do not offer this product or service.

_____ Our schedule would not permit us to perform.

_____ Unable to meet specifications.

_____ Unable to meet Bond requirement.

_____ Specifications unclear (explain below).

_____ Unable to Meet Insurance Requirements.

_____ Remove Us from Your "Notification List" Altogether

_____ Other (specify below).

REMARKS:

COMPANY NAME: _____

DATE: _____

SIGNATURE: _____

TYPED NAME OF ABOVE: _____

TELEPHONE: _____

FAX: _____

COMPANY EMAIL: _____

APPENDIX 1 – E-VERIFY AFFIDAVIT

APPENDIX 1 – E-VERIFY AFFIDAVIT

I hereby certify that _____ [insert contractor company name] does not employ, contract with, or subcontract with an unauthorized alien, and is otherwise in full compliance with Section 448.095, Florida Statutes.

All employees hired on or after January 1, 2021 have had their work authorization status verified through the E-Verify system.

A true and correct copy of _____ [insert contractor company name] proof of registration in the E-Verify system is attached to this Affidavit.

Signature: _____

Print Name: _____

Date: _____

Federal Work Authorization User Identification No.: _____

Name of Pinellas County Contract and Contract No.: _____

STATE OF FLORIDA COUNTY OF _____

The foregoing instrument was acknowledged before me by means of 1) physical presence ___ or 2) online notarization ___, this _____ (date) by _____ (name of officer or agent, title of officer or agent) of _____ (name of contractor company acknowledging), a _____ (state or place of incorporation) corporation, on behalf of the _____ corporation. He/she is personally known to me or has produced _____ (type of identification) as identification.

[Notary Seal]

Notary Public: _____

Name typed, printed, or stamped: _____

My Commission Expires: _____

ATTACHMENT A: SMALL BUSINESS ENTERPRISE (SBE) STATUS FORM

ATTACHMENT A: SMALL BUSINESS ENTERPRISE (SBE) STATUS FORM

IMPORTANT:

1. There is a maximum of 100 points available under this section, which will be awarded as follows:
 - a. If the prime firm is certified as a Pinellas County SBE, 100 points will be awarded.
 - b. If the prime firm utilizes 1 certified Pinellas County SBE as sub-consultant, 50 points will be awarded.
 - c. If the prime firm utilizes more than 1 certified Pinellas County SBE, as sub-consultant, 75 points will be awarded.
 - d. If the prime firm nor any of its sub-consultants are not certified as a Pinellas County SBE, 0% of the points available will be awarded.
2. Proof of certification for each firm claiming Pinellas County SBE status should be included in the submittal.

PRIME FIRM	PINELLAS COUNTY CERTIFIED SBE	
	Yes	No
1.		

SUB-CONSULTANT(S):	PINELLAS COUNTY CERTIFIED SBE	
	Yes	No
1.		
2.		
3.		
4.		
5.		

I certify that the information included in this Form is true and complete to the best of my knowledge and belief. I further understand and agree points awarded to this section will be based on the information provided and that this Form shall become a part of my contract with Pinellas County.

Name and Title of Authorized Representative: _____

Signature: _____

FOR PINELLAS COUNTY USE ONLY

MAXIMUM AVAILABLE POINTS	AWARDED POINTS			
	100	<input type="checkbox"/> 100 Points (Prime Firm is Pinellas County SBE)	<input type="checkbox"/> 75 Points (More than 1 sub consultant is Pinellas County SBE)	<input type="checkbox"/> 50 Points (Only 1 sub consultant is Pinellas County SBE)

EXHIBIT N - CONSTRUCTION PHASE FEE PROPOSAL

EXHIBIT N
Required only from Short Listed Firms following Completion of Step 1
PRICE PROPOSAL FORM
(NOT TO BE SUBMITTED WITH PROPOSAL)

Page 1 of 2

Pricing Component

Pre-Construction Phase Fee (see note 1)	0.32 % of <u>estimated</u> construction cost (which will be converted to a <u>lump sum fee</u> when a task order/amendment is issued see note 1)
--	--

Performance and Payment Bonds	0.70 % of <u>estimated</u> construction cost
Builders Risk Insurance	2.10 % of <u>estimated</u> construction cost Rate takes into account multiple hurricane seasons
General Liability Insurance	1.25 % of <u>estimated</u> construction cost

