

ISSUE DATE: April 19, 2019

NOTICE

REQUEST FOR PROPOSALS

FOR

**CONSTRUCTION MANAGER AT RISK SERVICES FOR THE ORANGE COUNTY
CONVENTION CENTER PHASE V MULTI-PURPOSE VENUE AND GRAND
CONCOURSE IMPROVEMENTS**

RFP #Y19-815-JS

The Board of County Commissioners, Orange County, Florida, is accepting sealed Proposals to be received **NO LATER THAN 2:00 P.M. (local time) on June 6, 2019, for CONSTRUCTION MANAGER AT RISK SERVICES FOR THE ORANGE COUNTY CONVENTION CENTER PHASE V MULTI-PURPOSE VENUE AND GRAND CONCOURSE IMPROVEMENTS.**

A Non-Mandatory Pre-Proposal Conference will be held **May 1, 2019, at 1:30 P.M.** at the **Orange County Convention Center, West Building, Meeting Room W314, 9800 International Drive, Orlando, FL 32819.** Interested Proposers are encouraged to attend. A Parking Pass and Map are included as Attachment A.

Proposals will be accepted at:

Orange County Procurement Division
Internal Operations Centre II
400 East South Street, Second Floor
Orlando, Florida 32801
(407) 836-5635

Copies of the Request for Proposals may be obtained from the Orange County Procurement Division at the above address. Copies may also be requested by phone (407) 836-5635.

NOTE: This Request for Proposals is available for downloading from the internet at orangecountyfl.net.

Carrie Mathes, MPA, CFCM, CPPO, C.P.M.
Manager, Procurement Division

NOTICE TO PROPOSERS

To ensure that your Proposal is responsive, you are urged to request clarification or guidance on any issues involving this solicitation before submission of your response. Your point-of-contact for this solicitation is Jacqueta Scott at (407) 836-5456. **You may contact Jacqueta Scott at any time during this process, including during the blackout period.**

RFP # Y19-815-JS
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REQUEST FOR PROPOSALS
FOR
CONSTRUCTION MANAGER AT RISK SERVICES FOR THE ORANGE COUNTY
CONVENTION CENTER PHASE V MULTI-PURPOSE VENUE AND GRAND
CONCOURSE IMPROVEMENTS
RFP # Y19-815-JS

PURPOSE:

The Board of County Commissioners, Orange County, Florida, is soliciting Proposals to provide CONSTRUCTION MANAGER AT RISK SERVICES FOR THE ORANGE COUNTY CONVENTION CENTER PHASE V MULTI-PURPOSE VENUE AND GRAND CONCOURSE IMPROVEMENTS.

Orange County is fully committed to supporting the economic development of minority- and women-owned businesses through our Business Development Division. This project aims to construct an exceptional Orange County Convention Center that benefits a broad spectrum of the community and develops a business environment that fosters innovation, collaboration, inclusiveness and equal opportunity for businesses certified by Orange County.

INSTRUCTIONS TO PROPOSERS:

Firms or companies desiring to provide services, as described herein, shall submit one (1) proposal (clearly marked as original), sixteen (16) copies (a total of 17 proposals) and one (1) electronic copy on a USB drive for document management purposes not later than 2:00 P.M. local time, June 6, 2019, to:

Orange County Procurement Division
Internal Operations Centre II
400 E. South Street, 2nd Floor
Orlando, Florida 32801

If your response contains any information deemed confidential, in accordance with Chapter 119 of the Florida Statutes, provide an additional USB drive with a redacted version of your response labeled REDACTED. Electronic copy shall be in Microsoft Word or Adobe – the most recent software version.

Respondents are cautioned that they are responsible for delivery to the specific location cited above. Therefore, if your Proposal is delivered by an express mail carrier or by any other means, it is your responsibility to ensure delivery to the above address. This office will not be responsible for deliveries made to any place other than the specified address.

A Non-Mandatory Pre-Proposal Conference will be conducted on May 1, 2019, at 1:30 P.M., Orange County Convention Center, West Building, Meeting Room W314, 9800 International Drive, Orlando, FL 32819. All interested parties are urged to attend. A Parking Pass and Map are included as Attachment A.

1. The time and date for receipt of Proposals will be strictly observed. The County shall not be responsible for late deliveries or mail delays. The time/date stamp

clock in the Procurement Division shall serve as the official authority to determine timeliness of the Proposal.

2. **The decision to refuse to consider a proposal that was received beyond the date/time established in the solicitation shall not be the basis for a protest pursuant to the Orange County (Procurement Ordinance).**

3. Proposals received after the specified time and date shall be returned unopened. The decision to refuse to consider a proposal that was received beyond the date/time established in the solicitation shall not be the basis for a protest pursuant to the Orange County (Procurement Ordinance). All Proposals will be opened publicly and the names of all Proposers shall be read aloud.

4. Proposers must submit ONLY the attached forms, lettered A through P, in the same order as presented herein. Failure to submit all forms may result in disqualification of your Proposal. **However, failure to submit forms B, C, D, E, F, H, J, and K may negatively impact the evaluation of the Proposal.**

The County shall not be responsible for re-calculation or interpretations of information provided on any form.

NOTE: These forms are periodically edited. Proposers must use the forms as they appear herein for this project. Form G is not used.

5. Modification or alteration of the documents contained in this solicitation or the contract resulting from this solicitation shall only be made upon receipt of prior written consent of the County.

6. The submission of GSA Forms 254 or 255 are not acceptable. The submission of these forms shall result in disqualification of your Proposal as non-responsive.

7. Proposers are instructed NOT to include pictures, drawings, graphs, dividers or table of contents. Submittal of pictures, drawings, graphs, dividers and/or table of contents may result in disqualification of your Proposal as non-responsive. Do not use a cover or binder. Use one (1) staple in UPPER left-hand corner only.

8. With respect to Forms D, E, F and H, no sideways printing on pages will be permitted. Also with respect to Forms D, E, F and H, print must be no smaller than 12 point when using a computer, or must be 10 pitch when using a typewriter.

9. Faxed Proposals shall be rejected as non-responsive, regardless of where the fax is received.

10. Proposers must indicate on their Proposal envelope the following:

Request for Proposals Number Y19-815-JS

Date of Opening - June 6, 2019

Name of Proposer

Return Address of the Proposer

11. Proposers shall not contact any member of the Orange County Procurement Committee or any staff (except as provided below) regarding this Proposal until such time as a contract is awarded. All inquiries pertaining to this Request for Proposals must be directed through the Procurement Division.

12. Questions concerning this Request for Proposals must be directed to Jacqueta Scott, Senior Contract Administrator, email Jacqueta.Scott@ocfl.net. Any Proposer who initiates any discussions with staff in any manner other than that described above is subject to disqualification from this procurement.
13. Information regarding Procurement Committee scheduling and Board approvals are available by calling the Procurement Division Reception Desk at (407) 836-5635 or by accessing the Procurement Committee schedule at <http://apps.ocfl.net/OrangeBids/Procurement/default.asp>. Also, an email notice of the Procurement Committee meeting will be sent to all Proposers.
14. Technical concerns/questions shall be submitted in writing, no later than 4:00 p.m. on May 8, 2019 to:

Jacqueta Scott, Senior Contract Administrator
Procurement Division
400 E. South Street, 2nd Floor
Orlando, Florida 32801
Jacqueta.Scott@ocfl.net

You may contact Jacqueta Scott at any time during this process, including during the black out period.

15. **ORAL INTERPRETATION**

No oral interpretation of this Request for Proposals shall be considered binding. The County shall be bound by information and statements only when such statements are written and executed under the authority of the Manager of the Procurement Division.

16. **DRUG FREE WORKPLACE**

The Drug Free Workplace Form (Form L) is attached and shall be completed and submitted with your proposal.

17. **DRAFT CONTRACT**

The contract that the County intends to use for award is enclosed for reference. Any exceptions to this standard contract must be clearly indicated by return of the standard contract with the Proposal, with exceptions clearly noted. The County has the right to require the selected Proposer to sign the attached contract or to negotiate revisions to the contract language prior to execution of the contract, at its discretion.

18. **SOLICITATION CANCELLATIONS**

Orange County reserves the right, and the Manager of the Procurement Division has absolute and sole discretion, to cancel a solicitation at any time prior to approval of the award by the Board of County Commissioners when such approval is required. The decision to cancel a solicitation cannot be the basis for a protest pursuant to the Orange County Code.

TERMS AND CONDITIONS:

1. A minimum coverage of Professional Liability Insurance in the amount of \$10,000,000 (with a deductible permitted not in excess of \$100,000) will be required for this project.
2. Selection shall be in accordance with F.S. 287.055 and the County's adopted selection procedures.
3. The County reserves the right to accept or reject any or all Proposals that it may in its sole discretion deem non responsive, to waive technicalities, or to accept the Proposal which, in its sole judgment, is most advantageous and best serves the over-all interests of the County.
4. The County reserves the right to request clarification of information submitted and to request additional information of one or more Proposers after the deadline for receipt of Proposals.
5. Any Proposal may be withdrawn until the date and time set above for the submission of the Proposals.
6. By submission of a Proposal, the Proposer agrees that all costs associated with the preparation of his/her Proposal will be the sole responsibility of the Proposer. The Proposer also agrees that the County bears no responsibility for any costs associated with the preparation of the Proposal and/or any administrative or judicial proceedings resulting from the solicitation process.
7. Proposers must not discriminate against any employee or applicant for employment because of race, religion, color, sex, age or national origin.
8. **AWARD RESTRICTION**
The Contractor (s) and subcontractor (s) currently under contract for this specific PROJECT and awarded the Construction Manager at Risk Services for the Orange County Convention Center Phase V Multi-Purpose Venue and Grand Concourse Improvements (RFP #Y19-815-JS) and Design Services for the Orange County Convention Center Phase V Multi-Purpose Venue and Grand Concourse Improvements (RFP #Y19-810-JS) contract shall be ineligible to participate on any future contracts to be solicited for this same specific PROJECT.
9. **MINORITY/WOMEN OWNED BUSINESS ENTERPRISE:**
 - A. Proposers must address how they intend to comply with the Orange County M/WBE Ordinance, No. 94-02 and amended by Ordinance No. 2009-21.
 - B. **Proposers must include a minimum of 24% M/WBE inclusion at the management level. This can be achieved by the proposer having a M/WBE Joint Venture (JV), Partnership or Teaming agreement.**

At a minimum, the following items must be included in the selected agreement: Name of agreement, term, purpose/objective, place of business, management committee, capital contribution, capital account, work responsibilities, accounting

book, ownership of assets, disputes, insurance/fidelity bond, rental of equipment, surety, and event of a loss.

- C. **Joint venture agreement.** A contractual executed agreement joining together two or more business enterprises, one of which is an Orange County certified minority/woman owned business enterprise, for the purpose of performing on an Orange County contract. The certified minority/woman owned business enterprise must provide a percentage of value added services representing an equitable interest in the joint venture. All parties agree to share in the profits and losses of the business endeavor according to their percentage of equitable interest.
- D. **Partnership agreement.** A written executed agreement between two or more partners. One of the partners must be an Orange County certified minority/woman owned business enterprise. The agreement explains the relationship each partner has with the partnership business. All partners share ownership, as well as the responsibility for managing the company and the profits or losses generated. The partnership agreement also details the rights and obligations each individual has to the business.
- E. **Teaming agreement.** An executed agreement between two or more businesses to act together solely for the purposes of pursuing a proposal. One of the businesses must be an Orange County certified minority/ woman owned business enterprise. The teaming agreement outlines the proposal responsibilities and obligations.
- F. **The goal of certified minority/women business enterprise subcontract utilization is 27% of the contract value for this project.**
- G. **The goal of minority/women employee workforce levels in specific categories is 26% for this project.**
- H. All participating M/WBE firms must be **currently certified by Orange County.** The Business Development Division's most recent M/WBE directory is available by e-mail or through the Orange County web site at OrangeCountyfl.net. **Only firms having established offices in the Orlando MSA (Orange, Lake, Seminole and Osceola Counties) are eligible for Orange County certification. All firms must be Orange County certified at time of submittal of the Proposal and must be certified in the area(s) for which they will be used.** If a firm claims to be certified, but is not listed in the Directory the Proposer should obtain a copy of their Orange County Certificate and/or contact the Business Development Division at (407) 836-7317 for verification of certification.
- C. The County has program whereby M/WBE firms designated as graduates can participate in the M/WBE program only on specified projects. All professional service solicitations for which the County has estimated the overall contractual fees to be awarded to the prime in excess of \$500,000 are eligible for graduate M/WBE participation. The prime contractor will receive full M/WBE credit for the use of graduate MWBE's that meet all other requirements. The contract solicited through this RFP is estimated to be valued over \$500,000 and therefore, graduate M/WBE's are eligible to participate. It is the proposing firm's

responsibility to ensure that graduate M/WBE's are not listed in proposals to meet M/WBE participation requirements on projects in which they are not eligible to participate.

- D. The County has established a **credit program** whereby Proposers are awarded credits to be applied toward meeting the M/WBE goals on certain County projects. Emphasis will be placed on credits for non-County utilization and first-time M/WBE utilization. Proposers are encouraged to contact the Business Development Division for information on acquiring and applying the credits.
- E. **The Proposer must submit Form K along with an executed joint venture, partnership or team agreement with their proposal. In the event, the proposer selects to use a joint venture, then the Joint Venture must be properly registered with the Florida Division of Corporations before the contract award and the name of the Joint Venture must reflect the same name used in the proposal.**
- F. Proposer must submit a Participation Plan for the entire project with the projected M/WBE and workforce percentage to address how the M/WBE goals will be monitored during the project when bids are sought from trade contractors or subcontractors for all scope of work throughout the duration of the project. Proposers will be permitted to incorporate additional Orange County certified M/WBE subcontractors to exceed the M/WBE participation goal.
- G. Proposers must submit signed Letter of Intent (Form M-1) with their Design Assist Proposal for all current Orange County certified M/WBE subcontractors identified on Form B. Once Issued for Construction Enabling Drawings are issued the Proposers must submit signed Letter of Intent (Form M-1) with their Enabling Proposal for all current Orange County certified M/WBE subcontractors identified on Form B. Once 100% Issued for Construction Drawings are issued the Proposers must submit signed Letter of Intent (Form M-1) with their Guaranteed Maximum Price (GMP) Proposal for all current Orange County certified M/WBE subcontractors identified on Form B. These Letters of Intent must indicate the scope of work to be performed by every M/WBE plus the percentage of the overall contract fees to be contracted to the listed subcontractor. Letters of Intent must be signed by both the Proposer and the M/WBE subcontractor.
- H. The Consultant **must** include in the subcontract agreement:
 - i. Prompt Payment Clause to the M/WBE sub contractor to state: "payment will be made to the subcontractor/suppliers within 72 hours of receipt of payment from the County."
 - ii. The following statement: "It is the M/WBE's responsibility to submit the required payment verification reports to the prime contractor quarterly and the Final M/WBE payment verification form directly to Business Development Division."
 - iii. Termination clause to state: "The awarded prime contractor shall not substitute, replace or terminate any M/WBE firm without prior written authorization from the Business Development Manager, nor shall the prime reduce the scope of work or monetary value of the overall

contract value or a subcontractor without written authorization of the Business Development Division Manager.”

The M/WBE’s failure to submit the required documents could negatively impact their M/WBE certification.

- I. The following scoring criteria will be utilized to evaluate the proposer’s M/WBE participation for the Construction Manager at Risk project only using the completed Project Team (Form B) and the Equal Opportunity Workforce Schedule (Form J):

5 Points

The proposer exceeds **ALL three** of the following

- Greater than **25%** M/WBE Joint Venture, Partnership, or Teaming **AND**
- Greater than **28%** Certified Orange County M/WBE sub contractor utilization **AND**
- Greater than **27%** Minority/Women workforce

4 Points

The proposer complies with the **24%** Joint Venture, Partnership or Teaming, **27%** Certified Orange County M/WBE sub contractor utilization, **26%** Minority/Women workforce and exceeds **two** of the following

- Greater than **25%** M/WBE Joint Venture, Partnership, or Teaming **AND/OR**
- Greater than **28%** Certified Orange County M/WBE sub contractor utilization **AND/OR**
- Greater than **27%** Minority/Women workforce

3 Points

The proposer complies with the **24%** Joint Venture, Partnership or Teaming, **27%** Certified Orange County M/WBE sub contractor utilization, **26%** Minority/Women workforce **AND** exceeds **one** of the following

- Greater than **25%** M/WBE Joint Venture, Partnership, or Teaming **OR**
- Greater than **28%** Certified Orange County M/WBE sub contractor utilization **OR**
- Greater than **27%** Minority/Women workforce

2 Points

The proposer complies with the **24%** Joint Venture, Partnership or Teaming, **27%** Certified Orange County M/WBE sub contractor utilization, **26%** Minority/Women workforce

- **24%** Joint Venture, Partnering or Teaming **AND**
- **27%** Certified Orange County M/WBE sub contractor utilization **AND**
- **26%** Minority/Women workforce

1 Point

The proposer has a written statement that they will comply with Orange County M/WBE participation as it relates to the M/WBE subcontract utilization and the Minority/Women workforce

- **27%** Certified Orange County M/WBE sub contractor utilization **AND**
- **26%** Minority/Women workforce

0 Points

The proposer will not comply with the Orange County M/WBE requirement as it relates to the subcontractor utilization and the workforce goals for this RFP.

- J. The awarded prime contractor's responsibilities and requirements are itemized below:
- i. File copies demonstrating the Joint Venture has been properly registered with the Florida Division of Corporations in the event, the proposer selects to use a joint venture.
 - ii. File copies of all executed subcontractor agreement/contracts between the prime and all M/WBE subcontractors on the project at the Design Assist, Enabling and Construction phases to Orange County Business Development Division one time for the duration of the contract.
 - iii. Furnish written documentation evidencing actual dollars paid to each subcontractor utilized by the prime contractor on the project. This includes, but is not limited to: copies of cancelled checks, approved invoices, and signed affidavits certifying the accuracy of payments so that the County may determine actual participation achieved by the prime contractor prior to the issuance of final payment.
 - iv. Submit an updated monthly MWBE utilization report, Equal Opportunity Workforce Schedule, Joint Venture, Partnership or Team status report and M/WBE payment verification forms for all professional service contracts. It is the responsibility of the Prime Consultant to submit the payment verification forms with the referenced reports. The required reports shall be submitted to the Business Development Division no later than the fifth day after end of reporting period. Payment applications, task authorizations and contract renewals may be delayed if these reports are not submitted every quarter in a timely manner until completion of project indicating final report. Failure of the M/WBE to comply with the submittal of the payment verification forms to the Prime contractor could negatively affect their re-certification.
 - v. The awarded prime contractor shall not substitute, replace or terminate any M/WBE firm without prior written authorization from the Business Development Manager, nor shall the prime reduce the scope of work or monetary value of a subcontractor without prior written authorization of the Business Development Division.

- vi. The prime contractor shall expeditiously advise all M/WBE's and the Business Development Division of all change orders, contract modifications, additions and deletions to any and all contracts issued to the M/WBE firm on their team.

Execution of the contract between Orange County and the Proposer shall be contingent upon the filing of executed contracts between the Proposer and the M/WBE subs listed on Form B and included on Form M-1 with the Business Development Division. Additionally, in the event, the proposer selected to use a joint venture, then documentation that the Joint Venture has been registered with the Florida Division of Corporations.

10. The Proposer understands that this RFP does not constitute an agreement or contract with the Proposer.
11. Any Proposer who submits in its Proposal to the County any information that is determined by the County, in its sole opinion, to be substantially inaccurate, misleading, exaggerated, or incorrect may be disqualified from consideration.
12. **SHORTLISTS, PROTESTS AND LOBBYING:** The recommended short list of firms, rank by score, highest to lowest, will be posted for review by interested parties at the Procurement Division and at <http://apps.ocfl.net/OrangeBids/AwardsRec/default.asp> prior to submission through the appropriate approval process and will remain for a period of five full business days. Failure to file a protest to the Procurement Division Manager by 5:00 PM on the fifth full business day after the posting date shall constitute a waiver of protest proceedings. Additional information relative to protests can be found at the following site:
<http://www.orangecountyfl.net/VendorServices/VendorProtestProcedures.aspx>

Orange County Lobbyist Regulations General Information

A lobbying blackout period shall commence upon issuance of the solicitation until the Board selects the successful Proposer. For procurements that do not require Board approval, the blackout period commences upon solicitation issuance and concludes upon Contract award. Additional information relative to lobbying can be found at:

<http://www.orangecountyfl.net/OpenGovernment/LobbingAtOrangeCounty.aspx>

The Board of County Commissioners may void any Contract where the County Mayor, one or more County Commissioners, or a County staff person has been lobbied in violation of the blackout period restrictions of Ordinance No. 2002-15.

13. **ETHICS COMPLIANCE**

The following forms are included in this solicitation and shall be completed and submitted as indicated below:

- a. **Orange County Specific Project Expenditure Report** -The purpose of this form is to document any expenses incurred by a lobbyist for the purposes described in Section 2-351, Orange County Code. This form shall be completed and submitted with any bid, proposal or other response to an

Orange County solicitation.

The bidder, proposer or responder to the solicitation shall not be awarded a contract unless this form has been completed and submitted. Any questions concerning this form shall be addressed to the purchasing agent or contract administrator identified in the applicable solicitation. Also, a listing of the most frequently asked questions concerning this form is attached for your information.

b. Relationship Disclosure Form – The purpose of this form is to document any relationships between a bidder, proposer or responder to an Orange County solicitation and the Mayor or any other member of the Orange County Board of County Commissioners. This form shall be completed and submitted with the applicable bid, proposal or response to an Orange County solicitation. No contract award will be made unless this form has been completed and submitted. Any questions concerning this form shall be addressed to the purchasing agent or contract administrator identified in the applicable solicitation. Also, a listing of the most frequently asked questions concerning this form is attached for your information.

14. All M/WBE Joint Venture, Partnership or Teaming proposers must complete and submit with their Proposal the form titled "Information for Determining Joint Venture, Partnership or Teaming Eligibility", (Form K) and a copy of the executed agreement between all joint venture, partnership or teaming parties. This joint venture, partnership, or teaming agreement must indicate the parties' respective roles, responsibilities and levels of participation for the project. If proposing as a Joint Venture, Partnership or Teaming, the Joint Venture, Partnership or Team shall obtain and maintain all contractually required insurance in the name of the Joint Venture, Partnership or Team as required by the Contract. Failure to timely submit a completed Form K along with an attached executed copy of the joint venture, partnership or teaming agreement may result in disqualification of your Proposal.
15. Conflict/Non-Conflict of Interest and Litigation Statement shall be completed and signed. Additional requested information shall be attached, if applicable.
16. **PUBLIC ENTITY CRIME STATEMENT (FS 287.133)**

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid or Proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, subcontractor or Consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Florida State Statutes Section 287.017 for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

17. **SUBCONTRACTORS**

Proposers shall list **all** proposed subcontractors to be used, regardless of racial

or gender grouping. Include names, addresses, phone numbers, type of work subcontracted (discipline, trade or commodity), proposed percentage of work, and the M/WBE or Majority designation (M/WBE or Non-M/WBE). Form B is provided for this information.

Proposers are expressly prohibited from substituting subcontractors projected to perform five percent (5%) or more of the over-all work as stated in the written Proposal. Such substitution, for any reason, after opening of the Proposal, and prior to award by the County shall result in disqualification of the Proposal from further consideration for award, except in extraordinary circumstances. Examples of such circumstances are the subcontractors' firm going out of business; death of the owner of the firm; or the inability of the subcontractor to perform the work specified. Should such an occurrence arise, it must be substantiated, and the subcontractor substitution approved, by the County prior to contract execution.

Requests for substitution of subcontractors who are cumulatively scheduled to perform less than five percent (5%) of the over-all scope of services may be considered only prior to final scoring of Proposals by the Procurement Committee. Such requests for substitution must be in writing accompanied by a written withdrawal from the originally listed subcontractor. Failure to comply with these requirements shall result in disqualification of the Proposal from further consideration for award. The Procurement Committee shall be the sole determinant regarding acceptance/rejection of requested substitutions.

18. Failure of any Proposer to comply with the INSTRUCTIONS TO PROPOSERS and TERMS AND CONDITIONS of this Request for Proposals, unless specifically identified as a mandatory requirement by the word "shall", may render the Proposal non-responsive and ineligible from further consideration.
19. The Proposer warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the Proposer, to solicit or secure this Contract and that they have not paid or agreed to pay any person, company, corporation, individual or firm other than a bona fide employee working solely for the Proposer any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award of this Contract. For the breach or violation of this provision, the County shall have the right to terminate the Agreement at its sole discretion, without liability and to deduct from the Contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.
20. **BONUS POINTS FOR HIRING OF DISLOCATED WORKERS**

Proposers may be awarded a maximum of five (5) bonus points for a commitment to hire dislocated workers residing in Orange County, Florida as full-time employees for the duration of the contract. One point will be awarded for each new full-time hire up to and including a maximum of five (5) points.

To be eligible for bonus points, Proposers must complete Form WR – Section I (attached) listing the number of dislocated workers to be hired full-time and submit with the Proposal. Bonus points shall only be awarded once for any one

individual hired. Individuals hired may be employed in any position within the firm but must be hired on a full-time basis.

Within five (5) days after the contract award, the Proposer shall contact the Business Development Division Liaison, at (407) 836-5485 to assist with meeting this requirement.

The failure of the CONTRACTOR to comply with these hiring commitments after contract award shall be grounds for termination of the contract for default.

During performance of the contract, the Contractor shall take appropriate steps to ensure that individuals hired under this program are retained. However, if it becomes necessary to replace an employee, the Contractor shall contact the Business Development Division (BDD) Liaison. At its discretion, the County may periodically request submission of certified payrolls to confirm the employment status of program participants.

21. **BONUS POINTS FOR HIRING REGISTERED SERVICE-DISABLED VETERANS**

Additional point consideration will be available for those proposing to hire certified registered service-disabled veteran business enterprises. Proposers will receive the following point allocation:

A. Registered service-disabled veteran business enterprise proposers competing as a prime contractor shall receive five (5) points;

B. Registered service-disabled veteran business enterprise proposers with registered service-disabled veteran business enterprise subcontractors on their team shall receive two points for each subcontractor up to a maximum of ten (10) points;

C. Proposers with registered service-disabled veteran business enterprise subcontractors on their team shall receive two points for each subcontractor up to a maximum of ten (10) points.

D. All SDV firms must be Orange County registered at the time of submittal of the proposal and must be registered in the area(s) for which they will be used. If a firm claims to be registered, but is not listed on the County's website, ocfl.net, the Proposer should obtain a copy of their Orange County registration and/or contact the Business Development Division at 407-836-7317 for verification of registration. Only firms having established offices in the Orlando MSA (Orange, Lake, Seminole and Osceola counties) are eligible for Orange County registration.

E. Proposers shall submit signed Letters of Intent (Form M-2) with their proposal for all current Orange County registered subcontractors identified on Form B These letters of Intent must indicate the scope of work to be performed by every registered SDV plus the percentage of the overall contract fees to be contracted to the listed subcontractor. Letters of Intent must be signed by both

the Proposer and the SDV subcontractor.

F. The Contractor's responsibilities and requirements are itemized below:

1. Incorporate a 72-hour prompt payment assurance provision and payment schedule in all contracts between the prime and sub-Contractor.
2. File copies of all executed subcontractor agreement/contracts between the prime and all SDV subcontractors on the project to Orange County Business Development Division.
3. The Contractor shall furnish written documentation evidencing actual dollars paid to each subcontractor utilized by the prime Contractor on the project. This will include, but not limited to: copies of cancelled checks, approved invoices, and signed affidavits certifying the accuracy of payments so that the County may determine actual participation achieved by the prime Contractor prior to the issuance of final payment.
4. The Contractor shall submit an updated monthly SDV utilization report and the "Equal Opportunity Workforce Schedule" report for subcontracts. The required reports are to be submitted to the Business Development Division no later than the fifth day of each month.
5. The Contractor shall not substitute, replace or terminate any SDV firm without prior written authorization of the Business Development Division, nor shall the Contractor reduce the scope of work or monetary value of a subcontractor without written authorization of the Business Development Division. The Contractor shall notify the Business Development Division of any additional awards to the SDV firm on the Contractor's team and the addition of any new SDV firm to the Contractor's team on that project.
6. The Contractor shall expeditiously advise all SDV's and the Business Development Division of all change orders, contract modifications, additions and deletions to any and all contracts issued to the SDV firm(s) on their team.

Execution of the contract between Orange County and the Proposer shall be contingent upon the filing of executed contracts between the Proposer and the SDV subs listed on Form B and included on Form M-2 with the Business Development Division.

Proposers are expressly prohibited from substituting subcontractors projected to perform five percent (5%) or more of the overall work as stated in the written Proposal. Such substitution, for any reason, after opening of the Proposal, and prior to award by the County, shall result in disqualification of the Proposal from further consideration for award, except in extraordinary circumstances.

Examples of such circumstances are the subcontractors' firm going out of business; death of the owner of the firm; or the inability of the sub-Contractor to perform the work specified. Should such an occurrence arise, it must be substantiated, and the sub- substitution approved, by the County prior to contact execution.

Requests for substitution of subcontractors who are cumulatively scheduled to perform less than five percent (5%) of the over-all scope of services may be considered only prior to final scoring of Proposals by the Procurement Committee. Such requests for substitution must be in writing accompanied by a written withdrawal from the originally listed subcontractor. Failure to comply with these requirements shall result in disqualification of the Proposal from further consideration for award. The Procurement Committee shall be the sole determinant regarding acceptance/rejection of requested substitutions.

The proposer understands that this RFP does not constitute an agreement or contract with the Proposers.

Any Proposers who submits a Proposal to the County with any information that is determined by the County, in its sole opinion, to be substantially inaccurate, misleading, exaggerated, or incorrect may be disqualified from consideration.

When considering two (2) or more proposals, or replies for the procurement of commodities or contractual services, where at least one is from a registered service-disabled veteran business enterprise but which are otherwise equal with respect to all relevant considerations, including price, quality, and service, the Procurement Division Manager shall award such procurement or contract to the registered service-disabled veteran business enterprise.

If a registered SDV, entitled to the vendor preference and one (1) or more other M/WBE businesses also entitled to this preference, or another vendor preference provided by the Orange County Code, submits bids, proposals, or replies for the procurement of goods or services which are otherwise equal with respect to all relevant considerations, including price, quality and service, then the Procurement Division Manager will award the procurement or contract to the business having the smallest net worth.

The Proposer shall contact the Business Development Division Liaison at 407-836-8363 for any questions and/or concerns as it relates to Registered Service-Disabled Veterans.

22. **CONTRACT AWARD CRITERIA**

The County will award a single contract for this requirement.

23. **KEY PERSONNEL**

The Senior Project Manager and Project Manager must be two different individuals, one of the individuals shall be currently employed by the Prime Contractor, Joint Venture, Partnership or Teaming. The Senior Project Manager

or the Project Manager shall be a Professional Licensed Architect or Professional Licensed Engineer. The remaining position shall be a Professional Licensed Architect or Professional Licensed Engineer or a Bachelor Degreed Construction Manager and with one of the following certifications: General Contractor's (GC) License, Certified Construction Manager (CCM), or a Project Management Professional (PMP, PgMP, PfMP) prior to the due date of proposals submitted for this RFP. A diploma must be submitted as back up for validation of any Bachelor Degreed Construction Manager. Other Key Personnel must be clearly identified on the organizational chart submitted with the proposal.

24. **KEY SUBCONTRACTOR**

A Key Subcontractor is one who will perform a substantial scope of work that is critical to the success of the project. This work may require managerial and organizational skills, construction specialties or project specific resources to achieve a successful project outcome. Key Subcontractors must be clearly identified on the organization chart submitted with the proposal.

25. **REFERENCE CHECKS**

The contact person listed as a reference shall be someone who has personal knowledge of the Proposer's performance during the referenced project. Contact persons must have been informed that they are being used as a reference and that the County may be calling or emailing them. More than one person can be listed but all must have knowledge of the project.

DO NOT list principals or officers who will not be able to answer specific questions regarding the project. Failure of references listed to respond to the County's inquiries may negatively impact the rating of the Proposal. The reference shall be the owner or a representative of the owner. An owner's representative is defined as a firm or individual hired by the owner to oversee the design or construction oversight services performed by the prime contractor. Consultants or Consultants who provided services under the referenced project (contract) shall not be accepted as references unless they were hired as the owner's representative for the referenced project (contract).

26. **VERIFICATION OF EMPLOYMENT STATUS**

Prior to the employment of any person under this contract, 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 Contractor during the contract term, and an express requirement that Contractor include in such subcontracts the requirement that subcontractors performing work or providing services pursuant to the state contract utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term. For more information on this process, please refer to United States Citizenship and Immigration Service site at:

<http://www.uscis.gov/portal/site/uscis>.

Only those employees determined eligible to work within the United States shall be employed under this contract.

By submission of a proposal in response to this solicitation, the Contractor affirms that all employees in the above categories shall undergo e-verification before placement on this contract. The Contractor shall commit to comply with this requirement by completing the E-Verification certification, attached to this solicitation.

27. QUALIFICATION – PHASE I

WEIGHTED CRITERIA

The following criteria and weights shall be utilized in the evaluation of the Proposals:

<u>Criteria</u>	<u>Weight</u>
Similar Projects Completed by the Proposed Senior Project Manager (Form D)	15
Similar Projects Completed by the Proposed Project Manager (Form E)	10
Skills and Experience of the Project Team (Form F)	15
M/WBE Participation (Form B, J, K, M)	20
Location (Form C)	10
Volume of Work Previously Awarded by the County	5
Approach, Understanding, Scope Response (Form H)	25
TOTAL	100

Proposers achieving a minimum of 400 points shall be deemed qualified to advance to Phase II.

28. PROCEDURES AFTER RECEIPT OF PROPOSALS

- a. Proposals will be evaluated, scored and short-listed by a Procurement Committee based on the weighted criteria described herein.
- b. After the Procurement Committee completes its evaluation, the evaluation results and the short-listed firms will be posted at the Public Notice Board at the Procurement Division office, 400 E. South St., Second Floor, Orlando, FL 32801 and at <http://apps.ocfl.net/OrangeBids/AwardsRec/default.asp>. Upon expiration of the period allowed for protests, the item will be scheduled for the consideration at an upcoming Board of County Commissioners' meeting. If oral presentations are required, the short-listed firms will be notified of the presentation procedures and schedule.

29. SELECTION - PHASE II

Following the evaluation by the Procurement Committee, all proposers scoring 400 points or more shall be provided an opportunity to make a final presentation to the Orange County Board of County Commissioners, in strict accordance with the following conditions:

- a) Order of presentation of firms shall be as determined by random draw at the time of the Procurement Committee, subject to a proposer's achieving the minimum qualification score of 400 points.
- b) Presentations shall be a maximum of fifteen minutes (15:00) in total run length. Any presentation that exceeds the fifteen minute maximum shall be stopped prior to completing. Embedded videos are permitted, providing each video does not exceed a two minute (2:00) maximum length. Embedded videos will count against the 15 minute total presentation time. The presentation must focus on concepts, innovative ideas, and potential challenges with solutions specific to the Phase V North-South Building Multipurpose Venue and Grand Concourse Improvements Project. This presentation should be specific, tailored to the North-South Building Improvements, and not be a portfolio of similar projects.
- c) Each firm is requested to provide a presentation based on the following instruction:
 - Provide a general overview of your firm, its experience and capabilities.
 - Provide potential challenges with recommended solutions during the construction period.
 - Connectivity between North and South Concourses should be creatively demonstrated.
 - Phasing and screening of the construction areas will be critical to the success of the project. Describe your firm's efforts to limit impact on our guests on an ACTIVE fully operational general assembly facility using innovative phasing and/or screening techniques.
- d) Following each presentation, the Board reserves the right to conduct a question and answer session with that presenting firm. A firm's responses during the question and answer session are expressly limited solely to the firm's corporate executive "C-level" personnel or those specific Key Personnel as listed in the firm's RFP response.
- e) After all presentations and associated question and answer periods are concluded, the Board shall proceed to a vote for award of contract to the selected firm.

30. SIMILAR PROJECTS

"Similar Projects" for the proposed Construction Manager at Risk (CMAR) Senior Project Manager and the proposed Project Manager for the Request for Proposals (RFP) has been defined as a single project, (if a phased project all phases shall be *substantially completed*), successfully completed and construction of the entire project certified substantially complete, within the past

twenty (20) years prior to the due date of proposals submitted for this RFP within the contiguous United States, Alaska, and Hawaii that included Construction Manager at Risk Services as follows:

- a. Project Type A: Two (2) Similar Projects that are renovation or expansion of building space of at least 350,000 contiguous square feet within a 750,000 square feet facility, on an **ACTIVE** fully operational general assembly facility (airports, arenas, convention centers, university campus facilities, hotels, stadiums),

AND

- b. Project Type B: Two (2) Similar Projects that are expansion or new construction of building space of at least 750,000 contiguous square feet, on general assembly facility (airports, arenas, convention centers, university campus facilities, hotels, stadiums),

AND

- c. Each Similar Project shall include the following elements: foundation, structural elements, HVAC and primary electrical components, plumbing, site civil, audio/visual and security installations, dynamic signage and data communication elements. Descriptions should include proposed key personnel's roles in coordination and cutover procedures for existing utilities, screening of construction activities and phasing of construction to minimize operational disruption. Both Project Type A and B should include experience with premium architectural finishes, truss curtainwall systems, and computer-controlled building systems.

In order to receive consideration as a "Similar Project" each project shall fully meet the above similar project description. Failure to meet these requirements will result in the project not considered as a similar project and receive a score of zero for that project.

Each "Similar Project" will be scored based on the following elements:

1. Construction costs in excess of \$175 million for two (2) projects and in excess of \$200 million for the remaining two (2) of the four (4) projects for the **Senior Project Manager** and Construction costs in excess of \$100 million for all four (4) projects for the **Project Manager**.
2. Participated in a Construction Manager at Risk Contract with Guaranteed Maximum Price delivery method.
3. Management and oversight of project construction of deep pile construction, structural steel and concrete framing, mechanical and electrical installations, hydronic piping systems, programmable building automation systems.
4. Performance of design assist in project design services including, but not limited to, schematic through construction documents, architectural, electrical, plumbing, mechanical, and structural design categories. Providing constructability reviews and assistance in developing phasing and logistic plans.

5. Performance of value engineering reviews, constructability and analysis at all stages of programming, design and construction following a structured approach to developing, evaluating and selecting alternatives to provide best value.
6. Performing and Coordinating Project Estimates using standard CSI categories, identifying and reconciling cost discrepancies.
7. Development and maintenance of project schedule utilizing industry standard computer scheduling software, integration of several independent schedules into a single master construction schedule. Experience with design schedules, procurement of long lead items and analysis of delays or other interruptions.
8. Development of LEED or Green Sustainable Project Requirements. Development with Owner Project Requirement documentation, impact of LEED upon project costs and creative methods for achieving LEED certification.

SCORING CRITERIA:

Senior Project Manager Scoring Criteria: Element “1”, “2”, “3”, and “4” are mandatory elements. Those “Similar Projects” with less than the first four (4) mandatory elements will not be considered similar and receive a score of zero. In order to receive consideration for one-half (1/2) point, a “Similar Project” must contain elements “1”, “2”, “3”, and “4” and at least three (3) of the remaining elements 5 through 8. In order to receive one (1) full point, a “Similar Project” must contain all eight (8) total elements including all four (4) mandatory elements.

Project Manager Scoring Criteria: Element “1”, “2”, “3”, and “4” are mandatory elements. Those “Similar Projects” with less than the four (4) mandatory elements will not be considered similar and receive a score of zero. In order to receive consideration for one-half (1/2) point, a “Similar Project” must contain elements “1”, “2”, “3”, and “4” and at least two (2) of the remaining elements. In order to receive one (1) full point, a “Similar Project” must contain eight (8) total elements including all four (4) mandatory elements.

The Senior Project Manager and Project Manager shall be two different individuals, one of the individuals shall be currently employed by the Prime Contractor, Joint Venture, Partnership or Team. The Senior Project Manager OR the Project Manager shall be a Professional Licensed Architect or Professional Licensed Engineer registered. The remaining position shall be a Professional Licensed Architect or Professional Licensed Engineer or a Bachelor Degreed Construction Manager and with one of the following certifications: General Contractor’s (GC) License, Certified Construction Manager (CCM), or a Project Management Professional (PMP, PgMP, PfMP) prior to the due date of proposals submitted for this RFP. A diploma must be submitted as backup for validation of any Bachelor Degreed Construction Manager, a copy of the General Contractor’s License, and / or a CCM, PMP, PgMP, or PfMP Certificate.

All elements of the project must have been successfully completed and construction of the entire project certified substantially complete. The “Similar Projects” must have been certified “Substantial Completion” prior to the due date of proposals submitted for this RFP.

Under this similar project description, the project may have been performed under a specific contract. Also, a specific project (task authorization) performed under a continuing contract may be submitted. However, the continuing contract is not acceptable as a similar project. If a specific project (task authorization) is submitted to represent any similar project, all details on the similar project form shall be limited to the specific project (task authorization). All elements of a similar project shall be demonstrated within the specific project (task authorization) and not the continuing contract. Continuing contracts submitted as a similar project will receive a score of zero points. Task authorizations completed under a continuing contract may be submitted as a similar project.

