

HIGHLANDS COUNTY BOARD OF COUNTY COMMISSIONERS
Thursday, January 04, 2024
9:00 AM
600 S. Commerce Ave. Sebring, FL 33870
AGENDA

1 MEETING CALLED TO ORDER: Invitation to fill out “COMMENTS BY THE PUBLIC” forms.
Please silence all cell phones and devices.

2 INVOCATION

3 PLEDGE OF ALLEGIANCE

4 ANNOUNCEMENTS

The Veterans Advisory Board will meet on Thursday, January 4, 2024, at 3:30 p.m., at the Veteran Services Office, 7209 S. George Blvd., Sebring

A Public Hearing of the Highlands County Planning & Zoning Commission and Local Planning Agency and the Zoning Board of Adjustment will be held on Tuesday, January 9, 2024, at 3:00 p.m., in the Board Room, 600 S. Commerce Ave., Sebring

The Historic Preservation Commission will meet on Thursday, January 11, 2024, at 2:30 p.m., in the Engineering Training Room, 505 S. Commerce Ave. Sebring

The Affordable Housing Advisory Committee will meet on Wednesday, January 17, 2024, at 3:30 p.m., in the Engineering Training Room, 505 S. Commerce Ave. Sebring

5 CONSTITUTIONAL OFFICERS – ANNOUNCEMENTS:

6 RECOGNITIONS, PRESENTATIONS AND PROCLAMATIONS:

7 PUBLIC COMMENT

8 CONSENT AGENDA

8.A *Request approval of a High Impact Signature Event Tourist Development Grant for the annual Spartan Trifecta Weekend in Highlands County for years 2024 - 2026.*

Reagan Fultz, Tourism Development Coordinator

There is no fiscal impact to Fund 005 (General) or the overall budget as there are funds budgeted in the current fiscal year for marketing said event. The Spartan Trifecta Weekend is eligible for \$90,000.00 for Year #1 (2024), \$90,000.00 for Year #2 (2025), and \$90,000.00 for Year #3 (2026) from Fund 152 (Tourist Development Trust) and cost center 5305 (Tourist Dev-Marketing and Promotion), account 53400 (Contractual

Services).

[Grant Contract - Spartan Trifecta Weekend 2024 - 2026 \(Signed\).pdf](#)

[Attachment A_Grant Contract - Spartan Trifecta Weekend 2024 - 2026.pdf](#)

- 8.B *Request Approval for Construction Manager at Risk Agreement with Weatherproofing Technologies, Inc.*
Brandon Gunn, Facilities Director
Tanya Cannady, Business Services Director
Up to the Board approved budgeted amount for each project, as assigned. Each new construction project may not exceed \$2,000,000 or rehabilitation or renovation projects may not to exceed \$1,000,000.
[12-20-2023 Weatherproofing rev- vendor executed.pdf](#)
- 8.C *Request approval of the Nu-Hope Elder Care Services, Inc., a Florida Non-Profit Corporation Grant Agreement.*
Tanya Cannady, Business Services Director
This grant award of \$50,000 was approved in the Adopted Budget for FY 23/24 on September 19, 2023.
[Nu-Hope Agreement FY24 1.4.24.pdf](#)
- 8.D *Request approval of the Peace River Center for Personal Development, Inc., a Florida Non-Profit Corporation Grant Agreement.*
Tanya Cannady, Business Services Director
This grant award of \$30,000 was approved in the Adopted Budget for FY 23/24 on September 19, 2023.
[Peace River Center Agreement FY24 1.4.24.pdf](#)
- 8.E *Request adoption of Resolution 23-24-46 for Budget Amendment 23-24-036 to set up Project 23047 funds for the Bullet Proof Vest grant program for the Sheriff within the General Fund.*
Paul Blackman, Sheriff
The fiscal impact is an increase to Fund 005 (General) and the overall budget in the amount of \$7,747.92; these funds will be received thru a donation from the Florida Sheriff's Association and will be appropriated in cost center 3101 (Sheriff-005), account 53001Z (Project Operating Expense – Elected Official), project 23047 (BPV FY23-24).
[23-24-036 Project 23047 BPV FY23-24 \(BA\).pdf](#)
[23-24-036R Project 23047 BPV FY23-24 \(Resolution\).pdf](#)
- 8.F *Request adoption of Resolution 23-24-44 for Budget Amendment 23-24-030 to appropriate CARE Award donation.*
David Nitz, OMB Manager
The fiscal impact is an increase to Fund 005 (General) and Fund 110 (Transportation Trust) in the amounts of \$1,350.00 and \$500.00, respectively. Funds will be appropriated in cost center 5200 (Community Programs), cost center 4200 (Road & Bridge), and cost center 4500 (Critical Infrastructure-Exec) in the amounts of \$1,000.00, \$500.00, and \$350.00, respectively, for a total of \$1,850.00.
[23-24-030 Comm. CARE Awards Donation \(BA\).pdf](#)
[23-24-030R Comm. CARE Awards Donation \(Resolution\).pdf](#)
- 8.G *Request approval of Budget Amendment 23-24-037 moving funds from Regular Salaries and Wages to Contractual Services for temporary staffing in Facilities*

Management.

Brandon Gunn, Parks & Facilities Director

The fiscal impact is a decrease of \$26,265.00 to account 51200 (Regular Salaries & Wages) and increase to account 53400 (Contractual Services) within Fund 005 (General), cost center 2673 (Facilities Management).

[23-24-037 Facilities Mgmt Contractual Realign \(BA\).pdf](#)

9 COMMITTEE ASSIGNMENTS:

- 9.A *Request to appoint President Fred Hawkins, of South Florida State College, and Benjamin Wyatt, with Crews Bank and Trust, to the Highlands County Industrial Development Authority and Economic Development Commission.*

Jeff King, Executive Manager of Business and Economic Development

There is no fiscal impact.

[Ben Wyatt.pdf](#)

[Copy of President Hawkins - IDA Application.pdf](#)

10 PUBLIC HEARING

11 ACTION AGENDA

- 11.A *Request adoption of Resolution 23-24-51 extending the Certificate of Public Convenience and Necessity for Atlantic Palm Beach Ambulance, Inc. d/b/a AMR.*

Dustin Fitch, Interim Deputy Chief

No Fiscal Impact

[Resolution extension Atlantic Palm.CLEAN.SGS.pdf](#)

- 11.B *Request adoption of Resolution 23-24-50 extending the Certificate of Public Convenience and Necessity for Lifefleet Southeast Inc. d/b/a American Medical Response.*

Dustin Fitch, Interim Deputy Chief

No fiscal Impact

[Resolution extension Lifefleet.CLEAN.SGS.pdf](#)

12 COUNTY ADMINISTRATOR AND LEGAL

- 12.A *County Attorney Status Report.*

Sherry G. Sutphen, County Attorney

There is no fiscal impact.

[Legal_Long_Range_Log.docx](#)

- 12.B *Commissioner's Priorities and the Project Status Report.*

Laurie Hurner, County Administrator

There is no fiscal impact.

13 COMMISSIONERS

14 INFORMATIONAL

- 14.A *Board payables from to December 19, 2023, to January 3, 2024*

15 ADJOURN

Any person who decides to appeal any decision made by this Board of County Commissioners of Highlands County, Florida, in public hearing or meeting is hereby advised that he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record will include the testimony and evidence upon which such appeal is to be based.

The Board of County Commissioners of Highlands County, Florida, does not discriminate upon the basis of any individual's disability status. This non-discrimination policy involves every aspect of the Board's functions, including one's access to, participation, employment or treatment in its programs or activities. "Anyone requiring reasonable accommodation as provided for in the Americans With Disabilities Act or Section 286.26 Florida Statutes should contact Human Resources, ADA Coordinator at: 863-402-6509 (voice), or via Florida Relay Service 711, or by e-mail: hrmanager@highlandsfl.gov." Requests for CART or interpreter services should be made as soon as possible but no later than 48 hours in advance to permit coordination of the service.

Please note our new website address: www.highlandsfl.gov/

Any invocation that may be offered before the official start of the Commission meeting shall be the voluntary offering of a private citizen, to and for the benefit of the Commission. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the Commission, and the Commission is not allowed by law to endorse the religious beliefs or views of this, or any other speaker.

HIGHLANDS COUNTY
COUNTY COMMISSION AGENDA ITEM

DATE OF ACTION REQUEST: January 4, 2024

PRESENTER: Reagan Fultz, Tourism Development Coordinator

SUBJECT/TITLE: Request approval of a High Impact Signature Event Tourist Development Grant for the annual Spartan Trifecta Weekend in Highlands County for years 2024 - 2026.

STATEMENT OF ISSUE

The Tourist Development Council, at the regular meeting on October 27, 2023, recommended reimbursing Spartan Race, Inc. for up to \$90,000.00 (\$20/verified room night, up to 4,500 verified room nights) per year for years 2024, 2025 and 2026 for the Spartan Trifecta Weekend held annually in Highlands County. This grant will be to cover eligible costs associated with marketing expenses, facility rental fees, and approved reimbursable items under the High Impact Signature Event Grant guidelines for the Spartan Trifecta Weekend.

RECOMMENDED ACTION

Move to approve a High Impact Signature Event Tourist Development Grant for the annual Spartan Trifecta Weekend in Highlands County for years 2024 - 2026.

FISCAL IMPACT

There is no fiscal impact to Fund 005 (General) or the overall budget as there are funds budgeted in the current fiscal year for marketing said event. The Spartan Trifecta Weekend is eligible for \$90,000.00 for Year #1 (2024), \$90,000.00 for Year #2 (2025), and \$90,000.00 for Year #3 (2026) from Fund 152 (Tourist Development Trust) and cost center 5305 (Tourist Dev-Marketing and Promotion), account 53400 (Contractual Services).

Attachments: [Grant Contract - Spartan Trifecta Weekend 2024 - 2026 \(Signed\).pdf](#)
[Attachment A_Grant Contract - Spartan Trifecta Weekend 2024 - 2026.pdf](#)

**HIGHLANDS COUNTY
SPECIAL EVENT/PROJECT GRANT CONTRACT**

CONTRACTOR

NAME: SPARTAN RACE, INC
ADDRESS: 234 CONGRESS STREET
BOSTON, MA 02110
FEI NO: 27-3389484

The Board of County Commissioners of Highlands County, a political subdivision of the State of Florida (hereinafter the COUNTY), hereby provides funding to the CONTRACTOR for the purpose of reimbursement of expenses for the 2024-2026 Annual Spartan Trifecta Weekend as provided in the Funding Application Work attached to this Contract as Attachment A and made a part hereof. Any terms and conditions of this Contract, which vary from those contained in Attachment A, shall have precedence.

CONTRACTOR RESPONSIBILITIES

1. The CONTRACTOR shall be responsible for obtaining all applicable local, state and federal permits.
2. The CONTRACTOR is responsible for all administrative services and represents that it has or will secure at its own expense all necessary personnel. Such personnel shall not be employees of the COUNTY. The CONTRACTOR shall be responsible for the payment of all its FICA and Social Security Taxes.

INDEPENDENT CONTRACTOR RELATIONSHIP

The CONTRACTOR is, and shall be, in the performance of all work, services and activities an independent contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed by or on behalf of the CONTRACTOR shall at all times, and in all places, be subject to the CONTRACTOR's sole direction, supervision and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees and volunteers perform the work and in all respects the CONTRACTOR's relationship and the relationship of its employees and volunteers to the COUNTY shall be that of an independent contractor and not as employees or agents of the COUNTY.

The CONTRACTOR does not have the power or authority to bind the COUNTY in any promise, agreement or representation.

REPORTS

The CONTRACTOR shall submit monthly status reports to the COUNTY detailing work completed and activities performed.