Construction Phase Management Fee (see note 2)	\$\$ Per Month (Assume Full-Time Rate for each category of field employees listed) (which will be converted to a <u>lump sum fee</u> when a task order/amendment is issued see note 2)
Home Office Employees	\$ 0
On-Site Project Director	\$ 38,493 per month (On-Site Project Director)
Senior Project Manager	\$ 31,685 per month
Project Manager	\$ 22,400 per month
Assistant Project Manager	\$ 18,754 per month (Senior Engineer / Project Engineer)
General Superintendent	\$ 30,908 per month (Senior Superintendent)
Superintendent	\$ 23,230 per month
Project Coordinator/Admin	\$ 13,907 per month (Project Accountant)
Field Office (trailer) (see note 4)	\$ 7,350 per month (For transparency - see breakdown of associated costs attached.)
Field Office move in/set up/move out	\$ 70,000 of lump sum (one time costs - For transparency - see breakdown of included costs attached)

Overhead and Profit (see note 3)	% of GMP (which will be converted to a <u>lump sum fee</u> when GMP is approved, before construction begins, see note 3)		
	Overhead	Profit	Total
	<u>0.396 %</u>	<u>3.25 %</u>	<u>3.646 %</u>

* Temporary offices, labor, general liability and builders risk insurances, bond rates are subject to escalation as project is scheduled for 2026 construction start.

Staff Rates Include:

- A Compensation, insurance, taxes, group medical, 401K matching, training and other compensation benefits
- B Project office computers, server, frame relay and network connection
- C Cell phone equipment & service plan

EXHIBIT N – CONSTRUCTION PHASE FEE PROPOSAL**PRICE PROPOSAL FORM****Notes for Pricing Component**

Note 1: Pre-Construction Phase Fee. The Pre-Construction Phase Fee proposed will be the maximum fee allowed to provide the services described in Section 2.1 of the Agreement. The percentage of estimated construction cost will be converted to a fixed lump sum when a task order/amendment is issued authorizing the Pre-Construction Phase services for a particular project. The lump sum price will be fixed prior to the services beginning and cannot be increased.

Note 2: Construction Phase Management Fee. Proposer should provide the cost per month to provide the Construction Phase Management services described in Section 2.2 and allowable under Article 6. For the price proposal, proposer should assume full-time utilization of a single person for each category of field personnel. The fee proposed will be the maximum fee allowed to provide the Construction Phase Management services described in Section 2.2 of the Agreement. The fee for the project may be negotiated lower if not all of the services listed in Section 2.2 of the Agreement are required for a particular project, if not all of the field positions are required to be filled, or if not all field positions are required to be filled on a full-time for the project. Depending on the nature and complexity of the project, the County may also approve more than one person in each of the various field personal categories at the applicable rate established in the fee proposal. The proposed fee will be converted to a fixed lump sum fee when an amendment is issued authorizing the construction phase management services for a particular project (and is based on estimated costs not actual incurred costs.)

Note 3: Overhead and Profit. The Overhead and Profit fee proposed will be converted to a fixed lump sum when the GMP amendment is approved. This lump sum fee is based on the approved GMP and is not based on actual incurred costs. The lump sum amount will be fixed prior to construction beginning and this fixed fee cannot be increased for the work authorized under that GMP amendment. The Overhead and Profit Fee must not include costs already allocated to and included in the Construction Phase Management Fee described in Note 2 above.

Note 4: Field Office. Costs for the field office includes all expenses associated with the Field Office.



PIE Field Office Costs

7.15.24

(MONTHLY COST)

Description - Monthly Field Office Costs	Quantity	Unit	Unit Cost	Total Cost
Power for Offices	1	Month	\$ 700.00	\$ 700.00
Holding Tanks (6*1)	1	Month	\$ 450.00	\$ 450.00
Officer Trailer (36x56') -Triple Wide	1	Months	\$ 4,500.00	\$ 4,500.00
Copy Machine (Misc. Equipment	1	Month	\$ 500.00	\$ 500.00
Office Supplies	1	Month	\$ 700.00	\$ 700.00
Data Lines (Internet)	1	Months	\$ 500.00	\$ 500.00
Total				\$7,350