The Proposer shall ensure that the basic descriptions of the similar project, including all required performance requirements and/or dimensions are identified and that the elements are adequately explained in the text. The description shall document how the particular element was performed in conjunction with the overall project. The mere listing of elements without specific details in the body of the description will negatively impact the scoring for the project.

Failure to identify the specific performance requirements and/or dimensions of the project to ensure it meets the similar project description shall negatively impact that project's score.

Note: Determination of a project as similar shall be at the sole discretion of the County.

Definitions

Senior Project Manager: Individual who managed the administrative elements of the project, was the primary point of contact for the client, directed the production of the planning/design/construction work products, while performing those services from initial design to substantial completion of the project. **The Senior Project Manager OR the Project Manager shall be a Professional Licensed Architect or Professional Licensed Engineer. The remaining position shall be a Professional Licensed Architect or Professional Licensed Engineer or a Bachelor Degreed Construction Manager and with one of the following certifications: General Contractor's (GC) License, Certified Construction Manager (CCM), or a Project Management Professional (PMP, PgMP, PfMP) prior to the due date of proposals submitted for this RFP, and maintain an on-site presence for the duration of the project. A diploma must be submitted as backup for validation of any Bachelor Degreed Construction Manager, a copy of the General Contractor's License, and / or a CCM, PMP, PgMP, or PfMP Certificate.**

Project Manager: Defined as the Individual who assisted the Senior Project Manager as the lead technical supervisor of the project planning/design/construction activities from initial design to substantial completion of the project as described in the similar project criteria. The position served as the point of contact for the client in the Senior Project Manager's absence. **The Project Manager OR the Senior Project Manager shall be a Professional Licensed Architect or Professional Licensed Engineer. The remaining position shall be a Professional Licensed Architect or Professional**

Licensed Engineer or a Bachelor Degreed Construction Manager and with one of the following certifications: General Contractor's (GC) License, Certified Construction Manager (CCM), or a Project Management Professional (PMP, PgMP, PfMP) prior to the due date of proposals submitted for this RFP, and maintain an on-site presence for the duration of the project. A diploma must be submitted as backup for validation of any Bachelor Degreed Construction Manager, a copy of the General Contractor's License, and / or a CCM, PMP, PgMP, or PfMP Certificate.

To be credited as "Similar Projects" for the proposed Senior Project Manager and Project Manager, the individual must have served in the role as defined above from initial design to substantial completion of the project design and construction activities, budget, and schedule duration. If the proposed Senior Project Manager and Project Manager did not manage from initial design to substantial completion, that project shall receive a score of zero (0).

Key Subcontractor: A Key Subcontractor is one who will perform a substantial scope of work that is critical to the success of the project. This work may require managerial and organizational skills, construction specialties or project specific resources to achieve a successful project outcome. Key Subcontractors must be clearly identified on the organization chart submitted with the proposal. The CMAR shall not substitute any Key Subcontractor without the prior written approval of the Manager of the Procurement Division and the Manager of Business Development.

Substantial Completion: Completion of 90% of the Work in accordance with the construction contract documents, so that the owner may use or occupy the project or designated portion for the intended purpose. If a phased Project, all phases shall be substantially completed. The date of substantial completion must be prior to the due date of proposals for this RFP.

Successfully Completed/Final Completion: Completion of the Work and the Owner has accepted the Work.

31. **EXPERIENCE OF THE PROJECT TEAM**

It is the responsibility of the Proposer to verify subcontractors and/or other team member's satisfactory performance on previous Orange County projects (see Form F). Substitution of the Senior Project Manager, Project Manager or Other Key Personnel: The CMAR shall not substitute any key personnel without the prior written approval of the Manager of the Procurement Division and the Manager of the Business Development Division for M/WBE participation. Any such requests shall be supported by comprehensive documentation outlining the reason(s) for the proposed substitution to include the specific qualifications of the proposed substitute. Approval of the request shall be at the discretion of the County. Further, the County, in lieu of approving a substitution, may initiate other actions under the contract, including termination.

32. **VOLUME OF WORK**

The county shall evaluate information in its "Volume of Work" database to determine the Proposers' scores for the Volume of Work criteria. This

information is available on-line at:

<http://www.orangecountyfl.net/VendorServices/VolumeofWorkReport.aspx>

This database includes only the award amounts specifically attributable to the contractor, either as a prime or as a subcontractor or as a member of a joint venture under previously awarded contracts, contract amendments, purchase orders, task authorizations, and change orders to those purchase orders and task authorizations. In the case of mergers between two or more firms or a parent subsidiary relationship the combined fee for all companies involved will be considered. Fees will be counted towards the Volume of Work at the time of award (not invoices paid). Total fees under negotiation are based on the budget amount for professional services. The end date for volume of work calculation is the date set for receipt of proposals.

Volume of Work is calculated using the following formula:

CONTRACT PERIOD	TOTAL FEE AWARDED TO PRIME CONTRACTOR		FACTOR		ADJUSTED FEE AMOUNT
(1) From October 1, 2018 to April 1, 2020	\$	X	1.0	=	\$
(2) First Year Past: 10/01/17- 9/30/18	\$	X	0.75	=	\$
(3) Second Year Past: 10/01/16- 09/30/17	\$	X	0.50	=	\$
(4) Third Year Past: 10/01/15-09/30/16	\$	X	0.25	=	\$
(5) Total Fees Under Negotiation	\$	X	0.90	=	\$
	TOTAL FEE CONSIDERED				\$

Proposers are cautioned that they are responsible for confirming the accuracy of their volume of work data prior to the time and date set for receipt of proposals.

Points will be awarded as follows:

Firms with no previous work with the County as a prime contractor or subcontractor during the current fiscal year <u>and</u> previous fiscal years	5 Points
Firms with adjusted fees of \$1 through \$2,000,000	4 Points
Firms with adjusted fees of \$2,000,001 through \$3,000,000	3 Points
Firms with adjusted fees of \$3,000,001 through \$4,000,000	2 Points
Firms with adjusted fees of \$4,000,001 through \$5,000,000	1 Point
Firms with adjusted fees exceeding \$5,000,000	0 Points

When a Joint Venture, Partnership or Team submits a proposal, the volume of work awarded by the County to each Joint Venture, Partnership or Teaming firm will be multiplied by the percentage of participation in the Joint Venture, Partnership or Team by that firm and those adjusted figures totaled to determine the total dollar amount to be used in the category.

33. **COST AND PRICING DATA**

The County will require the selected Contractor to provide the following documentation to support the negotiated fee Proposal as a condition precedent to the execution of the Contract:

- a. A current audited statement for the most recently completed fiscal year clearly showing the costs (not percentage) of direct labor, indirect labor, fringe benefits, general administrative and overhead costs and a statement of profit or operating margin requested. **A detailed general ledger that is reconciled to the statement of direct labor, indirect labor, fringe benefits, general administrative and overhead costs shall be furnished upon request of the County.**

All indirect costs shall be computed in accordance with 48 CFR Federal Acquisition Regulations.

- b. A detailed summary of any transactions between organizations under common control that are included in the indirect costs reported in paragraph "a." above.
- c. Raw labor rates by labor classification certified as accurate by an officer of the company.
- d. Breakdown of the fee by task/labor classification and raw or billable hourly rate/number of hours.
- e. Summary of fees for services to be provided by subcontractors.
- f. Scope of work and fee Proposal from each sub supporting the above summary, on the subcontractors' letterhead. The scope of work for each sub must support the scope of work of the prime Consultant's contract.
- g. Breakeven multiplier statement from each subcontractor (breakeven multiplier includes direct and indirect labor, general administrative and overhead costs) and the profit or operating margin clearly indicated.
- h. Project schedule.
- i. Breakdown of all out-of-pocket and/or direct expenses.
- j. If any costs for local travel are included, there must be compelling reasons for such costs that must be adequately supported with specific justification.

34. **SUPPORTING DOCUMENTATION**

The County will require the selected Contractor to provide the following documentation to support the negotiated Proposal.

- a. Scope of service as revised during contract negotiations. Note that changes should serve to clarify the scope and not add or delete from the scope of work as contained in the Request for Proposals.
- b. Billable hourly rates for each proposed subcontractor developed by multiplying the raw labor rates by the breakeven multiplier. This information must be certified by an officer of the firm. Breakeven multiplier includes direct and indirect labor, general administrative and overhead costs. The profit or operating margin must be clearly indicated

- c. Valid insurance certificate(s) evidencing contractually required coverage.

35. **DEBRIEFING OF PROPOSERS**

Not later than thirty (30) days after Board approval of a selection or shortlist, a Proposer may submit a written request to the applicable contract administrator or purchasing agent for a debriefing on the evaluation of their proposal. The contract administrator/purchasing agent will schedule a meeting with the Proposer for the debriefing. However, at the Proposer's request, the debriefing may be conducted via telephone conference. The debriefing shall include the following minimum information:

- a. Key requirements of the solicitation.
- b. The overall ranking of all proposals. The significant weaknesses or deficiencies in the proposal in response to the requirements of the solicitation.
- c. If requested, an explanation of the score received for each evaluation criteria will be provided, including costs, if applicable.
- d. If applicable, a summary of the rationale for award.
- e. Responses to any relevant questions of the proposer.

Untimely debriefing requests will also be considered.

36. **PROPRIETARY INFORMATION**

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

37. **DEVELOPMENT OR ASSISTANCE IN DEVELOPMENT OF SPECIFICATIONS/REQUIREMENTS/STATEMENTS OF WORK**

Firms and/or individuals that assisted in the development or drafting of the specifications, requirements, statements of work, or solicitation documents contained herein are excluded from competing for this solicitation.

This shall not be applicable to firms and/or individuals providing responses to a publicly posted Request for Information (RFI) associated with a solicitation.

EXHIBIT A

CONSTRUCTION MANAGER AT RISK SERVICES FOR THE ORANGE COUNTY CONVENTION CENTER PHASE V MULTI-PURPOSE VENUE AND GRAND CONCOURSE IMPROVEMENTS

SCOPE OF SERVICES

The Construction Manager at Risk (CMAR) shall provide Construction Management Services for the Orange County Convention Center (OCCC) Phase V Multi-purpose Venue and Grand Concourse Improvements.

BACKGROUND AND PROJECT OVERVIEW

For additional information about the existing facilities of OCCC, demographics, and any other major related facts, proposers should go to the OCCC website at: www.occc.net.

The Orange County Board of County Commissioners is a public authority of Orange County, Florida. The County owns and operates the Orange County Convention Center. Orange County is currently undertaking the development of approximately 850,000 square feet of buildout improvements to Phase V of the Orange County Convention Center, also known as the North/South Building.

The preliminary program for the potential improvements shall be distributed between the east and west sides of the North/South building. The eastern side of the facility shall consist of a 200,000 square foot column-free Multi-purpose Venue with associated supporting lobby, concourses, docks, restrooms, and service corridors. The western side of the building shall consist of a grand concourse improvement to include 60,000 square feet of meeting room program, a flexible 80,000 square foot ballroom, restrooms and service corridors. Each area is designed with appropriate amount of circulation, services, back of house, and utility spaces. The project also includes public improvements in and around the project site, including an enhanced streetscape, utilities relocation, and a walkway connecting North and South Buildings. **All work shall be coordinated with convention activity and shall not impact these activities.**

The Orange County Convention Center conducted a Campus Master Plan (2 Volumes) that resulted in numerous recommended improvement projects, which were categorized as Campus, West Building and North-South Building enhancements. The Multi-purpose Venue and the Grand Concourse are two of these recommended projects collectively known as North-South Building Improvements. These projects within this solicitation are based upon concepts drawings, basic site and floor plan layouts, conceptual renderings, and documents within the Campus Master Plan, which can be made available through public records request.

The Capital Planning section of the Orange County Convention Center is the User Group requesting this work and, therefore is named as the Owner going forward in this

Scope of Services document. The Owner Project Team consists of the Capital Planning Division, Risk Management Division and the AECOM Program Manager Representative Team.

THE FOLLOWING SERVICES SHALL BE PROVIDED BY THE CMAR:

The CMAR shall provide Construction Services for the above referenced project. Depending on the scope, composition and complexity of the project, these construction services, may include, but not necessarily limited to, Architectural, Mechanical, Electrical, Plumbing, Fire Protection, Civil, Survey, Low Voltage, Cost Estimator, and Structural as required in the execution of the Construction Documents by the CMAR. These services are described herein, as required per project needs.

The negotiated Guaranteed Maximum Price (GMP) fees and task-hour requirements shall be presented utilizing forms provided by the County. The tasks included in this Scope of Services can be generally grouped into the following primary categories:

- General Responsibilities
- Design Assist
- Pre-Construction
- Construction
- Post Construction

This Scope of Services addresses each task within these elements and serves to further define specific project requirements. The CMAR shall provide construction services in a timely manner in order to allow sufficient time to complete construction by August 2023. The construction contract shall be delivered as a “Construction Manager at Risk with a GMP”. The Contractor shall be available to provide cost estimates for comparison and value engineering concepts for review. Construction is projected to start in July 2020; however, work can only progress in the facility when specifically authorized in writing by the Owner.

The OCCC currently has and/or will have contractual commitments to conventions, shows and exhibits, therefore the CMAR in conjunction with the A/E Design Team shall manage and execute the design of the project to account for schedule and sequence of the work such that minimal to no impact shall result to ongoing business functions of the facility or scheduled shows and exhibits.

The Scope of Services to be provided under this contract will include complete pre-construction, construction and post construction services for all phases of the project, subject to the direction of the Owner. Further details of the categories to be provided are as follows:

1. GENERAL RESPONSIBILITIES

1.1 The CMAR shall be responsible for the bid, award and day-to-day management of all Trade/Construction contracts for its contracted project. The CMAR shall provide problem solving, quality assurance, scheduling, general and specific coordination of activities and trades, contract administration, scope and budget management, and management of construction at the contract level. The CMAR shall obtain all permits required for construction with the assistance of the A/E Design Team. The County will pay for all permit application fees and review fees required to process construction documents and obtain approval from the Agency Having Jurisdiction (AHJ) over the project. The CMAR shall maintain on-site a well-qualified Senior Project Manager and Project Manager.

- The CMAR shall perform design assist, cost estimating, project scheduling, value engineering, and constructability reviews. During the Enabling Work and Construction Phase, the CMAR's scope shall include management of all aspects of construction, coordination of all agencies having jurisdiction over the contracted project, including but not limited to governing municipalities' Building Departments, systems commissioning, claims avoidance, safety monitoring and project closeout and post construction warranty services, all within a GMP.

1.2 **Communication and General Oversight.** The CMAR shall communicate with all project participants during all phases of enabling project(s), design, bidding, permitting, pre-construction, construction, and other project activities to include the following:

- Communicate daily or periodically with the County Project Manager, Capital Planning Manager, and the Owner Project Team as needed. The CMAR shall submit a report daily, weekly, and monthly on concerns related to design and construction efforts, activities, costs, scope and schedule.
- Utilize the County's adopted e-Builder™ program for all communications between the A/E Design Team, and other members of Owner Project Team.
- Assist in facilitating workshops and key stakeholder meetings with the Owner. These meetings will be held to determine requirements for the Project as required.

1.3. **Owner Direct Purchase Program.** The Owner may utilize the Owner Direct Purchase program (ODP) to the extent reasonable and practical for this Project including ODP of GMP subcontractor bid packages if in the best interest of the Owner. Particular emphasis will be placed on the selection, purchase, and delivery of specific equipment and material purchases to facilitate the construction schedule. The CMAR, as a condition of this scope of services, shall review the necessary technical

documentation to support the Owner Project Team as required to facilitate the purchase of equipment and material.

Owner Furnished Material. The Owner may furnish material directly to the CMAR for delivery, storage and installation. The CMAR shall be responsible for coordinating the delivery, storage and installation with all subcontractors and other vendors, ensuring that all infrastructure needed by the Owner furnished material is in place in a timely manner. The CMAR, as a condition of this scope of services, shall review the necessary technical documentation to support the Owner Project Team as required to facilitate the purchase of equipment and material. The CMAR shall warranty installation for a period consistent with contractual requirements and specifications. This material will be noted on the drawings and specifications.

- 1.4. **Project Status Meetings.** The CMAR shall ensure the appropriate members of the CMAR attend weekly meetings with the Owner Project Team and staff to discuss project progress, schedule and status, technical issues, cost concerns, potential changes and conflicts, and upcoming events and activities. The purpose of these meetings is to maintain clear communication with the County and the Owner Project Team.
- 1.5. **Construction Project Schedule.** The CMAR shall prepare and submit a detailed construction schedule prior to the Notice to Proceed meeting for completion of the project identifying major tasks, their duration and task relationships. All significant events shall be identified as milestones on the schedule. This schedule shall utilize the Orange County Standard Project Schedule format on Primavera P6. The Project Schedule is the schedule of activities, in a Work Breakdown Structure format (WBS), by which all activity progress in each project are measured. The schedule shall identify a reasonable critical path. Unless otherwise agreed, all schedules shall be constructed using Primavera P6.
- 1.6. **Utility Coordination.** The CMAR shall coordinate with all utility providers within the project limits. The CMAR shall participate in on-going utility coordination efforts to ensure field activity goes according to plan. The resolution to existing utility conflicts and limitations shall be presented in an “Enabling Design and Construction package”. These plans are designated the Enabling Projects. The A/E Design Team will determine any capacity limitations for development, including electric, gas, potable water, reclaimed water, and chilled water. Resolution of any utility capacity limitations and/or conflicts will be designed in the Enabling Project Package for execution before construction begins on the actual Phase V Improvements. The CMAR shall bid, negotiate and execute these enabling plans to facilitate building construction and expedite the schedule.
- 1.7. **Quality Assurance/Quality Control (QA/QC).** The CMAR shall submit a quality assurance/quality control program for review and approval as the

QA/QC Plan deliverable. The CMAR shall designate appropriate staff to conduct QA/QC reviews of all work products. These reviews shall be performed for all work products submitted to the County for review or use. Each submittal shall include a Project QA/QC Form provided by the Owner (CP Form 301F) or suitable alternative. The CMAR shall be directly responsible for the quality of its work and/or work product. Quality evaluations/determinations by others will in no way invalidate the contractor's responsibility to produce the specified quality.

- 1.8. **Safety and Site Security Plan.** The CMAR shall develop and submit a site Safety Plan that will include maintaining safety of workers, visitors, subcontractors, and the public from any dangers associated with the construction site. Further, the CMAR shall submit a Site Security Plan designed to maintain control over the site during construction to insure against any loss or damage. These plans shall constitute the Site Safety and Security Plan deliverable. The Owner Project Team will review and approve these plans prior to the start of construction.
- 1.9. **Asbestos Free Material.** The CMAR shall prepare the certified written and notarized statement that warrants the project was constructed with asbestos free materials. Such statement shall be submitted with the final payment request.
- 1.10. **Project Management and Supervision.** The CMAR shall provide full time, on-site representatives during design assist, pre-construction, bidding, permitting, and construction phases that shall coordinate and aid in the design, construction, start-up and service contracts entered into by Orange County. The Senior Project Manager and Project Manager shall maintain an on-site presence for the duration of the project.
- 1.11. **Building Information Modelling (BIM).** BIM shall be a required element from the CMAR and the CMAR's subcontractors. The three dimensional model shall be used to coordinate building elements to minimize conflicts in the field and to provide a common platform to optimize installation. Should the CMAR identify any conflicts, these conflict shall be immediately brought to the attention of the Owner Project Team at the same time they become known to CMAR. The A/E Design Team will participate in these coordination meetings with the CMAR and subcontractors to identify and resolve installation conflicts during the design and construction phases. The CMAR shall develop and maintain this model. As part of the close out package, the CMAR shall submit the complete final model in as-built condition. The A/E Design Team will certify that the final model is free of conflicts prior to construction.
- 1.12. **Deliverables.** Work to be completed under this section by the CMAR shall require the following items to be delivered and accepted by the Owner (as outlined in the 1.6 Construction Project Schedule):

- BIM Model
- QA/QC Plan
- Building, Water Management and all other Permits
- Safety and Site Security Plan
- Primavera Project Schedule
- Asbestos Free Certification
- Review of Owner Direct Purchase Program technical documents

1.14 **Pay Task.** Work to be completed under this section by the CMAR will be paid for under the following Pay Tasks as listed on the Activity and Fee Summary:

- BIM Model
- QA/QC Plan
- Building, Water Management and all other Permits
- Safety and Site Security Plan
- Primavera Project Schedule
- Asbestos Free Certification
- Review of Owner Direct Purchase Program technical documents

2. DESIGN ASSIST

The CMAR shall provide Design Assist services for this project. These services shall provide insight into the current costs, the constructability, and relative benefits of design elements. These services shall be provided at meetings with the A/E Design and Owner Project Team, in reports generated by the CMAR and reviews of documents and specifications. Each submittal shall be accompanied by documentation indicating that proper QA/QC procedures have been applied.

2.1 **Cost Estimating.** The Owner is utilizing a Design to Budget approach for The Phase V Improvements. As such, at the completion of each phase under the CMAR's contracts to include Schematic Design (SD), Design Development (DD) phases, and 90% Design Drawings, the CMAR shall submit a project cost estimate and reconcile it with the Owner's Project Team Estimate. Cost estimates will be reviewed and validated by the Owner Project Team and the A/E Design Team during the plans review phase. The CMAR shall submit detailed cost estimates for each phase of the 30%, 60% and 90% design drawings. These itemized estimates shall follow the required estimate format as detailed by Construction Specifications Institute (CSI) index.

Note: If no estimate is within +/- 10 % of the construction estimate, the CMAR shall prepare a revised estimate, re-evaluate the construction plans, evaluate the bids and submit a report that summarizes this information. This report shall include recommendations for revisions to the construction documents, if needed. This report shall be prepared at no cost to the County.

2.2 **Value Engineering.** Value Engineering (VE) is to establish the best-cost balance in relation to the targeted/intended overall performance of the finalized project. VE exercises shall be conducted at the end of each design phase to incorporate ideas to improve the construction and/or performance of the building. The VE Reviews shall be conducted through a standardized approach endorsed by the Society of American Value Engineers (SAVE). The CMAR shall participate in each scheduled VE session. Following each VE session the CMAR shall submit a report which itemizes the VE session results of all evaluations into a prioritized listing of alternatives for discussion.

VE sessions shall be as scheduled below. Actual dates shall be established by agreement between the A/E Design Team and County. The approximate schedule for these exercises is noted below:

- Late Schematic Design Phase (Approximate 30% Level)
 - Evaluation of Alternatives
 - Decisions

- Middle to late Design Development Phase (Approximate 60% Level)
 - Design Review
 - Alternative Technical Solutions
 - Cost Evaluations
 - Priorities and Trade-offs (if necessary)

Modifications or changes resulting from value engineering and design review sessions must be incorporated into design documents before approval is given to proceed to design development phase and cost evaluations.

2.3 **Constructability Reviews.** Throughout the design development process, constructability reviews shall be conducted by the CMAR to confirm that the design addresses key construction phase issues, including technical feasibility, claims avoidance and quality. The constructability comments shall be provided to the Owner Project Team, who is responsible for confirming that they are addressed and/or resolved by the A/E Design Team. The CMAR shall make recommendations and submit a report upon the general constructability of the design; construction documents that appear to be ambiguous, incomplete, excessively restrictive, defective or incorrect; designs and specifications not in compliance with codes and standards; the use of alternative materials and/or means or methods of construction; and other economies in design or construction.

2.4 **LEED Design.** The CMAR shall assist the Owner Project Team and A/E Design Team with the design of the project for LEED Gold certification.

The CMAR shall attend coordination meetings and participate in applying “Green Design Principles” to the overall project design. The CMAR shall manage all aspects of the requirements to achieve LEED Gold in accordance with construction documents and specifications.

2.5 **Phasing and Logistics Plan.** The CMAR shall prepare and submit a phasing plan for the construction of the proposed improvements. This plan shall include limits of construction, fencing, screening, schedule, staging, logistics and proposed trailer locations. This plan will be reviewed and approved by the Owner Project Team in conjunction with the A/E Design Team.

2.6 **Deliverables.** Work to be completed under this section by the CMAR shall require the following items to be delivered and accepted by the Owner (as outlined in the 1.6 Construction Project Schedule):

- Updated Project Schedule
- Constructability Review Report
- 30%, 60% and 90% Construction Cost Estimate
- 30%, 60% Value Engineering Report
- Phasing and Logistics Plan

2.7 **Pay Tasks.** Work to be completed under this section by the CMAR shall be paid for under the following Pay Tasks as listed on the Activity and Fee Summary:

- Updated Project Schedule
- Constructability Review Report
- 30%, 60% and 90% Construction Cost Estimate
- 30%, 60% Value Engineering Report
- Phasing and Logistics Plan

3. PRECONSTRUCTION

3.1 **Project Scheduling.** The CMAR shall submit an updated project schedule with each updated design submittal. The Project Schedule is the schedule of activities, in a Work Breakdown Structure format (WBS), by which all activity progress in the project is measured. The schedule shall identify a reasonable critical path. This schedule shall incorporate all significant milestones from the A/E Design Team schedule in the overall Master Project. All significant events shall be identified as milestones on the schedule. This schedule shall utilize the Orange County Standard Project Schedule format on Primavera P6.

3.2 **Pre-Construction Meeting.** The CMAR shall hold Pre-Construction meetings for subcontractors and provide answers regarding questions from the Subcontractors. The Owner Project Team and the A/E Team will be invited to each of these meetings. The number and size of these meetings shall be determined by the CMAR in conjunction with the A/E

Team and the Owner Project Team. The CMAR shall submit meeting minutes within 48 hours of each meeting detailing the discussion and agreements.

- 3.3 **Construction Plans.** The CMAR shall assist the Owner Project Team during all phases of design development for the project, including monitoring compliance with design guidelines and criteria by reviewing all design submittals for constructability, operations and maintainability, analyzing life-cycle costs and performing value engineering on all stages of design development. The CMAR shall submit a report documenting the review and concurrence with civil, architectural, mechanical, electrical, plumbing and structural system design. The CMAR's recommendations shall include information, data, cost estimates, and documentation, as necessary, which the CMAR shall develop, and OCCC may use as a basis for evaluating the acceptability of each recommendation. Changes recommended by the CMAR will not be deemed final and part of the contract until the A/E Firm of Record and the Owner Project Team accept these recommendations.
- 3.4 **Agency Coordination.** The CMAR shall notify the Owner's Program Management Team of all meetings with regulatory agencies to coordinate attendance by County staff.
- 3.5 **Agency Field Review.** The CMAR, shall conduct and coordinate field investigations as necessary with County staff and with the appropriate regulatory agencies.
- 3.6 **Deferred Permit Preparation.** The CMAR shall prepare and submit permit applications, construction drawings, specifications, and related support documentation for all **deferred** permits and approval requirements for the project. Deferred permits shall include fire suppression and alarm systems, health department and any other permits that cannot be obtained prior to complete design. Copies of all permit application shall be provided to the Owner for review and signature prior to submittal.
- 3.7 **Site Preparation.** The CMAR shall establish their physical presence on site, including trailers, facilities, utilities, waste removal and parking as deemed necessary during negotiations. A suitable location shall be identified on site for these facilities. A location for subcontractors' trailers, laydown and staging facilities will be identified during the design process by the Owner Project Team.
- 3.8 **Guaranteed Maximum Price** Once the construction documents have been certified as 90% complete, the CMAR shall establish a **Guaranteed Maximum Price** (GMP) for which the project can be constructed. This GMP shall be all inclusive of general conditions, fees, profit, labor, materials, logistics, taxes, storage, transportation, insurance, site

maintenance and any other cost needed to build the project. The CMAR shall account for all current conditions, escalation costs and any other factors that may impact the price. The CMAR shall submit a warranty letter at this time stating that the CMAR has completed the constructability check and warrants the constructability and bid-ability of the Construction Documents. At this time, the CMAR assumes responsibility for the completeness of the construction documents. The Owner anticipates that the Contractor Contingency will not exceed 10% of the GMP.

A separate Allowance Fund shall be established for any undefined scope of work. These allowances shall be for scopes that will be installed as part of the project, but will not be specifically described by the 100% Design drawings. These allowances shall be inclusive of all labor, material, fees, taxes, freight and any other costs associated with the scope. Any unused Allowance funds shall be returned to the Owner.

A Contractor Contingency amount shall be set aside for the contractor's use. The Contractor Contingency shall be used for unpredictable changes in the scope of the work and only at the discretion of the Owner. Any funds remaining in the Contractor Contingency upon Final Completion of the Project will be divided twenty percent to the Contractor and eighty percent to the Owner based upon the Contractor achieving all performance goals. Upon the earlier termination of the Contract, all Contractor Contingency remaining shall be returned to the Owner.

Any incentive plan involving the sharing of the residual Contractor Contingency shall be based on the Contractor completing the project on time and within the budget, achieving or exceeding the M/WBE participation goal and maintaining throughout its performance of the Contract a satisfactory safety performance for this type of construction.

The amount of any funds remaining in the Contractor Contingency shall be confirmed by the written certification of the Owner at the time of the Owner's final payment under this Contract. Eighty (80%) percent of any funds remaining in the Contractor Contingency after this written certification shall be distributed to the Owner.

Of the funds remaining after the eighty (80%) percent distribution to the Owner:

Thirty (30%) percent shall be distributed to the Contractor if the Business Development Division certifies in writing that the Contractor has achieved the participation goal for Minority/Women Business Enterprise set forth in the Proposal. If this condition has not been met at the time of the written certification of the Owner referred to above, this thirty percent of such remaining funds shall be released to the Owner. If the Contractor exceeds the participation goal for Minority/Women Business Enterprise set forth in

the proposal, the distribution shall increase to fifty (50%) percent of the remaining funds. In this case, additional cost sharing shall be divided equally among the remaining goals.

Thirty-five (35%) percent shall be distributed to the Contractor if the Contractor's safety record for the performance of all Work under this Contract meets standards proposed by the Contractor and accepted by the Owner as part of the Change Order fixing the Guaranteed Maximum Price. If this condition has not been met at the time of the written certification of the Owner referred to above, this thirty-five percent of such remaining funds shall be released to the Owner.

Thirty-five (35%) percent shall be distributed to the Contractor if all of the following conditions are met:

1. The Contractor has achieved substantial completion of the Project by or before the date required, achieved Final Completion of the Project by or before the date required and achieved Final Completion of the overall Project by or before the Contract Completion Date.
2. The Contractor uses no more than fifty (50%) percent of the amount identified as the Contractor Contingency in the Change Order fixing the Guaranteed Maximum Price.
3. The Project, as completed by the Contractor, achieves a LEED GOLD or better LEED rating.

If any of the preceding conditions have not been met at the time of the written certification of the Owner referred to above, this thirty-five (35%) percent of such remaining funds shall be released to the Owner.

There shall be no fee associated with any funds spent on the Contractor Contingency. Fee will be allowed on changes associated with Owner Contingency.

An Owner Contingency shall be established for Owner directed changes and other conditions at the discretion of the Owner. This contingency can only be used with the explicit approval of the Owner Project Team. The Owner Project Team may direct the CMAR to use this contingency for specific additional improvements as required by the Project.

3.9 **Deliverables.** Work to be completed under this section by the CMAR shall require the following items to be delivered and accepted by the Owner(as outlined in the 1.6 Construction Project Schedule):

- Guaranteed Maximum Price with a warranty letter
- Deferred Permits
- Pre-Construction Meeting Minutes
- Construction Plan Report

- Updated Project Schedule

3.10 **Pay Tasks.** Work to be completed under this section by the CMAR shall be paid for under the following Pay Tasks as listed on the Activity and Fee Summary:

- Guaranteed Maximum Price with a warranty letter
- Deferred Permits
- Pre-Construction Meeting Minutes
- Construction Plan Report
- Updated Project Schedule

4. CONSTRUCTION

4.1 **CMAR Responsibilities.** The CMAR's responsibility during construction is all-inclusive. The CMAR shall administer, coordinate, schedule, obtain, contract, inspect, control, arrange, supervise, manage and/or otherwise provide and perform all work in a manner that is in full accordance with the requirements of the Contract Documents. The CMAR shall be accountable for the quality control of all the work provided and/or performed by his personnel or by trade contractors, subcontractors or others.

4.2 **Coordination.** The CMAR shall be responsible for full coordination between portions of the work provided and/or performed by trade contractors, subcontractors and others. The CMAR shall promptly address and resolve any conflicts, gaps or uncertainties that exist in the Contract Documents or which occur during the work, as well as for confirming that the work of all the trade contractors, subcontractors or others is clearly understood, fully coordinated and results in the work complying with the requirements of the Contract Documents in all respects and to the fullest extent as governed by the agreement between the CMAR and Orange County.

4.3 **Best Practices.** The CMAR shall establish, implement and maintain, throughout the entire term of the Contract, practices that demonstrate the status of the planned and actual work is progressing in a proper, orderly, harmonious, well documented, well-coordinated manner, without conflict, interruption, disruption or delay in the scheduled prosecution, execution and completion of the required work.

4.4 **Enabling Projects.** Based upon the results of the design analysis, one or more enabling projects may be required prior to proceeding to full scale design development. These enabling projects may include selective demolition, modification of traffic and pedestrian routes, temporary facilities for truck and bus loading zones and/or relocation of kitchen facilities and utilities that are in conflict with proposed improvements. **All work shall be coordinated with convention activity and shall not**

impact these on-going activities. This would include development of standalone construction documents not limited to drawings and specifications that can be permitted and released for construction. The CMAR shall participate in these design discussions providing insight into construction means and methods and advising the Owner Project Team of alternatives regarding the Enabling Project. The CMAR shall submit a report detailing its findings and recommendations for the Enabling Project.

Once the documents for the Enabling Projects have been completed, the CMAR shall submit them to the Building Department for review and approval.

The 100% Enabling Projects Construction Documents will be negotiated with the CMAR and issued as a separate purchase order, in accordance with Orange County Procurement Policies. Once permits have been issued for construction, a Notice to Proceed will be issued and construction may commence.

4.5 **Bid Process.** The CMAR shall arrange, coordinate and administer the bidding process of the project as requested by the County. The CMAR shall contract with the subcontractors for specific scopes of work who shall construct the project. It is anticipated that the entire project shall be bid as one package but modifications can be made to accommodate the needs of the CMAR.

4.5.1 **Pre-Bid Meeting.** The CMAR shall establish pre-bid meetings after requesting bids from subcontractors. These pre-bid meetings shall be held at the Orange County Convention Center at a prescribed location and scheduled with the Owner Project Team and County's Procurement Division.

4.5.2 **Addenda.** The CMAR shall coordinate with the A/E Design Team to develop responses to questions from the prospective subcontractors that may include addenda as required to interpret, clarify or expand the construction documents. The CMAR Team will prepare addenda in a manner that allows timely reception of addenda by all IFB interested parties.

4.5.3 **Bid Review.** The Owner Project Team will review the bids received by the CMAR and make any recommendation for additives or alternates, as applicable. The CMAR shall submit a final bid tabulation of all bids received for all trades upon completion of each bidding sequence.

4.5.4 **Progress Meetings.** The CMAR shall hold weekly construction progress meetings with, or in the absence of, the Owner Project Team to discuss project progress and status, technical issues, and upcoming events and activities. The purpose of these meetings is to identify

construction progress, discuss issues that arise in the field, quality of the work, potential and actual claims and disputes, expedite critical RFIs and submittals, and insure that construction is being performed safely. The CMAR shall submit Two Week Look Ahead Schedule updates at each meeting.

4.6

Daily and Monthly Construction Reports. The CMAR shall submit and record in e-Builder Daily Construction Reports within 48 hours. These reports shall contain information on construction activities, manpower, equipment, materials, deliveries, safety, and other pertinent information. Each construction daily report shall include:

- The date, time on and off site, weather conditions and temperature
- General discussion of the daily work and progress, including a description of the activities completed and started and an assessment of the work accomplished by location
- Project accidents, deficiencies, changes or corrective action to maintain schedule
- Damage to existing facilities
- Project delays, reason for delay and corrective action to maintain schedule
- Record when Contractor is on site, number of workers by craft and list of equipment items by type
- Construction testing activities, results, and observations
- Where possible and appropriate, the quantities of work put into place
- Visitor names and purpose of site visit
- Description of potential disputes between the Contractor and County and/or A/E Design Team
- Description of any direction or corrective action given to the Contractor
- Description of non-conforming work
- Detailed record of materials, equipment and number of works by craft used in connection with extra work, or in situations where there is reason to suspect a request for change order or claim maybe submitted by the Contractor.
- Photographic documentation and associated log with description. These photographs should be capturing daily project progress, overall site conditions, job accidents, deficiencies noted, deviations or changes from drawings or technical specifications, items that could cause delays (i.e. weather conditions, unforeseen conditions) and staged materials/equipment.
- Incident Reports (if applicable)

Monthly reports shall be submitted to the Owner Project Team by the 1st of every month, detailing construction progress during the month, costs, safety remarks, schedule milestones, manpower and upcoming events. Each monthly report shall be recorded in e-Builder.

- 4.7 **Contractors' Submittals.** The A/E Design Team in conjunction with the Owner Project Team, will establish procedures for review of shop drawings, mockups, samples and other submittals, and assist in expediting approval process. The A/E Design Team will review all submittals on e-Builder concerning product data, shop drawings and other submissions, as required for general conformance with design concept of this Project and the Contract Documents in consultation with the Owner. All submittals will be returned to the CMAR and all responses shall also be recorded on e-Builder. All approved submittals shall bear the A/E Design Team's stamp and be delivered to the Owner Project Team at Substantial Completion. The Owner Project Team will manage and monitor at all times the Submittal log in conjunction with the A/E Design Team. Status of the log will be reviewed by the Owner Project Team as a part of each Construction Progress Meeting. The goal for the return of submittals shall be within fourteen (14) calendar days. Larger, more complicated submittals will require more time accordingly.
- 4.8 **Design Clarification Responses:** The CMAR shall submit all Requests for Information (RFI) on e-Builder to request technical interpretation of the plans/drawings and specifications. The A/E Team will evaluate requested deviation from the approved design or specification; will review and respond to RFIs. Any supplementary sketches will be provided for clarification of construction plans and assist in resolving actual field conditions encountered via e-Builder. The Owner Project Team will monitor and manage at all times a RFI log of all RFI's submitted by the Contractor in conjunction with the A/E Design Team. Status of RFI log will be reviewed as part of each Project Progress Meeting. The goal for the return of RFI's will be seven (7) calendar days.
- 4.9 **Field Orders, Change Order Requests and Claims.** The A/E Design Team will review the technical interpretations of the Contract Documents, evaluate requested deviations from the approved design drawings or specifications. The Owner Project Team will issue Field Orders as necessary. The A/E Design Team will review all Contractor's Change Order Requests and Claims, and recommend an appropriate cost and course of action within ten (10) calendar days. The Owner Project Team will maintain a log of all Change Order Requests and Claims. Status of the log will be reviewed as part of each Construction Progress Meeting.
- 4.10 **LEED Reports.** The CMAR shall submit any interim reports to the LEED Coordinator to fulfill requirements for LEED Gold Certification. These reports shall be detailed in coordination efforts with the A/E Design Team, and the Owner Project Team during the design phase of the project.
- 4.11 **Final Construction Plans.** The A/E Design Team will provide signed and sealed copies of the updated final construction plans. The number of

signed and sealed copies will be determined by the needs of the permitting agency as well as the needs of the Owner Project Team.

4.12 **Application for Payment.** The Owner Project Team will establish a procedure for processing of the progress payment applications; the CMAR shall prepare a pencil requisition (draft application for payment) and shall review it with the A/E Design Team and the Owner Project Team. The A/E Design Team will make recommendations to the Owner for payment. Based on the project progress site visit observations, and on the evaluation of the invoice requests, the Owner Project Team will evaluate the appropriate amount to be paid to the Contractor(s) for the current stage of project as reviewed by the A/E Design Team. The CMAR shall submit the notarized invoice to the Owner Project Team for payment within five (5) business days of receipt in accordance with FS 218.735, Local Government Prompt Payment Act. Such certificate for payment will constitute a representation to the Owner that the quantity of the work has been performed in accordance with the Contract Documents. During Project Close-out, the Owner Project Team will assist in negotiating the final payment for the project with justification upon which final settlement and termination of Contract can be based upon.