TERM OF CONTRACT

This Contract is effective on the date of execution and shall remain in effect until February 11, 2027.

NOTICE

Any notice or other written communication, except invoices, between the parties shall be considered delivered when posted by U.S. registered or certified mail, postage prepaid and return receipt requested, or delivered in person to the COUNTY.

COMPENSATION

1. The COUNTY agrees to pay the CONTRACTOR for Hosting Fees, in the amount of up to Ninety Thousand Dollars (\$90,000) for the 2024 Spartan Trifecta Weekend with room verifications required, up to Ninety Thousand Dollars (\$90,000) for the 2025 Spartan Trifecta Weekend with room verifications required, and up to Ninety Thousand Dollars (\$90,000) for the 2026 Spartan Trifecta Weekend with room verifications required, from Cost Center 5305 the Marketing and Promotion Fund for providing the services described in attached Attachment A. The CONTRACTOR shall submit payment requests and expenditure documentation to the COUNTY, said requests being in detail sufficient for a proper pre-audit and post-audit thereof. The CONTRACTOR and the COUNTY understand and agree that there shall be no reimbursement of funds by the COUNTY for any expenditure made prior to the date of this Agreement or for any expenditure or amount in excess of the amount stated in this paragraph.
2. It is unlawful for COUNTY's Board of County Commissioners to expend or enter into a contract requiring expenditure in any fiscal year for more than the amount of appropriations in each fund's budget, except as provided in Chapter 129, Florida Statutes, and in no case shall the total appropriations of any budget be exceeded, except as provided in Section 129.06 Florida Statutes. Pursuant to Section 129.07, Florida Statutes, this Contract is expressly made executory for the value of services and materials and other costs to be rendered, incurred or agreed to be paid for in fiscal years after COUNTY's fiscal year ending September 30, 2027.

PROHIBITION AGAINST LOBBYING

The CONTRACTOR is hereby prohibited from using any funds provided by this Contract for the purpose of lobbying the Legislature or a state or county agency.

MANAGEMENT

The COUNTY Project Manager is Leah Sauls, Development Services Director, phone number (863) 402-6550. All matters shall be directed to the Project Manager for appropriate action or disposition.

GENERAL TERMS AND CONDITIONS

1. The COUNTY may terminate this Contract for its convenience. In this event, the CONTRACTOR shall be compensated for work satisfactorily completed and for irrevocable commitments made.
2. All services shall be performed by the CONTRACTOR to the satisfaction of the COUNTY.
3. The CONTRACTOR shall be notified, in writing, by the COUNTY Project Manager of Contract performance failures and given fifteen (15) calendar days to provide a written corrective action plan to the COUNTY for review. The COUNTY shall respond, in writing, to the proposed corrective action plan within fifteen (15) calendar days of receipt. If the

CONTRACTOR and the COUNTY cannot reach agreement on the corrective measures to be taken and the schedule for corrective action, the COUNTY may terminate this Contract in accordance with paragraph 4 of this section.

4. If the CONTRACTOR fails to perform in a timely and proper manner, in the judgment of the COUNTY, the COUNTY may terminate this Contract by written notice, specifying the effective time/date.
5. In the event that the CONTRACTOR fails to perform all the services described under the terms of this Contract, the CONTRACTOR shall reimburse the COUNTY all compensation received within thirty (30) calendar days of the receipt of the COUNTY's written request for reimbursement.
6. The parties may at any time, by written order designated to be a change order signed by the CONTRACTOR and the COUNTY, make any change in the work within the general scope of the Contract.
7. The CONTRACTOR shall maintain accurate books, records and documents directly pertinent to performance under this Contract and for all expenditures of all funds received under this Contract in accordance with generally accepted accounting principles consistently applied. The CONTRACTOR shall assure that these books, records and documents are available at all reasonable times for inspection, review or audit by COUNTY personnel and other personnel authorized by the COUNTY. The CONTRACTOR shall retain all such books, records and documents for three (3) years after the fiscal years in which payment is made by the COUNTY or until final resolution of matters resulting from any litigation, claim or audit that started prior to the expiration of the three-year record retention period.
8. The CONTRACTOR agrees to indemnify, defend, save and hold harmless the COUNTY from all claims, demands, liabilities and suits of any nature arising out of, because of, or due to, any negligent act or failure to act by the CONTRACTOR, its agents or employees to the extent permitted by Florida law. The parties agree that one percent of the total compensation to the CONTRACTOR for performance of this Contract is the specific consideration from the COUNTY to the CONTRACTOR for the CONTRACTOR's indemnity agreement.
9. The CONTRACTOR covenants that it presently has no interest and shall not acquire any interest which would conflict in any manner or degree with the performance of services required.
10. The CONTRACTOR warrants that it 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 it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the CONTRACTOR any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Contract. For the breach or violation of this provision, the COUNTY shall have the right to terminate this Contract without liability and, at its discretion, to deduct from the Contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.
11. The COUNTY reserves the right to unilaterally cancel this Contract for refusal by the CONTRACTOR to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the CONTRACTOR in conjunction with this Contract.

12. This Contract shall not be subject to transfer, assignment, sale or other disposition which would have the effect of substituting the CONTRACTOR's performance with that of another.
13. The CONTRACTOR represents to the best of its knowledge that all of its employees are treated equally during hiring and employment without regard to race, color, religion, handicap, sex, age or national origin.

CHOICE OF LAW/FORUM

The parties hereby agree that any and all actions or disputes arising out of this Contract shall be governed by the laws of the State of Florida, and any such actions shall be brought in Highlands County, Florida.

SEVERABILITY

In the event one or more provisions of this Contract are declared invalid, the balance of this Contract shall remain in full force and effect.

PUBLIC ENTITY CRIMES

The CONTRACTOR affirmatively represents that it is aware of the prohibitions stated in Section 287.133(2)(a), Florida Statutes, and affirmatively represents that it has not been placed on the convicted vendor list or been convicted of a public entity crime.

DISCRIMINATORY VENDOR LIST

The CONTRACTOR affirmatively states that it is aware of the prohibitions found in Section 287.134(2) (a), Florida Statutes, and affirmatively represents that it has not been placed on the discriminatory vendor list referred to therein.

EMPLOYMENT ELIGIBILITY VERIFICATION

Pursuant to Florida Statutes, Section 448.095, and in the event performance of this Agreement is or will be funded using state or federal funds, the CONTRACTOR must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility individuals to work in the United States and 48 CFR 52.222-54 (as amended) is incorporated herein by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the CONTRACTOR shall be registered with and utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility status of all employees performing work under this Agreement as well as all newly hired employees. In addition, the CONTRACTOR shall require any and all subcontractors performing work in accordance with this Agreement to register with and utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility status of all employees performing work under this Agreement as well as all newly hired employees. Any such subcontractor shall provide an affidavit to the CONTRACTOR stating that the subcontractor does not employ, contract with or subcontract with any ineligible individuals and the CONTRACTOR must keep a copy of said affidavit for the duration of this Agreement. Violation of this section is subject to immediate termination of this Agreement by the COUNTY without regard to any notice otherwise required herein. In the event the COUNTY incurs costs as a result of the CONTRACTOR's breach of this provision, any and all such costs shall be paid by the CONTRACTOR immediately upon receipt of notice of the same from the COUNTY. Information on registration for and use of the E-Verify Program may be obtained at the Department of Homeland Security website: <http://www.dhs.gov/E->

Verify

PAYMENTS AFTER CONTRACT TERMINATION FOR CAUSE

Upon the occurrence of any event of default, all obligations on the part of the COUNTY to make any further payments of funds to this Contract shall if the COUNTY so elects, terminate, but the COUNTY may make any payments or parts of payments after the happening of any event of default without hereby waiving the right to exercise any remedy which it may have without becoming liable to make any further payment.

PUBLIC RECORDS COMPLIANCE

A. Pursuant to Florida Statutes, Section 119.0701:

IF YOU HAVE QUESTIONS REGARDING THE APPLICATION OF FLORIDA STATUTES, CHAPTER 119, TO YOUR DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS:

**COUNTY CLERK: GLORIA RYBINSKI
RECORDS MANAGER
600 SOUTH COMMERCE AVENUE
SEBRING, FLORIDA 33870
TELEPHONE NUMBER: (863) 402-6832
HCBCRecords@highlandsfl.gov**

B. CONTRACTOR agrees to comply with public records laws, specifically to:

1. Keep and maintain public records required by the COUNTY to perform the services set forth herein.
2. Upon request from the COUNTY's custodian of public records, provide the COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Florida Statutes, Chapter 119, or as otherwise provided by law.
3. Ensure that public records which are exempt or confidential and exempt from 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 CONTRACTOR does not transfer the records to the COUNTY.
4. Upon completion of the contract, transfer, at no cost, to the COUNTY all public records in possession of the CONTRACTOR or keep and maintain public records required by the COUNTY to perform the services set forth herein. If the CONTRACTOR transfers all public records to the COUNTY upon completion of the contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the contract, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the COUNTY, upon request from the

COUNTY's custodian of public records, in a format that is compatible with the information technology systems of the COUNTY.

Remainder of this page intentionally left blank

ENTIRE AGREEMENT

It is hereby understood and agreed that this Contract states the entire agreement and that the parties are not bound by any stipulations, representations, agreements or promises, oral or otherwise, not printed in this Contract.

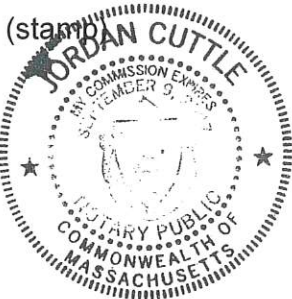
DATED this 6 day of December 2023.

Spartan Race, Inc., a for profit organization.

By: [Signature]
Jeffrey Connor, COO

COMMONWEALTH OF MASSACHUSETTS COUNTY OF SUFFOLK

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization of Jeffery Connor, as CEO, of Spartan Race, Inc., who personally swore or affirmed that he/she is authorized to execute this Agreement and thereby bind the Contractor, and who is personally known to me or who produced passport as identification, and who did/did not take an oath this 6 day of December, 2023.



Jordan Cuttle
NOTARY PUBLIC, Comm. of Massachusetts

HIGHLANDS COUNTY BOARD OF COUNTY COMMISSIONERS

ATTEST:

By: _____
Kevin J. Roberts, Chair

By: _____
Jerome Kaszubowski, Clerk

APPLICATION

GENERAL INSTRUCTIONS

The application **must be completely filled out**. “Not Applicable” or “N/A” should be marked, as appropriate.

Copies of the following items should be attached to your application:

- List of Applicant’s current Officers and/or Board members (if applicable)
- Applicant’s W-9 tax form for post-Event payment
- Overall & detailed marketing plan for the Event

Please note: All final paperwork as outlined in the application must be submitted to the TDC **within 60 days of the conclusion of the Event/Project**. The request for reimbursement will be considered incomplete until all of the required forms are submitted to the TDC.

HIGHLANDS COUNTY TDC HIGH IMPACT SIGNATURE EVENT FUNDING REQUEST APPLICATION

Amount Requested from TDC: \$ 90,000 2024, \$90,000 2025, \$90,000, 2026

I. General Information

1. Name of Applicant: Spartan Race, Inc.
2. Name of Event: Spartan Trifecta Weekend
3. Contact person: Cherie Bortnick
4. Contact person e-mail: cherieb@spartan.com
5. Complete address of Applicant: 234 Congress Street, Boston MA 02110
Cell phone: (909) 260-7778
6. Applicant’s Chief Official/Event Coordinator: Title:VP of Business Development

7. Has Event ever received funding from the TDC? Yes
 - a. If yes – list years and amounts: \$90,000 2021,2022, and 2023
8. Amount Applicant is requesting for the Event/Project: \$ 90,000
9. Intended use of funds (*Refer to pages 3-4 for Eligible and Ineligible Uses of Funds*): Marketing expenses and facility fees.