Description: One time Costs - Field Office move in/set up/move out	Quantity	Unit	Unit Cost	Total Cost
Office Space Buildout (Data Wiring)	1	Lump Sum	\$ 5,000.00	5,000
Office Trailer Frieight, Setup, tiedown & removal	1	Lump Sum	\$ 35,000.00	\$ 35,000.00
ADA Steps (DECK w Steps)	1	Lump Sum	\$ 5,000.00	\$ 5,000.00
Office Furniture	1	Lump Sum	\$ 20,000.00	\$ 20,000.00
Moving Sevices	1	Lump Sum	\$ 5,000.00	\$ 5,000.00
Total				\$70,000

EXHIBIT O - FDOT CONTRACT PROVISIONS

Florida Department of Transportation Funding

This project is being funded in part by a Grant from the Florida Department of Transportation (FDOT). The contractor must abide by the following contract provisions:

Equal Employment Opportunity: In connection with the carrying out of this Project, the contractor shall not discriminate against any employee or applicant for employment because of race, age, creed, color, sex or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, age, creed, color, sex, or national origin. Such action shall include, but not be limited to, the following: Employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor shall insert the foregoing provision modified only to show the particular contractual relationship in all its subcontracts in connection with the development or operation of the Project, except subcontracts for the standard commercial supplies or raw materials, and shall require all such subcontractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the Project involves installation, construction, demolition, removal, site improvement, or similar work, the Contractor shall post, in conspicuous places available to employees and applicants for employment for Project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

Title VI - Civil Rights Act of 1964: The Contractor will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 USC 2000d, et. seq), the Regulations of the Federal Department of Transportation issued thereunder, and the assurance by the Contractor pursuant thereto.

Title VIII - Civil Rights Act of 1968: The Contractor will comply with all the requirements imposed by Title VIII of the Civil Rights Act of 1968, (42 USC 3601, et seq.,) which among other things, prohibits discrimination in housing on the basis of race, color, national origin, creed, sex and age.

Americans with Disabilities Act of 1990 (ADA): The Contractor will comply with all the requirements imposed by the ADA (42 USC 12012. et. Seq.) the regulations of the federal government issued thereunder, and the assurance by the Contractor pursuant thereto.

Disadvantaged Business Enterprise (DBE) Policy and Obligation:

DBE Policy: It is the policy of the FDOT Grant that Disadvantaged Business Enterprises (DBE) as defined in 49 CFR Part 26, as amended, shall have the equal opportunity to participate in the performance of contracts financed in whole or in part with FDOT funds. The DBE requirements of 49 CFR Part 26, as amended, apply to this contract.

DBE Obligation: The Contractor agrees to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26, as amended, have the equal opportunity to participate in the performance of this contract. In this regard, the contractor shall take all necessary and reasonable steps in accordance with 49 CFR Part 26, as amended, to ensure that the Disadvantaged Business Enterprises have the maximum opportunity to compete for and perform this contract. The contractor and their subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of this contract.

The contractor shall not discriminate on the basis of race color national origin or sex in the award and performance of any DOT assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26 The contractor shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts The airport's DBE program goal as required by 49 CFR part 26 and as approved by DOT is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this contract. Upon notification to the contractor of its failure to carry out its approved program the County may impose sanctions as provided for under part 26 and may in appropriate cases refer the matter for enforcement under 18USC1001 and/or the Program Fraud Civil Remedies Act of 1986 (31USC3801 et seq.)

E-Verify

The contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Vendor/Contractor during the term of the contract; and

Shall expressly require any subcontractors performing work or providing services pursuant to this contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term

EXHIBIT P - FAA CONTRACT PROVISIONS



FAA CONTRACT PROVISIONS

ACCESS TO RECORDS AND REPORTS

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Owner, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Timetables

Goals for minority participation for each trade: 6.9%

Goals for female participation in each trade: 6.9%

These goals are applicable to all of the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and nonfederally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a) and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

4. As used in this notice and in the contract resulting from this solicitation, the “covered area” is the St Pete-Clearwater International Airport.

REACH OF CONTRACT TERMS

Any violation or breach of terms of this contract on the part of the Contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

Owner will provide Contractor written notice that describes the nature of the breach and corrective actions the Contractor must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Contractor until such time the Contractor corrects the breach or the Owner elects to terminate the contract. The Owner’s notice will identify a specific date by which the Contractor must correct the breach. Owner may proceed with termination of the contract if Contractor fails to correct the breach by the deadline indicated in the Owner’s notice.