4.13 Deliverables. Work to be completed under this section by the CMAR shall require the following items to be delivered and accepted by the Owner (as outlined in the 1.6 Construction Project Schedule):

- Daily Reports
- Monthly Reports
- Submittals
- RFIs
- Enabling Project Report
- Enabling Project Permit
- Progress Meeting 2-week Look Ahead Schedule
- Progress Meeting Minutes
- LEED Reports
- Bid Tabulation

4.14 Pay Tasks. Work to be completed under this section by the CMAR shall be paid for under the following Pay Tasks as listed on the Activity and Fee Summary:

- Daily Reports
- Monthly Reports
- Submittals
- RFIs
- Enabling Project Report
- Enabling Project Permit
- Progress Meeting 2-week Look Ahead Schedule

- Progress Meeting Minutes
- LEED Reports
- Bid Tabulation

5 POST CONSTRUCTION

- 5.1 **Final Close-out.** The CMAR shall submit project close-out documents for acceptance by the County. In coordination with the A/E Design Team, the Owner Project Team will develop and implement procedures for orderly completion of punch-list items (rolling punch list), checkout of utilities, operational systems and equipment, and initial startup and testing. The CMAR shall submit the punchlist in accordance with these procedures.
- 5.2 **Substantial Completion and Final Completion.** Substantial Completion is when a designated portion of the project is sufficiently complete, in accordance with the construction contract documents, so that the Owner may use or occupy the building project or designated portion thereof for the intended purpose. The A/E Design Team will issue certification of Substantial and Final Completion. The Owner Project Team will ensure the necessary signed and sealed documents needed for partial clearances and certifications of completion are provided to the appropriate regulatory agency.
- 5.3 **Operation and Maintenance (O&M) Manual.** The CMAR shall submit to the Owner Project Team documents for the operation and maintenance of the completed facility. The CMAR shall submit all O & M Manuals in conformance with project specifications and contract language.
- 5.4 **Testing and Start-up.** The Owner Project Team and A/E Design Team will coordinate with the CMAR to conduct a facility operations and performance meeting to test the equipment in accordance with Technical Specifications and manufacturer parameters. Prior to the commencement of the full commissioning process, the CMAR shall submit to the Owner documentation proving successful pretesting. The CMAR shall conduct the testing and start-up regimen to be witnessed by the Owner Project Team and the A/E Design Team.
- 5.5 **Commissioning.** Commissioning is the process of verifying and documenting that a project and all of its systems and assemblies are planned, designed, installed, tested, operated, and maintained to meet the project requirements. The Owner Project Team will designate the Commissioning Team, who will be responsible for the development of the project Master Test Plan. This Team will direct the A/E Design Team and the CMAR to coordinate and perform a complete commissioning regimen to ensure the building is ready for turnover. The CMAR shall attend commissioning meetings, review and comment on the Master Test Plan, execute the Master Test Plan and review and take corrective action to

rectify issues that are identified by the Commissioning Team. The CMAR shall submit all commissioning reports to the Owner Project Team.

- 5.6 **Training.** The CMAR shall conduct the proper training of County staff in the use of the equipment and proper care of all installations. The specific type and quantity of training that shall be identified in the Construction documents and contract and will be managed by the Owner Project Team.
- 5.7 **As-Built and Record Drawings.** The Owner Project Team will verify that the CMAR is preparing, updating, and maintaining as-built drawing documentation. The Owner Project Team will ensure regular maintenance of field As-built drawings by the Contractor of record. The CMAR shall submit all as-built drawings to the Owner Project Team. The Owner Project Team will review and verify final as-built drawings. The A/E Design Team will revise original design drawings of the project using contractor supplied as-builts and submit to the Owner within thirty (30) working days of the final completion date, a CD with the drawings in AutoCAD and PDF, certification as to the accuracy of the record drawings and specifications in MS-Word and PDF (latest editions). Current as-built documents from the CMAR shall be a requirement for pay application approval.
- 5.8 **Warranty.** The CMAR shall submit to the County the guaranties, warranties, certifications, releases, affidavits, bonds, manuals, insurance certificates and other items required by the contract documents. The A/E Design Team will assist the County in documentation and resolution of warranty issues within the first year of the warranty period.
- 5.9 **Post Construction Warranty Inspection.** The CMAR, along with its Sub-contractors, within ten (10) months after issuance of a Certificate of Substantial Completion and before expiration of the contractual one year warranty and/or guarantee period, in the company of the A/E Design Team Representative and the representative of the Owner Project Team, shall conduct an on-site inspection of the Project to determine the condition of all items of equipment, materials or building systems which are under warranty or guarantee coverage pursuant to the requirements of the Construction Agreement. The A/E Design Team, along with its Sub-contractors, will provide the Owner with a written report listing all items covered by warranty or guarantee coverage that are observed or otherwise found to be defective, inoperable, or not performing their intended function in a satisfactory manner. The report shall include recommendations for resolving all the items so noted in the warranty inspection report. All corrections shall be made under the project's one year warranty.
- 5.10 **Deliverables.** Work to be completed under this section by the CMAR shall require the following items to be delivered and accepted by the Owner Project Team (as outlined in the 1.6 Construction Project Schedule):

- Substantial Completion Letter
- Punch List
- Final Completion Letter
- Startup and Testing Reports
- LEED Summary Reports
- Operation and Maintenance (O & M) Manual
- O and M Training
- Commissioning Reports
- Warranties
- Lien Waivers
- Warranty Inspection Report
- Project QA/QC Form
- As-Built Drawings

5.11 **Pay Tasks:** Pay Tasks. Work to be completed under this section by the CMAR shall be paid for under the following Pay Tasks as listed on the Activity and Fee Summary

- Substantial Completion Letter
- Punch List
- Final Completion Letter
- Startup and Testing Reports
- LEED Summary Reports
- Operation and Maintenance (O & M) Manual
- O and M Training
- Commissioning Reports
- Warranties
- Lien Waivers
- Warranty Inspection Report
- Project QA/QC Form
- As-Built Drawings

6 SUSTAINABILITY

As part of the County's commitment to sustainability and high performing buildings, the CMAR shall:

6.1 Coordinate with the OCCC Facilities Operations to identify opportunities for integrated design and construction with respect to best energy and environmental practices within the project scope of work by the A/E Design Team. The CMAR shall recognize that the OCCC campus holds a variety of branding certifications which may be impacted by the project. These include LEED Gold 2018 O+M, ISO 14001, and APEX/ASTM Certifications. The CMAR shall strive to maintain these certifications and achieve Gold Certification on the expansion.

- 6.2 The CMAR shall use the Owner's Project Requirements (OPR) analysis to guide the LEED design and construction. This report shall include objectives for the project, budget considerations, space / use requirements, commissioning requirements and expected utility performance outcomes for the building spaces in the Design Criteria Package. The CMAR shall coordinate with the Owner Project Team and the A/E Design Team regarding the OPR and identify any opportunities to improve the LEED design and construction efforts. The CMAR shall submit a report detailing performance relative to the OPR goals, a final LEED Performance Report and an overall Utility Performance Report.
- 6.3 The Project, within the scope of work, shall use LEED BD+C and O+M to identify specific opportunities to achieve the following: (1) materials and resources, (2) indoor air quality, (3) energy and atmosphere, (4) water efficiency, (5) sustainable sites, and (6) location and transportation performance credits which are economically feasible regarding project costs and long term operating expenses. Certification of the project at a minimum shall be LEED Gold version 4.1 or the most current version.
- 6.4 **Deliverables.** Work to be completed under this section by the CMAR shall require the following items to be delivered and accepted by the Owner (as outlined in the 1.6 Construction Project Schedule):
- Final LEED Performance Report
 - Owner's Project Requirements Report
 - Utility Performance Report
- 6.5 **Pay Tasks:** Work to be completed under this section by the CMAR shall be paid for under the following Pay Tasks as listed on the Activity and Fee Summary:
- Final LEED Performance Report
 - Owner's Project Requirements Report
 - Utility Performance Report

7.0 OTHER CONDITIONS

The Owner has the right to verify, and the CMAR hereby represents, promises and warrants to Owner, (i) that CMAR is financially solvent and possesses sufficient experience, licenses, authority, personnel and working capital to complete the services required hereunder, and (ii) that CMAR has visited the site for the Project and generally familiarized itself with the local conditions under which the services required hereunder are to be performed, and the CMAR will correlate its observations of same with all of the requirements of this Agreement.

- 7.1 Upon Owner's reasonable request at any time during the design or construction Phases of this Agreement, and as often as reasonably

requested, the CMAR shall promptly provide Owner with an Estimated Cost at Completion. The Owner shall at all times have reasonable access to the files and Principals and the Project Manager of CMAR relating to the Project in order to answer any reasonable questions the Owner may have relating to the CMAR's performance.

- 7.2 The CMAR shall respond to design documents for limited alternative materials and systems for comparative pricing for the purpose of determining which such materials and systems should be ultimately included in the Construction Documents. The documents for limited separate or sequential bids will be made available by the A/E Design Team. The CMAR shall provide services in connection with limited bidding, negotiations, or construction prior to the completion of the Construction Documents Phase. The drawing packages for the CMAR's use in separate or sequential bids shall be listed in the Design Documents.
- 7.3 The CMAR shall provide interior design and other similar services required for and in connection with the selection, procurement and installation of furniture, furnishings and related equipment for the Project.
- 7.4 As requested by the Owner and as Additional Services, the CMAR shall make investigations and/or inventories of materials and equipment, general valuations and/or detailed appraisals of existing facilities.
- 7.5 The CMAR shall provide assistance to the Owner in the utilization of equipment or Systems of the Project, such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance, and consultation during operation.
- 7.6 Notwithstanding any other provisions of this Agreement, the CMAR understands that the Owner has made commitments that require the Project to be completed and operational by August 2023. As part of its Basic Services, the CMAR shall perform its obligations under this Agreement with diligence and sufficient manpower to maintain the progress of the work at a pace necessary to meet this deadline. As needed to meet this completion deadline, the CMAR may be required to accelerate its services by performing certain parts of the services before other parts, adding extra manpower, or ordering overtime labor, all as part of its Basic Services. Further, the CMAR shall perform its Basic Services, if asked, in such manner as shall allow the bidding and negotiation for the numerous trade contracts to be let in phases, instead of all at once.
- 7.7 The CMAR acknowledges and understands the rights and duties of the Owner under that certain "Contract for Sale and Purchase for Orange County Convention Center Expansion" between the Owner and Universal

City Property Management Company III, a Delaware Corporation ("UCPMC"), dated October 21, 1998 (the "Site Contract"). The CMAR shall perform its Basic Services and Additional Services (if any) in such a way as to ensure that the Project is designed and constructed in a manner consistent with, and not in breach of, any and all obligations of the Owner under that Contract. However, the CMAR may rely on the Owner's legal interpretation of the language therein.

- 7.8 The CMAR represents to and covenants with the Owner that neither it nor any of its Sub-contractors shall engage in any actions which could constitute a conflict of interest with respect to the services required under this Agreement. Therefore, throughout the term of this Agreement, the CMAR shall ensure that neither it nor any of its Sub-contractors or employees enter into any contract or other arrangement under which they render any services or advice, whether directly or indirectly, to UCPMC or any of its parent, subsidiary, sister, or affiliate corporations or partnerships, to any agents or employees or contractors of UCPMC, or to any successors to UCPMC to any portion of the parent tract of land from which the Owner purchased the site for the Project pursuant to the Site Contract, unless the Owner's Authorized Representative first approves such contract or other arrangement (which approval may be granted or withheld at the Owners sole discretion).
- 7.9 The CMAR acknowledges that the Owner will retain or has retained a consulting firm to provide project management services and advice. The contractor will not be the Owner's Authorized Representative and, unless declared in writing otherwise by the Owner, will not have the authority to render decisions on behalf of the Owner. However, as part of its Basic Services, the CMAR shall cooperate fully at all times with the contractor and shall respond promptly to all the contractor's inquires and requests for documents and information.
- 7.10 **Deliverables.** Work to be completed under this section by the CMAR shall require the following items to be delivered and accepted by the Owner (as outlined in the 1.6 Construction Project Schedule):
- Letter Response
- 7.11 **Pay Tasks:** Work to be completed under this section by the CMAR shall be paid for under the following Pay Tasks as listed on the Activity and Fee Summary:
- Letter Response

TABLE OF DELIVERABLES

The CMAR shall produce and deliver to the Owner the deliverables outlined as follows:

CATEGORIES	Hard Copies	Paper Copy Size	Digital File	File Type(s)
<u>1.0 GENERAL RESPONSIBILITIES</u>				
BIM Model	-	-	1	BIM Model Format
Permits	3	Full	1	MS Word & PDF
QA/QC Plan	3	Full	1	MS Word & PDF
Safety and Site Security Plan	3	Full	1	MS Word & PDF
Primavera Project Schedule	3	Full	1	Primavera File Format & PDF
Asbestos Free Certification	3	Full	1	MS Word & PDF
<u>2.0 DESIGN ASSIST</u>				
Updated Project Schedule	3	Full	1	Primavera File Format & PDF
Constructability Review Report	3	Full	1	MS Word & PDF
30%, 60%, 90% Construction Cost Estimate	3	Full	1	MS Word & PDF
Phasing and Logistics Plan	3	Full	1	DWG & PDF
30%, 60% Value Engineering Report	3	Full	1	MS Word & PDF
<u>3.0 PRECONSTRUCTION</u>				
Deferred Permits	3 1	Full Half	1	MS Word, DWG and PDF
Updated Project Schedule	3	Full	1	Primavera File Format & PDF
Pre-Construction Meeting Minutes	1	Full	1	MS Word & PDF
Guaranteed Maximum Price with a warranty letter	3	Full	1	MS Word & PDF
Construction Plan Report	3	Full	1	MS Word & PDF
<u>4.0 CONSTRUCTION</u>				
Daily Reports	1	Full	1	MS Word & PDF
Enabling Projects Report	3	Full	1	MS Word & PDF
Enabling Projects Permit	1	Full	1	MS Word & PDF
Look Ahead Schedule	1	Full	1	MS Word & PDF
Submittals	3	Full	1	MS Word & PDF
Monthly Reports	1	Full	1	MS Word & PDF
RFIs	1	Full	1	MS Word & PDF
Progress Meeting Minutes	1	Full	1	MS Word & PDF

LEED Results and Reports	1	Full	1	MS Word & PDF
Final Bid Tabulation	1	Full	1	MS Word & PDF
<u>5.0 POST CONSTRUCTION</u>				
Substantial Completion Letter	3	Full	1	MS Word & PDF
Punch list Completion	1	Full	1	MS Word & PDF
Final Completion Letter	1	Full	1	MS Word & PDF
Startup and Testing Reports	1	Full	1	MS Word & PDF
LEED Summary Reports	3	Full	1	MS Word & PDF
Operation and Maintenance (O & M) Manual	5	Full	1	DWG & PDF
Training	3	Full	1	MS Word & PDF
Commissioning Reports	3	Full	1	MS Word & PDF
Warranties	1	Full	1	MS Word & PDF
Lien Waivers	3	Full	1	MS Word & PDF
Warranty Inspection Report	3	Full	1	MS Word & PDF
Project QA/QC Form	3	Full	1	MS Word & PDF
As-Built Drawings	3	Full	1	DWG & PDF
<u>6.0 SUSTAINABILITY REVIEW AND MANAGEMENT</u>				MS Word & PDF
Owner's Project Requirements Report	1	Full	1	MS Word & PDF
Utility Performance Report	1	Full	1	MS Word & PDF
LEED Performance Report	1	Full	1	MS Word & PDF
<u>7.0 OTHER CONDITIONS</u>				
Letter Response	1	Full	1	MS Word & PDF

End of Exhibit A

PART D: SUPPLEMENTAL CONDITIONS/SPECIAL PROVISIONS

1. SECURITY AND IDENTIFICATION:

- A. A Level 1 (5 years) FDLE Background check for the Contractor's staff and its Subcontractors must be approved by Orange County's Security team prior to working in any County facility. Contractors are responsible for obtaining the necessary forms for background checks for work at the Convention Center. All background checks will be sent to OCCC Project Manager for approval. Contractor's staff and its Subcontractors will not be allowed in Orange County facilities without a completed and approved background investigation. The Convention Center will inform the Contractor of their Background Check results.
- B. The Contractor shall be responsible for all costs for background investigations. The County shall have the right to request any additional investigative background information including, but limited to, the employment record, Right-To-Know records, E-Verify system records (if the Contractor uses this service as a means to determine employment eligibility, available through www.uscis.gov), training records, payroll records, position for which hired including site location of any personnel assigned to perform the services. The Contractor shall furnish, in writing, such information to the extent allowed by law, prior to commencement of services. The County reserves the right to conduct its own investigation of any employee of the Contractor.

For security purposes and to maintain privacy when submitting FDLE Background Checks via e-mail the subject line of the email must contain the following **EXEMPT******

- C. Upon Background Check approval, the Contractor's staff shall arrange an appointment with the Convention Center staff to obtain an Orange County photo ID badge. An affidavit of Identity form (issued by the Contractor) and a State of Florida ID or Driver's License will be required from the staff. Cost associated with lost or stolen badges is \$25.00.
- D. The Contractor shall arrange an appointment with OCCC Project Manager to receive, when applicable, keys to the project areas the Contractor requires access. The Contractor shall be responsible for returning all the keys to OCCC Project Manager during the project close-out phase. If any of the keys are lost, the Contractor shall reimburse OCCC for replacement of the core and/or cores associated with the key (s) that was lost. The cost for each core is \$50.00. The Contractor shall also request OCCC parking hang tags for Contractor's staff to park on OCCC designated parking lots during construction work hours. The Contractor shall submit the required forms given by the OCCC Project Manager for the issuance of hang tags. Cost associated with lost or stolen parking hang tags is \$25.00.

2. **CONSTRUCTION SCHEDULE:** The Convention Center is an occupied and active space that is operational at all times. Availability of the work site is limited due to the Convention Center scheduled show events. During the project, the Contractor shall sequence their work to accommodate the scheduled show events. The project site will be available to the Contractor seven (7) days per week. Contractor work hours are anticipated to be from 7:00 AM to 6:00 PM, exceptions to the work hours must be approved in advance by the County Project Manager. Any permissible work activities during the non-construction work days will be determined at County Project Manager's discretion. With the advance approval of the County Project Manager, specific dates may be coordinated with the Contractor. Owner will provide show schedules, as necessary, to the Contractor. The show schedule will be for informational purposes only. The Contractor must obtain approval from the County Project Manager for their work schedule.

The following are considered non-construction work days:

To be determined during Design Assist phase.

Note: The "non-construction work days" listed above are included in the number of consecutive calendar days for Substantial and Final Completion dates.

The County has made every effort to provide the estimated dates for non-construction work days (no construction activity) based on the most current information available; however, the show event schedule is subject to change based on show activities.

In the event that the available scheduled work times/days are cancelled or rescheduled by the Owner, the Contractor may submit a request for additional work times/days, if required to meet the scheduled completion date. This request must be accompanied by adequate justification. If the Contractor is given or requests additional time that includes nights or weekends in order to meet scheduled completion date, no shift differential costs will be allowed.

3. **WORK RESTRICTIONS:** The Contractor shall cover exposed work areas during non-working hours. The work areas shall be covered to prevent visible exposure from all angles of sight. The Contractor shall obtain approval from the County Project Manager for covering material prior to installation.

The Contractor shall provide their own equipment and method of construction waste disposal. Accessibility for equipment such as scissor lifts or electric powered maintenance carts shall be permitted with limited access areas, as coordinated and approved with the County Project Manager.

The Contractor shall maintain a clean and safe work environment. Trash shall be disposed of daily, all work areas shall be kept neat and orderly, halls and floors free of slip and trip hazards and waste materials (e.g., paper, cardboard) and other fire hazards shall be removed from work areas. Waste materials shall be properly sorted to allow for recycling and possible LEED credits. The Contractor shall adhere to all OSHA housekeeping and safety requirements. Deviations from these standards shall be corrected at the direction of the County and the cost of the

Contractor. The County will retain the right to utilize a third party in the event the contractor fails to maintain site properly.

Employee facilities need to be adequate, clean and well maintained. Washroom facilities require cleaning once or more each shift. They also need to have a good supply of soap, towels plus disinfectants, if needed. The Contractor shall supply all facilities as needed for the duration of the project. In no instance will contractors be allowed to use operational Convention Center facilities.

Availability of space for staging/lay down area will determine whether County will permit the Contractor to set up a staging area. The County Project Manager will make reasonable staging/storage accommodations on property. The Contractor staging area on site will depend on availability of space; however, relocation of staging area may be required during the project.

After completion of the work, the Contractor shall replace or restore to the original condition all affected areas within the project limits. The Contractor shall provide all materials for patching and painting per the finishes information to the County Project Manager.

4. **PERSONAL TRANSPORT DEVICES:** Personal transport equipment such as rollerblades, razor scooters, skates, hover-boards, and skateboards are not permitted on OCCC premises. However, electric wheelchairs and electric motor vehicles (e.g. Segways®) are permitted to operate on OCCC premises.

The Contractor shall obtain prior approval from the County Project Manager for operation of electric motor vehicles (e.g. Segways®) on the show floor. Safe operating practices shall be used at all times. Segways® and electric scooter-style wheelchairs are currently the only personal transport equipment with rubber wheels allowed in OCCC concourses, lobbies, and registration areas. Non-gasoline powered motorized vehicles, such as electric carts and bicycles, may be operated in OCCC's exhibit halls during move-in and move-out days only. Bicycles shall be walked, not ridden, across any OCCC concourse, lobby or registration area. All vehicles, transport devices, and equipment shall be operated in a safe manner.

Motorized vehicles, such as personnel carts, forklifts, pallet jacks, and other related motorized vehicles with steel and/or hard metallic wheels are not permitted on the OCCC's concourses, lobbies, and registration areas. Lifts or other wheeled vehicles approved for use in carpeted areas shall have non-marking tires, or tires that are covered with carpet tape or heavy-duty polyethylene sheeting.

5. **OWNER PROVIDED EQUIPMENT (OPE)/CONTRACTOR INSTALLED:** If the Contractor is provided with owner equipment and/or material, the Contractor shall install, connect, erect, use, clean and condition, as required, in accordance with the instructions of the applicable manufacturer warranty. The Contractor shall schedule and coordinate with the County Project Manager the inspections and delivery of equipment and/or material during normal business hours between 8 am - 5 pm EST. Any request outside of normal business hours must be approved by County Project Manager at least forty-eight (48) hours in advance. The Contractor

shall inspect the equipment and/or material prior to accepting it. After acceptance, the Contractor shall assume and accept full and complete responsibility and liability for the storage, custody, security, care and safe-keeping of the equipment and/or material in the event of theft, pilferage, fire or any other damage or loss until such time as said material and/or equipment is incorporated in the Work, and the Work is completed and accepted by the County. Any delivered equipment/material found to be damaged shall be reported to County Project Manager within 48 hours (via email with pictures and serial number and description of damages). The Owner will be responsible for contacting suppliers regarding any warranty issues. After installation, the Contractor shall guarantee the workmanship during the equipment/material warranty period.

6. CHANGE OF CONTRACT AMOUNT AND CONTRACT TIME: Proposals or Claims for adjustment shall be in accordance to Part F, General Conditions, Article 13. The Contractor shall submit in the form prescribed by the County an itemized cost breakdown together with supporting data. This submittal shall be presented using the OCCC Capital Planning Potential Change Order form (CP_501E) on MS Excel format.

7. UTILITY COORDINATION: The Contractor shall coordinate any utility improvements and / or relocations for this project. The Contractor shall not use utility delays as a basis for additional compensation. The Contractor shall coordinate with utilities and shall cooperate fully with utility companies in the relocation of their facilities.

8. PERMITS/FEES:

A. Orange County will be responsible for paying for any and all permits, and fees imposed on the work/project by agencies of the Orange County Board of County Commissioners. This does not alleviate the Contractor from obtaining the permits.

B. Permits and fees which may be required by the State of Florida, State Agencies or by other local governmental entities or agencies other than Orange County Board of County Commissioners:

The Contractor shall procure and pay for all permits and charges and fees and give all notices necessary and incidental to the due and lawful prosecution of the work.

C. The Orange County Government Fee Directory, incorporated herein by reference, contains a list of permits and fees that may apply to this project.

The fee directory link "Fees" is available at:

<http://www.orangecountyfl.net/portals/0/resource%20library/open%20government/FeeDirectory.pdf>

Proposers shall review all applicable permits and fees and contact the applicable agency if there are any questions.

The OCCC will pay for all applicable permits & fees. The Contractor shall not include the cost of permits & fees in their bid price.

The Orange County Building Division has assigned the following Building Permit Number: **“To be provided upon award of the contract.”**

9. **REQUEST FOR INTERPRETATION/INFORMATION (RFI):** The County will require a reasonable amount of time, at least 10 business days, to respond to any RFI submitted by the Contractor. Any delays in responding to the RFI shall not be the basis for reimbursement of any additional compensation, including delay claims.

10. **LIQUIDATED DAMAGES:**

JOB SEGMENT DEADLINES: A detailed segment completion schedule has been approved by the COUNTY and is attached and made a part hereof by this reference. The purpose of this schedule is to:

1. Provide job segment deadlines for the CONTRACTOR upon which the COUNTY may rely;
2. Provide guidance for the COUNTY in honoring the CONTRACTOR'S monthly invoices for progress payments called for in Article II(B) hereof; and
3. Provide a framework against which the COUNTY may suspend progress payments as provided in Article II C hereof.

Should the Contractor fail to substantially complete all Work under this Contract and make the project available for beneficial use on or before the date stipulated for **Substantial Completion** (or such later date as may result from extension of time granted by County), he shall pay and/or the County may retain from the compensation otherwise to be paid to the Contractor, as liquidated damages, the following amounts by Area:

1. Grand Concourse: \$2,500.00 per day
2. Multipurpose Venue: \$2,500.00 per day

For each consecutive calendar day that terms of the Contract remain unfulfilled beyond date allowed by the Contract, which sum is agreed upon as a reasonable and proper measure of damages which County will sustain per diem by failure of Contractor to complete work within time as stipulated; it being recognized by County and Contractor that the injury to County which could result from a failure of Contractor to complete on schedule is uncertain and cannot be computed exactly. In no way shall costs for liquidated damages be construed as a penalty on the Contractor.

For each consecutive calendar day that the work remains incomplete after the date established for **Final Completion**, the County will retain from the compensation otherwise to be paid to the Contractor, as liquidated damages, the following amounts by Area.

1. Grand Concourse: \$1,000.00 per day

2. Multipurpose Venue: \$1,000.00 per day

This amount is the mutually agreed upon minimum measure of damages the County will sustain by failure of the Contractor to complete all remedial work, correct deficient work, clean up the project and other miscellaneous tasks as required to complete all Work specified and this amount of liquidated damages is in addition to the liquidated damages prescribed above for failure to timely achieve Substantial Completion.

11. CONTRACT TERMINATION, CANCELLATION AND SUSPENSION:

Termination of Contract shall be in accordance with Section VII of Orange County Contract. Suspension of Work by the County shall be in accordance with Section XI Part F of Orange County Contract. The County reserves the right to suspend this contract if determined it is in the best interest of the County to do so.

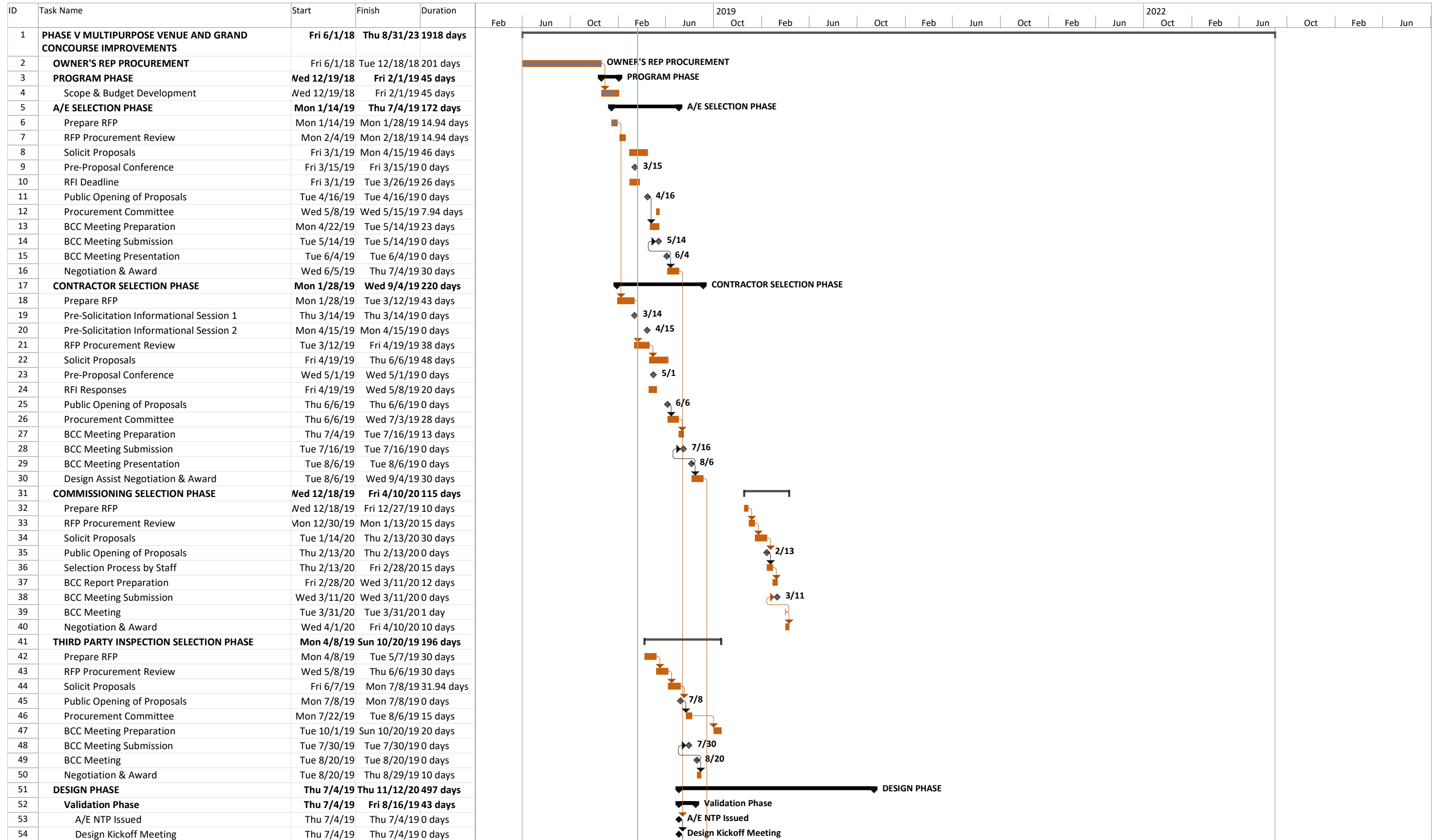
If the Project or the Services are suspended, canceled, or abandoned by the Owner, Contractor shall be given written notice of such action promptly from Owner.

The Contractor will recover from Owner, as complete and full satisfaction for terminated, canceled, or suspended services, the actual unpaid costs of all services satisfactorily completed by the Contractor up to the date of termination, cancellation, or suspension, subject to approval by Owner. The Contractor waives any and all claims for anticipated profits, lost overhead, or any other claim or theory arising out of a termination, cancellation, or suspension of this contract.

Regardless of the cause or reason for termination, cancellation or suspension of this contract, on the effective date of termination the Consultant shall (i) immediately discontinue performance of the services on the date specified in such notice, (ii) preserve work in progress pending disposition instructions by Owner, and (iii) promptly make arrangements to depart the project site.

OCCC CMP North-South Building Improvements Multipurpose Venue and Convention Way Grand Concourse (CM at RISK method)

DRAFT- NOTE: Schedule is Subject to Change



CONTRACT

Y19-815

THIS CONTRACT made and entered into this _____ day of _____ 20____,
by and between the:

BOARD OF COUNTY COMMISSIONERS
201 S. Rosalind Avenue
Orlando, Orange County, Florida

a political subdivision of the State of Florida, hereinafter referred to as "COUNTY" and:

> _____
> _____
> _____
FEDERAL I. D. # > _____

hereinafter referred to as "CONTRACTOR".

RECITALS

WHEREAS, the COUNTY desires to retain professional consulting services for CONSTRUCTION MANAGER AT RISK SERVICES FOR THE ORANGE COUNTY CONVENTION CENTER PHASE V MULTI-PURPOSE VENUE AND GRAND CONCOURSE IMPROVEMENTS

WHEREAS, the COUNTY desires to employ the CONTRACTOR in connection with the services required, upon the terms and conditions hereinafter set forth, and the CONTRACTOR is desirous of obtaining such employment and of performing such services upon said terms and conditions;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, it is agreed by and between the parties hereto as follows:

I
SCOPE OF SERVICES/SPECIAL PROVISIONS

The CONTRACTOR shall diligently and in a timely manner perform professional services for Orange County in connection with the CONSTRUCTION MANAGER AT RISK SERVICES FOR THE ORANGE COUNTY CONVENTION CENTER PHASE V MULTI-PURPOSE VENUE AND GRAND CONCOURSE IMPROVEMENTS Project. The scope of services/special provisions is described in Exhibit A, Scope of Services, entitled, "CONSTRUCTION MANAGER AT RISK SERVICES FOR THE ORANGE COUNTY CONVENTION CENTER PHASE V MULTI-PURPOSE VENUE AND GRAND CONCOURSE IMPROVEMENTS", which is attached to this Contract, and incorporated by reference herein. Any and all scope of services/special provisions hereto which vary from the general provisions shall have precedence.

PRIORITY OF DOCUMENTS:

The order of precedence of items and documents is as follows:

Construction Contract

Permits

Supplemental Conditions/Special Provisions

General Conditions

Specifications/Technical Provisions

Drawings/Plans

Road Design, Structures, and Traffic Operations Standards (If applicable)

Florida Department of Transportation Standard Specifications for Road and Bridge

Construction (If applicable)

Proposal Submittal

Instructions to Proposers

II PAYMENT

- A. **FEES:** The COUNTY agrees to pay the CONTRACTOR for the services described in Exhibit A, a fee not to exceed \$>_____ said compensation to be paid as set forth herein. Payment shall be based upon method(s) established at time of award.
- B. **PAYMENTS:** The COUNTY shall pay the CONTRACTOR in accordance with the Florida Local Government Prompt Payment Act, Chapter 218, Florida Statutes.

Progress payments shall be due and payable monthly in proportion to the percentage of work approved and accepted, in writing, by the COUNTY. All invoices shall be prepared in the format prescribed by the COUNTY. When an invoice includes charges from a subcontractor, the subcontractor's invoice/backup shall accompany the CONSULTANT'S invoice. A separate Pay Item Breakdown sheet for the CONSULTANT and each subcontractor shall accompany each invoice. The CONSULTANT'S Pay Item Breakdown sheet shall include, in aggregate, the CONSULTANT'S and subcontractor's pay items. All requests for payment must be accompanied by a narrative description of the scope of services from Exhibit A performed by the CONSULTANT and subcontractors during the period covered by the invoice. The narrative shall also describe the work to be performed during the next billing period. See additional requirements regarding M/WBE subcontractors specified in Article XIII-D.

- C. **SUSPENSION OF PROGRESS PAYMENTS BY COUNTY:** In the event the CONTRACTOR falls fifteen (15%) percent behind the Project completion schedule submitted in conformance with Article XI, Paragraph B of this Contract, no further progress payments will be made until the CONTRACTOR brings the Project back on schedule or a revised schedule is submitted and approved or until all work has been completed and accepted the COUNTY.
- D. **PAYMENT IN EVENT OF TERMINATION BY COUNTY:** In the event this Contract is terminated or canceled prior to completion, payment shall be made in accordance with the provisions of Article VII.

E. **CHANGES WITHIN SCOPE; ALLOWANCE OF ADDITIONAL COMPENSATION:** If instructed to do so by the COUNTY, the CONTRACTOR shall change or revise work that has been performed, and if such work is not required as a result of error, omission or negligence of the CONTRACTOR, the CONTRACTOR may be entitled to additional compensation. In all disputes arising over the right to additional compensation, the COUNTY shall determine whether substantial acceptable work has been done on documents such that changes, revisions or preparation of additional documents should result in additional compensation to the CONTRACTOR. The Consultant's Proposals for additional compensation shall be based on the fee schedule set forth in Exhibit B. A written modification to the Contract shall be executed by both parties to reflect the additional services and cost of same, prior to commencement of performance.

F. **TRAVEL AND PER DIEM:** Travel and per diem charges shall not exceed the limits as set forth in Section 112.061 Florida Statute, and Exhibit C, attached.

G. **FEE LIMITATION CLAUSE:** The CONTRACTOR shall utilize the same hourly rates and multiplier in fee negotiations for subsequent phases of this project, except as provided by Article II, paragraph I, Price Adjustment. The number of hours required to complete each subsequent phase shall be negotiated at such time as the COUNTY initiates fee negotiations for that phase.

H. **MULTIPLIERS**

The following multipliers are applicable to this contract and shall remain in effect and unchanged for the duration of the contract, including any extensions thereto:

1.	Prime Consultant	Multiplier
	>	>
2.	Sub-Consultants	Multiplier
	>	>
	>	>

I. **PRICE ADJUSTMENT**

Written request for a price adjustment may be made only under the following conditions:

- i. If a project specific contract's performance period exceeds three years a price adjustment may be requested not more than 60 days after the end of the three year period and for each annual period thereafter or for the remaining period of the contract if less than one year.
- ii For continuing contracts with a performance period that exceeds three years, an adjustment may be requested not more than 60 days after the end of three years.
- iii Retroactive requests for price adjustments will not be considered.

The provisions of this clause shall not apply to contracts with fees based on ranges. Retroactive requests for price adjustments will not be

considered.

Any request for a price adjustment will be subject to negotiation and must be approved by the Manager, Procurement Division. Any request for such increase shall be supported by adequate justification to include Consumer Price Index (CPI) documentation. The CPI documentation shall be based on the All Items, CPI-U, U.S. City Average, not seasonally adjusted index. The prevailing CPI in the month when the contract was executed by the County shall be the base period from which changes in the CPI will be measured for the initial request for a price adjustment. Any subsequent requests for a price adjustment shall be based on the CPI prevailing in the month when an amendment effecting a previous price adjustment was executed by the County. The maximum allowable increase shall not exceed the percent change in the CPI from the base period (either the month when the contract was executed by the County or the month when an amendment effecting a price adjustment was executed by the County) to the CPI prevailing at time of request for a price adjustment and in no case shall it exceed 4%. Any price adjustment shall only be effective upon the execution of a written amendment to the contract executed by both parties.

III

DESIGN WITHIN FUNDING LIMITATIONS

- A. The CONSULTANT shall accomplish the design services required under this Contract, when applicable, so as to permit the award of a contract (using standard Orange County procedures for the construction of the facilities) at a price that does not exceed the estimated construction contract price as set forth in paragraph C below. When bids or Proposals for the construction contract are received that exceed the estimated price, the CONSULTANT shall perform such redesign and other services as are necessary to permit contract award within the funding limitation. These additional services shall be performed at no increase in the price of this Contract.

However, the CONSULTANT shall not be required to perform such additional services at no cost to the COUNTY if the unfavorable bids or Proposals result from conditions beyond the CONSULTANT'S reasonable control. The COUNTY shall exercise reasonable commercial judgment in making the controlling determinations as to whether such conditions are within the reasonable control of the CONSULTANT.

- B. The CONSULTANT will promptly advise the COUNTY if it finds that the project being designed will exceed or is likely to exceed the funding limitations and it is unable to design a usable facility within these limitations. Upon receipt of such information, the COUNTY will review the CONSULTANT'S revised estimate of construction cost. The COUNTY may, if it determines that the estimated construction contract price set forth in this Contract is so low that award of a construction contract not in excess of such estimate is improbable, authorize a change in scope or materials as required to reduce the estimated construction cost to an amount within the estimated construction contract price set forth in paragraph C below, or the COUNTY may adjust such estimated construction contract price via amendment to this Contract. When bids or Proposals are not solicited or are unreasonably delayed, the COUNTY shall prepare an estimate of constructing the design submitted and such estimate shall be used in lieu of bids

or Proposals to determine compliance with the funding limitation.

- C. The estimated construction contract price for the project described in this Contract is \$>_____, or as modified by the County.
- D. THE CONSULTANT and its subsidiaries or affiliates who designed the project shall be ineligible for the award of the construction contract for that project.

IV

RESPONSIBILITY OF THE CONTRACTOR

- A. The CONSULTANT shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the CONSULTANT under this Contract. The CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in its designs, drawings, specifications, and other services.
- B. The Senior Project Manager and Project Manager must be two different individuals, one of the individuals shall be currently employed by the Prime Contractor, Joint Venture, Partnership or Teaming. The Senior Project Manager or the Project Manager shall be a Professional Licensed Architect or Professional Licensed Engineer. The remaining position shall be a Professional Licensed Architect or Professional Licensed Engineer or a Bachelor Degreed Construction Manager and with one of the following certifications: General Contractor's (GC) License, Certified Construction Manager (CCM), or a Project Management Professional (PMP, PgMP, PfMP).
- C. Substitution of the Project Manager, Project Engineer or Other Key Personnel: The CONSULTANT shall not substitute any key personnel without the prior written approval of the Manager of the Procurement Division and the Manager of the Business Development Division for M/WBE participation. Any such requests shall be supported by comprehensive documentation outlining the reason(s) for the proposed substitution to include the specific qualifications of the proposed substitute. Approval of the request shall be at the discretion of the COUNTY. Further, the COUNTY, in lieu of approving a substitution, may initiate other actions under the contract, including termination.
- D. Neither the COUNTY'S review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the CONSULTANT shall be and remain liable to the COUNTY in accordance with applicable law for all damages suffered directly or indirectly by the COUNTY caused by the CONSULTANT'S negligent performance of any of the services furnished under this Contract. The rights and remedies of the COUNTY provided for under this Contract are in addition to any other rights and remedies provided by law.
- E. If the CONSULTANT is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.
- F. The COUNTY may require in writing that the CONSULTANT remove from the Work any of the CONSULTANT'S personnel that the COUNTY determines to be incompetent, careless or otherwise objectionable. No claims for an increase in

Contract Amount or Contract Time based on the COUNTY's use of this provision will be valid. CONSULTANT shall indemnify and hold the County harmless from and against any claim by CONSULTANT'S personnel on account of the use of this provision.