II. Details about Applicant: (describe your business or organization)

Spartan Race is the global leader in endurance events. Founded in 2010 Spartan has been on a mission to change 100,000,000 lives.
Spartan currently hosts over 200 annual events in 45+ countries.

III. Schedule of Event/Project:

Festival opens at 6:30am and closes at 10:00pm. Heats of 200 participants are deployed every 15 minutes beginning at 7:30am and ending at 3:00pm. Saturday will host the 21K and 5K, Sunday 10K and 5K. Kid’s 1/2, 1, and 2 mile heats will take place throughout the weekend.

IV. Event Specific Information

1. Event/Project name: Spartan Trifecta Weekend
2. Type of event or project: Obstacle Course Race
3. Dates of Event/Project: 1st or 2nd weekend in December annually
4. Location of Event/Project: Skipper Ranch, 8621 W. Josephine Road, Sebring FL
5. Number of days: 2 Hours: 6:30am -10:00pm
6. Projected number of participants, coaches, officials: 11,000
Overnight, out of state: 5,000 Overnight, in-state: 4,500 Day Trip: 1,500
7. Projected number of spectators per day: 800
Overnight, out of state:400 per day Overnight, in-state: 150 per day Day Trip: 250 per day
8. Projected number of media, staff, officials: 90
Overnight, out of state:70 Overnight, in-state: 15 Day Trip:5
9. Event/Project promoter (if other than Applicant): N/A
Name of promoter:
Company name:
Contact name:
Address:
Phone:
Email:
Website:
11. Event/Conference Admission Price (if applicable) Varies
12. What is the GUARANTEED MINIMUM NUMBER OF PAID ROOM NIGHTS the Event will bring to Sebring/Highlands County? (*This is the minimum number of rooms that must be captured by the Event and documented by submitting the Room Night Certification Form within 60 days of the conclusion of the Event. The TDC reserves the right to reduce the reimbursement amount should the Event fail to meet this minimum room night guarantee.*) **Number of Room Nights: 4500**
13. What is the GUARANTEED MINIMUM NUMBER OF EVENT ATTENDEES?
Number of attendees: 10,000
(Please answer each question below or your application will be deemed incomplete).
 - a. How many/what percentage will be traveling to the event from outside the county? 95%
 - b. How will you document the attendees and the out-of-county percentage? zip code/survey data
 - c. Will you be providing the TDC with attendee contact information?Demographic info will be shared. The only way to legally share would be to host a joint contest where attendee can opt-in.
14. Provide the previous year's event information, (if applicable):
Previous Event or Project: Spartan Trifecta Weekend
Date: December 10-11,2022
Location: Skipper Ranch
Total Room Nights: Airstream for Info
Contact Name/Phone: Alan Verlander
Funding amount awarded: \$90,000
Economic Impact (If available): Airstream for Info

EVENT BUDGET SUMMARY

EVENT INCOME

Visit Sebring cannot be the sole source of income. Please list all Event income sources, types and amounts, including grants, sponsorships, registration fees, and in-kind services provided from public agencies, such as Police Department, Fire Rescue, etc. Please designate hard dollars versus in-kind.

Income Source & Type (i.e. Publix Sponsorship or Attendee Registration Fees)	Income Amount (or In-Kind Amount)
Registration Fees	\$650,000
Estimated Local Sponsorship	\$35,000
Visit Sebring/TDC Funding Request	\$90000
TOTAL INCOME ALL SOURCES	\$775,000

Type text here

EVENT EXPENSES

Provide an itemized summary indicating the intended use of TDC funds at the bottom of this page. Please be as detailed as possible, including intended media outlets, promotional materials, etc. and the dollar amount that will be expended (tentatively) for each category. This chart will reflect the total amount of the grant you have requested. Use additional sheets if necessary.

Expense Type (Toilets, Signage, Insurance, etc.)	Expense Amount
Marketing (branding, digital, traditional, affiliate)	\$140,000
Facility Rental Fee (Fixed and variable)	\$72,000
Rentals (toilets, machines,trucks,cars,tents,generators, radios)	\$74,000
Consumables (t-shirts,bananas,water,medals,ice,packets)	\$102,000
Shipping	\$62,000
Staff/ contractors travel, meals, wages	\$146,000
Photography and video	\$8,500
G&A	\$54,000
	\$
TOTAL EVENT EXPENSES	\$ 658,500
Intended Use of Tourist Development Tax Funds (provide details)	Amount
Meta Digital Marketing	\$70,000
Facility Rental Fee	\$20,000
TOTAL TDC EXPENSES	\$ 90,000

Grant Application Checklist

Please initial next to each item and fill in the blanks below. This list must accompany your grant application.

Initials

CB This application is being submitted at least four months (120 days) prior to the event start.

Date of Event: December 7-8, 2024

Date of Application: 10/16/2023

CB I understand that the reimbursement request must be completed and submitted to the Tourism Office with all back up and supporting material no later than 60 days after the event ends, which will be on February 6, 2024 (date 60 days after event ends).

CB I will obtain the signatures of the organization's President & Secretary on the proposed grant contract by 10/23/2023. (date one week after the application is submitted to and accepted by the Tourism Office)

CB I understand that the "Visit Sebring" logo must appear in any print advertisements funded by the TDC. The "Visit Sebring" logo must either be featured on the digital advertisements or on website/landing page linked to the ad or the ad must link to the TDC's website.

CB I have included an IRS W-9 Form and a copy of the Florida Division of Corporations form with the application.

CB I understand that someone representing this grant application must be available at the TDC meeting when it considers the application for funding, or the application will not be considered.

CB I understand that funding has not been approved until the Board of County Commissioners (BOCC) approves the Grant Contract and that no expenditures will be reimbursed if the BOCC does not approve execution of the Grant Contract nor prior to BOCC approval.

CB I understand that reimbursements following the event will only be made for itemized, authorized expenses approved by the BOCC in the fully executed Grant Contract.

CB Each reimbursement request must include copies of paid invoices, screenshots of digital ads, copies of the ad/tear sheets, invoice for reimbursement amount to the Highlands County Board of County Commissioners, copy of front and back of cleared checks paying for advertising, and outreach figures identifying the number of people your ad reached outside Highlands County and inside Highlands County.

CB Reimbursement will only be provided at a rate of \$20/verified room night or \$0.50/verified attendee.

CB The funds Applicant receives will ONLY be used in accordance with the eligible and ineligible uses of funds. (pages 3-4)

CB Applicant understands that it is required to submit a Room Night Confirmation Form in order to

___CB___ I have reviewed the **Highlands County Special Event Permit Flow Chart** and will proceed with any required county permits. (Contact: Rachel Barry; (863) 402-6638)

___CB___ Applicant has included a list of its current Officers and/or Board members (if applicable) with the application.

___CB___ Applicant will provide the Visit Sebring office with a Certificate of Insurance (COI) naming

___CB___ Applicant has included a detailed **Marketing Plan** for the Event.

___CB___ Applicant has included a sample **Visitor/Attendee Survey** for the Event.

___CB___ As an authorized representative of Applicant, the person submitting this documentation acknowledges that he/she is also the person required to execute the contract and prepare the **Post-Event Report** (page 9-10) for the Event within 60 days after completion of event to receive payment. This report should include: total number of participants, total number of coaches, spectators, staff, media, etc., information regarding where attendee came from, feedback about destination (what did they like/not like).

___CB___ The authorized representative of the Applicant also acknowledges that the representative is required to submit documentation of the authorization provided by the Applicant to the representative that confirms the representative's authority to act on behalf of the Applicant, such as a corporate resolution or a copy of a record from the State of Florida Division of Corporations that lists the person submitting the Application as an officer who has statutory authority to represent and bind the Applicant.

___CB___ Applicant acknowledges that any material made or received by Highlands County in connection with Applicant's request for Program funding is a public record and subject to public inspection unless there is a legislatively created exemption that makes it confidential and not subject to disclosure. Applicant acknowledges that it cannot dictate to Highlands County what material is open to public inspection or the circumstances under which material is deemed confidential.

___CB___ Applicant understands that as a requirement to receiving funding, Applicant will execute a release to permit Highlands County to photo and/or record the Event and Applicant must make Event invitees aware of this and make the signing of a release a requirement to participate in the Event.

___CB___ Applicant understands that all funds received are subject to audit by the Highlands County Clerk of the Court – Internal Auditor or other representative as Highlands County may designate.

___CB___ Applicant understands that this event may require a Highlands County Special Event Permit, and it is up to the applicant to complete that permit request and pay the required permit fee.

Authorized Agent: Cherie Bortnick

Title: VP of Business Development *Date:* 10/16/2023

Authorized Agent Signature: 

CERTIFICATION OF APPLICANT

Applicant has reviewed this Application for Funds from the Highlands County Tourist Development Council. Applicant is in full agreement with the information contained herein. To the best of Applicant's knowledge, the information contained in this Application and its attachments is accurate and complete.

Applicant Name: Cherie Bortnick

Date: 10/16/23

By: [Signature]
(Signature)

Its: VP Business Development
(Title)

STATE OF FLORIDA
COUNTY OF Santa Rosa

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization this 16 day of October, 2023 by Cherie Bortnick (name) as Vice President of Business Dev (title) for Highlands County Tourist (applicant, name of party on behalf of whom instrument was executed).

(NOTARY SEAL)



[Signature]
(Signature of Notary Public State of Florida)

Sarah Hogan
(Name of Notary Typed, Printed, or Stamped)

Personally Known _____ OR Produced Identification X

Type of Identification Produced

DL B635-114-82-633-D

Marketing Plan				
Channel	Vehicle	Duration	Frequency	Comments
Digital	Prospecting	235d		Pre-Registration to gauge consumer interest
Field	Corporate Sales	235d	2	Local corporation bulk ticket sales
Social	VIP Registration	7d	2	Campaigns run 215 and 200 days out
Social	Open Registration Post	4d	1	Registration Opens
Social	Geo-posts	193d	8	Regional and national marketing begins. Each campaign runs for 24 days
Social	Product Marketing	193d	8	Regional and national marketing begins. Each campaign runs for 24 days
Email	Product Marketing	193d	8	Regional and national marketing begins. Each campaign runs for 24 days
Promotion	Holiday	11d	4	On average 4 holiday promotions will occur during the marketing cycle
Digital	Daily Deal	30d	2	Campaigns run 120 and 90 days out
Field	Outreach	180d	2	Campaigns run 180 and 90 days out
Social	Reach/Frequency	5d	1	Campaign implemented 150 days out
Digital	Retargeting	150d	continuous	Regional and National Advertising
Digital	Affiliate	150d	continuous	Regional and National Advertising
Digital	Paid Search	150d	continuous	Regional and National Advertising
Field	Workout Tour	150d	1	Campaign run 150 days out
Traditional	Radio	90d	500	Local and regional advertising. Campaign begins 90 days out
Traditional	Television	90d	35	Local advertising. Campaign begins 90 days out
Traditional	Out of Home	30d	3	Local. Billboards, print, banners, etc. Campaigns begin 90 days out
Social	30 days until race post	4d	1	National advertising
Email	Pre-Race	24d	3	National advertising. Begins 90 days out
Social	Registration close	7d	1	
Social	Organic post - course preview	1d	1	Day prior to event
Email	Post-Race + Survey	7d	3	1, 4, and 8 weeks post race
Social	Race Thank You (Org + Paid)	1d	1	Day after event
Social	Pre-Reg for 2018	15d	2	235 days prior to race day, if event was successful
Social	Trifecta Message + Discrete	8d	1	Campaign begins 2 weeks after event

**HIGHLANDS COUNTY
COUNTY COMMISSION AGENDA ITEM**

DATE OF ACTION REQUEST: January 4, 2024

PRESENTER: Brandon Gunn, Facilities Director
Tanya Cannady, Business Services Director

SUBJECT/TITLE: Request Approval for Construction Manager at Risk Agreement with Weatherproofing Technologies, Inc.