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

FAA BUY AMERICAN PREFERENCE

The Contractor certifies that its bid/offer is in compliance with 49 USC § 50101, BABA and other related Made in America Laws,¹ U.S. statutes, guidance, and FAA policies, which provide that Federal funds may not be obligated unless all iron, steel and manufactured goods used in AIP funded projects are produced in the United States, unless the Federal Aviation Administration has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

The bidder or offeror must complete and submit the certification of compliance with FAA’s Buy American Preference, BABA and Made in America laws included herein with their bid or offer. The Airport Sponsor/Owner will reject as nonresponsive any bid or offer that does not include a completed certification of compliance with FAA’s Buy American Preference and BABA.

The bidder or offeror certifies that all constructions materials, defined to mean an article, material, or supply other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of: non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber; or drywall used in the project are manufactured in the U.S.

Construction Projects

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with its proposal. The bidder or offeror must indicate how it intends to comply with 49 USC § 50101, BABA and other related Made in America Laws, U.S. statutes, guidance, and FAA policies, by selecting one of the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (i.e., not both) by inserting a checkmark (✓) or the letter “X”.

- Bidder or offeror hereby certifies that it will comply with 49 USC § 50101, BABA and other related U.S. statutes, guidance, and policies of the FAA by:
- a) Only installing iron, steel and manufactured products produced in the United States;
 - b) Only installing construction materials defined as: an article, material, or supply – other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber or drywall that have been manufactured in the United States.
 - c) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
 - d) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- a) To provide to the Airport Sponsor or the FAA evidence that documents the source and origin of the iron, steel, and/or manufactured product.
 - b) To faithfully comply with providing U.S. domestic products.
 - c) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
 - d) Certify that all construction materials used in the project are manufactured in the U.S.
- The bidder or offeror hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
- a) To submit to the Airport Sponsor or FAA within 15 calendar days of being selected as the responsive bidder, a formal waiver request and required documentation that supports the type of waiver being requested.
 - b) That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination that may result in rejection of the proposal.
 - c) To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.
 - d) To furnish U.S. domestic product for any waiver request that the FAA rejects.

- e) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

Required Documentation

Type 2 Waiver (Nonavailability) - The iron, steel, manufactured goods or construction materials or manufactured goods are not available in sufficient quantity or quality in the United States. The required documentation for the Nonavailability waiver is

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire
- b) Record of thorough market research, consideration where appropriate of qualifying alternate items, products, or materials including;
- c) A description of the market research activities and methods used to identify domestically manufactured items capable of satisfying the requirement, including the timing of the research and conclusions reached on the availability of sources.

Type 3 Waiver – The cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components and subcomponents of the “facility/project.” The required documentation for a Type 3 waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire including;
- b) Listing of all manufactured products that are not comprised of 100 percent U.S. domestic content (excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety).
- c) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
- d) Percentage of non-domestic component and subcomponent cost as compared to total “facility” component and subcomponent costs, excluding labor costs associated with final assembly and installation at project location.

Type 4 Waiver (Unreasonable Costs) - Applying this provision for iron, steel, manufactured goods or construction materials would increase the cost of the overall project by more than 25 percent. The required documentation for this waiver is:

- a) A completed Content Percentage Worksheet and Final Assembly Questionnaire from
- b) At minimum two comparable equal bids and/or offers;
- c) Receipt or record that demonstrates that supplier scouting called for in Executive Order 14005, indicates that no domestic source exists for the project and/or component;
- d) Completed waiver applications for each comparable bid and/or offer.

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date

Signature

Company Name

Title

Equipment/Building Projects

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101, and other Made in America Laws, U.S. statutes, guidance, and FAA policies by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark (✓) or the letter “X”.

- Bidder or offeror hereby certifies that it will comply with 49 USC § 50101, BABA and other related U.S. statutes, guidance, and policies of the FAA by:
- a) Only installing steel and manufactured products produced in the United States;
 - b) Only installing construction materials defined as: an article, material, or supply – other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber or drywall that have been manufactured in the United States.
 - c) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
 - d) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- a) To provide to the Airport Sponsor or FAA evidence that documents the source and origin of the steel and manufactured product.
 - b) To faithfully comply with providing U.S. domestic product.
 - c) To furnish U.S. domestic product for any waiver request that the FAA rejects.
 - d) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- The bidder or offeror hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for a Type 3 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
- a) To submit to the Airport Sponsor or FAA within 15 calendar days of being selected as the responsive bidder, a formal waiver request and required documentation that supports the type of waiver being requested.
 - b) That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination that may result in rejection of the proposal.
 - c) To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.
 - d) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

Required Documentation

Type 2 Waiver (Nonavailability) - The iron, steel, manufactured goods or construction materials are not available in sufficient quantity or quality in the United States. The required documentation for the Nonavailability waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire
- b) Record of thorough market research, consideration where appropriate of qualifying alternate items, products, or materials including;
- c) A description of the market research activities and methods used to identify domestically manufactured items capable of satisfying the requirement, including the timing of the research and conclusions reached on the availability of sources.