- G. For contracts requiring design services, the CONSULTANT shall comply with the following requirements:
1. Concurrent with submission of the 90% design submittal to the user division, the CONSULTANT shall provide a copy to the Procurement Division, 400 E. South St., 2nd Floor, Orlando, FL 32801
 2. Concurrent with the submission of the 100% design submittal to the user division, the CONSULTANT shall submit a complete breakdown of the subcontracting opportunities for the project based on traditional industry practices and their expertise to the Business Development Division, 400 E. South St., Orlando, FL 32801. This information will identify subcontracting elements such as electrical, trucking, sodding, surveying, etc. with the estimated percentage of the total project represented by each subcontracting element.
 3. Direct Purchases: For projects for which construction is valued at \$10,000,000, or for lesser amounts as determined by the COUNTY, the COUNTY may, at its discretion, use the direct purchase method for large dollar value equipment and materials. The CONSULTANT shall, for those projects meeting this criterion, identify all items to be incorporated into the work for which the estimated cost is \$100,000 or more, for potential direct purchase by the COUNTY. A separate listing of these items with quantities and estimated cost shall be provided with the 90% design documents to the user division and to the Procurement Division at address shown above.

V

COUNTY'S RIGHTS AND RESPONSIBILITIES

The COUNTY shall:

- A. Furnish the CONSULTANT with existing data, plans, profiles, and other information necessary or useful in connection with the planning of the program that is available in the COUNTY'S files, all of which shall be and remain the property of the COUNTY and shall be returned to the COUNTY upon completion of the services to be performed by the CONSULTANT.
- B. Make COUNTY personnel available on a time-permitting basis, where required and necessary to assist the CONSULTANT. The availability and necessity of said personnel to assist the CONSULTANT shall be determined solely within the discretion of the COUNTY.

VI

COUNTY'S 'DESIGNATED' REPRESENTATIVE

It is understood and agreed that the COUNTY designates the COUNTY > _____, or designated representative, to represent the COUNTY in all technical matters pertaining to and arising from the work and performance of this

Contract. The COUNTY > _____, or designated representative, shall have the following responsibilities:

- A. Examination of all reports, sketches, drawings, estimates, Proposals, and other documents presented by the CONSULTANT and rendering, in writing, decisions indicating the COUNTY'S approval or disapproval within a reasonable time so as not to materially delay the work of the CONSULTANT.
- B. Transmission of instructions, receipt of information, and interpretation and definition of COUNTY policies and decisions with respect to design, materials and other matters pertinent to the work covered by this Contract.
- C. Prompt written notice by the COUNTY to the CONSULTANT whenever the COUNTY observes, or otherwise becomes aware of, any defects or changes necessary in the Project.

VII
TERMINATION OF CONTRACT

A. TERMINATION FOR DEFAULT:

The County may, by written notice to the CONSULTANT, terminate this contract for default in whole or in part (task authorizations, if applicable) if the CONSULTANT fails to:

- 1. provide products or services that comply with the specifications herein or fails to meet the County's performance standards
- 2. deliver the supplies or to perform the services within the time specified in this contract or any extension.
- 3. make progress so as to endanger performance of this contract
- 4. perform any of the other provisions of this contract.

Prior to termination for default, the County will provide adequate written notice to the CONSULTANT through the Manager, Procurement Division, affording him/her the opportunity to cure the deficiencies or to submit a specific plan to resolve the deficiencies within ten (10) days (or the period specified in the notice) after receipt of the notice. Failure to adequately cure the deficiency shall result in termination action. Such termination may also result in suspension or debarment of the CONSULTANT in accordance with the County's Procurement Ordinance. The CONSULTANT shall be liable for any damage to the County resulting from the Consultant's default of the contract. This liability includes any increased costs incurred by the County in completing contract performance.

In the event of termination by the County for any cause, the CONSULTANT will have, in no event, any claim against the County for lost profits or compensation for lost opportunities. After a receipt of a Termination Notice and except as otherwise directed by the County the CONSULTANT shall:

- 1. Stop work on the date and to the extent specified.
- 2. Terminate and settle all orders and subcontracts relating to the performance of the terminated work

3. Transfer all work in process, completed work, and other materials related to the terminated work as directed by the County.
4. Continue and complete all parts of that work that have not been terminated.

If the CONSULTANT'S failure to perform the contract arises from causes beyond the control and without the fault or negligence of the CONSULTANT, the contract shall not be terminated for default. Examples of such causes include (1) acts of God or the public enemy, (2) acts of a government in its sovereign capacity, (3) fires, (4) floods, (5) epidemics, (6) strikes and (7) unusually severe weather.

B. TERMINATION FOR CONVENIENCE:

The County, by written notice, may terminate this contract, in whole or in part, when it is in the County's interest. If this contract is terminated, the County shall be liable only for goods or services delivered and accepted. The County Notice of Termination shall provide the Consultant thirty (30) days prior notice before it becomes effective. A termination for convenience may apply to individual purchase orders or to the contract in its entirety.

C. PAYMENT IN EVENT OF TERMINATION:

If this Contract is terminated before performance is completed, the CONSULTANT shall be paid for the work satisfactorily performed. Payment is to be on the basis of substantiated costs, not to exceed an amount that is the same percentage of the Contract price as the amount of work satisfactorily completed is a percentage of the total work called for by the Contract. Any additional costs incurred by the COUNTY as a result of such termination shall be deducted from the amount due the CONSULTANT, in the event the Contract termination is for cause as described herein.

C. TERMINATION NOTICE

The Manager, Procurement Division, shall issue any and all notices involving termination of this contract.

VIII

INDEMNITY/INSURANCE AND SAFETY REQUIREMENTS

A. PAYMENT AND PERFORMANCE BONDS

The CMAR shall execute and deliver to the County the Payment and Performance Bonds included herein as security for the faithful performance and completion of the Work and payment for all materials and labor furnished or supplied in connection with all Work included in the Contract Documents. These Bonds shall initially be in amounts at least equal to the Design Assist portion of the Work, shall name the County as obligee and shall be in such form and by sureties of financial standing having a rating from A.M. Best Company (or other equivalent rating company) equal to or better than A- VI and must be included on the approved list of sureties issued by the United States Department of Treasury.

Prior to notice to proceed with construction and within 10 days of a request from County to produce the CMAR shall furnish such other Bonds to sufficiently ensure payment and performance of the construction phase of the Work, in such form and with such sureties as the County may require. If such Bonds are required by written instructions given prior to opening of proposals, the premium shall be paid by the CMAR. If the Contract Amount is increased by Change Order, it shall be the CMAR's responsibility to insure that the Payment and Performance Bonds be amended accordingly and a copy of the amendment is forwarded to the County.

If the Surety on any bond furnished by CMAR is declared bankrupt or becomes insolvent or its right to do business is terminated in any State where any part of the Work is located or it ceases to meet the requirements imposed by the Contract Documents, the CMAR shall within five (5) days thereafter substitute another Bond with another Surety both of which shall be acceptable to the County.

The Payment Bond and the Performance Bond forms are included in the Contract Documents and said forms must be properly executed by the Surety Company and successful Proposer within ten (10) days after receipt of a request to produce said Bonds from the County.

The Contractor shall record the payment and performance bonds in Orange County public records as required by Florida Statutes, Chapter 255.05. Before commencing the work the Contractor shall provide to the Manager of the Procurement Division a certified copy of the recorded bonds. No payment will be made to the contractor until the contractor has provided a copy of the recorded bonds.

QUALIFICATIONS OF SURETY COMPANIES:

In order to be **ACCEPTABLE** to the County, the Surety company issuing **the Performance Bond and the Payment Bond**, as called for in this Request for Proposals, shall meet and comply with the following minimum standards:

- a. Surety must be admitted to do business in the State of Florida and shall comply with the provisions of Florida Statute 255.05.
- b. Surety must be listed on the U.S. Department of Treasury Fiscal Service, Bureau of Government Financial Operations, Federal Register, Part V, latest revision, entitled: "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies".
- c. All bonds shall be originals and issued or countersigned by a producing agent with satisfactory evidence of the authority of the person or persons executing such bond shall be submitted with the bond.

Attorneys-in-fact who sign bonds or other Surety instruments must attach with each bond or Surety instrument a signed, certified and effectively dated copy of their power of attorney. Agents of Surety companies must list their name, address and telephone number on all bonds.

- d. **Surety must have financial standing having a rating from A.M. Best Company (or other equivalent rating company) equal to or better than A- Class VI.**
- e. Should the Payment and Performance Bonds be issued by co-sureties, each surety listed on the bond shall meet the requirements in paragraphs a. – e. above. In addition, each surety shall submit a power of attorney and all signatures of the co-sureties representatives shall be notarized. The “lead” surety shall be identified for the purposes of underwriting and claims management.

FAILURE TO MEET ANY OF THE REQUIREMENTS CONTAINED ABOVE SHALL RESULT IN REJECTION OF THE PROPOSAL.

B. INSURANCE REQUIREMENTS

The CMAR agrees to maintain on a primary basis and at its sole expense, at all times throughout the duration of this Contract the following types of insurance coverage with limits and on forms (including endorsements) as described herein. These requirements, as well as the County’s review or acceptance of insurance maintained by CMAR is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by CMAR under this Contract. Insurance carriers providing coverage shall be authorized and/or eligible to do business in the State of Florida and shall possess a current AM.Best’s Financial Strength Rating of A- Class VIII or better.

(Note: State licenses can be checked via www.floir.com/companysearch/ and A.M. Best Ratings are available at www.ambest.com)

The CMAR shall require and ensure that each of its subcontractors maintain insurance until the completion of their work under any contract associated with this Contract. Failure of the CMAR to maintain insurance coverage for itself or for any other persons or entities for whom it is responsible or to ensure that its subcontractors maintain coverage shall not relieve the CMAR of any contractual responsibility, obligation or liability.

If the CMAR intends to bid on this Contract as a Joint Venture then all insurance coverage required herein shall include the Joint Venture as “named insured”. If the Joint Venture has no employees then this requirement is waived for workers’ compensation. The Joint Venture shall also purchase discontinued completed operations coverage for any claims made after the dissolution of the Joint Venture. This coverage shall be for a period of two years following final completion of the project or continuing service contract.

If the CMAR intends to bid on this Contract using a partnership or teaming approach then these insurance requirements shall be applied equally to each of the partners or participants as their interests may appear. Liability shall be

clearly addressed in all partnership agreements and memorandums of understanding.

The minimum types and amounts of insurance inclusive of any amount provided by an umbrella or excess policy, shall be as follows:

- Commercial General Liability - The CMAR shall maintain coverage issued on an ISO form CG 00 01 or its equivalent, with a limit of liability of not less than \$10,000,000 per occurrence. CMAR further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Independent Contractors, Broad Form Property Damage, X-C-U Coverage, Contractual Liability, or Separation of Insureds. The General Aggregate limit shall either apply separately to this Contract or shall be at least twice the required occurrence limit. All projects with a Contract Amount greater than \$20,000,000 shall be written on a Designated Premises or Projects basis. Commercial umbrella and excess coverage shall include liability coverage for damage to the CMAR's completed work equivalent to that provided under ISO Form CG 00 01 12 04.

Required Endorsements:

- Additional Insured- CG 20 26 or CG 20 10/CG 20 37 or their equivalents.

Note: CG 20 10 must be accompanied by CG 20 37 to include products/completed operations

- Waiver of Transfer of Rights of Recovery- CG 24 04 or its equivalent.

Note: If blanket endorsements are being submitted please include the entire endorsement and the applicable policy number.

- Business Automobile Liability - The CMAR shall maintain coverage for all owned; non owned and hired vehicles issued on ISO form CA 00 01 or its equivalent, with limits of not less than \$5,000,000 per incident. In the event the CMAR does not own automobiles the CMAR shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Required Endorsements:

- MCS-90- for operations governed by the Sections 29 & 30 of the Motor Carrier Act of 1980

- Workers' Compensation - The CMAR shall maintain coverage for its employees with statutory workers' compensation limits, and no less than \$1,000,000 (one million dollars) for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the County. The County will not accept elective exemptions. Any contractor using an employee leasing company shall complete the Leased Employee Affidavit.

Required Endorsements:

- Waiver of Subrogation- WC 00 03 13 or its equivalent

- Professional Liability- If the construction method is "construction manager at risk" the CMAR agrees to maintain Professional Liability with limits of not less than \$10,000,000 per incident and on a per-project basis.

When a self-insured retention or deductible exceeds \$100,000 the County reserves the right to request a copy of the CMAR's most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis the CMAR agrees to maintain a retroactive date prior to or equal to the effective date of this contract. In the event the policy is canceled, non-renewed, switched to occurrence form, or any other event which triggers the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this contract the CMAR agrees to purchase the SERP with a minimum reporting period consistent with Florida Statute of Repeal law. Purchase of the SERP shall not relieve the CMAR of the obligation to provide replacement coverage.

The CMAR shall be responsible for all risk of loss whether insured or not until final acceptance of the project by the County. The CMAR agrees to be fully and solely responsible for any costs or expenses resulting from a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the application of said deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. The County has the right to request that the CMAR procure and maintain a surety bond for any deductible amounts that exceed any amount stated herein in such amount and on such form that are acceptable to the County.

The County reserves the right, but not the responsibility to periodically review any and all policies of insurance and to reasonably adjust the limits and/or types of coverage required herein, from time to time throughout the term of this Contract. In such event, the County shall provide the CMAR written notice of such adjustments and the CMAR shall comply within thirty (30) days of receipt thereof. Any request for an exception to these insurance requirements must be submitted in writing to the County for approval.

The CMAR agrees to specifically include the County as an Additional Insured on the Commercial General Liability policy with a CG 20 10 – Additional Insured - Owners, Lessees, Contractors and the or CG 20 37 – Additional Insured-Owners, Lessees, or Contractors- Completed Operations endorsement, or their equivalent. The CMAR shall also specifically include the County as an Additional Insured on any Commercial Umbrella or Excess policies unless the County is automatically defined under the policy as an Additional Protected Person. The name of the organization identified in each Additional Insured endorsement's schedule shall read Orange County, Florida.

The CMAR agrees by entering into this written Contract to provide a Waiver of Subrogation in favor of the County for each required policy providing coverage during the life of this Contract. When required by the insurer, or should a policy condition not permit an endorsement, the CMAR agrees to notify the insurer and request that the policy(ies) be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or an equivalent endorsement.

This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition that specifically prohibits such an endorsement or voids coverage should the CMAR enter into such an agreement on a pre-loss basis.

Before execution of this Contract by the County and the start of any Work and for the duration of this Contract, the CMAR shall provide the COUNTY with current certificates of insurance evidencing all required coverage. The certificates shall clearly indicate that the CMAR has obtained insurance of the type, amount and classification as required for strict compliance with this insurance section. No material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the COUNTY. Certificates shall specifically reference the project title and contract number. The certificate holder shall read:

Orange County, Florida
Procurement Division
400 E. South Street
Orlando, Florida 32801

Prior to commencement of any Work performed by subcontractors (if any), the CMAR shall obtain certificates of insurance evidencing coverage from each of its subcontractors and shall furnish within five days, copies of said certificates upon request by the County. In addition to the certificate(s) of insurance the CMAR shall also provide a specific additional insured endorsement and all waivers of subrogation or transfer of rights of recovery endorsements for each policy. Failure of the County to demand such certificate or other evidence of full compliance with these insurance requirements or failure of the County to identify a deficiency from evidence provided will not be construed as a waiver of the CMAR's obligation to maintain such insurance.

C. OWNER-CONTROLLED INSURANCE PROGRAM (OCIP)

The County has decided to implement and use an owner-controlled insurance program to cover the exposures associated with this project. The CMAR shall cooperate in the implementation of the OCIP and shall include language in each of its contracts with all contractors and sub-contractors, contractors and subcontractors requiring each to abide by the terms and conditions of the OCIP Manual.

INDEMNIFICATION- CONTRACTORS:

The CONTRACTOR to the extent permitted in Section 725.08, Florida Statutes shall indemnify and hold harmless the COUNTY and its officers and employees from liabilities damages, losses, and costs (including attorney's fees) to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the CONTRACTOR and persons employed or utilized by the CONTRACTOR in the performance of this Contract. The remedy provided to the COUNTY by this paragraph shall be in addition to and not in lieu of any other remedy available under this Contract or otherwise and shall survive the termination of this Contract.

SAFETY AND PROTECTION OF PROPERTY (for services provided on the premises of Orange County)

The Consultant shall at all times:

- Initiate, maintain and supervise all safety precautions and programs in connection with its services or performance of its operations under this contract.
- Take all reasonable precautions to prevent injury to employees, including County employees and all other persons affected by their operations.
- Take all reasonable precautions to prevent damage or loss to property of Orange County, or of other vendors, contractors or agencies and shall be held responsible for replacing or repairing any such loss or damage.
- Comply with all ordinances, rules, regulations, standards and lawful orders from authority bearing on the safety of persons or property or their protection from damage, injury or loss. This includes but is not limited to:
 - Occupational Safety and Health Act (OSHA)
 - National Institute for Occupational Safety & Health (NIOSH)
 - National Fire Protection Association (NFPA)
 - American Society of Heating, Refrigeration & Air-Conditioning Engineers (ASHRAE)
- The Contractor shall also comply with the guidelines set forth in the Orange County Safety & Health Manual and the safety requirements in the Project Management Plan. The manual can be accessed online at the address listed below:

<http://www.orangecountyfl.net/VendorServices/OrangeCountySafetyandHealthManual.aspx>

IX

TRUTH IN NEGOTIATION AND MAINTENANCE AND EXAMINATION OF RECORDS

- A. The Consultant hereby represents, covenants and warrants that wage rates and other factual unit costs supporting the compensation provided for in this Contract are accurate, complete and current as of the date of contracting. It is further agreed that the Contract price shall be adjusted to exclude any amounts where the County determines the Contract price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs.
- B. The Consultant shall keep adequate records and supporting documents applicable to this Contract. Said records and documentation shall be retained by the Consultant for a minimum of five (5) years from the date of final payment on this contract. If any litigation, claim or audit is commenced prior to the expiration of the five (5) year period, the records shall be maintained until all litigation, claims or audit findings involving the records have been resolved.
- C. If applicable, time records and cost data shall be maintained in accordance with generally accepted accounting principles.

This includes full disclosure of all transactions associated with the contract. Also, if applicable, all financial information and data necessary to determine overhead rates in accordance with Federal and State regulatory agencies and the contract shall be maintained.

- D. The Consultant's "records and supporting documents" as referred to in this Contract shall include any and all information, materials and data of every kind and character, including without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, invoices, leases, contracts, commitments, arrangements, notes, daily diaries, superintendent reports, drawings, receipts, vouchers and memoranda, and any and all other agreements, sources of information and matters that may in the County's judgment have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any Contract document.

Such records and documents shall include (hard copy, as well as computer readable data, written policies and procedures; time sheets; payroll registers; cancelled checks; subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, etc.); original estimates; estimating worksheets; correspondence; change order files (including pricing data used to price change proposals and documentation covering negotiated settlements); back-charge logs and supporting documentation; general ledger entries detailing cash and trade discounts earned, insurance rebates and dividends; and any other Consultant records which may have a bearing on matters of interest to the County in connection with the Consultant's dealings with the County (all foregoing hereinafter referred to as "records and supporting documents") to the extent necessary to adequately permit evaluation and verification of:

- 1) Consultant compliance with contract requirements; or
- 2) Compliance with provisions for pricing change orders; or
- 3) Compliance with provisions for pricing invoices; or
- 4) Compliance with provisions regarding pricing of claims submitted by the Consultant or his payees; or
- 5) Compliance with the County's business ethics; or
- 6) Compliance with applicable state statutes and County Ordinances and regulations.

- E. Records and documents subject to audit shall also include those records and documents necessary to evaluate and verify direct and indirect costs, (including overhead allocations) as they may apply to costs associated with this Contract. In those situations where Consultant's records have been generated from computerized data (whether mainframe, mini-computer, or PC based computer systems), Consultant agrees to provide the County's representatives with extracts of data files in computer readable format on data disks or suitable alternative computer exchange formats.

- F. The County and its authorized agents shall have the right to audit, inspect and copy records and documentation as often as the County deems necessary throughout the term of this contract and for a period of five (5) years after final payment. Such activity shall be conducted during normal business working hours. The County, or any of its duly authorized representatives, shall have access within forty-eight (48) hours to such books, records, documents, and other evidence for inspection, audit and copying.
- G. The County, during the period of time defined by the preceding paragraph, shall have the right to obtain a copy of and otherwise inspect any audit made at the direction of the Consultant as concerns the aforesaid records and documentation.
- H. Records and documentation shall be made accessible at the Consultant's local place of business. If the records are unavailable locally, it shall be the Consultant's responsibility to insure that all required records are provided at the Consultant's expense including payment of travel and maintenance costs incurred by the County's authorized representatives or designees in accessing records maintained out of the county. The direct costs of copying records, excluding any overhead cost, shall be at the County's expense.
- I. The Consultant shall require all payees (examples of payees include sub Consultants, insurance agents, material suppliers, etc.) to comply with the provisions of this article by including the requirements hereof in a written contract agreement between Consultant and payee. Such requirements include a flow-down right of audit provisions in contracts with payees, which shall also apply to Sub Consultants and Sub-sub Consultants, material suppliers, etc. Consultant shall cooperate fully and shall cause all aforementioned parties and all of Consultant's sub Consultants (including those entering into lump sum subcontracts and lump sum major material purchase orders) to cooperate fully in furnishing or in making available to the County from time to time whenever requested in an expeditious manner any and all such records, documents, information, materials and data.
- J. The County's authorized representatives or designees shall have reasonable access to the Consultant's facilities, shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Contract and shall have adequate and appropriate work space, in order to conduct audits in compliance with this article.
- K. Even after a change order proposal has been approved, Consultant agrees that if the County later determines the cost and pricing data submitted was inaccurate, incomplete, not current or not in compliance with the terms of the Contract regarding pricing of change orders, then an appropriate contract price reduction will be made. Such post-approval contract price adjustment will apply to all levels of Consultants and/or sub Consultants and to all types of change order proposals specifically including lump sum change orders, unit price change orders, and cost-plus change orders.

- L. If an audit inspection or examination by the County, or its designee, in accordance with this article discloses overpricing or overcharges (of any nature) by the Consultant to the County in excess of one-half of one percent (.5%) of the total contract billings, the reasonable actual cost of the County's audit shall be reimbursed to the County by the Consultant. Any adjustments and /or payments that must be made as a result of any such audit or inspection of the Consultant's invoices and/or records and supporting documents shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of the County's findings to the Consultant.

X
OWNERSHIP OF DOCUMENTS

It is understood and agreed that all documents, including detailed reports, plans, original drawings, survey field notebooks, and all other data other than working papers, prepared or obtained by the CONSULTANT in connection with its services hereunder and are the property of the COUNTY upon acceptance of same by the COUNTY.

XI
WORK COMMENCEMENT/PROGRESS/DELAYS

- A. **COMMENCEMENT AND TERM OF JOB:** The services to be rendered by the CONSULTANT shall be commenced subsequent to the execution of this Contract and upon written notice to proceed from the Department Director or designee. Services shall be completed within >___ days after Notice to Proceed.
- B. **JOB SEGMENT DEADLINES:** A detailed segment completion schedule has been approved by the COUNTY and is attached and made a part hereof by this reference. The purpose of this schedule is to:
1. Provide job segment deadlines for the CONTRACTOR upon which the COUNTY may rely;
 2. Provide guidance for the COUNTY in honoring the CONTRACTOR'S monthly invoices for progress payments called for in Article II(B) hereof; and
 3. Provide a framework against which the COUNTY may suspend progress payments as provided in Article II C hereof.

Should the Contractor fail to substantially complete all Work under this Contract and make the project available for beneficial use on or before the date stipulated for **Substantial Completion** (or such later date as may result from extension of time granted by County), he shall pay and/or the County may retain from the compensation otherwise to be paid to the Contractor, as liquidated damages, the following amounts by Area:

- A. Grand Concourse: \$2,500.00 per day
- B. Multipurpose Venue: \$2,500.00 per day

For each consecutive calendar day that terms of the Contract remain unfulfilled beyond date allowed by the Contract, which sum is agreed upon as a reasonable

and proper measure of damages which County will sustain per diem by failure of Contractor to complete work within time as stipulated; it being recognized by County and Contractor that the injury to County which could result from a failure of Contractor to complete on schedule is uncertain and cannot be computed exactly. In no way shall costs for liquidated damages be construed as a penalty on the Contractor.

For each consecutive calendar day that the work remains incomplete after the date established for **Final Completion**, the County will retain from the compensation otherwise to be paid to the Contractor, as liquidated damages, the following amounts by Area.

- A. Grand Concourse: \$1,000.00 per day
- B. Multipurpose Venue: \$1,000.00 per day

This amount is the mutually agreed upon minimum measure of damages the County will sustain by failure of the Contractor to complete all remedial work, correct deficient work, clean up the project and other miscellaneous tasks as required to complete all Work specified and this amount of liquidated damages is in addition to the liquidated damages prescribed above for failure to timely achieve Substantial Completion.

C. **CONFERENCES**: The COUNTY will be entitled at all times to be advised, at its request, as to the status of work being done by the CONTRACTOR and of the details thereof. Coordination shall be maintained by the CONTRACTOR with representatives of the COUNTY, or of other agencies interested in the Project on behalf of the COUNTY. Either party to the Contract may request and be granted a conference.

D. **DELAYS NOT FAULT OF CONTRACTOR; DISCRETIONARY EXTENSIONS OF COMPLETION TIME BY COUNTY**: In the event there are delays on the part of the COUNTY as to the approval of any of the materials submitted by the CONTRACTOR, or if there are delays occasioned by circumstance beyond the control of the CONTRACTOR which delay the Project Schedule completion date, the COUNTY may grant to the CONTRACTOR, by "Letter of Approval of Project Schedule" an extension of the Contract time or revision to the Project Schedule, equal to the aforementioned delays, provided there are no changes in compensation or scope of work. It shall be the responsibility of the CONTRACTOR to ensure at all times that sufficient Contract time remains within which to complete services on the Project. In the event there have been delays which would affect the Project completion date, the CONTRACTOR shall submit a written request to the COUNTY which identifies the reason(s) for the delay and the amount of time related to each reason.

The COUNTY will review the request and make a determination as to granting all or part of the requested extension.

E. **SUSPENSION OF WORK BY COUNTY**:

1. Right of COUNTY to Suspend Work and Order Resumption – The performance of CONTRACTOR'S services hereunder may be suspended by the COUNTY at any time. However, in the event the COUNTY

suspends the performance of CONTRACTOR'S services hereunder, it shall so notify the CONTRACTOR in writing, such suspension becoming effective upon the date of its receipt by CONTRACTOR. The COUNTY shall promptly pay to the CONTRACTOR all fees which have become due and payable to the CONTRACTOR prior to the effective date of such suspension. COUNTY shall thereafter have no further obligation for payment to the CONTRACTOR unless and until the COUNTY notifies the CONTRACTOR that the services of the CONTRACTOR called for hereunder are to be resumed. Upon receipt of written notice from the COUNTY that CONTRACTOR'S services hereunder are to be resumed, CONTRACTOR shall complete the services of CONTRACTOR called for in

This Contract and CONTRACTOR, shall, in that event, be entitled to payment of the remaining unpaid compensation which becomes payable to him under this Contract, same to be payable in the manner specified herein.

In no event will the compensation or any part thereof become due or payable to CONTRACTOR under this Contract unless and until CONTRACTOR has attained that stage of work where the same would be due and payable to CONTRACTOR under the provision of this Contract.

2. Renegotiation by CONTRACTOR; Right to Terminate – If the aggregate time of the COUNTY'S suspension or suspension of CONTRACTOR'S services exceeds one hundred twenty (120) days, then CONTRACTOR and COUNTY shall, upon request of CONTRACTOR, meet to assess the services remaining to be performed and the total fees paid to CONTRACTOR hereunder.

The parties shall then have the opportunity of negotiating a change in fees to be paid to the CONTRACTOR for the balance of the services to be performed hereunder. No increase in fees to the CONTRACTOR shall be allowed unless based upon clear and convincing evidence of an increase in CONTRACTOR'S costs attributable to the aforesaid suspensions. If an increase in the CONTRACTOR'S cost is demonstrated by clear and convincing evidence and the COUNTY refuses to increase said fees, CONTRACTOR may terminate this Contract by delivering written notice thereof to the COUNTY within ten (10) days after the COUNTY has given notice of its refusal to increase said fees.

XII

STANDARDS OF CONDUCT

- A. The CONTRACTOR represents 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 Contract 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 of this Contract.

- B. The CONTRACTOR shall comply with all Federal, State and local laws and ordinances in effect on the date of this Contract and applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, religion, sex, sexual orientation and gender expression/identity, color, age, disability or national origin in the performance of work under this Contract.
- C. The CONTRACTOR hereby certifies that no undisclosed conflict of interest exists with respect to the present Contract, including any conflicts that may be due to representation of other clients, other contractual relationships of the CONTRACTOR, or any interest in property which the CONTRACTOR may have. The CONTRACTOR further certifies that any apparent conflict of interest that arises during the term of this Contract will be immediately disclosed in writing to the COUNTY. Violation of this section will be considered as justification for immediate termination of this Contract under the provisions of Article VII.
- D. The CONTRACTOR and its subsidiaries or affiliates who designed the project, shall be ineligible for the award of the construction contract for that project.

XIII

MINORITY/WOMEN ENTERPRISE

- A. The CMAR will comply with all requirements of Orange County's Minority/Women Owned Business Enterprise Ordinance No. 94-01, as amended by Ordinance No. 2009-21. The ordinance establishes the following:
- Minimum construction subcontract goals of the County's annual monetary value of contracts to be awarded to minority/women owned business enterprises meeting Contract specifications;
 - Minimum goals for workforce employment levels for minority and women;
 - Good faith effort requirements for subcontracts for M/WBE participation;
 - Good faith effort requirement for M/WBE workforce employment;
 - Contract compliance procedures.
- B. The CMAR must include the Subcontract/Supplier page in all bid documents. Only 50% of material/supply dollars purchased from M/WBE distributors is applied toward the goals for minority and women business enterprise participation on construction projects. Bidder shall list **the total amount of material/supply dollars** to be purchased from each M/WBE distributor on the Subcontractor/Supplier Page in order to calculate the actual dollars applied toward the goals.
- C. To facilitate monitoring for compliance with the Ordinance, the CMAR **must**: provide to the County's Business Development Division Liaison all subcontracts and/or purchase orders, fully executed by both parties, with each Subcontractor and supplier listed on Subcontractor/Supplier page in the Prime Contractor's bid (M/WBE's and non-M/WBE's). **The overall GMP prime Contract will not be executed by the County until these documents are on file in the Business Development Division.** Prime Contractor should include in the subcontract / purchase order a statement that makes the legality of the document contingent upon execution of the prime Contract by the County.

D. The CMAR **must** include in the subcontract agreement:

1. A Prompt Payment Clause to the M/WBE subcontractor to state: "payment will be made to the sub-contractor/suppliers within 72 hours of receipt of payment from the County."
2. The following statement: **"It is the M/WBE's responsibility to submit the required Monthly M/WBE utilization reports and monthly M/WBE payment verification forms to the Prime contractor. The Final M/WBE payment verification form shall be sent to Business Development Division directly by the sub-contractor."**
3. Termination clause to state: "The awarded prime consultant shall not substitute, replace or terminate any M/WBE firm without prior written authorization from the Business Development Manager, nor shall the prime reduce the scope of work or monetary value of the overall contract value or a sub-consultant without written authorization of the Business Development Division Manager."

The M/WBE's failure to submit the required documents could negatively impact their M/WBE certification.

This provision in no way creates any contractual relationship between any Subcontractor and Orange County or any liability on Orange County for the Contractor's failure to make timely payments. The timeliness of such payments may be evaluated by the Business Development Division Liaison in considering compliance with the Ordinance.

E. The CMAR shall report Minority/Women Business Enterprise (M/WBE) subcontractor Contract dollar amount(s) for the M/WBE subcontractor(s) listed in this document, by submitting the appropriate documents and utilizing an electronic reporting system, which shall include but not limited to fully executed sub-contract agreements and/or purchase orders evidencing contract award of work, to the Business Development Division. Submittal of these sub-contract agreements/purchase orders is a condition precedent to execution of the prime contract with the County.

F. The CMAR is responsible for ensuring each Contractor submits:

- a. A Monthly Workforce Report (Current Field Employment Data) for all Subcontractors/suppliers with contracts over \$50,000 supply a monthly workforce report;
- b. A Monthly Prime Contractor's Report including M/WBE Utilization Reports. The Contractor shall furnish written documentation evidencing actual dollars paid to each Subcontractor/supplier listed and/or utilized by the Contractor. This will include, but not be limited to: copies of canceled checks, approved invoices, and signed, sworn affidavits certifying the accuracy of payments so that the County may determine actual participation achieved by the Contractor prior to issuance of final payment.

The required reports are to be submitted to the Business Development Division Liaison no later than the fifth day of each month beginning one month after the Work begins and to continue until Final Completion of the project/contract. The Business Development Liaison has the authority to delay Contractor's Progress Payments if reports are not submitted in a timely manner.

- c. The final Prime Contractor's Report-M/WBE Utilization Report must be signed by the Contractor's authorized agent certifying that all information contained therein is a true and accurate account of M/WBE utilization per the bid and contract documents. Approval of the final Application for Payment is contingent upon receipt of this certification.

- G. The CMAR shall compile and submit an updated M/WBE utilization reports for the project. This will include all contracts, Joint Venture, Partnership or Teaming status report **Equal Opportunity Workforce Schedule** reports which are to be submitted by the end of the month through the term of the contract to the Business Development Division.

- H. The CMAR shall ensure that the M/WBE participation percentage proposed in the Consultant's Proposal submitted for this Contract is accomplished.

- I. Subsequent amendments to this contract shall be submitted with the appropriate documentation evidencing contractual change or assignment of work to the Business Development Division.

- J. The CMAR shall report local minority/women employment percentage levels within the firm and the minority/women employment percentage levels that the firm anticipates utilizing to fulfill the obligations of this Contract. This includes reporting the number of new job created and obtained from a structured Central Florida apprenticeship program, and/or referrals received from Career Source Central Florida. Also, participating in recruitment efforts at minority organizations, and with organizations that provide specialized training for minority/women business enterprises.

- K. The CMAR shall furnish written documentation evidencing actual dollars paid to **all sub-consultants** utilized by the prime consultant on the project. This will include, but not limited to: copies of cancelled checks, approved invoices, and signed affidavits certifying the accuracy of payments so that the County may determine actual MWBE participation achieved by the CMAR prior to the issuance of final payment.

The awarded CMAR shall not substitute, replace or terminate any M/WBE firm without prior written authorization from the Business Development Manager nor must the CMAR permit the scope of work or monetary value of a subcontract without prior written authorization All modifications, additions and deletions to any and all Contracts issued to said M/WBE's **must** also have prior written authorization of the Business Development Manager.

L. Failure of the CMAR to adhere to the provisions of the Ordinance may subject the Contractor to penalties as outlined in Sec. 17-326 of the Ordinance. The penalties include:

- 1) Liquidated damages up to 10% of the Contract;
- 2) Suspension or permanent debarment from bidding;
- 3) Termination of any present contracts;
- 4) Withholding retainage;
- 5) A negative evaluation of good-faith effort on future bids;
- 6) Withholding of payments.

M. It is the intent of the COUNTY to insure prompt payment of all sub-consultants working on COUNTY projects. The CMAR shall ensure all contracts:

- i. Submit copies of executed contracts between the Contractor and all of its M/WBE sub-consultants to the Business Development Division.
- ii. The County may at its discretion require copies of subcontracts/purchase orders for the non-M/WBE's listed on Form B and or utilized on the project. However, if this option is not exercised the awarded Proposer shall provide a list of all non-M/WBE sub consultants certifying that a prompt payment clause has been included in that contract or purchase order.

Each Contractor **must** include in the subcontract agreement:

- i. Prompt Payment Clause to the M/WBE sub contractor to state: "payment will be made to the sub-consultant/suppliers within 72 hours of receipt of payment from the County."
- ii. The following statement: "The following statement: "It is the M/WBE's responsibility to submit the required payment verification reports monthly and the Final M/WBE payment verification form directly to Business Development Division."
- iii. Termination clause to state: "The awarded contractor shall not substitute, replace or terminate any M/WBE firm without prior written authorization from the Business Development Manager, nor shall the prime reduce the scope of work or monetary value of the overall contract value or a sub-contractor without written authorization of the Business Development Division Manager."

The M/WBE's failure to submit the required documents could negatively impact their M/WBE certification.

N. By entering into this contract, the CONSULTANT affirmatively commits to comply with the M/WBE subcontracting and Joint Venture or Partnership or Teaming requirements submitted with his/her Proposal. The failure of the CONSULTANT to comply with this commitment during the Contract's performance period may be considered a breach of Contract.

The County may take action up to and including termination for default if this condition is not remedied within the time period specified by the Manager, Procurement Division.

XIV

ASSIGNABILITY; EMPLOYMENT OF SPECIALISTS

- A. The CONTRACTOR shall maintain an adequate and competent professional staff and may associate with such staff, professional specialists for the purpose of ensuring and enlarging its services hereunder, without additional cost to the COUNTY. Should the CONTRACTOR desire to utilize such specialists, the CONTRACTOR is fully responsible for satisfactory completion of all work within the scope of this Contract.
- B. The CONTRACTOR shall be responsible for the integration of all specialists or outside professional work into the documents and for all payments to such specialists or contractors from the fee heretofore stated. Services rendered by the CONTRACTOR in connection with coordination of the services of the aforementioned personnel shall be considered within the scope of the basic Contract and no additional fee will be due the CONTRACTOR for such work.
- C. All final plans and documents prepared by the CONTRACTOR must bear the endorsement of a person in the full employ of the CONTRACTOR and be duly registered as a Professional Engineer/Architect in the State of Florida.
- D. The CONTRACTOR shall not assign any interest in this Contract, and shall not transfer any interest in the same without prior written approval of the COUNTY, provided that claims for the money due or to become due the CONTRACTOR from the COUNTY under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the COUNTY.

XV

INDEMNIFICATION FOR TORT ACTIONS/LIMITATION OF LIABILITY

- A. The provisions of Florida Statute 768.28 applicable to Orange County, Florida apply in full to this Contract. Any legal actions to recover monetary damages in tort for injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the COUNTY acting within the scope of his/her office or employment are subject to the limitations specified in this statute.
- B. No officer, employee or agent of the COUNTY acting within the scope of his/her employment or function shall be held personally liable in tort or named as a defendant in any action for any injury or damage suffered as a result of any act, event, or failure to act.
- C. The COUNTY shall not be liable in tort for the acts or omissions of an officer, employee, or agent committed while acting outside the course and scope of his/her employment. This exclusion includes actions committed in bad faith or

with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

XVI **EQUAL OPPORTUNITY**

The County's policies of equal opportunity and non-discrimination are intended to assure equal opportunities to every person, regardless of race, religion, sex, color, age, disability or national origin, in securing or holding employment in a field of work or labor for which the person is qualified, as provided and enforced by Section 17-314 of the Orange County Code and the County's relevant Administrative Regulations. It is also the county policy that person(s) doing business with the County shall recognize and comply with this policy and that the County shall not extend public funds or resources in a manner as would encourage, perpetuate or foster discrimination. As such:

1. The Association shall adopt and maintain, or provide evidence to the County that Association has adopted and maintains, a policy of nondiscrimination as defined by Section 17-288, Orange County Code, throughout the term of this Agreement.
2. The Association agrees that, on written request, the Association shall permit reasonable access to all business records or employment, employment advertisement, applications forms, and other pertinent data and records, by the County, for the purpose of investigating to ascertain compliance with the non-discrimination provisions of this contract; provided, that the Contractor shall not be required to produce for inspection records covering periods of time more than one year prior to the date of this Agreement.
3. The Agency agrees that, if any obligations of this contract are to be performed by subcontractor(s), the provisions of subparagraphs 1 and 2 of this Section shall be incorporated into and become a part of the subcontract.

XVII **CONTROLLING LAWS**

This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the provisions of this Contract will be held in Orange County, Florida. Venue for any litigation involving this contract shall be the Ninth Circuit Court in and for Orange County, Florida.

XVIII **DISLOCATED WORKERS**

CONTRACTOR has committed to hire >_____ ()CareerSource Central Florida participants residing in Orange County, Florida. Therefore, within five (5) days after contract award, CONTRACTOR shall contact the Orange County Business Development Liaison at (407) 836-5484 to assist with meeting this requirement. The BDD Liaison will work with the CareerSource Central Florida staff and the Consultant to ensure that the process is properly adhered until all requirements have been met. Career Force Central Florida participants may be employed in any position within the firm but must be hired on a full-time basis.

The failure of the CONTRACTOR to comply with these hiring commitments after contract award shall be grounds for termination of the contract for default.

During performance of the contract, the CONTRACTOR will take appropriate steps to ensure that individuals hired under this program are retained. However, if it becomes necessary to replace an employee, the CONTRACTOR shall provide verification of the replacement worker's status from the CareerSource Central Florida. At its discretion, COUNTY may periodically request submission of certified payrolls to confirm the employment status of program participants.