STATEMENT OF ISSUE

Request for Proposal 20-039-LKD was issued for Construction Manager at Risk (CMAR) Continuing Services. It was determined that Weatherproofing Technologies, Inc. was a qualified firm. The initial term of the agreement is three (3) years from the Board approval. Upon mutual agreement may be renewed for one additional three (3) year term or through the duration of the project final completion in accordance with the solicitation documents and with the approval as required by the Board approved Purchasing Manual.

RECOMMENDED ACTION

Move to approve and authorize the Board Chair to execute an agreement with Weatherproofing Technologies, Inc.

FISCAL IMPACT

Up to the Board approved budgeted amount for each project, as assigned. Each new construction project may not exceed \$2,000,000 or rehabilitation or renovation projects may not to exceed \$1,000,000.

Attachments: [12-20-2023 Weatherproofing rev- vendor executed.pdf](#)

**AGREEMENT
BETWEEN OWNER AND CONSTRUCTION MANAGER**

THIS AGREEMENT made by and between the Board of County Commissioners of Highlands County, a political subdivision of the State of Florida, 600 South Commerce Avenue, Sebring, Florida 33870, hereinafter referred to as “Owner” and Weatherproofing Technologies, Inc., 3735 Green Road, Beachwood, OH 44122, hereinafter “Construction Manager”.

**ARTICLE I
THE CONSTRUCTION TEAM AND EXTENT OF AGREEMENT**

The Construction Manager accepts the relationship of trust and confidence established between it and the Owner by this Agreement. The Construction Manager covenants with the Owner to furnish its best skill and judgment and to cooperate with the Architect-Engineer in furthering the interests of the Owner. The Construction Manager agrees to furnish efficient business administration and superintendence and use its best efforts to complete the various County project(s) in the soundest and most expeditious and economical manner, consistent with the interests of the Owner.

1.1 The Construction Team:

The Construction Manager, the Owner and the Architect-Engineer, called the “Construction Team”, shall work jointly during design and through final construction completion and shall be available thereafter should additional services be required related to the Project. The Architect and the Construction Manager shall communicate through the Owner, except as may otherwise be provided in this Agreement or when direct communications have been specifically authorized by the Owner. The Construction Manager shall copy the Owner on all correspondence sent to or received from the Architect or any of its consultants of which the Owner was not copied.

The specific representatives of the Construction Team shall be established at the time of approval of each Task Authorization.

1.2 Extent of Agreement:

This Agreement for pre-construction and construction management services for the Project, between the Owner and the Construction Manager supersedes any prior negotiations, representations or agreements. The Owner will from time to time issue a Task Authorization to the Construction Manager, in the form attached hereto as **Exhibit “A”**, for individual County projects which may include either pre-construction and construction management services or construction management services only. If for construction management services only the Task Authorization may be issued by the County Administrator if the cost of the construction services is within the County Administrator’s purchasing authority. If pre-construction services are required as part of a Project, an initial Task Authorization may be issued by the County Administrator if the cost of the pre- construction services is within the County Administrator’s purchasing authority based on the flat fee set by the Construction Manager based on the fee schedules attached hereto as

Exhibit “B”. Thereafter, once the drawings, specifications and other descriptive documents for the Project are complete, an Amendment to Task Authorization in the form attached hereto as **Exhibit “C”**, will be issued following approval by the Board of County Commissioners of the guaranteed maximum price (GMP) for the specific construction management work to be completed for the Project. In the event pre-construction services exceed the County Administrator’s purchasing authority, a Task Authorization for the pre-construction services will be issued on the appropriate form, following approval of the same by the Board of County Commissioners. Thereafter, once the drawings, specifications and other descriptive documents for the Project are complete, an Amendment to Task Authorization, which shall include the GMP for the specific construction management work to be completed for the Project, shall be issued on the appropriate form following approval by the Board of County Commissioners. In the event pre-construction services are not required for a Project, once the drawings, specifications and the other descriptive documents for a Project have been approved, a Task Authorization will be issued following approval of the GMP for the Project by the Board of County Commissioners. To expedite the preparation of the GMP Amendment by the Owner, the Construction Manager shall obtain two (2) sets of dated drawings, specifications and other documents upon which the GMP is based from the Architect- Engineer via the Owner. The Construction Manager shall acknowledge on the face of each set of drawings, that it is the set upon which the GMP is based. Thereafter one set of the documents shall be sent to the Owner along with the GMP proposal. This Agreement shall not be superseded by any provisions/revisions of the documents for construction and may be amended only by written instrument signed by both Owner and Construction Manager.

- 1.3 **Definitions:** The following definitions shall be applicable to this Agreement. Any words which are not set forth below but are found capitalized throughout this Agreement shall have the meanings established in the various Articles and/or Sections of this Agreement:

Architect-Engineer - To be determined by the Owner as applicable for each separate Project for which a Task Authorization is issued.

Construction Documents - This Contract, the Drawings, Specifications and related Construction Documents or any other documents incorporated herein by reference.

Construction Manager – Weatherproofing Technologies, Inc.

Estimate - The Construction Manager’s latest estimate of probable project construction costs.

Final Completion - The following items have been completed or satisfied:

1. Construction of the Project is totally complete, including all work on the Contract Documents and certified as such by the Owner and Architect.
2. The Project is suitable for full use and occupancy as determined by the Owner and Architect.

3. All Punch List items have been completed or otherwise disposed of or accounted for to the Owner's satisfaction and approval.
4. A Final Certificate of Occupancy and all other permits and approvals required have been legally and validly issued.
5. Final executed Releases of Lien have been delivered to the Owner by Construction Manager.

General Conditions - Those items that are not specific to any trade and are required for the construction of the Project. Examples of General Conditions items include daily cleanup and safety rails.

Owner – Board of County Commissioners of Highlands County.

Owner's Representative - The Owner's Representative is its Construction Project Manager, or such other individual designated, in writing, by the County Administrator.

Project - The Project shall mean the total work to be performed under each Task Authorization, or Amendment thereto, issued pursuant to this Agreement. The Project may consist of pre-construction planning, design and permitting services, as well as construction and code inspection services for various construction projects which do not exceed Two Million Dollars in total construction costs.

Punch List - List of items of work to be completed and deficiencies to be corrected, which items shall not affect the attainment of Substantial Completion. Such items shall be complete or otherwise disposed of prior to final acceptance/completion.

Substantial Completion Date - The date, certified by the Architect, that the Project, or designated portion thereof, is sufficiently complete, in accordance with the Construction Documents and a Certificate of Occupancy issued, so that the Owner can reasonably occupy or utilize the Project, or designated portion thereof, for its intended use. Additionally, complete all items referred to as necessary for Substantial Completion.

Task Authorization or Amendment to Task Authorization - The document issued to the Construction Manager which sets forth the service expectations, schedules, pricing/GMP, construction team and subcontractors for a specified Project.

1.4 Owner's Construction Budget:

Owner's funds budgeted and requested for construction of the Project: The Owner's Construction Budget for each Project will not exceed Two Million Dollars, including all preconstruction services, Construction Manager fees, costs of the work and the Owner's and Construction Manager's construction and interface contingencies as defined in Articles 8 and 9. This acknowledgment of the Owner's budgeted funds is not to be construed as the Construction Manager's Guaranteed Maximum Price. A Guaranteed Maximum Price will be offered by separate documentation as outlined in Article 7.

ARTICLE 2
CONSTRUCTION MANAGER'S SERVICES

The services which the Construction Manager shall provide include, but are not limited to, those described or specified herein. The services described or specified shall not be deemed to constitute a comprehensive specification having the effect of excluding services not specifically mentioned.

2.1 Project Management Information System (PMIS):

1. General:

- A. Commencing immediately after contract award, the Construction Manager shall implement and shall utilize throughout the life of this Contract all subsystems of the Project Management Information System hereinafter referred to as PMIS.
- B. The reports, documents, and data to be provided shall represent an accurate assessment of the current status of the Project and of the work remaining to be accomplished and it shall provide a sound basis for identifying variances and problems and for making management decisions. It shall be prepared and furnished to the Owner and the Architect-Engineer monthly.
- C. If requested by the Owner, the Construction Manager shall conduct a comprehensive workshop for participants designated by the Owner and additional seminars as required, to provide instruction. This workshop and the seminars shall facilitate each participant's and the Owner's representatives' use and understanding of PMIS; shall support, in-part, the function of organizing in concert with the Architect-Engineer for the design and construction of the Project; and shall establish, with the full concurrence of the Owner and the Architect-Engineer, procedures for accomplishing the management control aspect of the Project.
- D. The PMIS shall be described in terms of the following major subsystems:
 - 1. Narrative Reporting, on a monthly basis,
 - 2. Schedule Control, on a monthly basis,
 - 3. Cost Control, and estimating,
 - 4. Project Accounting,

5. Accounting and Payment, and

6. Action Reports.

2. Narrative Reporting Subsystem:

A. The Construction Manager shall prepare written reports as described hereunder. No other PMIS narrative reports shall be required. All reports shall be in 8.5" X 11" format, unless directed otherwise by the Owner.

B. The Narrative Reporting Subsystem shall include the following reports:

1. Monthly Executive Summary - which provides an overview of current issues and pending decisions, future developments and expected achievements, and any problems or delays, including code violations found by any permitting authority.

2. Monthly Cost Narrative - describing the current construction cost estimate status of the Project.

3. Monthly Scheduling Narrative - summarizing the current status of the overall project schedule. This report shall include an analysis of the various project schedules, a description of the critical path, and other analyses as necessary to compare planned performance with actual performance.

4. Monthly Accounting Narrative - describing the current cost and payment status of the entire project. This report shall relate current encumbrances and expenditures to the budget allocations.

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

6. Daily Construction Diary - during the construction phase describing events and conditions on the site.

C. The reports outlined above shall be bound with applicable computer reports and submitted monthly during design and construction phases and shall be current through the end of the preceding month. Copies shall be transmitted to the Owner and the Architect-Engineer and others as designated by the Owner's Representative with the monthly pay requisition. Additional

copies of the report outlined above shall be bound separately and distributed monthly as directed by the Owner's Representative.