Type 3 Waiver – The cost of the item components and subcomponents produced in the United States is more than 60 percent of the cost of all components and subcomponents of the “item”. The required documentation for a Type 3 waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire including;
- b) Listing of all product components and subcomponents that are not comprised of 100 percent U.S. domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108 (products of unknown origin must be considered as non-domestic products in their entirety).
- c) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- d) Percentage of non-domestic component and subcomponent cost as compared to total “item” component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

Type 4 Waiver (Unreasonable Costs) - Applying this provision for iron, steel, manufactured goods or construction materials, would increase the cost of the overall project by more than 25 percent. The required documentation for this waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire from
- b) At minimum two comparable equal bidders and/or offerors;
- c) Receipt or record that demonstrates that supplier scouting called for in Executive Order 14005, indicates that no domestic source exists for the project and/or component;
- d) Completed waiver applications for each comparable bid and/or offer.

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date

Signature

Company Name

Title

GENERAL CIVIL RIGHTS PROVISIONS

In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

The above provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract.

Title VI Solicitation Notice:

The **St Pete-Clearwater International Airport**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, [select businesses, or disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.

Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

Compliance with Nondiscrimination Requirements:

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor”), agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor’s obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Sponsor or the Federal

Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

**CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED
UNDER THE ACTIVITY, FACILITY OR PROGRAM**

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by St Pete-Clearwater International Airport pursuant to the provisions of the Airport Improvement Program grant assurances.

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Title VI List of Pertinent Nondiscrimination Acts and Authorities.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, (*Title of Sponsor*) will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, St Pete-Clearwater International Airport will there upon revert to and vest in and become the absolute property of the St Pete-Clearwater International Airport and its assigns.*

CLEAN AIR AND WATER POLLUTION CONTROL

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 USC §§ 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

Contractor must include this requirement in all subcontracts that exceed \$150,000.

CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

1. Overtime Requirements.

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of \$29 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.

3. Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration (FAA) or the Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this clause.

4. Subcontractors.

The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) and also a clause requiring the subcontractor to include these clauses in any lower tier

subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this clause.

COPELAND "ANTI-KICKBACK" ACT

Contractor must comply with the requirements of the Copeland "Anti-Kickback" Act (18 USC 874 and 40 USC 3145), as supplemented by Department of Labor regulation 29 CFR part 3. Contractor and subcontractors are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. The Contractor and each Subcontractor must submit to the Owner, a weekly statement on the wages paid to each employee performing on covered work during the prior week. Owner must report any violations of the Act to the Federal Aviation Administration.

DAVIS-BACON REQUIREMENTS

1. Minimum Wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an

additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination;
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the Contractor, the laborers, or mechanics to be employed in the classification, or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding. The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and

helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the Federal Aviation Administration may, after written notice to the Contractor, Sponsor, Applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and Basic Records.

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records that show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR § 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (*e.g.*, the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit them to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime

contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, Sponsor, or Owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;

(2) That each laborer and mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Sponsor, the Federal Aviation Administration, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, Sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR § 5.12.

4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job

site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR § 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal Employment Opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act Requirements.

The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

6. Subcontracts.

The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR §§ 5.5(a)(1) through (10) and such other clauses as the Federal Aviation Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR § 5.5.

7. Contract Termination: Debarment.

A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR § 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes Concerning Labor Standards.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility.

(i) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC § 1001.

CERTIFICATION OF OFFEROR/BIDDER REGARDING DEBARMENT

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT

The successful bidder, by administering each lower tier subcontract that exceeds \$25,000 as a “covered transaction”, must confirm each lower tier participant of a “covered transaction” under the project is not presently debarred or otherwise disqualified from participation in this federally-assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: <http://www.sam.gov>.
2. Collecting a certification statement similar to the Certification of Offeror /Bidder Regarding Debarment, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

DISADVANTAGED BUSINESS ENTERPRISE

The DBE goal for construction from FY2024 through FY2026 is 6.80%. Due to the duration of this project, DBE goals may change throughout the term of this agreement.