XIX

REGISTERED SERVICE-DISABLED VETERAN PARTICIPATION

- A. The CONTRACTOR shall be responsible for reporting Registered Service-Disable Veteran (SDV) subcontractor Contract dollar amount(s) for the registered SDV SUBCONTRACTOR(s) listed in this document, by submitting the appropriate documents, which shall include but not limited to fully executed sub-contract agreements and/or purchase orders evidencing contract award of work, to the Business Development Division. Submittal of these sub-contract agreements/purchase orders is a condition precedent to execution of the prime contract with the County. Monthly updated SDV utilization reports and Schedule of Minorities and Women reports are to be submitted every quarter during the term of the contract. Additionally, the Consultant shall ensure that the SDV participation percentage proposed in the Consultant's Proposal submitted for this Contract is accomplished.
- B. Subsequent amendments to this contract shall be submitted with the appropriate documentation evidencing contractual change or assignment of work to the Business Development Division, with a copy to the COUNTY'S designated representative, within ten (10) days after COUNTY'S execution.
- C. The awarded prime contractor shall furnish written documentation evidencing actual dollars paid to **all subcontractors** utilized by the prime contractor on the project. This will include, but not limited to: copies of cancelled checks, approved invoices, and signed affidavits certifying the accuracy of payments so that the County may determine actual SDV participation achieved by the Prime Consultant prior to the issuance of final payment.
- D. The awarded prime contractor shall not substitute, replace or terminate any M/WBE firm without prior written authorization from the Business Development Division Manager. In the event a registered SDV sub-CONTRACTOR's sub-contract is terminated for cause, the CONTRACTOR shall justify the replacement of that sub-CONTRACTOR with another registered SDV firm, in writing to the Business Development Division, accompanied by the Project Manager's recommendation or consent to termination.
- E. It is the intent of the COUNTY to insure prompt payment of all subcontractors working on COUNTY projects. The CONTRACTOR shall:
 - 1. Submit copies of executed contracts between the CONTRACTOR and all of its SDV subcontractors to the Business Development Division.

2. The County may at its discretion require copies of subcontracts/purchase orders for the non-SDV's listed on Form B and or utilized on the project. However, if this option is not exercised the awarded Proposer shall provide a list of all non-SDV subcontractors certifying that a prompt payment clause has been included in that contract or purchase order.
3. Incorporate a prompt payment assurance provision and payment schedule in all contracts between the CONTRACTOR and subcontractors (including those with non-SDV's) stating that payment will be made to the subcontractor within 72 hours of receipt of payment from the COUNTY. The CONTRACTOR shall pay each subcontractor for all work covered under an invoice within the 72 hour time frame.

The Proposer shall contract the Business Development Division Liaison at 407 836-8363 for any questions and/or concerns as it relates to Registered Service Disabled Veterans.

- F. By entering into this contract, the CONTRACTOR affirmatively commits to comply with the SDV subcontracting requirements submitted with his/her Proposal. The failure of the CONTRACTOR to comply with this commitment during the Contract's performance period may be considered a breach of Contract. The County may take action up to and including termination for default if this condition is not remedied within the time period specified by the Manager, Procurement Division.

XX **CONTRACT CLAIMS**

"Claim" as used in this provision means a written demand or written assertion by one of the contracting parties seeking as a matter of right, the payment of a certain sum of money, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract.

Claims made by a Consultant against the County relating to a particular contract shall be submitted to the Procurement Division Manager in writing clearly labeled "Contract Claim" requesting a final decision. The Consultant also shall provide with the claim a certification as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Consultant believes the County is liable; and that I am duly authorized to certify the claim on behalf of the Consultant."

Failure to document a claim in this manner shall render the claim null and void. Moreover, no claim shall be accepted after final payment of the contract.

The decision of the Procurement Division Manager shall be issued in writing and shall be furnished to the Consultant. The decision shall state the reasons for the decision reached. The Procurement Division Manager shall render the final decision within sixty (60) days after receipt of Consultant's written request for a final decision. The Procurement Division Manager's decision shall be final and conclusive.

The Consultant shall proceed diligently with performance of this contract pending final

resolution of any request for relief, claim, appeal or action arising under the contract and shall comply with any final decision rendered by the Manager of the Procurement Division.

XXI
AVAILABILITY OF FUNDS

The obligations of Orange County under this Contract are subject to availability of funds lawfully appropriated for its purpose by the Board of County Commissioners, or other specified funding source for this contract.

XXII
PROHIBITION AGAINST CONTINGENT FEES

The Contractor warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Contract and that they have 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 of this Contract. For the breach or violation of this provision, the County shall have the right to terminate the Contract at its sole discretion, without liability and to deduct from the Contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

XXIII
TOBACCO FREE CAMPUS

All Orange County operations under the Board of County Commissioners shall be tobacco free. This policy shall apply to parking lots, parks, break areas and worksites. It is also applicable to Contractor and their personnel during contract performance on county-owned property. Tobacco is defined as tobacco products including, but not limited to, cigars, cigarettes, e-cigarettes, pipes, chewing tobacco and snuff. Failure to abide by this policy may result in civil penalties levied under Chapter 386, Florida Statutes and/or contract enforcement remedies.

XXIV
VERIFICATION OF EMPLOYMENT STATUS

Prior to the employment of any person performing services under this contract, the CONTRACTOR shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of: (a) all employees within the State of Florida that are hired by the CONTRACTOR after the execution of the contract who are providing labor under the contract during the contract term; and, (b) all employees within the State of Florida of any of the CONTRACTOR'S subcontractors that are hired by those subcontractors after the execution of the contract who are providing labor under the contract during the contract term. Please refer to USCIS.gov for more information on this process.

Only those employees determined eligible to work within the United States shall be employed under the contract.

Therefore, by submission of a proposal in response to this solicitation, the CONTRACTOR confirms that all employees in the above categories will undergo e-verification before performing labor under this contract. The CONTRACTOR further confirms his commitment to comply with the requirement by completing the E-Verification certification, contained in this solicitation.

XXV
ASBESTOS FREE MATERIALS

For contracts for design services, CONTRACTOR shall provide a written and notarized statement on company letterhead to certify and warrant that the project was designed with asbestos free materials. Such statement shall be submitted with the final payment request. Final payment shall not be made until such statement is submitted. CONTRACTOR agrees that if materials containing asbestos are subsequently discovered at any future time to have been included in the design, CONTRACTOR shall be liable for all costs related to the redesign or modification of the construction of the project so that materials containing asbestos are removed from the design, plans or specifications or construction contract documents, and, in addition, if construction has begun or has been completed pursuant to a design that includes asbestos containing materials, the CONTRACTOR shall also be liable for all costs related to the abatement of such asbestos.

XXVI
DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION:

By executing this agreement the Bidder affirms that it is in compliance with the requirements of 2 C.F.R. Part 180 and that neither it, its principals, nor its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

XXVII
FLORIDA CONVICTED/SUSPENDED/DISCRIMINATORY COMPLAINTS:

By executing this agreement the Bidder affirms that it is not currently listed in the Florida Department of Management Services Convicted/Suspended/Discriminatory Complaint Vendor List.

XXVIII
SEVERABILITY

The provisions of this Agreement are declared by the parties to be severable. However, the material provisions of this Agreement are dependent upon one another, and such interdependencies a material inducement for the parties to enter into this Agreement. Therefore, should any material term, provision, covenant or condition of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, the party protected or benefited by such term, provision, covenant, or condition may demand that the parties negotiate such reasonable alternate contract language or provisions as may be necessary either to restore the protected or benefited party to its previous position or otherwise mitigate the loss of protection or benefit resulting from holding.

XXIX

PUBLIC RECORDS COMPLIANCE (APPLICABLE FOR SERVICE CONTRACTS)

Orange County is a public agency subject to Chapter 119, Florida Statutes. The Consultant agrees to comply with Florida's Public Records Law. Specifically, the Consultant shall:

1. Keep and maintain public records required by Orange County to perform the service.
2. Upon request from Orange County's custodian of public records, provide Orange County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from the public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Consultant does not transfer the records to Orange County.
4. Upon completion of the contract, Consultant agrees to transfer at no cost to Orange County all public records in possession of the Consultant or keep and maintain public records required by Orange County to perform the service. If the Consultant transfers all public record to Orange County upon completion of the contract, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the contract, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Orange County, upon request from Orange County's custodian of public records, in a format that is compatible with the information technology systems of Orange County.
5. A Consultant who fails to provide the public records to Orange County within a reasonable time may be subject to penalties under section 119.10, Florida Statutes.
6. **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 CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT :**

400 E. South Street, 2nd Floor, Orlando, FL 32801

407-836-5897

ProcurementRecords@ocfl.net

>
>

BOARD OF COUNTY COMMISSIONERS
ORANGE COUNTY, FLORIDA

Signature

Carrie Mathes, MPA, CFCM, CPPO, C.P.M.
CPPB, APP, Manager, Procurement Division

Title

Name Typed or Printed

Date (for County use only)

REQUEST FOR PROPOSALS

#Y19-815-JS

**CONSTRUCTION MANAGER AT RISK SERVICES FOR THE ORANGE COUNTY CONVENTION
CENTER PHASE V MULTI-PURPOSE VENUE AND GRAND CONCOURSE IMPROVEMENTS
DUE 2:00 P.M. – June 6, 2019**

PROPOSER INFORMATION:

NAME OF FIRM: _____

ADDRESS: _____ (Street Address)

_____ (PO Box)

_____ (City, County, State, Zip)

PHONE: _____

FAX: _____

AUTHORIZED SIGNATORY: _____ (Print Name) TITLE: _____

SIGNATURE: _____

CONTACT'S E-MAIL ADDRESS: _____

TIN# _____

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

IDENTIFICATION OF BUSINESS ORGANIZATION:

Check the appropriate box that describes the organization of the firm proposing:

PLEASE NOTE: Proposers must include a minimum 24% M/WBE inclusion at the management level. This can be achieved by the proposer having 24% M/WBE Joint Venture, Partnership or Teaming. The proposer must submit Form K along with an executed Joint Venture, Partnership or Teaming agreement with their proposal. The Joint Venture must be properly registered with the Florida Division of Corporations before the contract award and the name of the joint Venture must be the same name used in the proposal

Sole Proprietorship Partnership Joint Venture Corporation Teaming

State of Incorporation: _____

Principal Place of Business (Florida Statute Chapter 607): _____

The bidder or proposer represents that the following principals are authorized to sign and/or negotiate Contracts and related documents to which the bidder or proposer will be duly bound. Principal is defined as an employee, officer or other technical or professional in a position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction.

Name	Title	Phone Number

ADDENDUM ACKNOWLEDGEMENT:

The Proposer shall acknowledge receipt of any addenda issued to the solicitation by completing the blocks below or by completion of the applicable information on the addendum and returning it not later than the date and time for receipt of the Proposal. Failure to acknowledge an addendum that has a material impact on the solicitation may negatively impact the responsiveness of your Proposal. Material impacts include but are not limited to changes to scope of work, delivery time, performance period, quantities, bonds, letters of credit, insurance, qualifications, etc.

Addendum No. _____	Date	Addendum No. _____	Date:
Addendum No. _____	Date:	Addendum No. _____	Date:

PROJECT TEAM

RFP Project Number: _____
 TEAM NAME: _____

Federal I. D. Number: _____

<u>PRIME</u>	Name and City of Residence of Individual Assigned to the Project	Number of Years Experience	Education, Degree(s)	Florida Active Registration Numbers
Role				
Principle-in-Charge				
Senior Project Manager				
Project Manager				
Project Construction Administrator				
Other Key Member ()				
Other Key Member ()				
<u>SUBCONTRACTOR</u>	Company Name and Address of Office Handling this Project	If Certified M/WBE specify which; Or If Registered SDV indicate	Projected % of Overall work on the entire project	Name of Individual Assigned to the Project
Role				
Architecture				
Mechanical Engineering				
Electrical Engineering				
Structural Engineering				
Civil Engineering				
Landscape Architecture				
Other Key Member ()				
Other Key Member ()				
Other Key Member ()				
Other Key Member ()				

Note: Percentages indicated must conform to percentages indicated on Form C

LOCATION

Proposers shall complete and submit the information below to clearly identify the location and applicable percentage of the work to be performed at each location listed. **Also, proposers shall complete and sign the attached pages, 2 through 4, concerning location. NOTE: THE AFFIDAVIT/NOTARIZATION REQUIREMENT (page 4).**

PRIME CONTRACTOR/ CONTRACTOR (Name & Address)	CITY	COUNTY	STATE ZIP	PERCENTAGE OF WORK ASSIGNED
1. _____ _____	_____	_____	_____	_____ %
2. _____ _____	_____	_____	_____	_____ %
3. _____ _____	_____	_____	_____	_____ %

**SUBCONTRACTOR/SUBCONTRACTOR
(Name & Address)**

1. _____ _____	_____	_____	_____	_____ %
2. _____ _____	_____	_____	_____	_____ %
3. _____ _____	_____	_____	_____	_____ %
4. _____ _____	_____	_____	_____	_____ %
5. _____ _____	_____	_____	_____	_____ %
6. _____ _____	_____	_____	_____	_____ %
7. _____ _____	_____	_____	_____	_____ %

Use additional pages if necessary - Total Percentage must equal 100%

LOCATION (continued)

3. Current domicile of Project Manager.

Name of Project Manager _____

City & County _____

State _____

4. Will Project Manager relocate to an Orange County address to facilitate contract performance? (check appropriate line)

No _____ Not Applicable _____

If Project Engineer will not relocate, explain how the Project Manager will manage the project and maintain close communication with the County.

Yes _____ Not Applicable _____

If yes, please explain when relocation will occur in relationship to contract award.

LOCATION (continued)

AFFIDAVIT

Under penalties of perjury, I swear affirm that the preceding location information is true and correct. I also acknowledge that any material misrepresentation will be grounds for terminating for default any contract, which may have been awarded due in whole or part to such misrepresentation. I also understand that false statements may result in criminal prosecution for a felony of the third degree per Section 92.525(3), Florida Statutes.

_____ Authorized Signatory	_____ Name of Proposer
_____ Typed or Printed Full Name	_____ Date
_____ Title	

On this ____ day of _____, 20__, before me appeared (name) _____
_____, to me personally known, who being duly sworn, did execute the
foregoing affidavit, and did state that he or she was properly authorized by (name of firm)
_____ to execute the affidavit and did so as his or her
free act and deed.

Notary Public _____

Commission Expires _____

(seal)

Date _____

State of _____

County of _____

SIMILAR PROJECTS

SENIOR PROJECT MANAGER

USING PAGES D1 – D4 only - List up to **Four (4) “Similar Projects”**, (two pages per project), for which services have been **successfully completed within the past twenty (20) years, immediately preceding the due date for proposals in response to this RFP**, which most closely match the scope of work in this RFP, as identified in similar project description, wherein the proposed Senior Project Manager has performed **in the same capacity** with your firm, or other firms. Identify if the Senior Project Manager OR the Project Manager is a Professional Licensed Architect **or** Professional Licensed Engineer as part of this required criteria. Note: The remaining position can be Professional Licensed Architect **or** Professional Licensed Engineer **or** a Bachelor Degreed Construction Manager and with one of the following certifications: General Contractor’s (GC) License, Certified Construction Manager (CCM), or a Project Management Professional (PMP, PgMP, PfMP) prior to the due date of proposals submitted for this RFP.

LIST THE ONE (1) SENIOR PROJECT MANAGER ONLY AS INDICATED ON FORM B. Proposers must explain and emphasize how each element of the similar project description was performed in conjunction with the project listed.

The Proposer shall ensure that the basic description of the similar projects (if a phased project all phases shall be *substantially completed, and construction of the entire project certified substantially complete*), including all required performance requirements and/or dimensions, is *identified* and that the elements are adequately explained in the text. The description shall document how the particular element was performed in conjunction with the overall project. The mere listing of elements without specific details in the body of the description will negatively impact the scoring for the project.

In addition, the Proposer should provide a narrative of what skills were used that are similar in nature to what is required in the scope of services for this RFP. The Proposer should also describe in detail how the Senior Project Manager was responsive to the client’s needs and requests.

Proposed Senior Project Manager Name: _____
Professional Licensed Architect: or Professional Licensed Engineer: or Construction Manager:

1. **Project Type A Name:** _____

Owner: _____

Reference Name, Address, Phone Number, Fax Number, Email Address:

Design or Consulting Start Date (**Month/Year**): _____

Design or Consulting Completion Date (**Month/Year**): _____

Construction Cost: \$ _____

Substantial Completion Date (**Month/Year**): _____

Construction Completion Date (**Month/Year**): _____

Square Feet of ACTIVE fully operational general assembly facility improvement (university campus facility, airport, convention center, arena, stadium, or hotel): _____

Firm: _____

Summary of Work:

Proposed Senior Project Manager Name: _____
Professional Licensed Architect: or Professional Licensed Engineer: or Construction Manager:

2. **Project Type A Name:** _____

Owner: _____

Reference Name, Address, Phone Number, Fax Number, Email Address:

Design or Consulting Start Date (**Month/Year**): _____

Design or Consulting Completion Date (**Month/Year**): _____

Construction Cost: \$ _____

Substantial Completion Date (**Month/Year**): _____

Construction Completion Date (**Month/Year**): _____

Construction Duration (Notice to Proceed to Final Completion): _____

Square Feet of ACTIVE fully operational general assembly facility improvement
(university campus facility, airport, convention center, arena, stadium, or hotel): _____

Firm: _____

Summary of Work:

Proposed Senior Project Manager Name: _____
Professional Licensed Architect: or Professional Licensed Engineer: or Construction Manager:

3. **Project Type B Name:** _____

Owner: _____

Reference Name, Address, Phone Number, Fax Number, Email Address:

Design or Consulting Start Date (**Month/Year**): _____

Design or Consulting Completion Date (**Month/Year**): _____

Construction Cost: \$ _____

Substantial Completion Date (**Month/Year**): _____

Construction Completion Date (**Month/Year**): _____

Construction Duration (Notice to Proceed to Final Completion): _____

Square Feet of general assembly facility improvement
(university campus facility, airport, convention center, arena, stadium, or hotel): _____

Firm: _____

Summary of Work:

Proposed Senior Project Manager Name: _____
Professional Licensed Architect: or Professional Licensed Engineer: or Construction Manager:

4. **Project Type B Name:** _____

Owner: _____

Reference Name, Address, Phone Number, Fax Number, Email Address:

Design or Consulting Start Date (**Month/Year**): _____

Design or Consulting Completion Date (**Month/Year**): _____

Construction Cost: \$ _____

Substantial Completion Date (**Month/Year**): _____

Construction Completion Date (**Month/Year**): _____

Construction Duration (Notice to Proceed to Final Completion): _____

Square Feet of general assembly facility improvement
(university campus facility, airport, convention center, arena, stadium, or hotel): _____

Firm: _____

Summary of Work:

SIMILAR PROJECTS

PROJECT MANAGER

USING PAGES E1 – E4 only - List up to **Four (4) “Similar Projects”**, (two pages per project), for which services have been **successfully completed within the past twenty (20) years immediately preceding the due date for proposals in response to this RFP,** which most closely match the scope of work in this RFP, as identified in similar project description, wherein the proposed Project Manager has performed **in the same capacity** with your firm, or other firms. Identify if the Project Manager OR the Senior Project Manager is a Professional Licensed Architect **or** Professional Licensed Engineer as part of this required criteria. Note: The remaining position can be Professional Licensed Architect **or** Professional Licensed Engineer **or** a Bachelor Degreed Construction Manager and with one of the following certifications: General Contractor’s (GC) License, Certified Construction Manager (CCM), or a Project Management Professional (PMP, PgMP, PfMP) prior to the due date of proposals submitted for this RFP. A diploma must be submitted as backup for validation of any Bachelor Degreed Construction Manager, a copy of the General Contractor’s License, and / or a CCM, PMP, PgMP, or PfMP Certificate.

LIST THE ONE (1) PROJECT MANAGER ONLY AS INDICATED ON FORM B. Proposers must explain and emphasize how each element of the similar project description was performed in conjunction with the project listed.

The Proposer shall ensure that the basic description of the similar projects (if a phased project all phases shall be *substantially completed*), including all required performance requirements and/or dimensions, is *identified* and that the elements are adequately explained in the text. The description shall document how the particular element was performed in conjunction with the overall project. The mere listing of elements without specific details in the body of the description will negatively impact the scoring for the project.

In addition, the Proposer should provide a narrative of what skills were used that are similar in nature to what is required in the scope of services for this RFP.

Proposed Project Manager Name: _____
Professional Licensed Architect: or Professional Licensed Engineer: or Construction Manager:

1. **Project Type A Name:** _____

Owner: _____

Reference Name, Address, Phone Number, Fax Number, Email Address:

Design or Consulting Start Date (**Month/Year**): _____

Design or Consulting Completion Date (**Month/Year**): _____

Construction Cost: \$ _____

Substantial Completion Date (**Month/Year**): _____

Construction Completion Date (**Month/Year**): _____

Construction Duration (Notice to Proceed to Final Completion): _____

Square Feet of ACTIVE fully operational general assembly facility improvement
(university campus facility, airport, convention center, arena, stadium, or hotel): _____

Firm: _____

Summary of Work:

Proposed Project Manager Name: _____
Professional Licensed Architect: or Professional Licensed Engineer: or Construction Manager:

2. **Project Type A Name:** _____

Owner: _____

Reference Name, Address, Phone Number, Fax Number, Email Address:

Design or Consulting Start Date (**Month/Year**): _____

Design or Consulting Completion Date (**Month/Year**): _____

Construction Cost: \$ _____

Substantial Completion Date (**Month/Year**): _____

Construction Completion Date (**Month/Year**): _____

Construction Duration (Notice to Proceed to Final Completion): _____

Square Feet of ACTIVE fully operational general assembly facility improvement
(university campus facility, airport, convention center, arena, stadium, or hotel): _____

Firm: _____

Summary of Work:

Proposed Project Manager Name: _____
Professional Licensed Architect: or Professional Licensed Engineer: or Construction Manager:

3. **Project Type B Name:** _____

Owner: _____

Reference Name, Address, Phone Number, Fax Number, Email Address:

Design or Consulting Start Date (**Month/Year**): _____

Design or Consulting Completion Date (**Month/Year**): _____

Construction Cost: \$ _____

Substantial Completion Date (**Month/Year**): _____

Construction Completion Date (**Month/Year**): _____

Construction Duration (Notice to Proceed to Final Completion): _____

Square Feet of general assembly facility improvement (university campus facility, airport, convention center, arena, stadium, or hotel): _____

Firm: _____

Summary of Work:

Proposed Project Manager Name: _____
Professional Licensed Architect: or Professional Licensed Engineer: or Construction Manager:

4. **Project Type B Name:** _____

Owner: _____

Reference Name, Address, Phone Number, Fax Number, Email Address:

Design or Consulting Start Date (**Month/Year**): _____

Design or Consulting Completion Date (**Month/Year**): _____

Construction Cost: \$ _____

Substantial Completion Date (**Month/Year**): _____

Construction Completion Date (**Month/Year**): _____

Construction Duration (Notice to Proceed to Final Completion): _____

Square Feet of general assembly facility improvement (university campus facility, airport, convention center, arena, stadium, or hotel): _____

Firm: _____

Summary of Work:

SKILLS AND EXPERIENCE OF THE PROJECT TEAM

Using a maximum of ten (10) pages, 8 1/2" X 11", labeled "Form F-1" through "Form F-10" describe the experience of the entire project team as it relates to this project. Title the first page "Skills and Experience of the Project Team" and label each page as described above. Include the experience of the Prime Contractor team as well as other members of the project team; i.e., additional personnel, subcontractors, branch offices, team members, and other resources anticipated to be utilized for this project; staff's professional titles, licenses, certifications, and accomplishments; qualifications and years of experience and number of years prime and subcontractors worked together. Name specific projects, **successfully completed within the past twenty (20) years**, which involved Construction Manager at Risk Services where the team members have performed similar projects previously.

Qualifications of Other Key Personnel. Identify the key personnel who will have primary responsibility for the following areas of service if the firm is selected. For each individual identified, provide name, office address, title, current employer, brief resume indicating the individual's experience (including the number of years of experience) in the area of responsibility below, and showing project related experience in Active fully operational general assembly facility (university campus facility, airport, convention center, arena, stadium, or hotel) that involved Construction Manager at Risk Services for at least three (3) projects.

- a. Construction
- b. Engineering
- c. Value Engineering
- d. Design Review (Constructability, Maintainability)
- e. Cost Estimating
- f. Quality Assurance/Quality Control
- g. Construction Administration
- h. Construction Schedule
- i. Project Safety
- j. Operations Planning and Assistance

Specifically identify the construction management plan. The construction plan shall describe, at a minimum, the Proposer's basic approach to the engineering and construction of the project, to include reporting hierarchy of staff and subcontractors, clarify the individual(s) responsible for the coordination of the separate components of the scope of work, and describe the Quality Assurance/Quality Control plan.

Provide an organizational chart for the team to provide the required construction and engineering services and label "Form F-11"; the organizational chart will be in addition to the ten (10) page maximum. Identify staff on organizational chart by Prime Contractor and Sub-contractor firm affiliation.

If submitting a diploma as back up for validation of any Bachelor Degreed Construction Manager, a copy of the General Contractor's License, and/or a CCM, PMP, PgMP, or PfMP Certificate, please label "Form F-12", the backup will be in addition to the ten (10) page maximum.

PROJECT SCOPE, APPROACH AND UNDERSTANDING

Using a maximum of five (5) pages, 8½" x 11", labeled "Form H-1" through "Form H-5", delineates your firm's understanding of the project scope and approach(es) to successful completion, specialized skills available, special considerations and possible difficulties in completing the project as specified. Describe alternate approaches to the project, if applicable. In addition, briefly describe your approach to each of the bullets below, a through e:

- a. **Business Outreach:** How do you intend to maximize participation from the business community in this contract?
- b. **Construction Requirements:** One of the critical components from the user's perspective is to maintain operations and provide an Outstanding Customer Experience? What type of processes will you follow to insure this happens?
- c. **Quality Assurance/Quality Control:** How do you provide QA/QC for Construction? Describe the review process, individuals involved, peer review?
- d. **Partnering with Team Members:** Have you worked with an Architect on prior projects that were design assist projects? What processes helped you work cooperatively with the A/E Design Team?
- e. **On Time and Within Budget:** How will your firm ensure project(s) is completed on time and how will your firm ensure that the project(s) are designed and constructed within budget?

Title the first page "Project Scope, Approach and Understanding" and label each page as described above.

CONFLICT/NON-CONFLICT OF INTEREST STATEMENT

CHECK ONE

[] To the best of our knowledge, the undersigned firm has no potential conflict of interest due to any other clients, contracts, or property interest for this project.

OR

[] The undersigned firm, by attachment to this form, submits information which may be a potential conflict of interest due to other clients, contracts, or property interest for this project.

LITIGATION STATEMENT

CHECK ONE

[] The undersigned firm has had no litigation and/or judgments entered against it by any local, state or federal entity and has had no litigation and/or judgments entered against such entities during the past ten (10) years.

[] The undersigned firm, **BY ATTACHMENT TO THIS FORM**, submits a summary and disposition of individual cases of litigation and/or judgments entered by or against any local, state or federal entity, by any state or federal court, during the past twenty (20) years.

COMPANY NAME

AUTHORIZED SIGNATURE

NAME (PRINT OR TYPE)

TITLE

Failure to check the appropriate blocks above may result in disqualification of your proposal. Likewise, failure to provide documentation of a possible conflict of interest, or a summary of past litigation and/or judgments, may result in disqualification of your proposal.

EQUAL OPPORTUNITY WORKFORCE SCHEDULE

See: Sec. 17-322 (Establishment of goals; employment), Orange County Code of Ordinances

Directions: Review the definition of “minority” in Sec. 17-319 (Definitions), Orange County Code of Ordinances, and record the demographics of your workforce by inserting the number of applicable employees in each box below. The County will only consider your total workforce (“TWF”) that falls within the “employee types” designated by an asterisk (*) when evaluating this Bid/Proposal Response. For data collecting purposes, record any applicable employees located in the Orlando Metropolitan Statistical Area (“OMSA”) of Lake, Orange, Osceola, and Seminole counties. Each Joint Venture, Partnership or Team must fill out a separate schedule.

WORKFORCE		African American		Asian American		Hispanic American		Native American		Caucasian/Other		TOTAL	
		TWF	OMSA	TWF	OMSA	TWF	OMSA	TWF	OMSA	TWF	OMSA	TWF	OMSA
Employee Types (MALE)	Officials, Managers, and Supervisors*												
	Professionals*												
	Technicians*												
	Sales Workers												
	Office and Clerical												
	Craftsman (Skilled)												
	Operatives (Semi-Skilled)												
	Laborers (Unskilled)												
	Service Workers												
	Apprentice*												
	Interns/Co-Ops*												
Displaced Workers													
MALE SUBTOTAL													
Employee Types (FEMALE)	Officials, Managers, and Supervisors*												
	Professionals*												
	Technicians*												
	Sales Workers												
	Office and Clerical												
	Craftsman (Skilled)												
	Operatives (Semi-Skilled)												
	Laborers (Unskilled)												
	Service Workers												
	Apprentice*												
	Interns/Co-Ops*												
Displaced Workers													
FEMALE SUBTOTAL													
TOTAL													

Form Completed by (Print): _____

Signature: _____

Form Approved by (Print): _____

Signature: _____

**INFORMATION FOR DETERMINING JOINT VENTURE, PARTNERSHIP OR
TEAMING ELIGIBILITY**

Proposers **must include a minimum 24% M/WBE inclusion at the management level. This can be achieved by the proposer having 24% M/WBE Joint Venture, Partnership or Teaming agreement.**

The proposer must submit Form K along with an executed Joint Venture, Partnership or Teaming agreement with their proposal. If the proposer is submitting as a joint venture, please be advised that this form [3 pages] **MUST** be completed and the **REQUESTED** executed joint venture agreement **MUST** be attached and submitted with this form.

1. Name of joint venture, partnership or team: _____
2. Address of joint venture, partnership or team: _____
3. Phone number of joint venture, partnership or team:

4. Identify the firms which comprise the joint venture, partnership or team: _____

5. Describe the role of the MBE firm (if applicable) in the joint venture, partnership or team:

6. Provide a copy of the joint venture, partnership or teaming executed contractual agreement.
7. What is the claimed percentage of ownership and identify any MWBE firms (if applicable)? _____

8. Ownership of joint venture, partnership or teaming: (This need not be filled in if described in the joint venture, partnership or teaming agreement provided by question 6.)
 - (a) Profit and loss sharing: _____
 - (b) Capital contributions, including equipment: _____
 - (c) Other applicable ownership interests: _____
9. Control of and participation in this contract. Identify by name, race, sex, and "firm" those individuals (and their titles) who are responsible for day-to-day management and policy decision making, including, but not limited to, those with prime responsibility for:

(A.) Financial decisions: _____

a. Management decisions, such as:

(1) Estimating: _____

(2) Marketing and sales: _____

(3) Hiring and firing of management personnel: _____

(4) Purchasing of major items or supplies: _____

(5) Supervision of field operations: _____

NOTE: If, after filing this form and before the completion of the joint venture, partnership or team work on the subject contract, there is any significant change in the information submitted, the proposer must inform the County in writing.

*** Joint venture must be properly registered with the Florida Division of Corporations before the contract award and the name of the Joint Venture must be the same name used in the RFP proposal.**

AFFIDAVIT

"The undersigned swear or affirm that the foregoing statements are correct and include all material information necessary to identify and explain the terms and operation of our joint venture, partnership or teaming and the intended participation by each joint venture, partner or team in the undertaking. Further, the undersigned covenant and agree to provide to the County current, complete and accurate information regarding actual joint venture, partnership or teaming work and the payment therefore and any proposed changes in any of the joint venture, partnership or teaming. Also, permit authorized representatives of the County to audit and examine records of the joint venture, partnership or teaming. Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under Federal or State laws concerning false statements."

Name of Firm: _____

Name of Firm: _____

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

State of _____

County of _____

AFFIDAVIT

On this _____ day of _____, 20____, before me appeared (name) _____, to me personally known, who being duly sworn, did execute the foregoing affidavit, and did state that he or she was properly authorized by (name of firm) _____ to execute the affidavit and did so as his or her free act and deed.

Notary Public _____

Commission Expires _____

(Seal)

Date _____

State of _____

County of _____

On this _____ day of _____, 20____, before me appeared _____ (name), to me personally known, who being duly sworn, did execute the foregoing affidavit, and did state that he or she was properly authorized by (name of firm) _____ to execute the affidavit and did so as his or her free act and deed.

Notary Public _____

Commission Expires _____

(Seal)

DRUG-FREE WORKPLACE FORM

The undersigned vendor, in accordance with Florida Statute 287.087, hereby certifies that _____ does:

Name of Proposer

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, employee assistance programs and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in Paragraph 1.
4. In the statement specified in Paragraph 1, notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any convictions of, or plea of guilty or nolo contendere to, any violation of Chapter 1893 or of any controlled substance law of the United States or any state, for any violation occurring in the workplace, no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in, a drug abuse assistance or rehabilitation program, if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free work-place through implementation of Paragraphs 1 through 5.

As the person authorized to sign this statement, I certify that this firm complies fully with the above requirements.

Proposer's Signature: _____

Date: _____

**LETTER OF INTENT
(VERIFICATION OF M/WBE UTILIZATION)**

INSTRUCTIONS Proposers shall place the following on their letterhead, executed by their authorized agent. Signed Letters of Intent must be submitted with the Proposal for each M/WBE Subcontractor(s) listed by the Proposer on Form B, Project Team. If percentages or dollar values listed on this agreement differ from percentages or dollar values listed on Form B and C of the proposal, the values listed on this Letter of Intent will supersede for RFP scoring/evaluation.

The subcontract will reflect a 72 hour prompt payment clause.

Failure to complete and submit these forms may result in finding of the submittals non-responsive.

M/WBE Subcontractor

Certified Scope(s) of Work

Subcontract Percentage/Amount (**ONLY USED TOWARDS M/WBE UTILIZATION**)

I understand that I shall not be allowed to substitute or change subcontractors without prior written approval of the Business Development Division. Such approval shall in no way relieve my obligations pursuant to Orange County's M/WBE requirements and goals contained in the Orange County Minority/Women Business Enterprise Ordinance, No. 94-02/2009-21, as modified.

Under penalty of perjury, I declare that I have read the foregoing and the facts stated in it are true. False statements may result in criminal prosecution for a felony of the third degree as provided for in Section 92.525(3), Florida Statutes.

I, _____, (M/WBE Sub-Consultant) understand that "It is my responsibility to submit the required monthly M/WBE utilization reports to the Prime and Final M/WBE payment verification form to Business Development Division."

Failure to submit the required documents could negatively impact my M/WBE certification.

Authorized Agent of Prime Consultant

Date

Printed Name & Title

Authorized Agent of M/WBE Subcontractor

Date

Printed Name & Title

M/WBE Address_____

Phone Number/Fax Number

LETTER OF INTENT
(VERIFICATION OF REGISTERED SERVICE-DISABLED VETERAN UTILIZATION)

INSTRUCTIONS Proposers shall place the following on their letterhead, executed by their authorized agent. Signed Letter must be submitted with the Proposal for each Registered Service-Disabled Veteran Sub-contractor(s) listed by the Proposer of Form B, Project Team. If percentages or dollar values listed on this agreement differ from percentages or dollar values listed on Form B and C of the proposal, the values listed on this Letter of Intent will supersede for RFP scoring/evaluation.

The subcontract will reflect a 72 hour prompt payment cause.

Failure to complete and submit these forms may result in finding of the submittals non-responsive.

SDV Sub-contractor

Registered Scope(s) of Work

Subcontract Percentage/Amount (**ONLY USED TOWARDS BONUS POINTS**)

I understand that I shall not be allowed to substitute or change Subconsultants, without the express prior approval of the Business Development Division. Such approval shall in no way relieve my obligations pursuant to Orange County's Service-Disable Veteran Business Program requirements contained in the Orange County Ordinance, Orange County Code, Chapter 17, Article III, Division 5.

Under penalty of perjury, I declare that I have read the foregoing and the facts stated in it are true. False statements may result in criminal prosecution for a felony of the third degree as provided for in Section 92.525(3), Florida Statutes.

Authorized Agent of Prime Consultant

Date

Printed Name & Title

Authorized Agent of SDV Sub-contractor

Date

Printed Name & Title

SDV Address

Phone Number

Fax Number

For Staff Use Only:

Initially submitted on _____

Updated On _____

Specific Project Expenditure Report (Revised November 5, 2010)

For use as of March 1, 2011

**CONSTRUCTION MANAGER AT RISK FOR THE ORANGE COUNTY
CONVENTION CENTER PHASE V MULTI-PURPOSE VENUE AND GRAND CONCOURSE
IMPROVEMENTS**

Case or Bid No. **Y19-815 -JS**

ORANGE COUNTY SPECIFIC PROJECT EXPENDITURE REPORT

This lobbying expenditure form shall be completed in full and filed with all application submittals. This form shall remain cumulative and shall be filed with the department processing your application. Forms signed by a principal's authorized agent shall include an executed Agent Authorization Form.

This is the initial Form: _____

This is a Subsequent Form: _____

Part I

Please complete all of the following:

Name and Address of Principal (legal name of entity or owner per Orange County tax rolls): _____

Name and Address of Principal's Authorized Agent, if applicable: _____

List the name and address of all lobbyists, contractors, subcontractors, individuals or business entities who will assist with obtaining approval for this project. (Additional forms may be used as necessary.)

1. Name and address of individual or business entity: _____
Are they registered Lobbyist? Yes ___ or No ___

2. Name and address of individual or business entity: _____
Are they registered Lobbyist? Yes ___ or No ___

3. Name and address of individual or business entity: _____
Are they registered Lobbyist? Yes ___ or No ___

4. Name and address of individual or business entity: _____
Are they registered Lobbyist? Yes ___ or No ___

5. Name and address of individual or business entity: _____
Are they registered Lobbyist? Yes ___ or No ___

6. Name and address of individual or business entity: _____
Are they registered Lobbyist? Yes ___ or No ___

7. Name and address of individual or business entity: _____
Are they registered Lobbyist? Yes ___ or No ___

8. Name and address of individual or business entity: _____
Are they registered Lobbyist? Yes ___ or No ___

For Staff Use Only:
Initially submitted on _____
Updated On _____

Specific Project Expenditure Report (Revised November 5, 2010)
For use as of March 1, 2011

**CONSTRUCTION MANAGER AT RISK FOR THE ORANGE COUNTY
CONVENTION CENTER PHASE V MULTI-PURPOSE VENUE AND GRAND CONCOURSE
IMPROVEMENTS**

Case or Bid No. **Y19-815 -JS**

Company Name: _____

**Part II
Expenditures:**

For this report, an "expenditure" means money or anything of value given by the principal and/or his/her lobbyist for the purpose of lobbying, as defined in section 2-351, Orange County Code. This may include public relations expenditures including, but not limited to, petitions, fliers, purchase of media time, cost of print and distribution of publications. However, the term "expenditure" **does not** include:

- Contributions or expenditures reported pursuant to chapter 106, Florida Statutes;
- Federal election law, campaign-related personal services provided without compensation by individuals volunteering their time;
- Any other contribution or expenditure made by or to a political party;
- Any other contribution or expenditure made by an organization that is exempt from taxation under 26 U.S.C. s. 527 or s. 501(c)(4), in accordance with s.112.3215, Florida Statutes; and/or
- Professional fees paid to registered lobbyists associated with the project or item.

The following is a complete list of all lobbying expenditures and activities (including those of lobbyists, contractors, contractors, etc.) incurred by the principal or his/her authorized agent and expended in connection with the above-referenced project or issue. **You need not include de minimus costs (under \$50) for producing or reproducing graphics, aerial photographs, photocopies, surveys, studies or other documents related to this project.**

Date of Expenditure	Name of Party Incurring Expenditure	Description of Activity	Amount Paid
TOTAL EXPENDED THIS REPORT			\$

Specific Project Expenditure Report (Revised November 5, 2010)
For use as of March 1, 2011

For Staff Use Only:
Initially submitted on _____
Updated On _____

**CONSTRUCTION MANAGER AT RISK FOR THE ORANGE COUNTY
CONVENTION CENTER PHASE V MULTI-PURPOSE VENUE AND GRAND CONCOURSE
IMPROVEMENTS**

Case or Bid No. **Y19-815 -JS**

Company Name: _____

**Part III
ORIGINAL SIGNATURE AND NOTARIZATION REQUIRED**

I hereby certify that information provided in this specific project expenditure report is true and correct based on my knowledge and belief. I acknowledge and agree to comply with the requirement of section 2-354, of the Orange County code, to amend this specific project expenditure report for any additional expenditure(s) incurred relating to this project prior to the scheduled Board of County Commissioner meeting. I further acknowledge and agree that failure to comply with these requirements to file the specific expenditure report and all associated amendments may result in the delay of approval by the Board of County Commissioners for my project or item, any associated costs for which I shall be held responsible. In accordance with s. 837.06, Florida Statutes, I understand and acknowledge that whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor in the second degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

Date: _____

Signature of Principal or Principal's Authorized Agent
(*check appropriate box*)

PRINT NAME AND TITLE: _____

STATE OF _____ :

COUNTY OF _____ :

I certify that the foregoing instrument was acknowledged before me this ____ day of _____, 20__ by _____ . He/she is personally known to me or has produced _____ as identification and did/did not take an oath.