- D. The report outlined in Article 2.1(2)(B)(6) above shall be maintained at the site available to the Owner and Architect-Engineer. A bound copy of the complete Daily Construction Diary shall be submitted to the Owner at the conclusion of the Project

3. Scheduled Control Subsystem:

- A. Master Project Schedule - Within thirty (30) days of award of this Agreement, the Construction Manager shall submit, to the Owner for approval, a master project schedule covering the planning and design approvals, construction and Owner occupancy of the Project. This schedule shall serve as the framework for the subsequent development of all detailed schedules. The master project schedule shall be produced and updated monthly throughout the project. Revisions, activity additions, activity deletions and/or logic changes to the Master Project Schedule, or any other schedule previously approved by the Owner, shall not be made without the Owner's approval.
- B. Within thirty (30) days after the date of the Owner's issuance of a Notice to Proceed with construction, the Construction Manager shall prepare and submit for approval, to the Owner's Representative, a construction schedule in quadruplicate with sufficient detail to graphically depict the activities contemplated for completion of the Project and which shows the sequence that the Construction Manager proposes for each such activity to occur and the duration (dates of commencement and completion, respectively) of each such activity. The Owner shall determine whether the construction schedule developed and submitted by the Construction Manager meets the requirements stated herein and thereafter such determination shall be binding on the Construction Manager. Failure of the Construction Manager to develop and submit a construction schedule as set forth hereinabove shall be sufficient grounds for the Owner to find the Construction Manager in substantial default and certify that sufficient cause exists to terminate the contract or to withhold payment to the Construction Manager until a schedule acceptable to the Owner is submitted.
- C. During the period of time required to finally complete the Project, at the end of each such calendar month or at such earlier intervals as circumstances may require, the Construction Manager shall update the construction schedule to show the actual progress of the work performed and the occurrence of all events which have affected the progress of performance of the work already performed or will affect the progress of the performance of the work yet to be performed in contrast with the planned progress of performance of such work, as depicted on the original construction schedule

and all updates thereto as reflected in the updated construction schedule last submitted. Each such update to the construction schedule shall be submitted to the Owner in duplicate. Failure of the Construction Manager to update, revise and submit the construction schedule as set forth herein shall be sufficient grounds for the Owner to find the Construction Manager in substantial default, and certify that sufficient cause exists to terminate the Contract or to withhold payment to the Construction Manager until a schedule or schedule update acceptable to the Owner is submitted. No revisions, activity additions, activity deletions or logic changes shall be made without the Owner's approval, which shall not be unreasonably withheld.

D. When required by the Owner, the Construction Manager shall prepare and incorporate into the schedule database, at the required intervals, the following schedules:

1. Subcontractor Construction Schedules - Upon the award of each sub-contract, the Construction Manager shall jointly, with the subcontractor, develop a schedule which is more detailed than the pre-bid schedule included in the specifications, taking into account the work schedule of the other subcontractors. The construction schedule shall include as many activities as necessary to make the schedule an effective tool for construction planning and for monitoring the performance of the subcontractor. The construction schedule shall also show pertinent activities for material purchase orders, shop drawing schedules and material delivery schedules.
2. Occupancy Schedule - The Construction Manager shall jointly develop with the Architect-Engineer and Owner a detailed plan, inclusive of punch lists, final inspections, maintenance training and turn-over procedures, to be used for ensuring accomplishment of a smooth and phased transition from construction to Owner occupancy. The Occupancy Schedule shall be produced and updated monthly from its inception through final Owner occupancy.

E. All schedules will be provided to the Owner in an electronic format acceptable to the Owner. The Construction Manager will provide the Owner with the appropriate software, if necessary, to read the data. The cost of providing the licenses and software shall be part of the cost of construction and included as part of Article 9, Direct Costs of the Project.

4. Budget Control Subsystem:

The operation of this subsystem shall provide sufficient timely data and detail to permit the Construction Team to control and adjust the Project requirements, needs, materials, equipment and systems by building and site elements so that construction

will be completed at a cost which, together with all other Project costs, will not exceed the maximum total Project budget. Requirements of this subsystem include the submission of estimates at the following phases of the project:

(Prior to the start of pre-construction services, the requirement of the following estimates will be determined by the Owner)

- A. Completion of Schematic Documents.
- B. Completion of fifty percent (50%) Design Development Documents.
- C. Completion of one hundred percent (100%) Design Development Documents.
- D. One hundred percent (100%) GMP Estimate - When the Construction Documents are sufficiently complete enough to establish the GMP.

5. Project Accounting Subsystem:

The operation of this subsystem shall enable the Construction Team to monitor and control the funds available for the Project, cash flow, costs, change orders, payments and other major financial factors by comparison of budget, estimate, total commitment, amounts invoiced, amounts payable and to plan effectively. This subsystem will be produced and updated monthly and includes the following reports, which together will serve as a basic accounting tool and an audit trail. This report will also provide for accounting by building and site element.

- A. Cost Status Report - presenting the budget, estimate and base commitment for any given contract or budget line item. It shall show approved change orders for each contract which when added to the base commitment will become the total commitment. Pending change orders will also be shown to produce the total estimated probable cost to complete the work.
- B. Payment Status Report - showing the value in place, both current and cumulative, the amount invoiced (both current and cumulative), the amount retained, the amount payable (both current and cumulative) and the balance remaining. A summary of this report shall accompany each pay request.
- C. Detailed Status Report - showing the complete activity history of each item in the Project accounting structure. It shall include the budget, estimate and base commitment figures for each contract. It shall give the change order history including change order numbers, description, proposed and approved dates and proposed and approved dollar amounts. Pending or rejected change orders shall also be shown.

- D. Cash Flow Diagram - showing the projected accumulation of cash payments against the project. Cash flow projections shall be generated for anticipated monthly payments as well as cumulative payments.
- E. Job Ledger - shall be maintained as necessary to supplement the operation of the Project accounting subsystem. The Job Ledger will be used to provide construction cost accountability for general conditions work, on-site reimbursable expenses and costs requiring accounting needs.

2.2 Project Manual:

When directed by the Owner, the Construction Manager shall provide the following:

1. Upon issuance of a Task Authorization, the Construction Manager shall develop a draft comprehensive Project Manual describing the services set forth in this Contract for Owner's approval, providing a plan for the control, direction, coordination and evaluation of work performed, including identification of key personnel, responsibilities of Construction Manager, responsibilities of Owner and responsibilities of the specified Architect-Engineer, work flow diagrams and strategy for bidding the work. The Project Manual shall be updated as necessary with the Owner's approval throughout the design, construction and Owner occupancy phases. Two copies of the Project Manual and any updates shall be submitted to the Owner and Architect-Engineer. In developing the Project Manual, the Construction Manager shall coordinate with the Owner and the Architect-Engineer.
2. Contents of Project Manual - The Project Manual shall describe in detail the procedures for executing the work and the organizations participating. The Project Manual shall include as a minimum the following sections:
 - A. Project Definition - The known characteristics of the project or sub-projects shall be described in general terms which will provide the participants a basic understanding of the project or sub-projects.
 - B. Project Goals - The schedule, budget, physical, technical and other objectives for the Project shall be defined.
 - C. Project Strategy - A narrative description of the Project delivery methods being utilized to accomplish the project goals shall be listed.
 - D. Project Work Plan - A matrix display of the program of work to be performed by the Construction Manager, the Architect-Engineer and the Owner during each phase of the Project.
 - E. Project Organization - A summary organization chart showing the interrelationships between the Owner, the Construction Manager and the

Architect-Engineer, and other supporting organizations and permitting review agencies. Detailed charts shall be included, one each for the Construction Manager, the Architect Engineer and the Owner, showing the organizational elements participating in the Project.

- F. Responsibility Performance Chart - A detailed matrix showing the specific responsibilities and interrelationships of the Owner, the Architect Engineer, and Construction Manager. The Responsibility Performance Chart shall indicate major responsibility, and minor responsibility, for each specific task required to deliver the project. The Construction Manager shall develop a similar chart for the personnel within his own organization who are assigned to the project, and also for the personnel of the Owner and the Architect-Engineer from data supplied by each.
- G. Flow Diagrams - Charts displaying the flow of information and the decisional process for the review and approval of shop drawings, submittals, progress and change orders.
- H. Written Procedures – Procedures for communications and coordination required between Construction Team members throughout the Project. Procedures shall cover such items as correspondence, minutes, reports, inspections, team meetings, technical reviews, design reviews and other necessary communications.

2.3 Design and Review and Recommendations:

The Construction Manager shall perform the services described in this Article. The services to be provided herein constitute the Pre-construction phase services. The parties acknowledge the Construction phase may commence before the Pre-construction phase is completed, and to a certain extent both phases may proceed concurrently.

- 1. Preliminary Evaluation - The Construction Manager shall provide a preliminary evaluation of the Owner's Project and Project budget requirements, each in terms of the other.
- 2. Consultation - The Construction Manager will jointly schedule and attend regular meetings with the Owner and Architect. The Construction Manager will consult with the Owner regarding site use and improvements, and the selection of materials, building systems and equipment. The Construction Manager will provide recommendations on construction feasibility; actions designated to minimize adverse effects of labor or material shortages; time requirements for procurement, installation, and construction completion; and factors related to construction cost including estimates of alternative designs or materials, preliminary budgets, and possible economies.

3. Phased Construction - The Construction Manager shall make recommendations to the Owner regarding the phased issuance of Drawings and Specifications to facilitate phased construction of the Project, if such phased construction is appropriate for the Project, taking into consideration such factors as economies, time of performance, availability of labor and materials, and provisions for temporary facilities, if applicable.
4. Review Reports - Within thirty (30) days after receiving the Construction Documents for each phase of the Project, the Construction Manager shall perform a specific review thereof, focused upon factors of a nature encompassed in Articles 2.3(1) and 2.3(2) above and on factors set out in Article 2.3(7) below. Promptly after completion of the review, the Construction Manager shall submit to the Owner, with copies to the Architect-Engineer, a written report covering suggestions or recommendations previously submitted, additional suggestions or recommendations as may be deemed appropriate, and all actions taken by the Architect-Engineer with respect to same, any comments deemed to be appropriate with respect to separating the work into separate contracts, alternative materials, and all comments called for under Article 2.3(7).

THE CONSTRUCTION MANAGER SHALL WARRANT, TO THE BEST OF THE CONSTRUCTION MANAGER'S KNOWLEDGE, WITHOUT ASSUMING ANY ARCHITECTURAL OR ENGINEERING RESPONSIBILITY, THAT THE PLANS AND SPECIFICATIONS ARE CONSISTENT, PRACTICAL, FEASIBLE AND CONSTRUCTIBLE. THE CONSTRUCTION MANAGER SHALL WARRANT THAT THE WORK DESCRIBED IN THE PLANS AND SPECIFICATIONS FOR THE VARIOUS BIDDING PACKAGES IS CONSTRUCTIBLE WITHIN THE SCHEDULED CONSTRUCTION TIME.

The recommendations and advice of the Construction Manager concerning design alternatives shall be subject to the review and approval of the Owner and Owner's professional consultants. Construction Manager shall not assume in anyway the responsibilities of the Architect, in particular, the responsibility of assuring that the drawings and specifications, which shall be identified for each Project prior to the time the GMP is determined, are in accordance with applicable laws, statutes, ordinances, Building Codes, Rules and Regulations; however, if the Construction Manager recognizes that portions of the Drawings and Specifications are inconsistent with applicable laws, statutes, ordinances, Building Codes, Rules and Regulations, the Construction Manager shall promptly notify the Architect and the Owner, in writing.

5. Long Lead Procurements - The Construction Manager shall review the design for the purpose of identifying long lead procurement items such as machinery, equipment, materials and supplies. When each item is identified, the Construction Manager shall notify the subcontractors, the Owner and the Architect-Engineer of the required procurement and schedule. Such information shall be included in the

bid documents and made a part of all affected sub-contracts. The Construction Manager shall keep himself informed of the progress of the respective subcontractors or suppliers, manufacturing or fabricating such items and advise Owner and Architect-Engineer of any problems or prospective delay in delivery. The Construction Manager may recommend to the Owner a schedule for procurement of the long-lead time items, which will constitute part of the work, as required to meet the Project Schedule. If such long-lead time items are procured by the Owner, they shall be procured on terms and conditions acceptable to the Construction Manager. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, all contracts for such items shall be assigned by the Owner to the Construction Manager, who shall accept responsibility for such items as if procured by the Construction Manager. The Construction Manager shall assist in expediting the delivery of long-lead time items.