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Bid Information Submitted as a matter of responsiveness:

The Owner’s award of this contract is conditioned upon Bidder or Offeror satisfying the good faith effort requirements of 49 CFR § 26.53.

As a condition of responsiveness, the Bidder or Offeror must submit the following information with its proposal on the forms provided herein:

- 1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- 2) A description of the work that each DBE firm will perform;
- 3) The dollar amount of the participation of each DBE firm listed under (1);
- 4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner’s project goal
- 5) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment; and
- 6) If Bidder or Offeror cannot meet the advertised project DBE goal, evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR part 26. The

documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.

Bid Information submitted as a matter of responsibility:

The Owner's award of this contract is conditioned upon Bidder or Offeror satisfying the good faith effort requirements of 49 CFR § 26.53.

As a condition of responsibility, every Bidder or Offeror must submit the following information on the forms provided herein within five days after bid opening.

- 1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- 2) A description of the work that each DBE firm will perform;
- 3) The dollar amount of the participation of each DBE firm listed under (1);
- 4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner's project goal;
- 5) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment; and
- 6) If Bidder or Offeror cannot meet the advertised project DBE goal, evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR part 26. The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the St Pete-Clearwater International Airport to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. The Owner encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

The Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- 1) Withholding monthly progress payments;
- 2) Assessing sanctions;
- 3) Liquidated damages; and/or
- 4) Disqualifying the Contractor from future bidding as non-responsible.

Prompt Payment (49 CFR § 26.29; acceptable/sample text provided) –

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from St Pete-Clearwater International Airport. The prime contractor agrees further to return

retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the St Pete-Clearwater International Airport. This clause applies to both DBE and non-DBE subcontractors.

Termination of DBE Subcontracts (49 CFR § 26.53(f); acceptable/sample text provided) –

The prime contractor must not terminate a DBE subcontractor listed in response to the subject project (or an approved substitute DBE firm) without prior written consent of St Pete-Clearwater International Airport. This includes, but is not limited to, instances in which the prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

The prime contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains written consent of the St Pete-Clearwater International Airport. Unless the St Pete-Clearwater International Airports consent is provided, the prime contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

St Pete-Clearwater International Airports may provide such written consent only if St Pete-Clearwater International Airports agrees, for reasons stated in the concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the circumstances listed in 49 CFR §26.53.

Before transmitting to St Pete-Clearwater International Airport its request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to St Pete-Clearwater International Airport, of its intent to request to terminate and/or substitute, and the reason for the request.

The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise St Pete-Clearwater International Airport and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why St Pete-Clearwater International Airport should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), St Pete-Clearwater International Airport may provide a response period shorter than five days.

In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

TEXTING WHEN DRIVING

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving", (10/1/2009) and DOT Order 3902.10, "Text Messaging While Driving", (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with

the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$10,000 that involve driving a motor vehicle in performance of work activities associated with the project.

PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

Contractor and Subcontractor agree to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)].

EQUAL OPPORTUNITY CLAUSE

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

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under this section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: *Provided*, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS

1. As used in these specifications:

- a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;
- c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
- d. "Minority" includes:
 - (1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
 - (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(4) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR part 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in a geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

- a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
- b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
- c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.
- d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to

and discussing the Contractor's EEO policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.

11. The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR part 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, et seq, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.

The Contractor has full responsibility to monitor compliance to the referenced statute or regulation. The Contractor must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

CERTIFICATION REGARDING LOBBYING

The Bidder or Offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

PROHIBITION OF SEGREGATED FACILITIES

(a) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Employment Opportunity clause in this contract.

(b) “Segregated facilities,” as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Employment Opportunity clause of this contract.

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor’s compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

PROCUREMENT OF RECOVERED MATERIALS

Contractor and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor and subcontractors are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

- 1) The contract requires procurement of \$10,000 or more of a designated item during the fiscal year;
or
- 2) The contractor has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products.

Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the contractor can demonstrate the item is:

- a) Not reasonably available within a timeframe providing for compliance with the contract performance schedule;
- b) Fails to meet reasonable contract performance requirements; or
- c) Is only available at an unreasonable price.

SEISMIC SAFETY

The Contractor agrees to ensure that all work performed under this contract, including work performed by subcontractors, conforms to a building code standard that provides a level of seismic safety substantially equivalent to standards established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety.