Witness my hand and official seal in the county and state stated above on the ____ day of _____, in the year _____.

(Notary Seal)

Signature of Notary Public
Notary Public for the State of _____
My Commission Expires: _____

Staff signature and date of receipt of form _____

Staff reviews as to form and does not attest to the accuracy or veracity of the information provided herein.

FREQUENTLY ASKED QUESTIONS (FAQ) ABOUT THE SPECIFIC PROJECT
EXPENDITURE REPORT

Updated 3-1-11

WHAT IS A SPECIFIC PROJECT EXPENDITURE REPORT (SPR)?

A Specific Project Expenditure Report (SPR) is a report required under Section 2-354(b) of the Orange County Lobbying Ordinance, codified at Article X of Chapter 2 of the Orange County Code, reflecting all lobbying expenditures incurred by a principal and his/her authorized agent(s) and the principal's lobbyist(s), contractor(s), subcontractor(s), and consultant(s), if applicable, for certain projects or issues that will ultimately be decided by the Board of County Commissioners (BCC).

Matters specifically exempt from the SPR requirement are ministerial items, resolutions, agreements in settlement of litigation matters in which the County is a party, ordinances initiated by County staff, and some procurement items, as more fully described in 2.20 of the Administrative Regulations.

Professional fees paid by the principal to his/her lobbyist for the purpose of lobbying need not be disclosed on this form. (See Section 2-354(b), Orange County Code.)

WHO NEEDS TO FILE THE SPR?

The principal or his/her authorized agent needs to complete and sign the SPR and warrant that the information provided on the SPR is true and correct.

A principal that is a governmental entity does not need to file an SPR.

HOW ARE THE KEY RELEVANT TERMS DEFINED?

Expenditure means "a payment, distribution, loan, advance, reimbursement, deposit, or anything of value made by a lobbyist or principal for the purpose of lobbying. This may include public relations expenditures (including but not limited to petitions, flyers, purchase of media time, cost of print and distribution of publications) but does not include contributions or expenditures reported pursuant to Chapter 106, Florida Statutes, or federal election law, campaign-related personal services provided without compensation by individuals volunteering their time, any other contribution or expenditure made by or to a political party, or any other contribution or expenditure made by an organization that is exempt from taxation under 26 U.S.C. s. 527 or s. 501(c)(4)." (See Section 112.3215, Florida Statutes.) Professional fees paid by the principal to his/her lobbyist for the purpose of lobbying are not deemed to be "expenditures." (See Section 2-354, Orange County Code.)

Lobbying means seeking "to encourage the approval, disapproval, adoption, repeal, rescission, passage, defeat or modification of any ordinance, resolution, agreement, development permit, other type of permit, franchise, vendor, consultant, contractor, recommendation, decision or other foreseeable action of the [BCC]," and "include[s] all communications, regardless of whether initiated by the lobbyist or by the person being lobbied, and regardless of whether oral, written or electronic." (See Section 2-351, Orange County Code.) Furthermore, *lobbying* means communicating "directly with the

County Mayor, with any other member of the [BCC], or with any member of a procurement committee." (See Section 2-351, Orange County Code.) *Lobbying* also means communicating "indirectly with the County Mayor or any other member of the [BCC]" by communicating with any staff member of the Mayor or any member of the BCC, the county administrator, any deputy or assistant county administrator, the county attorney, any county department director, or any county division manager. (See Section 2-351, Orange County Code.) *Lobbying* does not include the act of appearing before a Sunshine Committee, such as the Development Review Committee or the Roadway Agreement Committee other than the BCC.

Principal means “the person, partnership, joint venture, trust, association, corporation, governmental entity or other entity which has contracted for, employed, retained, or otherwise engaged the services of a lobbyist.” *Principal* may also include a person, partnership, joint venture, trust, association, corporation, limited liability corporation, or other entity where it or its employees do not qualify as a lobbyist under the definition set forth in Section 2-351 of the Orange County Code but do perform lobbying activities on behalf of a business in which it has a personal interest.

DOES THE SPR NEED TO BE UPDATED IF INFORMATION CHANGES?

Yes. It remains a continuing obligation of the principal or his/her authorized agent to update the SPR whenever any of the information provided on the initial form changes.

WHERE DO THE SPR AND ANY UPDATES NEED TO BE FILED?

The SPR needs to be filed with the County Department or County Division processing the application or matter. If and when an additional expenditure is incurred subsequent to the initial filing of the SPR, an amended SPR needs to be filed with the County Department or County Division where the original application, including the initial SPR, was filed.

WHEN DO THE SPR AND ANY UPDATES NEED TO BE FILED?

In most cases, the initial SPR needs to be filed with the other application forms. The SPR and any update must be filed with the appropriate County Department or County Division not less than seven (7) days prior to the BCC hearing date so that they may be incorporated into the BCC agenda packet. (See Section 2-354(b), Orange County Code.) When the matter is a discussion agenda item or is the subject of a public hearing, and any additional expenditure occurs less than 7 days prior to BCC meeting date or updated information is not included in the BCC agenda packet, the principal or his/her authorized agent is obligated to verbally present the updated information to the BCC when the agenda item is heard or the public hearing is held. When the matter is a consent agenda item and an update has not been made at least 7 days prior to the BCC meeting or the update is not included in the BCC agenda packet, the item will be pulled from the consent agenda to be considered at a future meeting.

WHO WILL BE MADE AWARE OF THE INFORMATION DISCLOSED ON THE SPR AND ANY UPDATES?

The information disclosed on the SPR and any updates will be a public record as defined by Chapter 119, Florida Statutes, and therefore may be inspected by any interested person. Also, the information will be made available to the Mayor and the BCC members. This information will accompany the other information for the principal’s project or item.

CONCLUSION:

We hope you find this FAQ useful to your understanding of the SPR. Please be informed that in the event of a conflict or inconsistency between this FAQ and the requirements of the applicable ordinance governing specific project expenditure reports, the ordinance controls.

Also, please be informed that the County Attorney’s Office is not permitted to render legal advice to a principal, his/her authorized agent, or any other outside party. Accordingly, if after reading this FAQ the principal, his/her authorized agent or an outside party has any questions, he/she is encouraged to contact his/her own legal counsel.

For Staff Use Only:

Date Submitted _____

Date Updated _____

Bid Number **Y19-815 -JS**

RELATIONSHIP DISCLOSURE FORM
FOR USE WITH PROCUREMENT ITEMS, EXCEPT THOSE WHERE THE COUNTY
IS THE PRINCIPAL OR PRIMARY APPLICANT

For procurement items that will come before the Board of County Commissioners for final approval, this form shall be completed by the bidder, offerer, quoter or respondent and shall be submitted to the Procurement Division by the bidder, offerer, quoter or respondent.

In the event any information provided on this form should change, the applicant must file an amended form on or before the date the item is considered by the appropriate board or body.

Part I

INFORMATION ON APPLICANT (BIDDER, OFFEROR, QUOTER, PROPOSER, OR RESPONDENT):

Legal Name of Applicant: _____

Business Address (Street/P.O. Box, City and Zip Code): _____

Business Phone () _____

Facsimile () _____

**INFORMATION ON APPLICANT'S AUTHORIZED AGENT, IF APPLICABLE:
(Agent Authorization Form also required to be attached)**

Name of Applicant's Authorized Agent:

Business Address (Street/P.O. Box, City and Zip Code): _____

Business Phone () _____

Facsimile () _____

OC CE FORM 2P

FOR PROCUREMENT-RELATED ITEMS (November 5, 2010)

For use after March 1, 2011

For Staff Use Only:

Date Submitted _____

Date Updated _____

Bid Number **Y19-815 -JS**

Company Name: _____

Part II

IS THE APPLICANT A RELATIVE OF THE MAYOR OR ANY MEMBER OF THE BCC?

___ YES ___ NO

IS THE MAYOR OR ANY MEMBER OF THE BCC THE APPLICANT'S EMPLOYEE?

___ YES ___ NO

IS THE APPLICANT OR ANY PERSON WITH A DIRECT BENEFICIAL INTEREST IN THE OUTCOME OF THIS MATTER A BUSINESS ASSOCIATE OF THE MAYOR OR ANY MEMBER OF THE BCC?

___ YES ___ NO

If you responded "YES" to any of the above questions, please state with whom and explain the relationship:

(Use additional sheets of paper if necessary)

For Staff Use Only:

Date Submitted _____

Date Updated _____

Bid Number **Y19-815 -JS**

Company Name: _____

Part III

ORIGINAL SIGNATURE AND NOTARIZATION REQUIRED

I hereby certify that information provided in this relationship disclosure form is true and correct based on my knowledge and belief. If any of this information changes, I further acknowledge and agree to amend this relationship disclosure form prior to any meeting at which the above-referenced project is scheduled to be heard. In accordance with s. 837.06, Florida Statutes, I understand and acknowledge that whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor in the second degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

Signature of Applicant

Date: _____

Print Name and Title of Person completing this form: _____

STATE OF _____ :

COUNTY OF _____ :

I certify that the foregoing instrument was acknowledged before me this ____ day of _____, 20__ by _____. He/she is personally known to me or has produced _____ as identification and did/did not take an oath.

Witness my hand and official seal in the county and state stated above on the ____ day of _____, in the year _____.

(Notary Seal)

Signature of Notary Public
Notary Public for the State of _____
My Commission Expires:

Staff signature and date of receipt of form

Staff reviews as to form and does not attest to the accuracy or veracity of the information provided herein.

**AGENT AUTHORIZATION FORM
FOR PROCUREMENTS IN ORANGE COUNTY, FLORIDA**



I/WE, (PRINT PROPOSER NAME) _____, DO
HEREBY AUTHORIZE TO ACT AS MY/OUR AGENT (PRINT AGENT'S NAME),
_____, TO EXECUTE ANY PETITIONS OR OTHER DOCUMENTS
NECESSARY TO AFFECT THE **CONTRACT APPROVAL PROCESS** MORE SPECIFICALLY DESCRIBED AS
FOLLOWS, RFP NO. Y19-815-JS, **CONSTRUCTION MANAGER AT RISK SERVICES FOR THE
ORANGE COUNTY CONVENTION CENTER PHASE V MULTI-PURPOSE VENUE AND GRAND
CONCOURSE IMPROVEMENTS**, AND TO APPEAR ON MY/OUR BEHALF BEFORE ANY ADMINISTRATIVE OR
LEGISLATIVE BODY IN THE COUNTY CONSIDERING THIS **CONTRACT** AND TO ACT IN ALL RESPECTS AS OUR
AGENT IN MATTERS PERTAINING TO THIS CONTRACT.

Date: _____
Signature of Proposer

STATE OF _____ :
COUNTY OF _____ :

I certify that the foregoing instrument was acknowledged before me this ____ day of _____, 20__ by _____. He/she is personally known to me or has produced _____ as identification and did/did not take an oath.

Witness my hand and official seal in the county and state stated above on the ____ day of _____, in the year _____.

(Notary Seal) _____
Signature of Notary Public
Notary Public for the State of _____
My Commission Expires: _____

FREQUENTLY ASKED QUESTIONS (FAQ)
ABOUT THE
RELATIONSHIP DISCLOSURE FORM
Updated 6-28-11

WHAT IS THE RELATIONSHIP DISCLOSURE FORM?

The Relationship Disclosure Form (form OC CE 2D and form OC CE 2P) is a form created pursuant to the County's Local Code of Ethics, codified at Article XIII of Chapter 2 of the Orange County Code, to ensure that all development-related items and procurement items presented to or filed with the County include information as to the relationship, if any, between the applicant and the County Mayor or any member of the Board of County Commissioners (BCC). The form will be a part of the backup information for the applicant's item.

WHY ARE THERE TWO RELATIONSHIP DISCLOSURE FORMS?

Form OC CE 2D is used only for development-related items, and form OC CE 2P is used only for procurement-related items. The applicant needs to complete and file the form that is applicable to his/her case.

WHO NEEDS TO FILE THE RELATIONSHIP DISCLOSURE FORM?

Form OC CE 2D should be completed and filed by the owner of record, contract purchaser, or authorized agent. Form OC CE 2P should be completed and filed by the bidder, offeror, quoter, or respondent, and, if applicable, their authorized agent. In all cases, the person completing the form must sign the form and warrant that the information provided on the form is true and correct.

WHAT INFORMATION NEEDS TO BE DISCLOSED ON THE RELATIONSHIP DISCLOSURE FORM?

The relationship disclosure form needs to disclose pertinent background information about the applicant and the relationship, if any, between, on the one hand, the applicant and, if applicable, any person involved with the item, and on the other hand, the Mayor or any member of the BCC.

In particular, the applicant needs to disclose whether any of the following relationships exist: (1) the applicant is a business associate of the Mayor or any member of the BCC; (2) any person involved with the approval of the item has a beneficial interest in the outcome of the matter *and* is a business associate of the Mayor or any member of the BCC; (3) the applicant is a relative of the Mayor or any member of the BCC; or (4) the Mayor or any member of the BCC is an employee of the applicant. (See Section 2-454, Orange County Code.)

HOW ARE THE KEY RELEVANT TERMS DEFINED?

Applicant means, for purposes of a development-related project, the owner, and, if applicable, the contract purchaser or owner's authorized agent. *Applicant* means, for purposes of a procurement item, the bidder, offeror, quoter, respondent, and, if applicable, the authorized agent of the bidder, offeror, quoter, or respondent.

Business associate means any person or entity engaged in or carrying on a business enterprise with a public officer, public employee, or candidate as a partner, joint venture, corporate shareholder where the shares of such corporation are not listed on any national or regional stock exchange, or co-owner of property. In addition, the term includes any person or entity engaged in or carrying on a business enterprise, or otherwise engaging in common investment, with a public officer, public employee, or candidate as a partner, member, shareholder, owner, co-owner, joint venture partner, or other investor, whether directly or indirectly, whether through a Business Entity or through interlocking Parent Entities, Subsidiary Entities, or other business or investment scheme, structure, or venture of any nature. (See Section 112.312(4), Florida Statutes, and Section 2-452(b), Orange County Code.)

FORM O
FAQS

Employee means any person who receives remuneration from an employer for the performance of any work or service while engaged in any employment under any appointment or contract for hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and includes, but is not limited to, aliens and minors. (See Section 440.02(15), Florida Statutes.)

Relative means an individual who is related to a public officer or employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, person who is engaged to be married to the public officer or employee or who otherwise holds himself or herself out as or is generally known as the person whom the public officer or employee intends to marry or with whom the public officer or employee intends to form a household, or any other natural person having the same legal residence as the public officer or employee. (See Section 112.312(21), Florida Statutes.)

DOES THE RELATIONSHIP DISCLOSURE FORM NEED TO BE UPDATED IF INFORMATION CHANGES?

Yes. It remains a continuing obligation of the applicant to update this form whenever any of the information provided on the initial form changes.

WHERE DO THE RELATIONSHIP DISCLOSURE FORM AND ANY SUBSEQUENT UPDATES NEED TO BE FILED?

For a development-related item, the Relationship Disclosure Form and any update need to be filed with the County Department or County Division where the applicant filed the application. For a procurement item, the Relationship Disclosure Form and any update need to be filed with the Procurement Division.

WHEN DO THE RELATIONSHIP DISCLOSURE FORM AND ANY UPDATES NEED TO BE FILED?

In most cases, the initial form needs to be filed when the applicant files the initial development-related project application or initial procurement-related forms. However, with respect to a procurement item, a response to a bid will not be deemed unresponsive if this form is not included in the initial packet submitted to the Procurement Division.

If changes are made after the initial filing, the final, cumulative Relationship Disclosure Form needs to be filed with the appropriate County Department or County Division processing the application not less than seven (7) days prior to the scheduled BCC agenda date so that it may be incorporated into the BCC agenda packet. When the matter is a discussion agenda item or is the subject of a public hearing, and an update has not been made at least 7 days prior to BCC meeting date or is not included in the BCC agenda packet, the applicant is obligated to verbally present such update to the BCC when the agenda item is heard or the public hearing is held. When the matter is a consent agenda item and an update has not been made at least 7 days prior to the BCC meeting or the update is not included in the BCC agenda packet, the item will be pulled from the consent agenda to be considered at a future meeting.

WHO WILL REVIEW THE INFORMATION DISCLOSED ON THE RELATIONSHIP DISCLOSURE FORM AND ANY UPDATES?

The information disclosed on this form and any updates will be a public record as defined by Chapter 119, Florida Statutes, and may therefore be inspected by any interested person. Also, the information will be made available to the Mayor and the BCC members. This form and any updates will accompany the information for the applicant's project or item.

However, for development-related items, if an applicant discloses the existence of one or more of the relationships described above and the matter would normally receive final consideration by the Concurrency Review Committee or the Development Review Committee, the matter will be directed to the BCC for final consideration and action following committee review.

CONCLUSION:

We hope you find this FAQ useful to your understanding of the Relationship Disclosure Form. Please be informed that if the event of a conflict or inconsistency between this FAQ and the requirements of the applicable ordinance or law governing relationship disclosures, the ordinance or law controls.

Also, please be informed that the County Attorney's Office is not permitted to render legal advice to an applicant or any other outside party. Accordingly, if the applicant or an outside party has any questions after reading this FAQ, he/she is encouraged to contact his/her own legal counsel.

E VERIFICATION CERTIFICATION

Contract Y19-815-JS

NAME OF CONSULTANT: _____ (referred to herein as "Consultant")

ADDRESS OF CONTRACTOR: _____

The undersigned does hereby certify that the above named contractor:

1. Is registered and is using the E-Verify system; or
2. Does not have any employees and does not intend to hire any new employees during the period of time that the contractor will be providing services under the contract and consequently is unable to register to use the E-Verify system; or
3. Employs individuals that were hired prior to the commencement of providing labor on the contract and does not intend to hire any new employees during the period of time that the Consultant will be providing labor under the contract, and consequently is unable to use the E-Verify system.

The undersigned acknowledges the use of the E-Verify system for newly hired employees is an ongoing obligation for so long as the Consultant provides labor under the contract and that the workforce eligibility of all newly hired employees will be properly verified using the E-Verify system.

In accordance with Section 837.06, Florida Statutes, Consultant acknowledges that whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duties shall be guilty of a misdemeanor in the second degree, punishable as provided in Section 775.082 or Section 775.083, Florida Statutes.

AUTHORIZED SIGNATURE: _____

NAME: _____

TITLE: _____

DATE: _____

**DISLOCATED WORKERS
PROPOSED HIRING INFORMATION**

Section I: To be Submitted with Proposal

Firm: _____

Address: _____

Phone Number: _____

Email Address: _____

Number of Individuals to be Hired: _____

Signature of Authorized Representative of Above Firm: _____

Printed Name: _____

Section II: For CareerSource Central Florida Use Only (To be Completed After Contract Award)

Verification: I certify that the above individuals are dislocated workers

Individual Complete Name:

1. _____

2. _____

3. _____

4. _____

*5. _____

*6. _____

CareerSource Central Florida
390 North Orange Avenue, Suite 700
Orlando, FL 32805
407-531-1222

Signature: _____

Printed Name: _____

Date: _____

*CareerSource Participants who do not meet specific job qualifications

SAMPLE DO NOT USE

LEASED EMPLOYEE AFFIDAVIT CONTRACT #Y _____

I affirm that an employee leasing company provides my workers' compensation coverage. I further understand that my contract with the employee leasing company limits my workers' compensation coverage to enrolled worksite employees only. My leasing arrangement does not cover un-enrolled worksite employees, independent contractors/consultants, uninsured sub-contractors/consultants or casual labor exposure.

I hereby certify that 100% of my workers are covered as worksite employees with the employee leasing company. I certify that I do not hire any casual or uninsured labor outside the employee leasing arrangement. I agree to notify the County in the event that I have any workers not covered by the employee leasing workers' compensation policy. In the event that I have any workers not subject to the employee leasing arrangement, I agree to obtain a separate workers' compensation policy to cover these workers. I further agree to provide the County with a certificate of insurance providing proof of workers' compensation coverage prior to these workers entering any County jobsite.

I further agree to notify the County if my employee leasing arrangement terminates with the employee leasing company and I understand that I am required to furnish proof of replacement workers' compensation coverage prior to the termination of the employee leasing arrangement.

I certify that I have workers' compensation coverage for all of my workers through the employee leasing arrangement specified below:

Name of Employee Leasing Company: _____

Workers' Compensation Carrier: _____

A.M. Best Rating of Carrier: _____

Inception Date of Leasing Arrangement: _____

I further agree to notify the County in the event that I switch employee-leasing companies. I recognize that I have an obligation to supply an updated workers' compensation certificate to the County that documents the change of carrier.

Name of Contractor/Consultant: _____

Signature of Owner/Officer: _____

Title: _____ Date: _____

SAMPLE DO NOT USE

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY
CG 20 10 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):
Orange County Board of County Commissioners Procurement Division 400 E. South Street Orlando, FL 32801
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

<p>A. Section II – Who is An Insured is amended to include as an additional insured the person(s) or organizations(s) shown in the Schedule, but only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by:</p> <ol style="list-style-type: none">1. In performance of your ongoing operations; or2. In connection with your premises owned by or rented to you. However:<ol style="list-style-type: none">1. The insurance afforded to such additional insured only applies to the extent permitted by law; and2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.	<p>B. With respect to the insurance afforded to these additional insureds, the following is added to Section III-Limits of Insurance: If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:</p> <ol style="list-style-type: none">1. Required by the contract or agreement; or2. Available under the applicable Limits of Insurance shown in the Declarations; whichever is less. <p>This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.</p>
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SAMPLE DO NOT USE

POLICY NUMBER: _____

COMMERCIAL GENERAL LIABILITY
CG 24 04 0509

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies Insurance provided under the following:

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

SCHEDULE

Name of Person or Organization:
ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS PROCUREMENT DIVISION 400 E. SOUTH STREET ORLANDO, FL 32801
(Information required to complete this Schedule, if not shown above, will be shown in the Declarations.)

The following is added to Paragraph 8, Transfer of rights of Recovery Against Others To Us of Section IV – Conditions:

We waive any right to recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or “your work” done under a contract with that person or organization and included in the “Products-completed operations hazard”. This waiver applies only to the person or organization shown in the Schedule above.

SAMPLE DO NOT USE

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

Name of Person or Organization:

ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS
PROCUREMENT DIVISION
400 E. SOUTH STREET
ORLANDO, FL 32801

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement No.	Effective Policy No.	Endorsement
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Insured

Insurance Company
by _____

Countersigned

WC 00 03 13

PART F
GENERAL CONDITIONS

ARTICLE 1 - THE CONTRACT

The Contract Documents are identified in the Contract. Titles, Subtitles, Headings, Running Headlines, Table of Contents, and Indexes are printed in the Contract Documents merely for convenience.

ARTICLE 2 - DEFINITIONS

The words and expressions (or pronouns used in their stead) defined in this Article shall, wherever they appear in the Contract Documents, be construed as follows unless a different meaning is clear from the context.

"Addenda" shall mean any additional Contract provisions issued in writing by the County prior to receipt of Bid.

"Bid Proposal" shall mean the offer or proposal of the Proposer submitted on the Official Bid Form and Attachments setting forth the prices for the Work to be performed.

"Bidder" shall mean any person, firm or corporation submitting a Bid for the Work.

"Board of County Commissioners" shall mean the Board of County Commissioners, Orange County, Florida, or their duly authorized representative(s).

"Change Order" shall mean a written order to the Contractor, signed by the County, authorizing an addition, deletion or revision in the Work, or an adjustment in the Contract Amount or the Contract Time issued after execution of the Contract. An In Scope change order is for work not originated by the County. An Out of Scope change order is for work originated by the County

"Contract" shall mean the written agreement between the County and the Contractor covering the Work to be performed; the Contract will be attached to and made a part of the Contract Documents.

"Contractor" shall mean successful Proposer, whether a corporation, firm, individual or any combination thereof, and its (or their) successors, personal representatives, executors, administrators and assigns.

"Contract Amount" shall mean the total monies payable to the Contractor under the Contract Documents. The term "Contract Price" where used in the Contract Documents refers to the Contract Amount.

"Contract Float" shall mean the number of days that an activity or a sequence of activities does not necessarily have to start or end on the scheduled dates to maintain the schedule, or as a minimum, the number of days that an activity may be delayed from its early start date without delaying completion of the Work beyond the Contract Time for Substantial Completion or Final Acceptance.

"Contract Time" will mean the number of calendar days stated in the Agreement for the completion of the Work.

"County" shall mean the Board of County Commissioners, Orange County, Florida, or their duly authorized representative(s), for whom the Work is being performed.

"Day " shall mean one calendar day when used in the Contract Documents.

"Defective Work" shall mean (a) Work that is unsatisfactory, deficient or damaged, does not conform to the Contract Documents, or does not meet the requirements of any inspection, test or approval, or (b) Work associated with punch list items that the Contractor fails to complete within a reasonable time after issuance of the punch list by the Project Manager.

"Drawings" shall mean only those drawings specifically referred to as such in these documents or in any Addenda. Drawings issued after the execution of the Contract to explain further, to illustrate, or to show changes in the Work will be known as "Supplementary Drawings" and shall be binding upon the Contractor with the same force as the Drawings.

"Final Acceptance" shall mean acceptance of the Work by the County upon the expiration of the correction period required by the Contract Documents.

"Final Completion" shall mean acceptance of the Work by the County as evidenced by its signature upon Final Certificate of Completion and approval thereof by the Board of County Commissioners. The Final Certificate of Completion shall be signed only after the County has assured itself by tests, inspection or otherwise that all of the provisions of the Contract have been carried out to its satisfaction.

"Notice" shall mean written Notice. Notice shall be served upon the Contractor either personally or by leaving the said Notice at his residence or with his Agency in charge of the Work, or addressed to the Contractor at the residence or place of business given in the Bid and deposited in a postpaid wrapper in any post box regularly maintained by the United States Post Office.

"Notice of Award" shall mean the written notice of award of the Contract given by the County to the apparent successful Bidder.

"Notice to Proceed" shall mean the written notice given by the County to Contractor fixing the date the Contract Times will commence to run.

"Professional" shall mean the professional independent Architectural/Engineering firm designated to assist the County in the work by a prior agreement entered into by the County and the said firm. The terms "Engineer" and "Architect", where used in the Contract Documents, refer to the Professional.

"Project" shall mean the entire improvement of which this Contract forms a part.

"Project Manager" shall be the duly authorized representative of the County during the construction period.

"Record Schedule" shall mean the time table of predicted tasks, milestones, task durations, deadlines and the start and end dates of the Work indicated in a Progress Schedule accepted by the County and provided to the County prior to the first progress payment. County acceptance of a revised and/or updated Progress Schedule will result in a revised Record Schedule, if so noted in the County's written acceptance, that will be used to evaluate progress and delays occurring after the acceptance of the revised Record Schedule.

"Shop Drawings" shall mean all drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the Contractor, a Subcontractor, a manufacturer, supplier or distributor and which illustrate the equipment, material and/or some portion of the Work.

"Site" shall mean the area upon or in which the Contractor's operations are carried on and such other areas adjacent thereto as may be designated as such by the Project Manager.

"Specifications" shall mean parts of the Contract Documents identified as "Specifications" and organized into Divisions. The specifications include general requirements and technical descriptions of materials, equipment, construction systems, standards and workmanship. The term "Technical Provisions" where used in the Contract Documents refers to the Specifications.

"Subcontractor" shall mean any person, firm or corporation other than employees of the Contractor who or which contracts with the Contractor to furnish, or actually furnishes labor, materials and/or equipment for the Work.

"Substantial Completion" shall mean the completion of the Work by the Contractor to the point where the County may make beneficial use of the Work.

"Surety" shall mean any corporation that executes, as Surety, the Contractor's Bid Bond, Payment Bond and Performance Bonds securing the performance of this Contract.

"Work" shall mean any and all obligations, duties and responsibilities necessary to the successful completion of the construction assigned to or undertaken by the Contractor under the Contract Documents, including the furnishing of all labor, materials, equipment, and other incidentals.

ARTICLE 3 -ASSIGNMENT OF CONTRACT

The Contractor may not make any assignment of the contractual agreement between the parties, in whole or in part, without prior written authorization as may be given by the County, at its sole discretion.

No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without written consent of the party sought to be bound; and specifically but without limitation, monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

ARTICLE 4 - QUALIFICATIONS OF SUBCONTRACTORS AND SUPPLIERS

The Project Manager will notify the Contractor in writing if the Project Manager, after due investigation, has reasonable objection to any Subcontractor or Supplier. If the Project Manager has reasonable objection to any Subcontractor or Supplier, the Contractor shall submit another acceptable one to the County. No increase in Contract Amount or Contract Time will be allowed under this article, unless Contractor can prove substantial increase due to the change, in which case Contractor may request an equitable adjustment to the Contract Amount or Contract Time. If Contractor requests an equitable adjustment as a result of a requested change, the Contractor shall make available to the County all documents necessary, as requested by the County, to substantiate such adjustment.

The failure of the Project Manager to make objections to any Subcontractor or Supplier on the list shall not constitute a waiver of any right of the County to reject defective Work, material or equipment; or work, material or equipment not in conformance with the requirements of the Contract Documents. Should the Contractor desire to add, change or delete a Subcontractor or Supplier previously listed, the Contractor shall submit written justification for said change to the Project Manager for approval prior to the new Subcontractor or Supplier performing any Work on the Project.

ARTICLE 5 - STARTING THE WORK

The Contractor will start the Work within **fourteen (14)** calendar days of the official "Notice to Proceed" date. The Contract time shall commence on the effective date of the "Notice to Proceed."

Preconstruction Conference: Within 20 days after the effective date of the Contract, but before Contractor starts the Work at the site, a conference attended by Contractor, Project Manager, Professional and others as appropriate will be held to discuss such topics as may include, but not limited to; schedules, procedures for handling Shop Drawings and other submittals and for processing Applications for Payment, maintenance of traffic, initiation of coordination with affected utilities, agreement upon the Notice to Proceed date, and to establish a working understanding among the parties as to the Work.

ARTICLE 6 - INTERPRETATION AND INTENT OF THE CONTRACT DOCUMENTS

It is the intent of the Specifications and Drawings to describe the complete Work to be constructed in accordance with the Contract Documents. However, the County makes no representation or warranty of any nature whatsoever to the Contractor concerning such documents. The Contract Documents are complementary; what is called for by one is as binding as if called for by all. If the Contractor finds a conflict, error or discrepancy in the Contract Documents, he will call it to the Project Manager's attention in writing before proceeding with the Work affected thereby. Any work that may reasonably be inferred from the Specifications or Drawings as being required to produce the intended result shall be supplied whether or not it is specifically called for. Work, materials or equipment described in words which so applied have a well known technical or trade meaning shall be deemed to refer to such recognized standards. In case of conflict, the more stringent requirements shall take precedence and govern.

Written clarifications or interpretations (which shall be consistent with or reasonably inferable from the Contract Documents) will be issued in response to a Contractor Request for Interpretation (RFI) or as the Project Manager or Professional may otherwise determine necessary. If the Contractor believes a written clarification or interpretation justifies an increase in Contract Amount or Contract Time, the Contractor shall make a claim for such increase in accordance with Article 13 of the General Conditions. If the Contractor is authorized by the County to proceed with the Work involved before full agreement is reached on (a) whether any increases are due at all, or (b) the extent of any such increases (if any are determined to be due), the Contractor shall furnish daily to the Project Manager, or Professional, actual cost records.

ARTICLE 7 - REFERENCE POINTS

Availability of Lands: The County will furnish, as indicated in the Contract Documents and not later than the date when needed by the Contractor, the lands upon which the Work is to be done, rights-of-way for access thereto and such other lands which are designated for the use of the Contractor. Easements for permanent structures or permanent changes in existing facilities will be obtained by the County unless otherwise specified in the Contract Documents. If the Contractor believes that any delay in the County's furnishing these lands or easements entitles him to an extension of the Contract Time, he may make a claim therefore as provided in Article 13. The Contractor will provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment. The Project Manager will, upon request, furnish to the Contractor copies of all available boundary surveys and subsurface test.

Unforeseen Subsurface Conditions: The Contractor will promptly notify the Project Manager in writing of any subsurface or latent physical conditions at the site which may differ materially from those indicated in the Contract Documents. The Project Manager will promptly investigate those conditions and advise the Contractor in writing if further surveys or subsurface tests are necessary. Promptly thereafter, if needed, the Project Manager will obtain the necessary additional surveys and tests and furnish copies to the Contractor. If the Project Manager finds that the results of such surveys or tests indicate subsurface or latent physical conditions differing significantly from those indicated in the Contract Documents, a Change Order shall be issued incorporating the necessary revisions, in accordance with Article 12.

Reference Points: The Contractor shall be responsible for all field survey work coincidental with completion of this Work as specified herein. All survey work shall be done under the supervision of a Registered Professional Surveyor and Mapper. The County shall furnish, one time, a set of permanent reference markers along the line of work to form the basis for the above Contractor's survey.

All **Section Corners** and **Quarter Section** corners falling within the limits of this Work shall be perpetuated by a Florida Registered Surveyor and Mapper.

- A. All such corners falling within or on the boundaries of this project shall have reference ties made, certified to and submitted to the County Surveyor, Orange County, Florida, prior to the commencing of construction.
- B. Upon completion of construction and prior to Final Completion, certified corner records shall be submitted to the Department of Natural Resources in compliance with Florida Statutes, Chapter 177.507 and a copy of said certified corner record shall also be submitted to the Orange County Surveyor. Said corner records shall reflect the corner as perpetuated and which shall meet these minimum standards.
 1. If the corner falls in asphalt or concrete construction, the corner shall be a 2 1/4" metal disc marked according to standard government practices and set in concrete no less than 18" in depth and shall be encased in an adjustable 5 1/4" diameter or larger valve box raised to the finished surface of construction.
 2. If the corner falls at any other location, it shall be a 4" x 4" concrete monument no less than 23" long with a 2 1/4" metal disc marked according to standard government practices. The top of said monument shall be set flush with the ground ($\pm 0.5'$ depending on conditions).
- C. Any U.S.C. and G.S. monument within limits of construction are to be protected. If monuments are in danger of damage, the Contractor shall contact the Project Manager and the Orange County Surveyor prior to the commencing of construction.
- D. Payment for all necessary survey work shall be included in the bid as part of other items of work.

ARTICLE 8 – BONDS, INSURANCE AND INDEMNIFICATION

Insurance Requirements:

Until such time that any coverage line listed below is bound and effective through the Owner Controlled Insurance Program, CMAR agrees to maintain on a primary basis and at its sole expense, at all times throughout the duration of this Contract the following types of insurance coverage with limits and on forms (including endorsements) as described herein. These requirements, as well as the County's review or acceptance of insurance maintained by CMAR is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by CMAR under this Contract. Insurance carriers providing coverage shall be authorized and/or eligible to do business in the State of Florida and shall possess a current A.M. Best's Financial Strength Rating of A- Class VIII.

The CMAR shall require and ensure that each of its subcontractors maintain insurance until the completion of their work under any contract associated with this Contract. Failure of the CMAR to maintain insurance coverage for itself or for any other persons or entities for whom it is responsible or to ensure that its subcontractors maintain coverage shall not relieve the CMAR of any contractual responsibility, obligation or liability.

If the CMAR intends to propose on this Contract as a Joint Venture then all insurance coverage required herein shall include the Joint Venture as "named insured". If the Joint Venture has no employees then this requirement is waived for workers' compensation. The Joint Venture shall also purchase discontinued completed operations coverage for any claims made after the dissolution of the Joint Venture. This coverage shall be for a period of two years following final completion of the project or continuing service contract.

If the CMAR intends to propose on this Contract using a partnership or teaming approach then these insurance requirements shall be applied equally to each of the partners or participants as their interests may appear. Liability shall be clearly addressed in all partnership agreements and memorandums of understanding.

The minimum types and amounts of insurance inclusive of any amount provided by an umbrella or excess policy, shall be as follows:

- **Workers' Compensation** – The CMAR shall maintain coverage for its employees with statutory workers' compensation limits, and no less than \$1,000,000 (one million dollars) for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the County. The County will not accept elective exemptions. Any contractor using an employee leasing company shall complete the Leased Employee Affidavit.
- **Commercial General Liability** – The CMAR shall maintain coverage issued on an ISO form CG 00 01 or its equivalent, with a limit of liability of not less than \$10,000,000 per occurrence. CMAR further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Independent Contractors, Broad Form Property Damage, X-C-U Coverage, Contractual Liability, or Separation of Insureds. The General Aggregate limit shall either apply separately to this Contract or shall be at least twice the required occurrence limit. All projects with a Contract Amount greater than \$20,000,000 shall be written on a Designated Premises or Projects basis. Commercial umbrella and excess coverage shall include liability coverage for damage to the CMAR's completed work equivalent to that provided under ISO Form CG 00 01 12 04.

- Business Automobile Liability - The CMAR shall maintain coverage for all owned; non-owned and hired vehicles issued on ISO form CA 00 01 or its equivalent, with limits of not less than \$5,000,000 per incident. In the event the CMAR does not own automobiles the CMAR shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.
- Professional Liability- If the construction method is “construction manager at risk the CMAR agrees to maintain Professional Liability with limits of not less than \$10,000,000 per incident and on a per-project basis.

When a self-insured retention or deductible exceeds \$100,000 the County reserves the right to request a copy of the CMAR’s most recent annual report or audited financial statement. For policies written on a “Claims-Made” basis the CMAR agrees to maintain a retroactive date prior to or equal to the effective date of this contract. In the event the policy is canceled, non-renewed, switched to occurrence form, or any other event which triggers the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this contract the CMAR agrees to purchase the SERP with a minimum reporting period consistent with Florida Statute of Repose law. Purchase of the SERP shall not relieve the CMAR of the obligation to provide replacement coverage.

Except for those risks covered under the Owner Controlled Insurance Program, the CMAR shall be responsible for all risk of loss whether insured or not until final acceptance of the project by the County. The CMAR agrees to be fully and solely responsible for any costs or expenses resulting from a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the application of said deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. The County has the right to request that the CMAR procure and maintain a surety bond for any deductible amounts that exceed any amount stated herein in such amount and on such form that are acceptable to the County.

The County reserves the right, but not the responsibility to periodically review any and all policies of insurance and to reasonably adjust the limits and/or types of coverage required herein, from time to time throughout the term of this Contract. In such event, the County shall provide the CMAR written notice of such adjustments and the CMAR shall comply within thirty (30) days of receipt thereof. Any request for an exception to these insurance requirements must be submitted in writing to the County for approval.

The CMAR agrees to specifically include the County as an Additional Insured on the Commercial General Liability policy with a CG 20 10 – Additional Insured - Owners, Lessees, Contractors and the or CG 20 37 – Additional Insured- Owners, Lessees, or Contractors- Completed Operations endorsement, or their equivalent. The CMAR shall also specifically include the County as an Additional Insured on any Commercial Umbrella or Excess policies unless the County is automatically defined under the policy as an Additional Protected Person. The name of the organization identified in each Additional Insured endorsement’s schedule shall read Orange County, Florida.

The CMAR agrees by entering into this written Contract to provide a Waiver of Subrogation in favor of the County for each required policy providing coverage during the life of this Contract. When required by the insurer, or should a policy condition not permit an endorsement, the CMAR agrees to notify the insurer and request that the policy(ies) be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or an equivalent endorsement. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition that specifically prohibits such an endorsement or

voids coverage should the CMAR enter into such an agreement on a pre-loss basis.

Before execution of this Contract by the County and the start of any Work and for the duration of this Contract, the CMAR shall provide the COUNTY with current certificates of insurance evidencing all required coverage. The certificates shall clearly indicate that the CMAR has obtained insurance of the type, amount and classification as required for strict compliance with this insurance section. No material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the COUNTY. Certificates shall specifically reference the project title and contract number. The certificate holder shall read:

Orange County, Florida
Procurement Division
400 E. South Street
Orlando, Florida 32801

Prior to commencement of any Work performed by subcontractors (if any), the CMAR shall obtain certificates of insurance evidencing coverage from each of its subcontractors and shall furnish within five days, copies of said certificates upon request by the County. In addition to the certificate(s) of insurance the CMAR shall also provide a specific additional insured endorsement and all waivers of subrogation or transfer of rights of recovery endorsements for each policy. Failure of the County to demand such certificate or other evidence of full compliance with these insurance requirements or failure of the County to identify a deficiency from evidence provided will not be construed as a waiver of the CMAR's obligation to maintain such insurance.

Indemnification:

Subject to the limitations under this heading, the Contractor will defend, indemnify and hold harmless the County, its agents and employees from and against all liabilities, claims, damages, losses, costs and expenses (including attorney's fees) arising out of or resulting from the performance of the Work, provided that any such liability, claim, damage, loss, cost or expense:

- is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting there from and,
- is caused in whole or in part by any act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in whole or in part by a party indemnified hereunder.

The Contractor hereby acknowledges receipt of One Hundred Dollars (\$100) and other good and valuable consideration from the County as consideration for the indemnification provisions in this Contract.

In any and all claims against the County, its agents or employees; employees of the Contractor and subcontractor; all persons directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under the previous paragraph shall not be limited in any way as to the amount or type of damages, compensation or benefits payable by or for the Contractor or any subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

The indemnification obligations of the Contractor under this section shall not extend to the liability of the Professional and its agents or employees arising out of the preparation or approval of maps,

drawings, opinions, reports, surveys, change orders, designs or specifications, or the giving or the failure to give requested interpretations by the Professional and their agents or employees, provided such giving or failure to give is the primary cause of injury or damage.