6. Separate Contracts Planning - Without assuming any design responsibilities, the Construction Manager shall review the design with the Architect-Engineer and make recommendations to the Owner with respect to dividing the work in such manner as will permit the Construction Manager to take bids and award separate construction sub-contracts on the current schedule while the design is being completed. He shall take into consideration such factors as natural and practical lines of severability, sequencing effectiveness, access and availability constraints, total time for completion, construction market conditions, availability of labor and materials, community relations and any other factors pertinent to saving time and cost by overlapping design and construction that are authorized by the Owner.
7. Interfacing -
 - A. The Construction Manager shall take such measures as are appropriate to provide that all construction requirements will be covered in the separate subcontracts for procurement of long lead items, the separate construction subcontracts and the General Conditions items performed without duplication or overlap, sequenced to maintain completion of all work on schedule. Particular attention shall be given to provide that each bid package clearly identifies the work included in that particular separate subcontract, its schedule for start and completion and its relationship to other separate contractors.
 - B. Without assuming any design responsibilities of the Architect-Engineer, the Construction Manager shall include in the reports required under Article 2.3(4) comments on overlap with any other separate subcontracts, omissions, lack of correlation between drawings, and any other deficiencies noted, in order that the Owner and Architect-Engineer may arrange for necessary corrections.

8. Job-Site Facilities - The Construction Manager shall arrange for all job-site facilities necessary to enable the Construction Manager and the Owner's representatives and the Architect-Engineer to perform their respective duties in the management, inspection, and supervision of construction.

Tangible personal property otherwise referred to as job-site facilities, include but are not limited to such things as trailers, toilets, computers and any other equipment necessary to carry on the Project. The method of acquiring such job-site facilities, which are planned to become the property of the Owner at the conclusion of the Project, shall be evaluated based on cost over the life of the Project. Owning versus leasing shall be considered by the Construction Manager obtaining at least three (3) proposals for leasing and at least three (3) proposals for purchasing and then analyzing which is least expensive over the usage life of the item. The Construction Manager shall present his evaluation with recommendation to the Owner for approval.

When the Construction Manager wishes to supply job-site facilities from his own equipment pool, he shall first evaluate buy versus lease as discussed in the paragraph above. If leasing is found to be the least expensive approach, then he may lease such job-site facilities from his own equipment pool at a price not greater than the lowest of the three (3) lease proposals obtained.

For all such facilities purchased, which are to become the property of the Owner at the conclusion of the project, the Construction Manager shall maintain care and custody responsibilities of such facilities until the Project conclusion. The cost of such equipment shall be a Direct Cost of the Project, as defined in Article 9. At the conclusion of the Project, the Construction Manager shall provide the Owner with a complete inventory for each unit of equipment that has been purchased for the Owner. The inventory shall describe the equipment and identify the purchase price, serial number, model number, current location, and condition. Where said equipment has a title, said title shall be properly transferred to the Owner or to his designee.

The Construction Manager is responsible for proper care and maintenance of all equipment while in his control. At the time of transfer to the Owner, the Owner may refuse acceptance of the equipment if the Owner determines in its sole discretion that the equipment has not been properly cared for by the Construction Manager. In such event, the Construction Manager shall reimburse Owner for such item.

9. Weather Protection - The Construction Manager shall ascertain what temporary enclosures, if any, of building areas should be provided for and may be provided as a practical matter, in order to assure orderly progress of the work in periods when extreme weather conditions are likely to be experienced. The Construction Manager shall submit, to the Construction Team, recommendations as to needed requirements of this nature and as to the contract or contracts in which such weather

protection requirements should be included. The Construction Manager is totally responsible for all weather protection necessary to ensure that all new construction and renovation projects are adequately protected from the normal inclement elements.

10. Market Analysis and Stimulation of Bidder Interest -

- A. The Construction Manager shall monitor conditions in the construction market to identify factors that will or may affect costs and time for completing the Project; the Construction Manager shall make analysis as necessary to (1) determine and report on availability of labor, material, equipment, potential bidders, and possible impact of any shortages or surplus of labor or material, and (2) in light of such determinations, make recommendations to the Owner as may be appropriate with respect to long lead procurement, separation of construction into bid packages, sequencing of work, use of alternative materials, equipment or methods, other economics in design or construction, and other matters that will promote cost savings and completion within the scheduled time.
- B. The Construction Manager shall submit to the Owner a written "Construction Market Analysis and Prospective Bidders Report" setting out recommendations and providing information as to prospective bidders. As various bid packages are prepared for bidding, the Construction Manager shall submit to the Owner and the Architect-Engineer a list of potential bidders. The Construction Manager shall be responsible to stimulate bidder interest in the local market place and identify and encourage bidding competition.
- C. The Construction Manager shall carry out an active program of stimulating interest of qualified contractors in bidding on the work and of familiarizing those bidders with the requirements of this project.

2.4 Construction Phase:

- 1. Construction Manager's Staff - The Construction Manager shall maintain sufficient off-site support staff, and competent full time staff at the Project site authorized to act on behalf of the Construction Manager to coordinate, inspect and provide general direction of the work and progress of the subcontractors and the Construction Manager shall provide no less than those personnel during the respective phases of construction as are identified at the time the GMP is determined. The Construction Manager shall not change any of those persons named at the time the GMP is determined unless mutually agreed to by the Owner and Construction Manager. In such case, the Owner shall have the right to approve the qualifications of any replacement personnel. Such approval will not be unreasonably withheld.

2. Lines of Authority - The Construction Manager shall establish and maintain lines of authority for its personnel, and shall provide notice of the same to the Owner and all other affected parties such as the code inspectors of the Permitting Authority, the subcontractors, the Architect-Engineer and the Owner's representatives, in order to provide general direction of the work and progress of the various phases and subcontractors. The Owner and Architect-Engineer may attend meetings between the Construction Manager and his subcontractors; however, such attendance shall not diminish either the authority or responsibility of the Construction Manager to administer the subcontractors.
3. Schedule and Project Manual Provisions - The Construction Manager shall provide subcontractors and the Owner, its representatives and the Architect-Engineer with copies of the Project Manual, a total number of copies not to exceed seven (7) hard copies and an electronic version in a format acceptable to the Owner, developed and updated as required by Article 2.2, expanded for the Construction Phase, employing the respective milestones, beginning and finishing dates, the respective responsibilities for performance and the relationships of the work with respect to subcontractors and suppliers. The Construction Manager shall also continue to provide current and up to date scheduling information, direction and coordination regarding milestones, and beginning and finishing dates. Furthermore, the Construction Manager shall be responsible for performance and the relationships of the Construction Manager's work to the work of its subcontractors and suppliers to enable the same to perform their respective tasks so that the development of construction progresses in a smooth and efficient manner in conformance with the overall project schedule. The schedule shall include all phases of the construction work, material supplies, long lease procurement, approval of shop drawings, change orders in progress, schedules for change orders, and performance testing requirements. The Construction Manager shall advise the Owner, its representatives and the Architect-Engineer of their required participation in any meetings or inspections, giving each at least one weeks-notice, unless such notice is made impossible by conditions beyond the control of the Construction Manager. The Construction Manager shall hold job-site meetings at least once each month with the Construction Team or more frequently as required by work progress, to review progress, discuss problems and solutions and to coordinate future work with all subcontractors.
4. Solicitation of Bids -
 - A. Without assuming responsibilities of the Architect-Engineer, the Construction Manager shall prepare invitations for bids, or requests for proposal when applicable, for all procurement of long lead items, materials and services, for Subcontractor contracts and for site utilities. Such invitations for bids shall be prepared in accordance with the following guidelines:

Those portions of the work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by other appropriate agreements with the Construction Manager. The Construction Manager shall obtain bids from subcontractors, vendors, consultants and from suppliers of materials or equipment fabricated to a special design for the work. The Construction Manager shall strive to receive at least three (3) competitive bids per trade package. Should the nature of the trade package prohibit three (3) competitive bids, the Construction Manager shall notify the Owner in writing as to the reason and offer suggestions, if any, to create trade interest.

- B. The Construction Manager shall be responsible for coordinating with the Architect-Engineer and preparing all information that is the responsibility of the Construction Manager for bidding of the separate bid packages.
 - C. As part of such preparation, the Construction Manager shall review the specifications and drawings prepared by the Architect-Engineer. Ambiguities, conflicts or lack of clarity of language, use of illegally restrictive requirements, and any other defects in the specifications or in the drawings noted by the Construction Manager shall be brought to the attention of the Owner and Architect-Engineer in written form.
 - D. The Construction Manager and the Owner's Representative shall mutually agree when and if to conduct a pre-bid conference with prospective bidders and the Architect-Engineer. In the event questions are raised which require an interpretation of the bidding documents or otherwise indicate a need for clarification or correction of the invitation, the Construction Manager shall transmit these to the Owner and the Architect-Engineer and upon receiving clarification or correction in writing shall prepare an addendum to the bidding document, and issue same to all of the prospective bidders.
 - E. The Construction Manager shall not enter into contracts without the Owner reviewing the proposed successful bidder. The Owner shall promptly, within three (3) business days, review all proposals and provide comments so as not to cause delay in the award of a contract. Owner's failure to respond within this time frame shall constitute acceptance of the proposed contract. Owner shall have the right to reject any award of subcontract providing such rejection is justifiable and with cause. Should the Owner reject a proposal and should the next bondable, qualified bidder that is acceptable to the Construction Manager, be greater than the GMP budget for that work item, the Owner shall issue a change order to the Construction Manager, increasing the GMP, for the amount of the difference between the proposed award and that which the Owner has requested.
5. Bonds - In accordance with the provisions of Florida Statutes, Section 255.05, the Construction Manager shall provide to the Owner, on forms furnished by the

Owner, a one hundred percent (100%) Performance Bond and a one hundred percent (100%) Labor and Material Payment Bond each in an amount not less than the total construction cost as defined in Articles 7, 8 and 9. To be acceptable to the Owner, as Surety for Performance Bonds and Labor and Material Payment Bonds, a Surety Company shall comply with the following provisions:

- A. The Surety Company shall have a currently valid Certificate of Authority, issued by the State of Florida, Department of Insurance, authorizing it to write surety bonds in the State of Florida.
 - B. The Surety Company shall have currently valid Certificate of Authority issued by the United States Department of Treasury under Sections 9304 to 9308 of Title 31 of the United States Code.
 - C. The Surety Company shall be in full compliance with the provisions of the Florida Insurance Code.
 - D. The Surety Company shall have at least twice the minimum surplus and capital required by the Florida Insurance Code at the time a bond is issued.
 - E. The Surety Company shall have at least an A rating as set forth in the latest issue of Best's Key Rating Guide.
6. Quality Control - The Construction Manager shall develop and maintain a written program, acceptable to the Owner and Architect-Engineer, to assure quality control of the construction. He shall supervise the work of all subcontractors providing instructions to each when their work does not conform to the requirements of the plans and specifications and he shall continue to exert his influence and control over each subcontractor to ensure that corrections are made in a timely manner so as to not affect the efficient progress of the work. Should disagreement occur between the Construction Manager and Architect-Engineer over acceptability of work and conformance with the requirements of the specifications and plans, the Owner shall be the final judge of performance and acceptability.
7. Subcontractor Interfacing - The Construction Manager shall be the single point of interface with all subcontractors for the Owner and all of its agents and representatives including the Architect-Engineer. He shall negotiate all change orders, field orders and request for proposals, with all affected subcontractors and shall review the costs of those proposals and advise the Owner and Architect-Engineer of their validity and reasonableness, acting in the Owner's best interest prior to requesting approval of each change order from the Owner. Before any work begins on any change order, a written authorization from the Owner must be issued. However, when health and safety are threatened, the Construction Manager shall act immediately to remove the threat to health and safety. The Construction Manager shall carefully review all shop drawings and forward the same to the Architect for review and action. The Architect shall transmit them back to the

Construction Manager who will then issue the shop drawings to the affected subcontractor for fabrication or revision. The Construction Manager shall maintain a suspense control system to promote expeditious handling. The Construction Manager shall request the Architect-Engineer via the Owner to make interpretations of the drawings or specifications requested of the Construction Manager by the subcontractors and shall maintain a suspense control system to promote timely response. The Construction Manager shall advise the Owner and Architect-Engineer when timely response is not occurring on any of the above.