CERTIFICATION OF OFFEROR/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS

The applicant must complete the following two certification statements. The applicant must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

Certifications

- 1) The applicant represents that it is () is not () a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- 2) The applicant represents that it is () is not () a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

Note

If an applicant responds in the affirmative to either of the above representations, the applicant is ineligible to receive an award unless the Sponsor has received notification from the agency suspension and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government's interests. The applicant therefore must provide information to the owner about its tax liability or conviction to the Owner, who will then notify the FAA Airports District Office, which will then notify the agency's SDO to facilitate completion of the required considerations before award decisions are made.

Term Definitions

Felony conviction: Felony conviction means a conviction within the preceding twenty four (24) months of a felony criminal violation under any Federal law and includes conviction of an

offense defined in a section of the U.S. Code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 USC § 3559.

Tax Delinquency: A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

TERMINATION FOR CONVENIENCE (CONSTRUCTION & EQUIPMENT CONTRACTS)

The Owner may terminate this contract in whole or in part at any time by providing written notice to the Contractor. Such action may be without cause and without prejudice to any other right or remedy of Owner. Upon receipt of a written notice of termination, except as explicitly directed by the Owner, the Contractor shall immediately proceed with the following obligations regardless of any delay in determining or adjusting amounts due under this clause:

1. Contractor must immediately discontinue work as specified in the written notice.
2. Terminate all subcontracts to the extent they relate to the work terminated under the notice.
3. Discontinue orders for materials and services except as directed by the written notice.
4. Deliver to the Owner all fabricated and partially fabricated parts, completed and partially completed work, supplies, equipment and materials acquired prior to termination of the work, and as directed in the written notice.
5. Complete performance of the work not terminated by the notice.
6. Take action as directed by the Owner to protect and preserve property and work related to this contract that Owner will take possession.

Owner agrees to pay Contractor for:

1. Completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination;
2. Documented expenses sustained prior to the effective date of termination in performing work and furnishing labor, materials, or equipment as required by the contract documents in connection with uncompleted work;
3. Reasonable and substantiated claims, costs, and damages incurred in settlement of terminated contracts with Subcontractors and Suppliers; and
4. Reasonable and substantiated expenses to the Contractor directly attributable to Owner's termination action.

Owner will not pay Contractor for loss of anticipated profits or revenue or other economic loss arising out of or resulting from the Owner's termination action.

The rights and remedies this clause provides are in addition to any other rights and remedies provided by law or under this contract.

TERMINATION FOR CAUSE (CONSTRUCTION)

Section 80-09 of FAA Advisory Circular 150/5370-10 establishes standard language for conditions, rights, and remedies associated with Owner termination of this contract for cause due to default of the Contractor.

TERMINATION FOR CAUSE (EQUIPMENT)

The Owner may, by written notice of default to the Contractor, terminate all or part of this Contract for cause if the Contractor:

1. Fails to begin the Work under the Contract within the time specified in the Notice- to-Proceed;
2. Fails to make adequate progress as to endanger performance of this Contract in accordance with its terms;
3. Fails to make delivery of the equipment within the time specified in the Contract, including any Owner approved extensions;
4. Fails to comply with material provisions of the Contract;
5. Submits certifications made under the Contract and as part of their proposal that include false or fraudulent statements; or
6. Becomes insolvent or declares bankruptcy.

If one or more of the stated events occur, the Owner will give notice in writing to the Contractor and Surety of its intent to terminate the contract for cause. At the Owner's discretion, the notice may allow the Contractor and Surety an opportunity to cure the breach or default.

If within [10] days of the receipt of notice, the Contractor or Surety fails to remedy the breach or default to the satisfaction of the Owner, the Owner has authority to acquire equipment by other procurement action. The Contractor will be liable to the Owner for any excess costs the Owner incurs for acquiring such similar equipment.

Payment for completed equipment delivered to and accepted by the Owner shall be at the Contract price. The Owner may withhold from amounts otherwise due the Contractor for such completed equipment, such sum as the Owner determines to be necessary to protect the Owner against loss because of Contractor default.

Owner will not terminate the Contractor's right to proceed with the work under this clause if the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such acceptable causes include: acts of God, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, and severe weather events that substantially exceed normal conditions for the location.

If, after termination of the Contractor's right to proceed, the Owner determines that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the Owner issued the termination for the convenience the Owner.