The Contractor will defend, indemnify and hold harmless the County and anyone directly or indirectly employed by it from and against all claims, damages, losses and expenses (including attorney's fees) arising out of any infringement of patent rights or copyrights held by others during or after completion of the Work, and shall defend all such claims in connection with any alleged infringement of such rights.

Provided however, if this Contract is deemed by a court of competent jurisdiction to be a construction contract under Section 725.06, Florida Statutes, any obligation of the Contractor to defend, indemnify or hold harmless the County, its officers and employees shall be limited to an obligation to indemnify and hold harmless to the extent caused by the negligence, recklessness or intentionally wrongful conduct of the Contractor and persons employed or utilized by the Contractor in the performance of the Contract.

The indemnification provisions contained herein shall survive the termination of this Contract.

ARTICLE 9 - CONTRACTOR'S RESPONSIBILITIES

Supervision and Superintendence - The Contractor shall supervise and direct the work efficiently and with his best skill and attention. He/she shall be solely responsible for the means, methods, techniques, sequences and procedure of construction, unless otherwise specified. The Contractor shall be responsible to see that the finished Work complies accurately with the Contract Documents. The Contractor shall keep on the site at all times during its progress a competent, resident superintendent who shall not be replaced without prior written notice to the Project Manager. The superintendent shall be the Contractor's representative at the site and shall have authority to act on behalf of the Contractor. All communications given to the superintendent shall be as binding as if given to the Contractor.

The Project Manager may require in writing that the Contractor remove from the Work any of Contractor's personnel that the Project Manager determines to be incompetent, careless or otherwise objectionable.

No claims for an increase in Contract Amount or Contract Time based on the Project Manager's use of this provision will be valid. The Contractor shall indemnify and hold the County harmless from and against any claim by Contractor's personnel on account of the use of this provision.

The Contractor shall not self-perform work without explicit written approval of the County.

Labor, Materials and Equipment - The Contractor shall provide competent, suitable, qualified personnel to lay out the Work and perform construction as required by the Contract Documents. He/she shall at all times maintain good discipline and order at the site. The Contractor shall furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water and sanitary facilities and incidentals necessary for the execution, testing, initial operation and completion of the Work.

All materials and equipment shall be new except as otherwise provided in the Contract Documents. If required by the Project Manager, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment furnished.

All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturer, fabricator or processors except as otherwise provided in the Contract Documents.

Substitute Material or Equipment - If it is indicated in the Specifications that the Contractor may furnish or use a substitute that is equal to any material or equipment specified, and if the Contractor wishes to furnish or use a proposed substitute, he/she shall make written application to the Project Manager for acceptance of such a substitute, certifying in writing that the proposed substitute will perform adequately the duties imposed by the general design, be similar and of equal substance to that specified and be suited to the same use and capable of performing in an efficient and economic manner as that specified. The application will include sufficient information to allow the Project Manager to evaluate the substitutions.

The application will state the extent, if any, to which the review, acceptance, furnishing and installation of the proposed substitute will prejudice Contractor's completion of the Work within the Contract Time(s). If the cost of the review of the substitution is greater than that of the originally specified item, the Contractor will reimburse the County for all costs. County may require Contractor to furnish at Contractor's expense a special performance guarantee or other Surety with respect to any substitute. The benefit of lower cost items shall be shared between the County and Contractor as specified in the Instructions to Bidders. No substitute shall be ordered or installed without the written acceptance of the Project Manager who shall be the sole judge of acceptability.

Concerning Subcontractors - The Contractor shall not employ any Subcontractor, other person or organization of the types referred to in Article 4 (whether initially or as a substitute) against whom the County or the Project Manager may have reasonable objections, nor will the Contractor be required to employ any Subcontractor against whom he has reasonable objection.

The Contractor shall not make any substitution for any Subcontractor who has been accepted by the Project Manager, unless the County and the Project Manager determine that there is good cause for doing so.

The Contractor shall be fully responsible for all acts and omissions of his Subcontractors and of persons directly or indirectly employed by them and of persons for whose acts any of them may be liable to the same extent that they are employed by him. Nothing contained in the Contract Documents shall create, nor be interpreted to create, privity or any other contractual relationship whatsoever between the County and any Subcontractor or any person except the Contractor, or any obligation on the part of the County to pay or to see to the payment of any monies due any Subcontractor, except as may otherwise be required by law. The County may furnish to any Subcontractor, to the extent practicable, evidence of amounts paid to the Contractor on account of specific Work done. The divisions and sections of the Specifications and the identifications of any Drawings shall not control the Contractor in dividing the Work among Subcontractors or delineating the Work to be performed by any specific trade.

The Contractor agrees to bind specifically every Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of the County.

All Work performed for the Contractor by Subcontractors shall be pursuant to an appropriate agreement between the Contractor and the Subcontractor which shall contain provisions that waive all rights the contracting parties may have against one another for damages caused by fire or other perils covered by

insurance held by the County as trustee. The Contractor shall pay each Subcontractor a share of any insurance monies received by the Contractor under this insurance.

Patent Fees And Royalties - The Contractor shall pay all license fees and royalties and assume all costs incident to the use of any invention, design, process or device which is the subject of patent rights or copyrights held by others.

Utilities - The Contractor shall pay all public utility charges except as provided for in the Contract Documents.

Laws and Regulations - The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations applicable to the work. If the Contractor observes that the Specifications or Drawings are at variance therewith, he will give the Project Manager prompt written notice thereof, and any necessary changes shall be adjusted by an appropriate Change Order. If the Contractor performs any Work knowing it to be contrary to such laws, ordinances, rules and regulations and without such notice to the Project Manager, he will bear all costs arising therefrom; however, it shall not be his primary responsibility to make certain that the Drawings and Specifications are in accordance with such laws, ordinances, rules and regulations.

Use Of Premises - The Contractor shall confine his equipment, the storage of materials and equipment, and the operations of his workers to the areas permitted by law, ordinances, permits or the requirements of the Contract Documents and shall not unreasonably encumber the premises with materials or equipment.

The Contractor shall confine the operation of workmen and equipment, and the storage of materials and equipment to the County's property or to other non-County property or in public right-of-way areas indicated on the Contract Drawings as including work to be done pursuant to the Contract documents. In the event the Contractor desires to have access to the project site, or perform work or operations pertaining to the Contract on, over or from non-County property adjacent to the project site, the Contractor shall obtain written authorization to do so from the respective adjacent property owner(s) prior to using such property. Such written authorization shall include a provision whereby the property owner agrees to hold the County harmless, and to defend the County, in the event of any liability, loss, injury, or claim incurred as a result of the Contractors work or operations involving the use of the adjacent non-County property.

The County shall be provided with a notarized, certified copy of such written authorization(s) before the Contractor commences work or operations or use of such property in connection with work or operations pursuant to this Contract.

Record Drawings - The Contractor shall keep one record copy of all Specifications, Drawings, Addenda, Change Orders and Shop Drawings at the site in good order, and annotated and/or marked on a current basis to indicate the progress of the work done and to show all changes made during the construction process or conditions varying from the Bid Documents. These shall be available to the Project Manager for inspection throughout construction and shall be delivered to the Project Manager upon completion of the Work, but prior to final payment.

Safety And Protection - The Contractor shall initiate, maintain and supervise all safety precautions and programs in connection with the Work. He/she shall take all necessary precautions for the safety of and shall provide the necessary protection to prevent damage, injury or loss to:

- A. All employees on the Project and other persons who may be affected thereby:
- B. All the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site; and
- C. Other property at the site or adjacent thereto including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

The Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public body or public or private utility service organization having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. He/she shall erect and maintain, as required by the conditions and the progress of the Work, all necessary safeguards for safety and protection and, in addition, he/she shall comply with all applicable recommendations of the Manual of Accident Prevention in Construction of the Associated General Contractors of America, Inc., and the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD) and subsequent revisions and addenda as published by the U.S. Department of Transportation, Federal Highway Administration and adopted by the Florida Department of Transportation. He/she shall notify owners of adjacent utilities when prosecution of the Work may affect them.

All damage, injury or loss to any property or all damage, disruption, discontinuance or other loss to any utility system or roadways referred to in Paragraph B and C caused directly or indirectly, in whole or in part by the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, will be remedied by the Contractor, except damage or loss attributable to the fault of the Drawings or the Specifications or to the acts or omissions of the County, and not attributable, directly or indirectly, in whole or in part, to the fault of negligence of the Contractor. The Contractor shall comply with the guidelines set forth in the Orange County Safety & Health Manual and the safety requirements in the Project Management Plan. The manual can be accessed online at the address below:

<http://www.orangecountyfl.net/VendorServices/OrangeCountySafetyandHealthManual.aspx>

The Contractor shall designate a responsible member of his organization whose duty shall be the prevention of accidents at the site. **This person shall be the Contractor's superintendent unless otherwise designated in writing by the Contractor to the Project Manager.**

Emergencies - In emergencies affecting the safety of persons, the Work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the Project Manager, is obligated to act at his discretion to prevent threatened damage, injury or loss. He/she shall give the Project Manager prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby, and a Change Order shall thereupon be issued covering the changes and deviations involved. If the Contractor believes that additional Work done by him/her in an emergency which arose from causes beyond his control entitles him to an increase in the Contract Amount or an extension of the Contract Time, he may make a claim therefore as provided in Article 13.

Shop Drawing and Samples - After checking and verifying all field measurements, the Contractor shall submit to the Project Manager for review, in accordance with the accepted schedule of Shop Drawing submission, five copies (or at the Project Manager's option, one reproducible copy and one electronic copy) of all Shop Drawings, which shall have been checked by and stamped with the approval of the

Contractor and identified as the Project Manager may require. The data shown on the Shop Drawings will be complete with respect to dimensions, design criteria, materials of construction and the like to enable the project manager to review the information as required.

The Contractor shall submit to the Project Manager for review with such promptness as to cause no delay in the Work, all samples required by the Contract Documents. All samples shall be checked by and stamped with the approval of the Contractor, identified clearly as to material, manufacturer, any pertinent numbers and the use for which intended.

At the time of each submission, the Contractor shall in writing call to the Project Manager's attention to any deviations that the Shop Drawing or sample may have from the requirements of the Contract documents.

The Project Manager will review with reasonable promptness and take appropriate action with regard to Shop Drawings and samples, but its review shall be only for general conformance with the design concept of the Project and for compliance with the information given in the Contract Documents. The acceptance of a separate item as such will not indicate approval of the assembly in which the item functions.

The Contractor shall make any corrections required by the Project Manager and will return the required number of corrected copies of Shop Drawings and re-submit new samples until accepted.

The Contractor's stamp of approval on any Shop Drawing or sample shall constitute a representation to the Project Manager that the Contractor has either determined and verified all quantities, dimensions, field construction criteria, materials, catalog numbers and similar data or he assumes full responsibility for doing so, and that he has reviewed or coordinated each Shop Drawing or sample with the requirements of the Work and Contract Documents.

No Work requiring a Shop Drawing or sample submission shall be commenced until the submission has been accepted by the Project Manager. A copy of each accepted Shop Drawing and each accepted sample shall be kept in good order by the Contractor at the site and shall be available to the Project Manager.

The Project Manager's acceptance of Shop Drawings or samples shall not relieve the Contractor from his/her responsibility for any deviations from the requirements of the Contract Documents, unless the Contractor has in writing called the Project Manager's attention to such deviation at the time of submission and the County and the Project Manager have given written acceptance to the specific deviation; nor shall any acceptance by the Project Manager relieve the Contractor from responsibility for errors or omissions in the Shop Drawing.

Each Shop Drawing or sample submittal or substitution request by the Contractor shall contain a reference identifying the applicable, specific Section of the Specifications to which it pertains. Submittals failing to comply with this provision shall be rejected and returned to the Contractor without review.

Each Shop Drawing or sample submittal or substitution request shall include the following stamped certification by the Contractor:

"The General Contractor has reviewed the Shop Drawing, sample or substitution submitted herewith and has determined and hereby certifies that in all respects this

submittal is in full compliance and conformance with the Contract specifications, drawings and all other Contract requirements pertaining thereto".

Failure of the Contractor to include the above stated specification reference number or certification of compliance shall result in the rejection of the submittal. The Contractor shall also submit to the Project Manager for acceptance all samples required by the Contract Documents. All samples shall have been checked by and stamped with the approval of the Contractor, identified clearly as to material, manufacturer, any pertinent numbers and the use for which intended.

In the event that the Contractor, or anyone working for or on behalf of the Contractor on this project, should commence or do any work requiring submission of a Shop Drawing or sample, or involving a substitution or an "or-equal" request without having such submittal accepted by the County in writing, then the Contractor is advised that any and all such work will be done at its risk and is subject to rejection and/or removal at the Contractor's expense and at no additional cost to the County if applicable Shop Drawing, sample, substitution, "or-equal" or other submittal is not accepted.

Further, the Contractor shall not receive "progress" or "final" payment for any and all work commenced or done which requires, but has not received acceptance of Shop Drawings, samples, substitution requests, or "or-equal" requests or any other required submittal, nor will the Contractor receive "progress" or "final" payment for any and all work that has been determined by the Professional or the County's Project Manager not to be in compliance or conformance with the established Contract requirements, Contract change orders, written directives, written clarifications provided to the Contractor, or accepted Shop Drawings, accepted samples, accepted substitutions, or accepted "or-equals".

Cleaning Up - The Contractor shall keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the Work; at the completion of the Work he/she shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, construction equipment and machinery, and surplus materials, and shall leave the site clean and ready for occupancy by the County. The Contractor shall restore to their original condition those portions of the Site not designated for alteration by the Contract Documents. If at any time during construction of this project, the Contractor fails to clean up on a daily basis, the County may do so. All costs associated with the County's cleanup activities on behalf of the Contractor shall be deducted from amounts due to the Contractor.

Severability - The provision of this Agreement are declared by the parties to be severable. However, the material provisions of this Agreement are dependent upon one another, and such interdependence is a material inducement for the parties to enter into this agreement. Therefore, should any material term, provision, covenant, or condition of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, the party protected or benefited by such term, provision, covenant, or condition may demand that the parties negotiate such a reasonable alternate contract language or provision as may be necessary either to restore the protected or benefited party to its previous position or otherwise mitigate the loss of protection or benefit resulting from holding.

Non-Discrimination - The County's policies of equal opportunity and nondiscrimination are intended to assure equal opportunity to every person, regardless of race, religion, sex, color, age, disability or national origin, in securing or holding employment in a field of work or labor for which the person is qualified, as provided and enforced by section 17-314 of the Orange County Code and the County's relevant Administrative Regulations. It is also the County policy that person(s) doing business with the

County shall recognize and comply with this policy and that the County shall not extend public funds or resources in a manner as would encourage, perpetuate or foster discrimination. As such:

- 1) The association shall adopt and maintain, or provide evidence to the County that the Association has adopted and maintains, a policy of nondiscrimination as defined by Section 17-288, Orange County Code, throughout the term of this Agreement.
- 2) The Association agrees that, on written request, the Association shall permit reasonable access to all business records or employment, employment advertisement, application forms, and other pertinent data and records, by the county, for the purpose of investigating to ascertain compliance with the nondiscrimination provisions of this contract; provided, that the contractor shall not be required to produce for inspection records covering periods of time more than one year prior to the date of this agreement.
- 3) The agency agrees that, if any obligations of this contract are to be performed by subcontractor(s), the provisions of subparagraphs "1" and "2" of this Section shall be incorporated into and become a part of the subcontract.

ARTICLE 10 – WORK BY OTHERS AND UTILITY COORDINATION

Work by Others – The County may perform additional work related to the project by itself, or it may let other direct contracts which shall contain general conditions similar to these. The Contractor shall afford the other contractors who are parties to such direct contracts (or the County, if it is performing the additional work itself), reasonable opportunity for the introduction and storage of materials and equipment and the execution of work, and shall properly connect and coordinate his Work with theirs.

Should the contract entail relocation of facilities not a part of this Contract, the Contractor shall coordinate and cooperate with the applicable entity responsible for this portion of the work.

If any part of the Contractor's Work depends (for proper execution of results) upon work of any such other Contractor (or the County), the Contractor shall inspect and promptly report to the Project Manager in writing any defects, deficiencies or delays in such work that render it unsuitable for such proper execution and results.

The Contractor's failure to report shall constitute an acceptance of the other work, except as to defects, deficiencies and delays which may appear in the other work after the execution of the work.

The Contractor shall do all cutting, fitting and patching of his Work that may be required to make its several parts come together properly, and fit it to receive or be received by such other work. The Contractor shall not endanger any work of others by cutting, excavating or otherwise altering such other work and will only cut or alter such other work with the written consent of the Project Manager.

If the performance of additional work by other Contractors or the County is not noted in the contract documents prior to the execution of the Contract, written notice thereof shall be given to the Contractor prior to starting any such additional work. If the Contractor believes that the performance of such additional work by the County or others involves him/her in additional expense or entitles him to an extension of the Contract Time, he may make a claim therefore as provided in Article 13.

Utility Coordination – Section 337.401 (1), Florida Statutes and other applicable law allows utility owners to install and maintain along, above, under, across or on any road or right-of-way any electric transmission or distribution facilities, telephone, telegraph, pole lines, poles, railway structures,

ditches, sewers, water, heat, gas mains, pipelines, fences, gasoline tanks and pumps, waterlines, gas lines, wire lines, utility service connections, water and gas meter boxes, valve boxes, light standards, cable lines, cable ways, signals, signal boxes, and all other utility installations, improvements and utility appurtenances to be installed and maintained in the right-of-way.

The Contractor understands and agrees that the lands upon which the Work is to be performed consists of prior existing right-of-way, as well as, recently acquired right-of-way. The Contractor acknowledges and agrees that utility installations and appurtenances are located within the limits of the planned construction Work. The utility installations and appurtenances may be in conflict with the Contractor's Work or require relocation or adjustments. All utility conflict resolutions, relocations, or adjustments are to be moved by the utility owners at their expense, unless otherwise provided in the Contract documents.

The Contractor, by submission of a proposal, agrees that prior to proposal he has studied, performed field inspections, and evaluated all potential utility conflicts, the locations of permanent and temporary utility appurtenances in their present and relocated positions as may be shown on the plans. The Contractor acknowledges and agrees that the Contractor's proposal has considered all potential utility conflicts, the locations of permanent and temporary utility appurtenances in their present and relocated positions including those shown on the plans, not shown on the plans, and those identified during the Contractor's pre-bid study or that should have been identified during the Contractor's field inspections, and evaluation of the limits of the planned construction Work.

The design Professional may show surface or subsurface utility conflicts, relocations, or adjustments in the drawings and plans. The surface and subsurface utility information shown in the drawings and plans was obtained and used by the design Professional to establish design criteria for the design plans. The accuracy as to location and the identification of all surface or subsurface utility information is not warranted or guaranteed and is not to be construed as part of the construction plans governing the construction Work. The Contractor shall solely make his own determinations as to surface and subsurface conditions.

The Contractor shall be solely responsible for utility coordination including all utility conflict resolutions, relocations, and adjustments. The concept of "utility coordination" means that the Contractor shall, at a minimum:

- A. Investigate both subsurface and aboveground conditions to identify potential conflicts far enough in advance of his planned construction operations to allow the Contractor to coordinate with utility owners and responsible parties any necessary conflict resolutions, relocations, or adjustments such that they can occur without delay to the Contractor's operations and Progress Schedule.
- B. Conduct regularly scheduled Utility Coordination Meetings with all affected utilities, and shall maintain detailed minutes of the discussions.
- C. Contact all utility owners in advance of any needed conflict resolutions, relocations, or adjustments.
- D. Contact the Project Manager as to all Contractor scheduled utility conflict resolutions, relocations, or adjustments.

- E. Schedule all work to be performed by the utility owners related to utility conflict resolutions, relocations, or adjustments.
- F. Schedule all work to be performed by the utility owners so as not to delay or disrupt in any way the Contractor's own performance of the Contractor's Performance Schedule.
- G. Assure the proper connection of the Contractor's Work with the work of the utility owners.
- H. Assure that the schedule, contacts, and proper connections between the Contractor's Work and the utility owner's work harmonize the work of both in a common action to achieve resolution of utility conflicts, relocations, and adjustments.
- I. Contractor shall, at no cost to the County, adjust the project schedule to allow the work to proceed in such a manner that delays to the progress of the work are minimized.

As discussed more fully in Article 17, delays to the Contractor's Progress Schedule resulting from the resolution of utility conflicts, relocations, and adjustments to utilities will not be considered as the basis for granting a change in Contract Amount or Contract Time.

ARTICLE 11 - PROJECT OWNER STATUS DURING CONSTRUCTION

The Contractor shall provide the following information to all subcontractors and suppliers:

County's Representatives - The Project Owner shall be the Board of County Commissioners. The Board shall be represented by the Project Manager listed below during the construction period:

Manager, >Division, or designee

Address:

Phone:

Email:

ARTICLE 12 - CHANGES IN THE WORK

Without invalidating the Contract, the County may, at any time or from time to time, order additions, deletions or revisions in the Work authorized by written Change Orders or directive. Upon receipt of a Change Order, the Contractor shall proceed with the work involved. All such work shall be executed under the applicable conditions of the Contract documents. If any Change Order causes an increase or decrease in the Contract Amount or any extension or shortening of the Contract Time, an equitable adjustment will be made as provided in Article 13.

Additional Work performed by the Contractor without authorization of a Change Order will not entitle him to an increase in the Contract Amount or any extension of the Contract Time, except in the case of an emergency as provided in Article 9.

The Contractor shall notify his Surety of any changes affecting the general scope of the Work or change of the Contract Amount and the amount of the applicable bonds shall be adjusted accordingly, and an amended bond document furnished to the County.

In the event the County directs the Contractor to make a change in the Work, and if the County and the Contractor do not arrive at a mutually acceptable increase or decrease in the Contract Amount, the Contractor shall not use any such lack of mutual acceptance as a basis or cause to stop or otherwise

delay the progress or the execution and completion of any of the work ordered, directed or required pursuant to the Contract Documents.

If the Contractor believes an event or situation has occurred which justifies a change in the Contract Amount or Contract Time, he/she shall deliver a written notice to the Project Manager. Each such written notice shall be delivered promptly, and in any event no later than 15 days after the Contractor first discovered the occurrence. The Contractor shall be deemed to have waived the right to collect any and all costs incurred more than 15 days prior to the date of delivery of the written notice, and shall be deemed to have waived the right to seek an extension of the Contract Time with respect to any delay in the Progress Schedule which accrued more than 15 days prior to the date of delivery of the written notice.

Any such notice shall include sufficient detail to explain the basis of entitlement to a claim for an adjustment to the Contract Amount or Contract Time. When requested by the Project Manager, the Contractor shall furnish any additional information and details as may be required to determine the facts or allegations involved, which shall be provided within fifteen (15) days of the request unless a longer time period is allowed by the Project Manager.

The Contractor shall prepare proposals detailing proposed adjustments to Contract Amount and/or Contract Time in accordance with Article 13 and submit them to the Project Manager within 15 days of the County's issuance of a proposed Change Order or the Contractor's submitting a written notice of a change or claim for an adjustment to the Contract Amount or Contract Time. Contractor's proposals shall be irrevocable for a period of at least sixty (60) days after receipt by the County. Any delay in the submittal of a complete, adequate and acceptable proposal will not justify an increase in Contract Amount or Contract Time. The Contractor agrees that it shall give the County access to any and all of Contractor's and Subcontractors' books, records and other materials relating to proposed Change Orders and other claims for adjustment to Contract Amount or Contract Time.

ARTICLE 13 - CHANGE OF CONTRACT AMOUNT AND CONTRACT TIME

Contract Amount - The Contract Amount constitutes the total compensation payable to the Contractor for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by the Contractor shall be at his expense without change in the Contract Amount. The Contract Amount may only be changed by written Change Order issued by the County. Any claim for an increase in the Contract Amount shall be in writing and delivered to the Project Manager within fifteen (15) days of the occurrence of the event giving rise to the claim.

All claims for adjustment in the Contract Amount shall be determined by the Project Manager. However, no claim for an adjustment to the Contract Amount will be considered for unforeseeable causes that were beyond the fault or negligence of the Contractor or his/her Subcontractors or supplier such as acts of God, floods, riots, etc. This restriction does not restrict submission of claims for additional Contract Time due to events of this nature. Any change in the Contract Amount shall be incorporated in a Change Order.

Proposals or Claims Substantiating Adjustments; Limitations:

- A. The Contractor proposals or claims shall cover all aspects of the Work involved and shall be fully documented and itemized as to all costs, quantities and charges for overhead and profit. Amounts for Subcontractors or Suppliers at any tier shall be similarly supported. When

determining Subcontractors' costs, the methods to be used shall be those used for the Contractor's costs, except that the term "Subcontractor" shall replace the term "Contractor," context permitting.

- B. Where the change in Contract Amount arises from changes in the time required to perform any Work, or where a change in Contract Time is sought, the Contractor's itemized estimates shall detail all productivity and production data, and include an analysis of the Record Schedule demonstrating the schedule status just before and after the occurrence of events on which the request is based (thereby showing the extent of delay resulting from the event involved) and any measures taken or planned to mitigate the impacts.
- C. Neither the Contract Time nor Contract Amount shall be changed due to a delay in Contractor's early completion date until all the corresponding Contract Float available in the Record Schedule at the start of the delay is used and performance of the specified Work extends necessarily beyond that Contract Time. The Contractor shall not recover from the County (a) acceleration costs incurred to overcome delays which warrant extensions in Contract Time but exclude changes in Contract Amount, (b) escalation costs for any part of the Work having Contract Float or not delayed beyond the late dates in the Record Schedule, or (c) delay costs not expressly allowed in General Conditions Article 13 as supplemented.
- D. Changes in Contract Amount for extensions in Contract Time shall exclude costs that are unaffected or do not relate to the extension in Contract Time, such as: (a) operating costs of construction equipment assigned to the Work on a continuing basis, (b) operating costs and owned/rental costs of construction equipment (crane used for specific lifts, concrete pump used for specific pours, etc.), and (c) fully paid site facilities, tools, etc.

The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Amount shall be determined in one of the following ways:

- A. Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved. If the quantities originally contemplated are so changed in a proposed Change Order, that application of the Unit Prices to the quantities proposed will cause substantial inequity to the County or the Contractor, the applicable unit price(s) shall be equitably adjusted by mutual agreement.
- B. By mutual acceptance of a lump sum.
- C. By cost and mutually acceptable fixed amount for overhead and profit.
- D. If the value of work covered by a Change Order cannot be established or mutually agreed to utilizing any of the above three methods, the value shall be determined by the County on the basis of an estimate of the out-of-pocket cost and percentages that are acceptable to the County for overhead and profit. The out-of-pocket cost shall only include those direct costs which are needed to perform the work such as labor (including payroll taxes, fringe benefits and labor burden), materials, equipment, but shall not include project management or project supervisory costs unless the Change Order includes an increase in the Contract time.

Methods for Determining Adjustments in Contract Amount:

- A. If the County directs the Contractor to proceed with the Work involved pursuant to actual out-of-pocket costs plus contractual allowances for overhead and profit and states a Not-to-exceed price, Contractor claims for costs, overhead or profit beyond the Not-to-exceed price shall be invalid, unless, prior to incurring those costs, overhead or profit Contractor provides written notice and County increases the Not-to-exceed price in writing.
- B. If payment for the Work involved is to be determined by a court of law, it is agreed by the Contractor that the actual out-of-pocket cost and overhead and profit method contained in the General and Supplemental Conditions shall represent an appropriate method for determining the cost and overhead and profit for the Work involved.
- C. In computing Cost of the Work involved in a Change Order or claim, costs shall be allowable only to the extent costs (a) are consistent with those prevailing in the Orlando Metropolitan Statistical Area (which includes Orange, Seminole, Lake and Osceola Counties) and with applicable criteria set forth in 48 CFR Part 31 (federal contract cost principles and procedures), (b) include only the appropriate items for labor, material or equipment, construction equipment and special cost items specified in General Conditions Articles 13.

In such case, the Contractor shall submit in the form prescribed by the County an itemized cost breakdown together with supporting data.

The amount of credit to be allowed by the Contractor to the County for any such change which results in a net decrease in cost, will be the amount of the actual net decrease as determined by the County in a similar manner as a net increase. When both additions and credits are involved in any one change, the combined overhead and profit shall be figured on the basis of the net increase, if any.

To be eligible for consideration, the Contractor's written claim for a change in the Contract price, including claim(s) from sub-contractors, shall include an itemized cost breakdown with supporting data as described below:

- A. For labor: Provide written documentation from the Contractor and Subcontractors or others as appropriate in the form of a detailed breakdown by each labor classification involved indicating the number of hours of Work involved and the hourly payroll rate applicable to each to substantiate the basis and amount of the direct labor cost. The direct labor cost may be increased to provide an allowance for indirect payroll costs (labor burden), such as payroll taxes, fringe benefits, and workers insurance after all premium discounts, rebates and other appropriate reductions have been taken.

Allowable labor costs shall be limited to craft labor in the direct employ of the Contractor (or Subcontractor) assigned to the site and engaged in furnishing and incorporating materials or equipment in the Work involved in the Change Order or Claim.

When determining actual payroll costs, daily time sheets certified by the Contractor and verified by the Project Manager along with certified payroll records shall be the valid records.

- B. For material, supplies, equipment, furnishings, etc., to be installed or included in the Work: Provide written documentation from the Contractor and Subcontractors, suppliers, etc., to substantiate the basis and amount of the various cost items involved. Material costs shall reflect the Contractor's reasonably anticipated net actual cost after consideration of trade discounts and volume rebates.
- C. For construction equipment: Provide written documentation in the form of a detailed breakdown by each construction equipment category indicating, the applicable unit rates (i.e., \$'s per hour, \$'s per day etc.,) and the number of hours, days, etc. to substantiate the basis and amount of the construction equipment out-of-pocket costs. Work trucks are typically excluded from this calculation.
- D. Special cost items (any out-of-pocket cost items not considered to be material, labor or construction equipment as set forth above): Provide written documentation in the form of a detailed breakdown or itemization of the costs, fees, charges, hours, hourly rates, etc., to clarify, document and substantiate the basis and amount of the out-of-pocket cost. Special cost items due to the Work or a delay involved in a Change Order or Claim may include a proportion of the following indirect costs, to the extent those indirect costs increase or decrease on account of (a) the Cost of the Work involved for labor, Subcontractor or Supplier furnished materials or equipment, or (b) an extension in Contract Time as follows (provided that no cost shall be paid for holidays or weather days during the delay):
1. Payroll costs for the Contractor's full-time superintendent and payroll costs for other personnel in the employ of the Contractor resident (engaged in activities) at the site if those costs arise solely from an extension in Contract Time;
 2. Costs of office and temporary facilities at the site, including utilities, fuel and sanitary facilities, telephone and internet service at the site, materials, supplies, equipment, other minor expenses (e.g. expressage and petty cash), if those costs arise solely from an extension in Contract Time;
 3. Costs of consultants not in the direct employ of the Contractor, if those costs are or were authorized by the County before proceeding with the Work involved;
 4. Taxes on the Work involved, and for which the Contractor is liable; and royalty payments and charges and fees for permits, if any of them relate solely to the Work involved;
 5. Physical losses, damages and expenses to the Work, not compensated by property insurance, or otherwise to be sustained by the Contractor in the prosecution of the Work (except losses and damages within the deductible amounts of property insurance, if any), but only if the losses, damages and expenses result from the fault or negligence of the County, or
 6. Bond premiums and insurance premiums not included as part of the indirect labor cost, if they relate solely to the Work involved.

E. Construction Equipment Costs:

1. For equipment owned by Contractor (or Subcontractor) or rented or leased from lessors associated with or owned by them, allowable costs shall be limited to equipment required for the Work involved in a Change Order or claim with individual replacement values exceeding \$1,000.00. Transportation, loading/unloading, installation, dismantling and removal costs shall be allowed only if prior written consent is obtained from the Project Manager, and if the equipment is, or was, transported to the site solely for the Work involved. Shipping costs will be allowed only if the equipment is not available in the Orlando Metropolitan Statistical Area.

Equipment costs shall be computed using the same accounting and estimating rules and prices, whether related to added or deleted Work, and shall cease when the equipment is no longer needed for the Work involved.

2. For equipment rented or leased from lessors not associated with or owned by the Contractor (or Subcontractor), the Contractor shall be entitled to rental or lease rates, but in no event shall the rates or hourly operating costs exceed applicable rates in a mutually acceptable current cost reference guide for rental equipment. The equipment rate for second or third shifts shall not exceed the normal base rate. Hourly rates for equipment previously in use at the site for at least a month shall be based on the monthly rate divided by 176 hours. Equipment not previously in use at the site shall not be invoiced to the County at rates higher than the following schedule correlating equipment usage to payment category:

Less than 8 hours	Hourly Rate
1 day but less than 7 days	Daily Rate
1 week but less than 30 days	Weekly Rate
30 days or more (when in use)	Monthly Rate

3. Rented (or owned) equipment idled by actions of the County *for* reasons under the sole control of the County shall not be paid. Rented (or owned) equipment idled by actions of the Contractor shall not be paid.

When determining actual construction equipment costs, daily logs of the equipment, operators and actual usage, verified by the Project Manager, shall be the valid records.

With respect to the allowances for overhead and profit the following schedule shall be used in determining the total cost of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract price:

- A. For the Contractor, for Work (i.e., the cost of labor, materials and construction equipment as described above) performed by the Contractors own forces; No fee for an in-scope change order; the agreed upon fee amount is allowed.

- B. For the Contractor, for the Work performed by the Contractor's Subcontractor; No fee for an in-scope change order. For an out of scope change order, the agreed upon fee amount is allowed.
- C. For each Subcontractor involved, for Work performed by that Subcontractor's own forces shall not exceed 7 ½% of the cost.
- D. For each Subcontractor, for Work performed by the Subcontractor's Sub-Subcontractor's shall not exceed 5% of the amount due the Sub-Subcontractor.
- E. Cost to which overhead and profit is to be applied shall be determined in accordance with provisions of this Article 13. In no instance will the total allowance for overhead and profit exceed 25%.
- F. The Cost of the Work involved in a Change Order or claim shall not include any of the following costs (considered administrative costs or contingencies covered by the overhead and profit):
 1. Payroll costs and other compensation of (a) executives, general and administrative managers, estimators, claim consultants, attorneys, accountants, labor relation coordinators, contract and subcontract administrators, purchasers, expeditors and other administrative staff, whether employed at the site or in the Contractor's (or Subcontractor's) principal or branch offices; and (b) project managers, construction managers, engineers, architects, schedulers, detailers, safety personnel, clerks and other administrative staff employed in his principal or branch offices;
 2. Costs in the preparation of Change Orders or claims (whether or not ultimately authorized by the County);
 3. Costs of engineers, architects, accountants, consultants, attorneys and others, in the direct employ of the Contractor or otherwise, utilized for services related to a controversy or claim about the acceptability of the Work;
 4. Any part of the Contractor's capital expenses, including interest on capital for the Work involved, lost interest on unpaid retainage, and charges for delinquent payments;
 5. Any other expenses of the Contractor's principal and branch offices, including storage and yard facilities; and any costs not specifically and expressly allowed in General Conditions Article 13 as supplemented.

If deemed necessary, the overhead and profit allowance schedule shown above may be adjusted by the Project Manager.

Cash Allowances - It is understood that the Contractor has included in the Contract Amount any allowances so named in the Contract Documents and shall cause the Work so covered to be done by such Suppliers or Subcontractors and for such sums within the limit of the allowances as the County may accept. Prior to final payment, the Contract Amount shall be adjusted as required and an appropriate Change Order issued. The Contractor agrees that the original Contract amount includes

such sums as he deems proper for cost and profit on account of cash allowances. No demand for additional cost or profit in connection therewith will be allowed.

Change of Contract Time - The Contract Time may only be changed by written Change Order. Any claim for an extension in the Contract Time shall be in writing and include an analysis of the Progress Schedule as further described in the Specifications, and shall be delivered to the Project Manager within fifteen (15) days of the occurrence of the event giving rise to the claim.

All claims for adjustment in the Contract Time shall be determined by the Project Manager. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.

The Contract Time may be extended for an amount equal to time lost due to unforeseeable causes beyond the control of the Contractor (and his Subcontractors and Suppliers) if he makes a claim therefore. Such delays shall include, but not be restricted to, acts or neglect by any separate Contractor employed by the County; fires; floods; labor disputes; epidemics or acts of God.

All time limits stated in the Contract Documents are of the essence to the Contract. The stated time limits are agreed to be adequate to complete the work, including the procurement, manufacture and delivery of all material and equipment required, and account for any and all potential impact, delays, disruptions and costs that may be expected.

ARTICLE 14 - CONDITION OF MATERIALS AND PACKAGING:

In instances where the Specifications make this subject applicable (and unless otherwise indicated), all goods and items offered for sale and/or shipped by the Contractor pursuant to the requirements imposed upon said Contractor by this bid package, will be new and in first class condition; all related containers being new and suitable for storage and shipment; all prices including the cost of standard commercial packaging. Contractors will be solely responsible for making any and all claims against carriers as concerns missing or damaged items.

ARTICLE 15 - ASBESTOS FREE MATERIALS:

Project is to be constructed with asbestos free materials. A written, notarized statement on company letterhead is to be submitted with the final payment request. Final payment shall be withheld until such statement is submitted.

The Contractor shall agree that if materials containing asbestos are subsequently discovered at any future time to have been included in the construction done by the Contractor or any of its Subcontractors or agents and were not specified in the design or required by the Contract document, Contractor shall be liable for all costs related to the abatement of such asbestos and damages or claims against the County.

ARTICLE 16 – WARRANTY AND GUARANTEE, ACCEPTANCE OF DEFECTIVE WORK

Warranty and Guarantee - The Contractor warrants and guarantees to the County that all materials and equipment will be new unless otherwise specified and that all Work will be of good quality, free from faults or defects and in accordance with the requirements of the Contract Documents including any required inspections, tests or approvals. All unsatisfactory Work, all faulty Work, and all Work not conforming to the requirements of the Contract Documents or such inspections, tests or approvals shall be considered defective. Prompt notice of all defects shall be given to the Contractor. All defective Work, whether or not in place, may be rejected, corrected or accepted as provided in this Article.

All warranty and guarantee coverage periods shall commence from the Final Completion date of the project as determined by the Project Manager. The coverage commencement date of warranties and guarantees shall, in accordance with the provisions stated above, be entered on each warranty or guarantee document.

However, in the event the coverage commencement date entered on the warranty or guarantee document is not in accordance with the provisions stated above, the coverage commencement date shall nonetheless be the date determined by applying the provisions stated above.

Tests and Inspections - If the Contract Documents, laws, ordinances, rules, regulations or order of any public authority having jurisdiction require any Work to specifically be inspected, tested or approved by someone other than the Contractor, the Contractor shall give the Project Manager timely notice of readiness therefore. The Contractor shall furnish the Project Manager with the required certificates of inspection, testing or approval. All such tests shall be in accordance with the methods prescribed by the American Society for Testing Materials or such other applicable organizations as may be required by law or the Contract Documents.

If any such Work required to be inspected, tested or approved is covered without written approval of the Project Manager, it must, if requested by the Project Manager, be uncovered for observation at the Contractor's expense. The cost of all such inspections, tests and approvals shall be borne by the Contractor unless otherwise provided. Neither observations by the Contractor nor inspections, tests or approvals by persons other than the Contractor shall relieve the Contractor from his obligations to perform the Work in accordance with the requirements of the Contract Documents.

Access To The Work - The Project Manager and his representative and other representatives of the County and the Professional will at all times have access to the Work. The Contractor shall provide proper facilities for such access and observation of the Work and also for any inspection or testing thereof by others.

Uncovering Work - If any Work is covered contrary to the request of the Project Manager it must, if requested by the Project Manager be uncovered for observation and replaced at the Contractor's expense. If any Work has been covered which the Project Manager has not specifically requested to observe prior to its being covered, or if the Project Manager considers it necessary or advisable that covered Work be inspected or tested by others, the Contractor, at the Project Manager's request, will uncover, expose or otherwise make available for observation, inspection or testing as the Project Manager may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, the Contractor shall bear all the expense of such uncovering, exposure, observation, inspection and testing, and of satisfactory reconstruction. If, however, such Work is not found to be defective, the Contractor shall be allowed an increase in the Contract amount or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and re-construction, if he makes a claim therefore as provided in Article 13.

Notice to Cure - If the County determines the Work is defective or deficient; if the Contractor fails to supply sufficient skilled workers or suitable materials or equipment; if the Contractor fails to make prompt payments to Subcontractors for labor, materials or equipment; if the work is not progressing in a safe, orderly or well coordinated manner; or if the general progress and/or quality of the work is not adequate to ensure continuation or completion of the work in accordance with the Contract completion time requirements, then the Procurement Division Manager shall issue a notice to cure, giving the Contractor

a specific period of time (1) in which to submit to the Project Manager a written Plan of Action including a schedule setting forth a plan by which the deficiencies shall be corrected, and (2) a specific period of time in which to correct the deficiencies.

If the Contractor does not submit a Plan of Action to indicate how and when the deficiencies indicated in the notice to cure will be cured within the specified time frame that is acceptable to the Project Manager, and if those deficiencies are not corrected within that time frame, then the County shall take further action, up to and including Contract termination. The Contractor shall not be entitled to any delay claims as a result of the County's issuance of the notice to cure.