8. Permits - The Construction Manager shall secure all necessary building permits from the Permitting Authority and all necessary utility connection permits, the cost of which will be considered a Direct Cost of the project, but not subject to a Construction Phase Fee, as described in Article 8.1(3).
9. Job Site Requirements -
 - A. The Construction Manager shall provide for each of the following activities as a part of its Construction Phase Cost:
 1. Maintain a log of daily activities, including manpower records, weather, delays, major decisions, etc.
 2. Maintain a roster of companies on the project with names and telephone numbers of key personnel.
 3. Establish and enforce job rules governing parking, clean-up, use of facilities and worker discipline.
 4. Provide labor relations management for a harmonious, productive project.
 5. Provide a safety program for the project to meet OSHA requirements. Monitor for subcontractor compliance without relieving any subcontractor of responsibilities to perform work in accordance with the best acceptable practices.
 6. Provide a quality control program.
 7. Provide miscellaneous office supplies that support the construction efforts.
 8. Travel to and from its home office to the project site, as the project requires.

- B. The Construction Manager shall provide personnel and equipment or shall arrange for separate subcontracts to provide each of the following as a direct cost item:
 - 1. Schedule the services of independent testing laboratories for the necessary testing of materials to ensure conformance to contract requirements.
 - 2. The printing and distribution of all required bidding documents and shop drawings, including the sets required by the Permitting Authority's inspectors.
- 10. Job Site Administration - The Construction Manager shall provide administrative functions during construction to assure proper documentation, including but not limited to such things as the following:
 - A. Job Meetings - Hold weekly progress and coordination meetings to provide for an easy flowing project implementation process, assure timely submittals, expedite processing approvals and return of shop drawings and samples; Coordinate and expedite critical ordering and delivery of materials, work sequences, inspection and testing and labor allocation; Review and coordinate each subcontractor's work; Review and implement revisions to the project schedule; Monitor and promote safety requirements.

Use the job site meeting as a tool for planning of work and enforcing schedules and for establishing procedures, responsibilities, and identification of authority for all to clearly understand.

Identify party or parties responsible for follow up on any problems, delay items or questions and record course for solutions. Revisit each pending item at each subsequent meeting until resolution is achieved. Require all present to make any problems or delaying events known to those present for appropriate attention and resolution.

A regular monthly project status meeting will be held between the Architect-Engineer, Owner and Construction Manager.
 - B. Shop Drawing Submittals/Approvals - Provide staff to check shop drawings and to implement procedures to be approved by Owner for submittal and transmittal to the Architect-Engineer and Owner of such drawings for action, and closely monitor their submittal and approval process.
 - C. Material and Equipment Expediting - Provide staff to closely monitor material and equipment deliveries and to implement checking and follow-up procedures on supplier commitments of all subcontractors.

- D. Payments to subcontractors - Develop and implement a procedure for review, processing and payment of applications by subcontractors for progress and final payments.
- E. Document Interpretation - Refer all questions for interpretation of the documents prepared by the Architect-Engineer to the Architect-Engineer through the Owner.
- F. Reports and Project Site Documents - Record the progress of the project. Submit written progress reports to the Owner and the Architect-Engineer, including information on the subcontractor's work and the percentage of completion. Keep a daily log available to the Owner, the Architect-Engineer and the Permitting Authority inspectors.
- G. Subcontractor's Progress - Prepare periodic punch lists for the subcontractor's work including unsatisfactory or incomplete items and schedules for their completion.
- H. Substantial Completion - Ascertain when the work, or designated portions thereof, are ready for the Owner's and the Architect-Engineer's substantial completion inspection. Prior to the Owner's and Architect's pre-substantial completion inspection, the Construction Manager shall issue a list of incomplete items. After the Owner's and the Architect-Engineer's inspection, the Construction Manager shall prepare a schedule for the completion of the list, indicating completion dates for the Owner's review. The Owner and the Architect-Engineer will issue a Certificate of Substantial Completion in the format prescribed in **Exhibit "D"**, when the work on the Construction Manager's pre-substantial Punch List has been accomplished, to the best of the Construction Manager's ability.
- I. Final Completion - Monitor the Subcontractor's performance on the completion of the Project and provide notice to the Owner and Architect-Engineer that the work is ready for final inspection. Secure and transmit to the Owner, through the Architect-Engineer, all required guarantees, affidavits, releases, bonds and waivers, manuals, record drawings and maintenance books, including issuance of the Certificate of Final Completion attached as **Exhibit "E"**.
- J. Start-Up - With the Owner's personnel, direct the checkout of utilities, operations, systems and equipment for readiness and assist in their initial start-up and testing by the trade contractors.
- K. Record Drawings - The Construction Manager shall monitor the progress of its own forces or its Subcontractors on marked up field prints, which at project completion, shall be sent to the Architect-Engineer through the Owner who will prepare the final record drawings. Continuously review

“As-Built” Drawings and mark up progress prints to provide as much accuracy as possible.

11. Administrative Records - The Construction Manager may be required to maintain, at the job site, current and up to date files and records such as, but not limited to the following:

- Contracts or Purchase Orders
- Davis Bacon Federal Compliance Documents
- ARRA / Build America Bonds Compliance Documentation
- Shop Drawing Submittal/Approval Logs
- Equipment Purchase/Delivery Logs
- Contract Drawings and Specifications with Addenda
- Warranties and Guarantees
- Cost Accounting Records:
 - Labor Costs
 - Material Costs
 - Equipment Costs
- Cost Proposal Requests
- Payment Request Records
- Meeting Minutes
- Cost-Estimates
- Bulletin Quotations
- Lab Test Reports
- Insurance Certificates and Bonds
- Contract Changes
- Purchase Orders
- Material Purchase Delivery Logs
- Technical Standards
- Design Handbooks
- “As-Built” Marked Prints
- Operating & Maintenance Instruction
- Daily Progress Reports
- Monthly Progress Reports
- Correspondence Files
- Transmittal Records
- Inspection Reports
- Bid/Award Information
- Bid Analysis and Negotiations
- Punch Lists
- PMIS Schedule and Updates
- Suspense (Tickler) Files of Outstanding Requirements
- Project Manual
- Job Photographs

The Project records shall be available at all times to the Owner and Architect-Engineer for reference or review.

12. Owner Occupancy -

The Construction Manager shall:

Provide services during the design and construction phases, which will provide a smooth and successful Owner occupancy of the Project. The Construction Manager shall provide consultation and project management to facilitate Owner occupancy and provide transitional services to get the work, as completed by the contractors, “on-line” in such conditions as will satisfy Owner operational requirements.

Conduct the Construction Manager’s preliminary Punch List inspection and coordinate the completion of all Punch List work to be done with Owner occupancy requirements in mind. The Construction Manager shall videotape all major equipment startup procedures and deliver videos as part of the closeout documents.

Catalog operational and maintenance requirements of equipment to be operated by maintenance personnel and convey the same to the Owner in such a manner as to promote their usability. The Construction Manager shall provide operational training, in equipment use, for all such operators.

The Construction Manager shall secure required guarantees and warranties, assemble and deliver same to the Owner in a manner that will facilitate maximum enforcement and assure meaningful implementation.

The Owner may occupy or take control of portions of the Project providing the above items discussed in this paragraph have been completed and the “Substantial Completion”, “Start-Up”, “Record Drawing”, and “Warranty” requirements specified in Article 2.4 above have been completed to the Owner’s satisfaction for the portions to be occupied, excluding the requirements for a warranty inspection eleven (11) months after Owner Occupancy.

13. Warranty -

Where any work is performed by the Construction Manager’s own forces or by subcontractors under contract with the Construction Manager, the Construction Manager shall warrant that all materials and equipment included in such work will be new except where indicated otherwise in Contract Documents, and that such work will be of good quality, free from improper workmanship and defective materials and in conformance with the Contract Documents. With respect to the same work, the Construction Manager further agrees to correct all work found by the Owner to be defective in material and workmanship or not in conformance with the Contract Documents for a period of one year from the date of Substantial Completion or partial occupancy of any portion of the building, whichever comes

first, or for such longer periods of time as may be set forth with respect to specific warranties contained in the trade sections of the Specifications. The Construction Manager shall collect and deliver to the Owner any specific written warranties given by others as required by the Contract Documents. In addition, the Construction Manager shall conduct, jointly with the Owner and the Architect-Engineer, a warranty inspection in approximately eleven (11) months after the date of Owner Occupancy.

ARTICLE 3

OWNER'S RESPONSIBILITIES

3.1 Owner's Information:

The Owner shall provide full information regarding its requirements for the Project.

3.2 Owner's Representatives:

The Owner shall designate in writing any additional representatives authorized to act on the Owner's behalf with respect to the Project, not previously defined in Article 1.3, together with the scope of his/her respective authority. In no event shall any delegation of authority be contrary to state or county laws or codes. Functions to be performed by the Owner as set forth in this Agreement can be delegated by the Owner only by written notice to the Construction Manager from the Owner. The Construction Manager shall be entitled to rely on directions, and it shall be required to follow such directions, from the Owner's Representative designated in Article 1.3 and such other representatives from time to time designated in writing within the authority conferred by the Board of County Commissioners of Highlands County in this Agreement or any Amendment or Change Order to this Agreement. The Board of County Commissioners of Highlands County hereby authorizes the Article 1.3 Owner's Representative to: (1) act as the Owner's agent and execute documents associated with this Project. Examples of these documents are Construction Manager's Contingency Authorizations, Notices of Commencement, Certificates of Substantial Completion and permits from applicable agencies; (2) administer, coordinate, interpret and otherwise manage the contractual provisions and requirements of this Agreement; (3) negotiate a duly authorized Change Order on behalf of the Owner; and (4) issue a duly authorized purchase order, memorandum, letter or other instrument covering the services and work to be provided pursuant to this Agreement. Directions and decisions made by Owner's Representatives shall be binding on the Owner.

The Board of County Commissioners additionally authorizes the County Administrator, in conjunction with the Owner's Representative, to authorize changes in the work up to a total for all changes of Fifty Thousand and 00/100 Dollars (\$50,000.00) or such other dollar amount as authorized by policy adopted by the Board of County Commissioners. Said work can be funded from the Owner's Contingency and shall not cause an increase to the overall project budget.

3.3 Architect-Engineer's Agreement:

The Owner shall retain an Architect-Engineer for design and to prepare Construction Documents for the Project. The Architect-Engineer's services, duties and responsibilities are described in the Agreement between the Owner and the Architect-Engineer, a copy of which will be furnished to the Construction Manager. The Agreement between the Owner and the Architect-Engineer shall not be modified without written notification to the Construction Manager.

3.4 Site Survey and Reports:

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

3.5 Approvals and Easements:

The Owner shall approve all forms of easements, rights of entry or other similar rights, entitlements or interests necessary for the Project as well as pay the cost associated with such entitlements, easements and the like required for the Project.

3.6 Legal Services:

The Owner shall furnish such legal services as may be necessary for providing the items set forth in Article 3.5 and such document examination and interpretation as may require.

3.7 Drawings and Specifications:

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

3.8 Cost of Surveys and Reports:

The services, information, surveys and reports required by the above paragraphs shall be furnished with reasonable promptness in accordance with the approved schedule at the Owner's expense, and the Construction Manager shall be entitled to rely upon the accuracy and completeness thereof.