The rights and remedies of the Owner in this clause are in addition to any other rights and remedies provided by law or under this contract.

TRADE RESTRICTION CERTIFICATION

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror –

- 1) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);
- 2) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and
- 3) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC § 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR § 30.17, no contract shall be awarded to an Offeror or subcontractor:

- 1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR; or
- 2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list; or
- 3) who incorporates in the public works project any product of a foreign country on such USTR list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous

certification, the Federal Aviation Administration (FAA) may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

VETERAN'S PREFERENCE

In the employment of labor (excluding executive, administrative, and supervisory positions), the Contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 USC § 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

CERTIFICATION REGARDING DOMESTIC PREFERENCES FOR PROCUREMENTS

The Bidder or Offeror certifies by signing and submitting this bid or proposal that, to the greatest extent practicable, the Bidder or Offeror has provided a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to, iron, aluminum, steel, cement, and other manufactured products) in compliance with 2 CFR § 200.322.

Certificate Of Completion

Envelope Id: 48E9FB6AEAD54DFFAD754E9384A7F0D1	Status: Completed
Subject: 8219 - Final Agreement - Terminal Improvements.pdf	
Source Envelope:	
Document Pages: 174	Signatures: 1
Certificate Pages: 2	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelope Stamping: Enabled	Candice DeLoach
Time Zone: (UTC-05:00) Eastern Time (US & Canada)	5601 2 122nd E Ave.
	Tulsa, OK 74146
	cdeloach@manhattanconstruction.com
	IP Address: 172.109.199.122

Record Tracking

Status: Original	Holder: Candice DeLoach	Location: DocuSign
10/31/2024 8:19:43 AM	cdeloach@manhattanconstruction.com	

Signer Events

J. Michael Miller
 jmmiller@manhattanconstruction.com
 Vice President
 Manhattan Construction Company
 Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:

 CD7FEEC62598432...
 Signature Adoption: Pre-selected Style
 Using IP Address: 172.109.199.122

Timestamp

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 Viewed: 11/1/2024 2:00:53 PM
 Signed: 11/1/2024 2:01:02 PM

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

Candice DeLoach
 cdeloach@manhattanconstruction.com
 Contracts Administrator / Project Accountant III
 Manhattan Construction Company
 Security Level: Email, Account Authentication (None)

COPIED

Sent: 11/1/2024 2:01:05 PM

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Witness Events

Signature

Timestamp

Notary Events

Signature

Timestamp

Envelope Summary Events

Status

Timestamps

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Signing Complete	Security Checked	11/1/2024 2:01:02 PM
Completed	Security Checked	11/1/2024 2:01:05 PM

Payment Events

Status

Timestamps

Certificate Of Completion

Envelope Id: 1747AF4094A34E0EA2AF8A22A668F181
 Subject: 8219 - Updated Final Agreement - 11-21-24 Terminal Improvements.pdf
 Source Envelope:
 Document Pages: 176
 Certificate Pages: 2
 AutoNav: Enabled
 Envelopeld Stamping: Enabled
 Time Zone: (UTC-05:00) Eastern Time (US & Canada)

Status: Completed
 Envelope Originator:
 Candice DeLoach
 5601 2 122nd E Ave.
 Tulsa, OK 74146
 cdeloach@manhattanconstruction.com
 IP Address: 172.109.199.122

Record Tracking

Status: Original
 12/2/2024 11:21:34 AM
 Holder: Candice DeLoach
 cdeloach@manhattanconstruction.com
 Location: DocuSign

Signer Events

J. Michael Miller
 jmmiller@manhattanconstruction.com
 Vice President
 Manhattan Construction Company
 Security Level: Email, Account Authentication
 (None)

Signature

DocuSigned by:

 CD7FEEC62598432...
 Signature Adoption: Pre-selected Style
 Using IP Address: 172.109.199.122

Timestamp

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 Signed: 12/2/2024 1:00:57 PM

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

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Agent Delivery Events

Status

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Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

Candice DeLoach
 cdeloach@manhattanconstruction.com
 Contracts Administrator / Project Accountant III
 Manhattan Construction Company
 Security Level: Email, Account Authentication
 (None)

COPIED

Sent: 12/2/2024 1:01:00 PM

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Witness Events

Signature

Timestamp

Notary Events

Signature

Timestamp

Envelope Summary Events

Status

Timestamps

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Payment Events

Status

Timestamps