Correction or Removal of Defective Work - If required by the Project Manager prior to approval of final payment, the Contractor shall, promptly, without cost to the County and as specified by the Project Manager, either correct any defective Work whether or not fabricated, installed or completed or, if the Work has been rejected by the Project Manager, remove it from the Site and replace it with non-defective Work.

If the Contractor does not correct such defective Work or remove and replace such rejected work within a reasonable time, or as specified in a written notice from the Project Manager, the County may have the deficiency corrected or the rejected work removed and replaced. All direct and indirect costs of such correction or removal and replacement shall be paid by the Contractor. The Contractor shall also bear the expense of making good all work of others destroyed or damaged by this correction, removal or replacement of his defective Work.

One (1) Year Correction Period - The Contractor shall be responsible for the timely correction of any deficiencies in the work for a period of one (1) year after final acceptance or such longer period of time as may be prescribed by law or by any other terms required by the Contract. The Contractor shall promptly without cost to the County and in accordance with the Project Manager's written instructions either correct such defective Work or, if it has been rejected by the Project Manager, remove it from the site and replace it with non-defective Work. If the Contractor does not promptly comply with the terms of such instructions, the Project Manager may have the defective Work corrected or the rejected Work removed and replaced. All direct and indirect costs of such removal and replacement shall be paid by the Contractor.

Acceptance Of Defective Work - If, instead of requiring correction or removal and replacement of defective Work, the Project Manager prefers to accept it, then he may do so. In such case, if acceptance occurs prior to approval of final payment, a Change Order shall be issued incorporating the necessary revisions in the Contract Documents including an appropriate reduction in the Contract amount. If the acceptance occurs after approval of final payment, the appropriate amount shall be paid by the Contractor to the County.

Neglected Work By Contractor - If the Contractor should neglect to prosecute the Work in accordance with the Contract Documents, including any requirements of the progress schedule, the County may, after reasonable written notice to the Contractor and without prejudice to any other remedy it may have, make good such deficiency and the cost thereof shall be charged against the Contractor. A Change Order shall be issued incorporating the necessary revision in the Contract Documents including an appropriate reduction in the Contract Amount. If the payments then or therefore due the Contractor are not sufficient to cover such amount, the Contractor will pay the difference to the County.

Notice is hereby given that the County will retain and pay for an independent geotechnical and materials testing laboratory to perform certain tests. Subsequent tests required after the initial tests to verify compliance with the Contract Documents in areas failing the initial tests shall be paid by the Contractor by back charge to subsequent applications for payment.

The Contractor shall perform and pay for all material testing and other testing specified in the Contract Documents and as stated. The purpose of performing these tests is to verify compliance with the specifications as set forth in the Contract Documents.

MISCELLANEOUS SERVICES

Miscellaneous services may include, but are not limited to, the following types of work:

1. Litigation assistance and court testimony,
2. Witnessing manufacturer's shop testing,
3. Periodic visits to inspect field conditions,
4. Special investigations regarding potential liability suits,
5. Preparation of various soils, materials, and Geotechnical reports, as required,
6. Permitting/negotiations with regulatory agencies,
7. Pipe coupon analysis for life cycle determination or the forensic investigations of pipeline failure including camera inspection, and
8. Ground penetrating radar investigations (soils, concrete, asphalt, subsurface)

Subsequent tests required after the initial tests to verify compliance with the Contract Documents in areas failing the initial tests shall be paid for by the Contractor by back charge to subsequent applications for payment.

The Contractor shall perform and pay for all material testing and other testing specified in the Contract Documents and as stated. The purpose of performing these tests is to verify compliance with the specifications as set forth in the Contract Documents.

ARTICLE 17 – DELAYS AND EXTENSION OF TIME

County Obligation – The County owes no duty, obligation, damages, change in Contract Amount, or liability to Contractor as a result of any delay, interference, suspension or other event which may impact Contractor's progress schedule of its contract.

Extension of Time Sole Remedy – Should Contractor's performance, in whole or in part, be interfered with, delayed, re-sequenced, disrupted, or be suspended in the commencement, prosecution or completion, for reasons beyond Contractor's control, and without any fault or negligence on its part contributing thereto, Contractor's sole remedy shall be an extension of Contract Time in which to complete the Contract.

Contract Time Extension – The County may grant an extension of Contract Time when a controlling item of work on the critical path of Contractor's progress schedule is delayed by factors not reasonably anticipated or foreseeable at the time of bid. Such time extension may be allowed only for delays occurring during the time for performance set forth in the progress schedule. Extensions of Contract Time will not be granted for delays due, in whole or in part, to the fault or negligence of Contractor or any entity or person for whom Contractor is responsible.

Utility Conflicts, Relocation, and Adjustment Delays – The Contractor is solely responsible for the coordination and resolution of all utility conflicts, relocations, and adjustments. Delays resulting from the resolution of utility conflicts, relocations, and adjustments to utilities will not be considered as the basis for granting a change in Contract Amount or Contract Time.

Limitation on Damages – In the event the provision regarding an extension of time as being the sole remedy, see above, is not legally enforceable and Contractor is not limited to the sole remedy of an extension of time, the Contractor shall not under any circumstances be allowed to recover any of the following items of damage against the County: (1) profit; (2) loss of profit; (3) work inefficiencies; (4) loss of productivity; (5) overtime premiums; (6) escalation; (7) home office overhead, including but not limited to costs of any kind for home office personnel; (8) indirect damages; and (9) consequential damages, including but not limited to loss of bonding capacity, loss of bidding opportunities, and insolvency.

ARTICLE 18 - PAYMENT AND COMPLETION

Schedule of Values – The Contractor shall submit a schedule of values for the work including quantities and unit prices totaling the total Contract Amount no later than twenty (20) days after acceptance of the GMP and prior to commencing Work on the project. The schedule of values shall be in a form satisfactory to the County.

The schedule of values shall subdivide the Work into sufficient detail to serve as the basis for progress payments during construction. Upon acceptance of the schedule of values by the Project Manager, it may be incorporated into the form of application for payment prescribed by the County.

The Contractor shall not imbalance its schedule of values nor artificially inflate any element thereof. The violation of this provision by the Contractor shall constitute a material breach of this contract.

Progress Schedule – The Contractor's Progress Schedule shall utilize the Critical Path Method ("CPM"). The Contractor's Progress Schedule shall be prepared using software approved by the County; the software shall be specifically intended for the preparation of construction schedules incorporating a critical path. The software used by the Contractor must be approved in advance by the County. The Contractor shall submit a Progress Schedule CPM (both in hard printed copy with network diagrams and electronic disc files) no later than twenty (20) days after receipt of the Notice to Proceed, and prior to commencing Work on the project. The Progress Schedule CPM shall clearly identify all controlling items of Work and activities defined as the critical path, which if delayed or prolonged, will delay the time of completion of the Contract. The critical path shall include a minimum 10% float time as part of the Contract Time for unforeseen conditions. Contractor shall provide additional float time above the required minimum 10% based on his experience, understanding of the scope, and inspection of the site.

Progress Payment Update Schedules CPM – If requested by the Project Manager, the Contractor shall submit an Update Schedule CPM to the Project Manager concurrent with each Application for Progress Payment. The Update Schedule CPM shall focus on the period from the last Update Schedule CPM to the current Update Schedule CPM submitted with the Application for Progress Payment. Activities that have either started or finished shall be reported as they actually occurred and designated as complete, if actually completed. For activities in progress that are forecasted to complete longer than planned, the remaining durations shall be revised, not the original durations. All out of sequence activities are to be reviewed and their relationships either verified or changed.

The Contractor's failure to submit a Progress Payment Schedule CPM and Progress Payment Narrative Report when requested by the Project Manager, with an Application for Progress Payment shall be sufficient reason for rejection of the Progress Payment request.

If the Project Manager rejects the Progress Payment Update Schedule CPM or the Progress Payment Narrative Report, the entire Progress Payment request shall be rejected and must be resubmitted with the corrected Progress Payment Update Schedule CPM and Progress Payment Narrative Report.

Progress Payment Narrative Report – When requested by the Project Manager each Update Schedule CPM shall be accompanied by a written Narrative Report. The Narrative Report shall describe the physical progress during the report period, plans for continuing the Work during the forthcoming report period, actions planned to correct any delays, and a detailed explanation of potential delays or problems and their estimated impact on performance, milestone completion dates, the forecasted completion date, and the forecasted substantial completion date. In addition, alternatives for possible schedule recovery to mitigate any potential delays shall be discussed.

If required by the Project Manager the Contractor's Progress Payment Narrative Report shall include a detailed list of all outstanding Contract Claims with a detailed description of each Contract Claim. The Narrative Report shall follow the outline set forth below:

Contractor's Narrative Report Outline:

- (1) Contractor's dated transmittal letter.
- (2) Work completed during the report period.
- (3) Description of the current critical path.
- (4) Description of problem areas.
- (5) Current and anticipated delays:
 - a. Cause of the delay
 - b. Corrective action and schedule adjustments to correct the delay.
- (6) Impact of the delay on other activities, milestones, and completion dates. Changes in construction sequences.
- (7) Pending items and status thereof:
 - a. Permits.
 - b. Change orders.
 - c. Time extensions.
- (8) A list of all outstanding Contract Claims and a detailed description of each Contract Claim.
- (9) Contract completion date status:
 - a. Ahead of schedule and number of days.

b. Behind schedule and number of days.

Schedule and Report Format – The Contractor shall submit the Progress Schedule CPM, Progress Payment Update Schedules CPM, and the Progress Payment Narrative Report to the Project Manager on both: (1) electronic disc files; and, (2) printed copies of the network diagrams and narrative reports.

Project Manager Review – The Project Manager shall review the Contractor's Progress Schedule CPM, Progress Payment Update Schedules CPM, and Progress Payment Narrative Reports.

The Project Manager may accept or reject Update Schedule CPMs or Narrative Reports. Rejected Update Schedule CPMs and Narrative Reports shall be corrected and re-submitted to the Project Manager.

Final Schedule Update – The Contractor within fifteen (15) days after substantial completion shall submit a final update of the schedule with actual start and actual finish dates for all activities and controlling items of Work identified as the critical path. The Final Schedule Update shall be accompanied by a certification signed by the Contractor stating, "To the best of my knowledge, the enclosed final update of the project schedule reflects the actual start and completion dates of the activities and controlling items of Work on the critical path."

Application For Progress Payment – Applications for payments shall be processed in accordance with Florida Statute 218.735, Part VII, "Local Government Prompt Payment Act".

The Project Manager shall provide written notice to the Contractor identifying the name, address, phone number and email address of the agent or employee the Contractor is required to submit payment requests or invoices to. This notice will be provided no later than ten (10) days after issuance of the Notice to Proceed.

Not more often than once a month, on a date established at the Project Pre-Construction Conference, the Contractor may submit to the Project Manager for review the County's standard application for payment form filled out and signed by the Contractor covering the Work completed as of the date of the Application and supported by such data as the Project Manager may reasonably require. Also, if payment is requested on the basis of materials and equipment not incorporated in the work but delivered and suitably stored at the site or at another location agreed to in writing, the application for payment shall also be accompanied by such supporting data, satisfactory to the Project Manager, as will establish the County's title to the material and equipment and protect its interest therein, including applicable insurance, partial Consent of Surety, and detailed inventory listing of stored material. Each such request shall include the submittal by the Contractor of (1) a detailed, itemized inventory listing the material stored at the site for which payment is requested, (2) documentation to indicate and substantiate the cost or value attributed to the items included in the stored material inventory list, and (3) the County's "Responsibility And Liability For Materials And Equipment Not Included In The Work" form executed by the Contractor. Failure to provide proper supporting documentation may subject the Progress Payment application to rejection. All progress payments will be subject to the retainage percentage specified in the Contract Documents that will be issued in the final payment after acceptance by the County of the Work.

Based upon Applications for Payment submitted to the Project Manager by the Contractor and Certificates for Payment issued by the Project Manager the County shall make progress payments on account of the Contract Amount to the Contractor as provided in the Contract Documents as follows:

In the timeframes outlined in FS 218.735, Section 2, ninety percent (90%) of the portion of the Contract Amount properly allocable to labor, materials and equipment incorporated in the Work and ninety percent (90%) of the portion of the Contract Amount properly allocable to materials and equipment suitably stored at the site or at some other location agreed upon in writing, for the period covered by the application for payment, less the aggregate of previous payments made by the Owner. When the completion of the Work ascertained as payable exceeds fifty percent (50%) of the total contract amount the retainage percentage withheld may be reduced to 5%.

Upon Final completion of the entire Work, a sum sufficient to increase the total payments to one hundred percent (100%) of the Contract Amount, less such amounts as the Owner shall determine for all incomplete work and unsettled claims as provided in the Contract Documents.

The Contractor may, at the discretion of the County's Project Manager, be required to have applications for Progress Payments accompanied by Consent of Surety to Partial Payment. However, if payment or performance bonds are not required by the contract, the County's Project Manager may require applications for Progress Payments to be accompanied by legally effective partial releases or waivers of liens executed by all Subcontractors that performed services and suppliers of material or equipment for the Contractor for services or supplies which were included in the previous Application for Progress Payment. The Contractor shall include the following certification on each Application for Progress Payments and the Application for Final Payment:

"The undersigned Contractor certifies that the work covered by this application for payment has been done, or completed in accordance with the Contract documents, that all amounts have been paid by Contractor for work, supplies, material or equipment for which previous Certificates for Payment were issued and that the current payment shown herein is now due".

Contractor's Warranty Of Title - The Contractor warrants and guarantees that title to all work, materials and equipment covered by an application for payment, whether incorporated in the Project or not, will have passed to the County prior to the making of the application for payment, free and clear of all liens, claims, security interests and encumbrances; and that no work, materials or equipment covered by an application for payment will have been acquired by the Contractor or by any other person performing the work at the site or furnishing materials and equipment for the Project subject to an agreement under which an interest therein or encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person.

Approval of Payments - The Project Manager will, within twenty (20) business days after receipt of each application for payment, either indicate his approval of payment or return the Application to the Contractor indicating in writing the reason for refusing to approve payment. In the latter case, the Contractor may make the necessary corrections and re-submit the Application. The County will pay the Contractor the amount approved within the time frame set forth in the Local Government Prompt Payment Act.

In the event the Contractor and the Project Manager do not achieve mutual agreement on the basis or amount of the payment, and should the Contractor be unwilling to make the necessary corrections or modifications, and re-submit the Application, then the County, to avoid delay in paying the Contractor the

amount the County has determined the Contractor is entitled to receive, shall approve and process the Application by making such adjustments thereto as the County deems appropriate so that the Contractor receives, without delay , payment of the amount the County has determined to have been earned and owing to the Contractor.

In the event a dispute arises involving payments or invoices that have been rejected by the Project Manager and resubmitted by the Contractor and that cannot be resolved in accordance with F.S. 218.735 (3) the Orange County Payment/Invoice Disputes Resolution Process Procedures shall be used to resolve the dispute. The procedures can be obtained by contacting the Procurement Division at (407)-836-5635.

The Project Manager's approval of any payment requested in an application for payment shall constitute a representation by him to the County, based on the Project Manager's on-site observations of the Work in progress and on his review of the application for payment and the supporting data, that the Work has progressed to the point indicated; that, to the best of his knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning Project upon Substantial Completion, to the results of any subsequent tests called for in his approval); and that the Contractor is entitled to payment of the amount approved.

However, by approving any such payment, the Project Manager shall not thereby be deemed to have represented that he made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, that he has reviewed the means, methods, techniques, sequences and procedures of construction nor that he has made any examination to ascertain how or for what purpose the Contractor has used the moneys paid or to be paid to him on account of the Contract Amount.

The Project Manager's approval of final payment shall constitute an additional representation by him to the County that the conditions precedent to the Contractor's belief being entitled to final payment as set forth in this Article have been fulfilled.

The Project Manager may refuse to approve the whole or any part of any payment if in his opinion he is unable to make such representations to the County. He may then refuse to approve any such payment because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously approved, to such extent as may be necessary in his opinion to protect the County from loss because:

- A. The Work is defective;
- B. Claims have been filed or there is reasonable evidence indicating the probable filing thereof;
- C. The Contract Amount has been reduced because of Change Order(s);
- D. The County has been required to correct defective Work or complete the Work in accordance with Article 16; or
- E. Of unsatisfactory prosecution of the Work, including failure to clean up as required by Article 9.

Substantial Completion - Prior to final payment, the Contractor shall certify in writing to the Project Manager that the entire Work is Substantially Complete and request that the Project Manager issue a certificate of Substantial Completion.

Within a reasonable time thereafter, the Project Manager, Design Team and Contractor will make an inspection of the Work to determine the status of completion. If the Project Manager does not consider the Work Substantially Complete, the Contractor will be notified in writing giving the reasons therefore. If the Project Manager considers the Work Substantially complete, a tentative certificate of Substantial Completion will be issued. This Certificate shall fix the date of Substantial Completion and the responsibilities between the County and the Contractor for maintenance, heat and utilities.

There shall be attached to the Certificate a single punch list of items to be completed or corrected by the Contractor. The punch list must specify a date, not to exceed five (5) days after the punch list has been developed and reviewed, in which the delivery of the punch list to the Contractor must be made. Items not included on the punch list cannot be used as a basis to withhold final payment for retainage. In addition, the final contract completion date shall be at least thirty (30) days after the delivery of the punch list to the Contractor. Punch lists not provided to the Contractor by the date agreed upon for delivery will cause the contract time for completion to be extended by the number of days the local government exceeded the delivery date.

Damages may only be assessed against the Contractor in the event the Contractor fails to complete the project within the contract period as was extended by the guidelines set forth in this provision.

The final undisputed retainage payment must be made within twenty (20) business days after receipt of a proper payment request. This would be less any amount withheld in accordance with the contract provisions for incomplete or uncorrected work unless otherwise provided for by written notice to the Contractor specifying the failure of the Contractor to meet contract requirements in the development of the punch list.

The County shall have the right to exclude the Contractor from the Work after achievement of Substantial Completion, but the County will allow the Contractor reasonable access to complete items on the punch list.

Partial Utilization - Prior to Substantial Completion, the Project Manager may request the Contractor to permit the use of a specified part of the Work which it believes it may use without significant interference with construction of other parts of the Work. If the Contractor agrees, he will certify to the Project Manager that said part of the Work is Substantially Complete and request the Project Manager issue a certificate of Substantial Completion for that part of the Work. Within a reasonable time thereafter, the Project Manager and Contractor will make an inspection of that part of the Work to determine its status of completion.

If the County and the Project Manager consider that part of the Work to be Substantially Complete, the Project Manager will deliver to the Contractor a certificate to that effect, fixing the date of Substantial Completion as to that part of the Work, attaching thereto a punch list of items to be completed or corrected before final payment and fixing the responsibility between the County and Contractor for maintenance, heat and utilities as to that part of the Work.

The County shall have the right to exclude the Contractor from any part of the Work which is so certified to be Substantially Complete but the County will allow the Contractor reasonable access to complete or correct items on the punch list.

Final Inspection - Upon written notice from the Contractor that the Work is complete, including the "punch" listed deficiencies, the Project Manager will make a final inspection with the Contractor and will notify the Contractor in writing of any particulars in which this inspection reveals that the Work is

defective. The Contractor shall immediately make such corrections as are necessary to remedy such defects and to complete all the required work.

Final Inspection For Payment - After the Contractor has completed any such corrections to the satisfaction of the Project Manager and delivered all maintenance and operating instructions, schedules, guarantees, bonds, Certificates of Inspection and other documents as required by the Contract Documents, he may make application for final payment following the procedure for progress payments.

For projects that the Contractor was required to furnish a payment and performance bond, the final application for payment shall be accompanied by legally effective final release or waiver of lien from the Contractor and the consent of Surety to final payment. The Final Release of Lien, Form E-12, must be utilized in all Final Pay Applications.

Post Construction Warranty Inspection. The CMAR Team, along with its Sub-contractors, within ten (10) months after issuance of a Certificate of Substantial Completion and before expiration of the contractual one year warranty and/or guarantee period, in the company of the A/E Design Team Representative and the Owner's Representative, shall conduct an on-site inspection of the Project to determine the condition of all items of equipment, materials or building systems which are under warranty or guarantee coverage pursuant to the requirements of the Construction Agreement. The A/E Design Team, along with its Sub-consultants, shall provide the Owner with a written report listing all items covered by warranty or guarantee coverage that are observed or otherwise found to be defective, inoperable, or not performing their intended function in a satisfactory manner. The report shall include recommendations for resolving all the items so noted in the warranty inspection report.

Approval Of Final Payment - If, on the basis of its observations and review of the Work during construction, its final inspection and its review of the final application for payment (all as required by the Contract Documents), the Project Manager is satisfied that the Work has been completed and the Contractor has fulfilled all of his obligations under the Contract Documents, it will, within twenty (20) business days after receipt of the final application for payment, indicate in writing its approval of payment. Otherwise, it will return the Application to the Contractor, indicating in writing its reason for refusing to approve final payment, in which case the Contractor will make the necessary corrections and re-submit the Application.

The County will, in accordance with the Local Government Prompt Payment Act, pay the Contractor the amount approved by the County and issue a Certificate of Final Completion. If after Substantial Completion of the Work, Final Completion is materially delayed through no fault of the Contractor, and the Project Manager so confirms, the County shall, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than the retainage stipulated in the Contract, the written consent of the Surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Project Manager prior to certification of such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

Contractor's Continuing Obligation - The Contractor's obligation to perform the Work and complete the Work in accordance with the Contract Documents shall be absolute. Neither approval of any progress or final payment by the County, the issuance of Certificate of Completion, any payment by the County to the Contractor under the Contract Documents, any use or occupancy of the Work or any part thereof by the County, any act of acceptance by the County, any failure to do so, nor any correction of

defective Work by the County shall constitute an acceptance of Work not in accordance with the Contract Documents.

Waiver Of Claims - The making and acceptance of final payment shall constitute:

- A. A waiver of all claims by the County against the Contractor other than those arising from unsettled liens, from defective Work appearing after final payment or from failure to comply with the requirements of the Contract Documents, or from the terms of any special guarantees specified therein, and,
- B. A waiver of all claims by the Contractor against the County other than those previously made in writing and still unsettled.

ARTICLE 19 - SUSPENSION OF WORK AND TERMINATION

County May Suspend Work - The County may at any time and without cause suspend the Work or any portion thereof by notice in writing to the Contractor. The Project Manager shall fix the date on which Work shall be resumed and the Contractor will resume the Work on the date so fixed.

For unreasonable delays, the Contractor will be allowed an increase in the Contract Amount, an extension of the Contract Time or both, if directly attributable to any suspension and if he makes a claim therefore provided in Article 13. However, no profits will be allowed on claims for suspended work. Also, during any period of suspension, the Contractor shall take all available measures to mitigate costs such as taking on new work, reassigning resources to other Contracts, etc.

County May Terminate for Cause - If the Contractor is adjudged bankrupt or insolvent; if he makes a general assignment for the benefit of his creditors without County approval; if a trustee or receiver is appointed for the Contractor or for any of his property; if he files a petition to take advantage of any debtor's act or to reorganize under the bankruptcy or similar laws; if he fails to prosecute and complete the Work in accordance with the established Project schedule or within the Contract Time allowed; if he repeatedly fails to supply sufficient skilled workers or suitable materials or equipment; if he repeatedly fails to make prompt payment to Subcontractors for labor, materials or equipment; if he disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction; if he disregards the authority of the Project Manager; or if he otherwise substantially violates any provisions of the Contract Documents, then the County may, without prejudice to any other right or remedy and after giving the Contractor and his Surety if applicable seven (7) days written notice, terminate the services of the Contractor and take possession of the Work and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and assign the completion of the Work to the Surety, or finish the Work by whatever method it may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished.

If the unpaid balance of the Contract Amount exceeds the direct and indirect cost of completing the Work, including compensation for additional professional services, such excess shall be paid to the Contractor. If such cost exceeds the unpaid balance, the Contractor shall pay the difference to the County within fifteen (15) days after notification.

If the Contractor fails to provide such payment to the County, the County at its sole discretion may deduct the balance owed from payments due the Contractor on any other contracts between the Contractor and the County. Such cost incurred by the County will be determined by the County and incorporated in a Change Order.

If the County elects to assign the completion of the Work to the Surety, and the Surety tenders a replacement contractor, then Surety shall provide performance, payment and other surety bonds as may be required in accordance with the Contract Documents.

Where the Contractor's services have been so terminated by the County, said termination shall not affect any rights of the County against the Contractor then existing or which may thereafter accrue. Any retention or payment of monies by the County due the Contractor will not release the Contractor from liability.

Upon Termination for Cause, the Contractor shall not be entitled to payment for any anticipated supplemental costs, administrative expenses and/or profit for uncompleted Work.

If the Contractor's failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor the contract shall not be terminated for default. Examples of such causes include (1) acts of God or the public enemy, (2) acts of a government in its sovereign capacity, (3) fires, (4) floods, (5) epidemics, (6) strikes and (7) unusually severe weather.

If after notice of termination of the services of the Contractor for cause, it is determined that the Contractor was not in default, the termination shall be deemed to have been for the convenience of the County. In such event the Contractor may recover from the County payment for Work completed and reasonable termination costs as provided in the following paragraph.

Termination for Convenience: Upon seven (7) days written notice to the Contractor and the Surety, or sooner if reasonable under the circumstances, the County may, without cause and without prejudice to any other right or remedy, elect to terminate any part of the Work, or the Contract in whole or in part, as the County may deem appropriate. In any termination for convenience, the Contractor shall be paid for Work completed by the Contractor, Subcontractors and Suppliers at the time of termination provided the Work has been inspected and accepted by the County. However, the payment to the Contractor will exclude any and all anticipated supplemental costs, administrative expenses and profit for uncompleted Work. Upon termination for convenience, the County shall have full power and authority to take possession of the Work, assume any sub-agreements with Subcontractors and suppliers that the County selects, and prosecute the Work to completion by Contract or as the County may deem expedient. A termination for convenience may apply to individual delivery orders, purchase orders or to the contract in its entirety.

Authority to Terminate: The authority to terminate this Contract including all notices thereto is the sole responsibility of the Manager, Procurement Division.

ARTICLE 20 - MAINTENANCE AND EXAMINATION OF RECORDS

The Contractor shall keep adequate records and supporting documents applicable to this Contract. Said records and documentation shall be retained by the Contractor for a minimum of five (5) years after the date of final payment on this contract. If any litigation, claim or audit is commenced prior to the expiration of the five (5) year period, the records shall be maintained until all litigation, claims or audit findings involving the records have been resolved.

If applicable, time records and cost data shall be maintained in accordance with generally accepted accounting principles. This includes full disclosure of all transactions associated with the contract.

The Contractor's "records and supporting documents" as referred to in this Contract shall include any and all information, materials and data of every kind and character, including without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, invoices, leases, contracts, commitments, arrangements, notes, daily diaries, superintendent reports, drawings, receipts, vouchers and memoranda, and any and all other agreements, sources of information and matters that may in the County's judgment have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any Contract document. Such records and documents shall include (hard copy, as well as computer readable data, written policies and procedures; time sheets; payroll registers; cancelled checks; subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, etc.); original estimates; estimating worksheets; correspondence; change order files (including pricing data used to price change proposals and documentation covering negotiated settlements); back-charge logs and supporting documentation; general ledger entries detailing cash and trade discounts earned, insurance rebates and dividends; and any other contractor records which may have a bearing on matters of interest to the County in connection with the Contractor's dealings with the County (all foregoing hereinafter referred to as "records and supporting documents") to the extent necessary to adequately permit evaluation and verification of:

- a) Contractor compliance with contract requirements; or
- b) Compliance with provisions for pricing change orders; or
- c) Compliance with provisions for pricing invoices; or
- d) Compliance with provisions regarding pricing of claims submitted by the Contractor or his payees; or
- e) Compliance with the County's business ethics; or
- f) Compliance with applicable state statutes and County Ordinances and regulations.

Records and documents subject to audit shall also include those records and documents necessary to evaluate and verify direct and indirect costs, (including overhead allocations) as they may apply to costs associated with this Contract. In those situations where Contractor's records have been generated from computerized data (whether mainframe, mini-computer, or PC based computer systems), Contractor agrees to provide the County's representatives with extracts of data files in computer readable format on data disks or suitable alternative computer exchange formats.

The County and its authorized agents shall have the right to audit, inspect and copy records and documentation as often as the County deems necessary throughout the term of this contract and for a period of five (5) years after final payment. Such activity shall be conducted during normal business hours. The County, or any of its duly authorized representatives, shall have access within forty-eight (48) hours to such books, records, documents, and other evidence for inspection, audit and copying.

The County, during the period of time defined by the preceding paragraph, shall have the right to obtain a copy of and otherwise inspect any audit made at the direction of the Contractor as concerns the aforesaid records and documentation. Records and documents shall be made accessible at the Contractor's local place of business.

If the records are unavailable locally, it shall be the Contractor's responsibility to insure that all required records are provided at the Contractor's expense including payment of travel and maintenance costs incurred by the County's authorized representatives or designees in accessing records maintained out of the county. The direct costs of copying records, excluding any overhead cost, shall be at the County's expense.

The Contractor shall require all payees (examples of payees include subcontractors, insurance agents, material suppliers, etc.) to comply with the provisions of this article by including the requirements hereof in a written contract agreement between contractor and payee. Such requirements include a flow-down right of audit provisions in contracts with payees, which shall also apply to Subcontractors and Sub-subcontractors, material suppliers, etc. The Contractor shall cooperate fully and shall cause all aforementioned parties and all of the Contractor's subcontractors (including those entering into lump sum subcontracts and lump sum major material purchase orders) to cooperate fully in furnishing or in making available to the County from time to time whenever requested in an expeditious manner any and all such records, documents, information, materials and data.

The County's authorized representatives or designees shall have reasonable access to the Contractor's facilities, shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Contract and shall have adequate and appropriate work space, in order to conduct audits in compliance with this article.

Even after a change order proposal has been approved, the Contractor agrees that if the County later determines the cost and pricing data submitted was inaccurate, incomplete, not current or not in compliance with the terms of the contract regarding pricing of change orders, then an appropriate contract price reduction will be made. Such post-approval contract price adjustment will apply to all levels of contractors and/or subcontractors and to all types of change order proposals specifically including lump sum change orders, unit price change orders, and cost-plus change orders.

If an audit inspection or examination by the County, or its designee, in accordance with this article discloses overpricing or overcharges (of any nature) by the Contractor to the County in excess of one-half of one percent (.5%) of the total contract billings, the reasonable actual cost of the County's audit shall be reimbursed to the County by the Contractor.

Any adjustments and /or payments that must be made as a result of any such audit or inspection of the contractor's invoices and /or records and supporting documents shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of the County's findings to the Contractor.

ARTICLE 21 – PATENTS AND ROYALTIES

Unless otherwise provided, the bidder shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of the contract.

The Contractor, without exception, shall indemnify and save harmless the County and its employees from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or unpatented invention, process, or article manufactured or supplied by the Contractor.

In the event of any claim against the County of copyright or patent infringement, the County shall promptly provide written notification to the Contractor. If such a claim is made, the Contractor shall use its best efforts to promptly purchase for the County any infringing products or services or procure a license, at no cost to the County, which will allow continued use of the service or product. If none of the alternatives are reasonably available, the County agrees to return the article on request to the Contractor and receive reimbursement, if any, as may be determined by a court of competent jurisdiction.

ARTICLE 22 – VERBAL ORDERS

The Project Manager under the following conditions may issue verbal change orders to the contract:

- A. To address bona fide emergency requirements. Emergency requirements are described as those requiring immediate action due to (1) an imminent or existing threat to the health, safety or welfare of persons or property and (2) conditions which poses serious economic damage to the County.
- B. To ensure the continuity of critical elements of contract performance.

Any such verbal direction shall be confirmed in writing by the Project Manager to the contractor within five (5) calendar days after issuance. Concurrently, a copy of the written direction shall be provided to the Manager, Procurement Division with documentation in the form of an emergency justification to support the action taken.

A formal change order and associated contract amendment, if applicable, will be negotiated in conjunction with the Procurement Division and shall succeed the written confirmation not later than thirty (30) calendar days after issuance of the verbal direction. Board approval, as applicable, shall be obtained.

ARTICLE 23 – MISCELLANEOUS

Whenever any provision of the Contract Documents requires the giving of written notice, it shall be deemed to have been validly given if delivered in person to the individual, to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail (postage prepaid) to the last business address known to the County.

All Specifications, Drawings and copies thereof furnished by the County shall remain its property. They shall not be used on another Project and, with the exception of those sets which have been signed in connection with the execution of the Contract, shall be returned to the County upon completion of the Work.

The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder, and, in particular but without limitation, the warranties, guarantees and obligations imposed upon the Contractor and the rights and remedies available to the County thereunder shall be in addition to and not a limitation of any otherwise imposed or available by law, by special guarantee or other provisions of the Contract Documents.

Should the County or the Contractor suffer injury or damage to its person or property because of any error, omission or act of the other or of any of his employees, agents or others for whose acts he is legally liable, claim should be made in writing to the other party within a reasonable time of the first observance of such injury or damage.

This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the provisions of this Contract will be held in Orange County, Florida. Venue for any litigation involving this Contract shall be the Ninth Circuit Court in and for Orange County, Florida.

The obligations of Orange County under this award are subject to the availability of funds lawfully appropriated for its purpose by the State of Florida and the Board of County Commissioners, or other specified funding source for this contract.

The County will be represented on site by one or more Inspectors who are employed by the County or by a Construction Engineering and Inspection (CEI) firm under contract to the County. The Contractor is to follow all directions provided by these Inspectors. Provided, however, that any such directions shall not be construed to:

- a. Authorize any deviation from the Contract Documents that:
 - Requires a change in the Contract Price or Contract Time;
 - Materially changes any aspect of the work covered by a permit to the extent that the regulatory agency having jurisdiction would require modification of the permit;
 - Materially changes any aspect of the work to the extent that the intent of the design is compromised;
- b. Approve any substitute materials or equipment;
- c. Undertake any of the responsibilities of Contractor, subcontractors or Contractor's superintendent, or expedite the Work; Direct the Contractor as to any aspect of the means, methods, techniques, sequences or procedures of construction unless such is specifically called for in the Contract Documents;
- d. Advise on or issue directions as to safety precautions and programs in connection with the Work.

ARTICLE 24 – OWNER DIRECT PURCHASE

Pursuant to **Florida Statutes**, Section 212.08(6), and **Florida Administrative Code**, Number 12A-1.094, Orange County Florida is exempt from Florida Sales Tax for the purchase of construction materials, supplies and/or equipment incorporated into a construction project.

For construction Contracts valued, the County may, at its discretion, use the direct purchase method for large dollar value equipment and materials.

Direct purchases will be negotiated with the Contractor based on those items identified by the Professional. The final determination as to whether to direct purchase any materials or equipment shall be made by the Manager of the Procurement Division after consultation with the County's Project Manager.

When it has been determined that the use of direct purchases is warranted, the Orange County Owner Direct Purchase Provision shall govern.

Owner Furnished Material. The Owner may furnish material directly to the CMAR for delivery, storage and installation. The CMAR shall be responsible for coordinating the delivery, storage and

installation with all subcontractors and other vendors, ensuring that all infrastructure needed by the Owner furnished material is in place in a timely manner. The CMAR, as a condition of this scope of services, shall review the necessary technical documentation to support the Owner Project Team as required to facilitate the purchase of equipment and material. The CMAR shall warranty installation for a period consistent with contractual requirements and specifications. This material will be noted on the drawings and specifications.



**ORANGE COUNTY CONVENTION CENTER
CAPITAL PLANNING DIVISION
PARKING VOUCHER**

**THIS VOUCHER ALLOWS THE BEARER TO FREE PARKING
WHILE ATTENDING THE FOLLOWING EVENT:**

***CMAR PRE-PROPOSAL MEETING FOR THE
ORANGE COUNTY CONVENTION CENTER
NORTH/SOUTH BUILDING IMPROVEMENTS PROJECT***

***MEETING LOCATION:
WEST CONCOURSE
9800 INTERNATIONAL DRIVE, ORLANDO, FL 32819
ROOM W314***

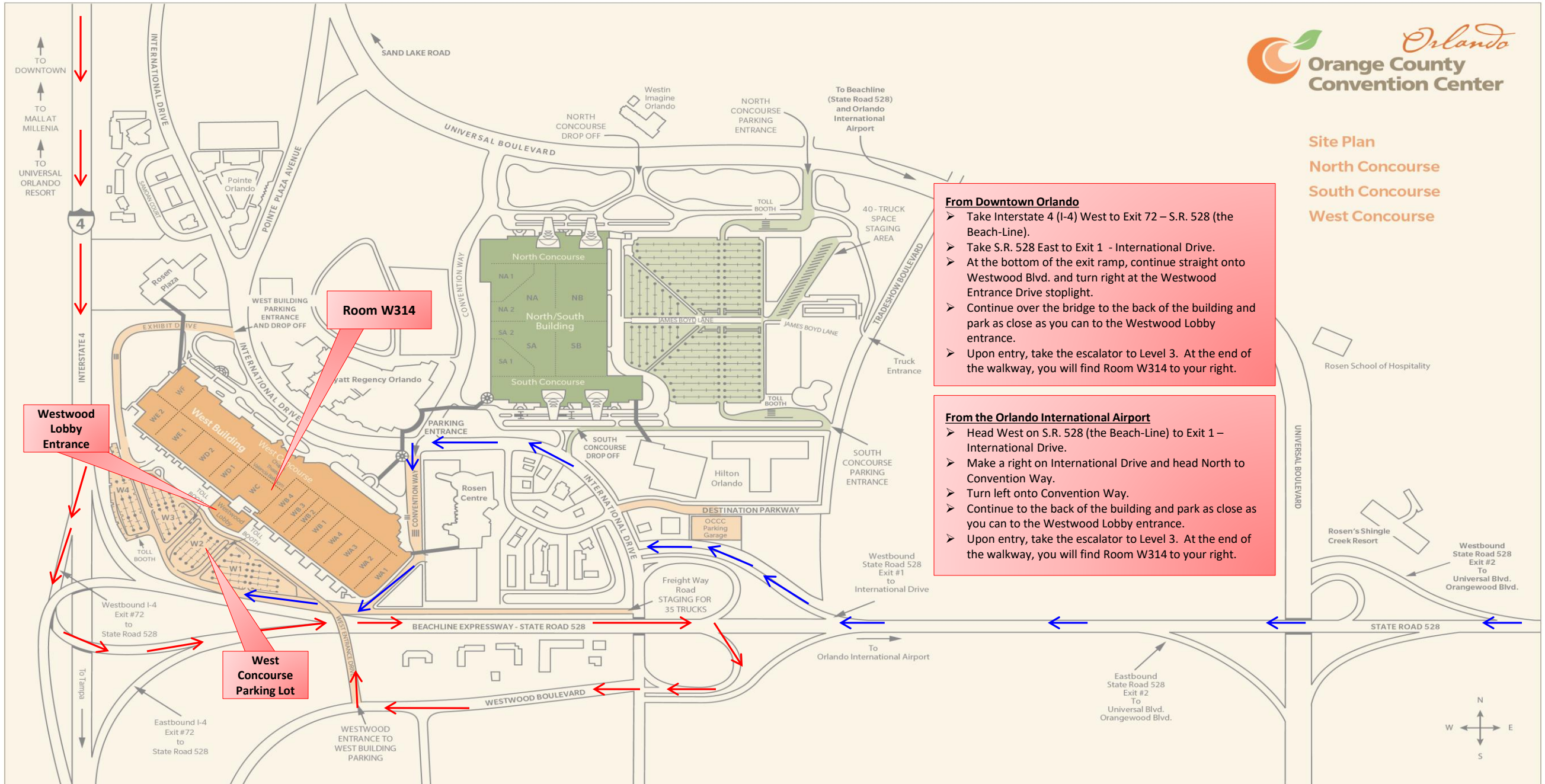
***VALID ONLY ON
WEDNESDAY, MAY 1, 2019 AT 1:30 P.M.***

**PLEASE PRESENT TO TOLL BOOTH ATTENDANT AND THEN
PLACE ON DASH AFTER PASSING THROUGH TOLL BOOTH.**

ATTACHMENT A
Orange County Convention Center
9800 International Drive, Orlando, FL 32819
West Concourse
Room W314



Site Plan
 North Concourse
 South Concourse
 West Concourse



Room W314

Westwood Lobby Entrance

West Concourse Parking Lot

From Downtown Orlando

- Take Interstate 4 (I-4) West to Exit 72 – S.R. 528 (the Beach-Line).
- Take S.R. 528 East to Exit 1 - International Drive.
- At the bottom of the exit ramp, continue straight onto Westwood Blvd. and turn right at the Westwood Entrance Drive stoplight.
- Continue over the bridge to the back of the building and park as close as you can to the Westwood Lobby entrance.
- Upon entry, take the escalator to Level 3. At the end of the walkway, you will find Room W314 to your right.

From the Orlando International Airport

- Head West on S.R. 528 (the Beach-Line) to Exit 1 – International Drive.
- Make a right on International Drive and head North to Convention Way.
- Turn left onto Convention Way.
- Continue to the back of the building and park as close as you can to the Westwood Lobby entrance.
- Upon entry, take the escalator to Level 3. At the end of the walkway, you will find Room W314 to your right.