3.9 Project Fault Defects:

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

3.10 Funding:

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

3.11 Lines of Communication:

The Owner and the Architect-Engineer, through the Owner, shall communicate with the subcontractors or suppliers only through the Construction Manager while such method of communication is effective in maintaining project schedules and quality.

3.12 Permitting & Code Inspections:

The Owner recognizes and coordinates with the appropriate Permitting Authority and expects the Construction Manager to do the same.

ARTICLE 4
PERMITS, FEES AND NOTICES

- 4.1 Unless otherwise provided in the Contract Documents, the Construction Manager shall secure and pay for the building permits, which are customarily secured by a General Contractor.
- 4.2 The Construction Manager shall comply with and give notices, as required by laws, ordinances, rules, regulations and lawful orders of public authorities bearing on performance of the Project.
- 4.3 It is not the Construction Manager's responsibility to ascertain whether the Contract Documents are in accordance with applicable laws, statutes, ordinances, Building Codes and Rules and Regulations; however, if the Construction Manager observes that portions of the Contract Documents are inconsistent therewith, the Construction Manager shall promptly notify the Architect-Engineer and Owner in writing and necessary changes shall be accomplished by appropriate modification.
- 4.4 If the Construction Manager performs work knowing it to be contrary to applicable laws, statutes, ordinances, Building Codes and Rules and Regulations without such notice to the Architect-Engineer and Owner, the Construction Manager shall assume full responsibility for such work and shall bear all attributable costs and damages.
- 4.5 Cost for all re-inspections of work found to be defective and subsequently repaired, shall be borne by the Construction Manager if such defective work was performed knowingly contrary to applicable laws, statutes, ordinances, Building Codes and Rules and Regulations.

ARTICLE 5

SUBCONTRACTS

5.1 Definition:

A subcontractor is a person or organization who has a direct contract with the Construction Manager to perform any of the work at on the Project. Nothing contained in the Contract Documents shall create any contractual relationship between the Owner or Architect-Engineer and any subcontractor.

5.2 Proposals:

Subject to Article 9 and, in accordance with Article 2.4(4), the Construction Manager shall request and receive proposals from subcontractors and suppliers and will award those contracts to the qualified low bidder after reviewing all proposals with the Owner and Architect-Engineer and all are satisfied that the subcontractor/supplier is qualified to perform work or provide materials for the Project.

5.3 Required Subcontractors' Qualifications and Subcontract Conditions:

1. Sub-contractual Relations - The Construction Manager shall require each Subcontractor to assume all the obligations and responsibilities which the Construction Manager owes the Owner under this Agreement, to the extent of the work to be performed by the Subcontractor. Said agreements shall be made in writing and shall preserve and protect the rights of the Owner and Architect-Engineer under the Contract Documents with respect to the work to be performed by the Subcontractor so that the subcontracting thereof will not prejudice such rights. Where appropriate, the Construction Manager shall require each Subcontractor to enter into similar agreements with its sub-subcontractor. Insurance requirements for Subcontractors shall be no more stringent than those requirements imposed on the Construction Manager by the Owner.

The Construction Manager shall make available to each proposed Subcontractor, prior to the execution of the Subcontract, copies of the Contract Documents to which the Subcontractor will be bound.

2. All subcontracts shall provide -

LIMITATION OF REMEDY- NO DAMAGES FOR DELAY

The subcontractor's exclusive remedy for delays in the performance of the contract caused by events beyond its control, including delays claimed to be caused by the Owner or Architect-Engineer or attributable to the Owner or Architect-Engineer and including claims based on breach of contract or negligence, shall be an extension of its contract time and shall in no way involve any monetary claim.

In the event of a change in the work, the Subcontractor's claim for adjustments in the contract sum are limited exclusively to its negotiated costs for such changes plus no more than seven percent (7%) for overhead, profit and bond costs.

The subcontract shall require the subcontractor to expressly agree that the foregoing constitutes the sole and exclusive remedy for delays and changes in the work and eliminates any other remedies or claims for increase in the contract price, damages, losses or additional compensation. Each subcontract shall require that any claims by the subcontractor for delay or additional cost must be submitted to the Construction Manager within the time and in the manner in which the Construction Manager must submit such claims to the Owner, and that failure to comply with the conditions for giving notice and submitting claims shall result in the waiver of such claims.

5.4 Responsibilities for Acts and Omissions:

The Construction Manager shall be responsible to the Owner for the acts and omissions of its employees, agents, subcontractors, the agents thereof and employees thereof, and all other persons performing any of the work or supplying materials for the Project under a contract to the Construction Manager.

ARTICLE 6
SCHEDULE, TIME OF COMMENCEMENT
AND SUBSTANTIAL COMPLETION

- 6.1 At the time a Guaranteed Maximum Price (GMP) is established as provided for in Article 7, a Project Substantial Completion Date, a Project Final Completion Date and an Owner Occupancy Date for completion of the Project in accordance with the master project schedule, shall also be established by the Construction Team. The Construction Manager agrees to complete the construction in accordance with the agreed Substantial Completion Date, Final Completion Date and Owner Occupancy Date. The Construction Manager acknowledges that failure to complete the Project within the construction time set forth in the approved schedule will result in substantial damages to the Owner. These liquidated damages are the sole remedy for delay, shall in no way be deemed a waiver of the Owner's right to all other legal remedies in this Agreement.

In the event the Construction Manager does not achieve the Substantial Completion Date the Construction Manager shall pay the Owner, as liquidated damages and not as a penalty, in the amount of Five Hundred Dollars (\$500.00) for each calendar day the actual time of performance exceeds the authorized Substantial Completion Date for each separate GMP as applicable.

- 6.2 The date of Owner Occupancy shall occur as described in Article 2.4(12) herein above. Warranties called for by this Agreement or by the Contract Documents shall commence on the Substantial Completion Date, unless otherwise agreed to, in writing, between the Owner and Construction Manager.

ARTICLE 7
GUARANTEED MAXIMUM PRICE FOR CONSTRUCTION

- 7.1 When the design documents are sufficiently complete to establish the scope of work for the Project, or any portion thereof, as generally defined by a design document listing to be provided by the Architect-Engineer, or at such time thereafter designated by the Owner, the Construction Manager will establish and submit in writing to the Owner for approval, a Guaranteed Maximum Price (GMP), guaranteeing the maximum price to the Owner, for the construction cost of the Project or designated part thereof. The Construction Manager acknowledges multiple GMPs may be required for the portions of the Project to support the project phasing and schedule. Such Guaranteed Maximum Price will be subject to modification for changes in the Project as provided in Article 10; however, the actual price paid for the work by the Owner shall be the actual cost of all work subcontracts, supply contracts, direct labor costs, direct supervision costs and direct job costs as defined under Article 9, plus the Construction Manager's costs and fees, or the GMP, whichever is less when the work is complete.
- 7.2 The GMP will only include those taxes, in the cost of the Project, which are legally enacted at the time the GMP is established.
- 7.3 At the time of submission of a GMP, the Construction Manager will verify the time schedule for activities and work, which were adopted by the Construction Team and used to determine the Construction Manager's cost of work. Included in the GMP will be a Contractor's Contingency, which is included for the Construction Manager to use, with the Owner's consent. The contingency is intended to cover the costs associated with Project scope that were not adequately detailed at the time of GMP. The Contractor's Contingency is also intended to protect against price increases between the GMP and the completion of the 100% construction documents, as well as for the purpose of defraying the expenses due to unforeseen circumstances relating to construction and for price increases attributable to any code compliance reviews. The Construction Manager will be required to furnish documentation evidencing expenditures charged to the Contractor's Contingency prior to the release of funds by the Owner. Documentation for use of the Contractor's Contingency shall be determined by the Construction Team, included in the Project Manual and displayed monthly in the Project Management Information System. The Architect-Engineer shall verify the actual costs. If there are funds remaining in the Contractor's Contingency at the conclusion of the Project, said funds will be returned to the Owner, through deductive change order.
- 7.4 When the Project is bid and one hundred percent (100%) of the trade contracts have been executed, the contingency within the GMP may be decreased in proportion to the percent of the work completed up to a maximum of fifty percent (50%). In other words, if ten percent (10%) of the work has been completed and the Owner requests that the contingency within the GMP be adjusted, then ten percent (10%) of the contingency within the GMP will be removed from the GMP by change order up to a maximum of fifty percent (50%) of the initial GMP contingency value. During the buyout period of the trade contracts, at a

point mutually agreed upon between the Owner and Construction Manager, the net amount of the buyout will be reviewed. If the net amount of the total buyout results in excess funds being required, those funds will be taken from the Contractor's Contingency.

If the net amount of the buyout results in a savings, the savings will be assigned to the Owner's Buyout Contingency as defined in Article 7.5

If bids are not received for a portion of the work at or below the applicable line item amount in the GMP, the Construction Manager reserves the right to perform that portion of the work or negotiate for its performance for the specified line item lump sum amount or less.

- 7.5 The Owner's Buyout Contingency shall be created by the savings generated by subcontractor buyout as set forth in Article 7.4 and also by reductions in scope that otherwise could reduce the GMP. The intent of this Owner's Buyout Contingency is to allow funds already within the GMP to remain in the GMP and be used at the Owner's discretion for scope issues that may become required and/or desired during the course of the Project.

Authorizations up to Fifty Thousand and 00/100 Dollars (\$50,000.00), or such other dollar amount as authorized by policy adopted by the Board of County Commissioners, for the use of the Owner's Buyout Contingency, may be granted by the County Administrator. Authorizations, for more than Fifty Thousand and 00/100 Dollars (\$50,000.00), will be granted by the Board of County Commissioners unless the Board of County Commissioners authorizes an increase in the County Administrator's authority for the same.

ARTICLE 8

CONSTRUCTION MANAGER'S COSTS

- 8.1 In consideration of the performance of this Agreement, the Owner agrees to pay the Construction Manager as compensation for his services, costs or fees, as set forth herein.

1. Design Phase/Pre-construction Costs - For the performance of the services set forth under Article 2 and for profit and overhead related to these services, the Construction Manager shall be paid a total amount to be determined prior to the issuance of the Task Authorization. The Design Phase/Pre-construction Costs shall be paid according to the percent complete of the design phase.

The Construction Manager's personnel to be assigned during this phase and their duties and responsibilities to this project and the duration of their assignments shall be shown on the Task Authorization.

2. Construction Phase Costs - Prior to commencement of each Construction Phase, the Owner will direct the Construction Manager in writing to proceed into said Construction Phase. The Construction Phase Cost for work or services performed during the Construction Phase shall be an amount of *(To Be Determined at GMP)*.

The Construction Phase Costs shall be paid according to the percent complete of the Project. The first monthly payment shall be due thirty (30) days following the issuance of the first Construction Authorization by the Owner's Representative and the final monthly payment shall be paid only when construction of the Project, or portion thereof, is finally completed and occupancy of the Project, or portion thereof, accepted by the Owner. If construction is authorized only for a part of the Project, the costs paid shall be proportionate to the amount of work authorized by the Owner.

A. Adjustments in Costs - For changes in the Project as provided in Article 10, the Construction Phase Costs shall be adjusted as follows:

1. The Construction Manager shall be paid an additional amount subject to negotiation if the Construction Manager is placed in charge of reconstruction of an insured or uninsured loss excluding any condition that may have been caused from negligent acts by the Construction Manager.
2. Should the construction duration for any phase extend longer than stipulated above, there shall be no additional Construction Phase Costs paid to the Construction Manager unless such delays are as defined in Article 10.2.
3. The Construction Manager will not be due any additional Construction Phase Fee on increases in the Guaranteed Maximum Price (GMP) that do not exceed a cumulative total of two percent (2%) for each separate GMP. Should a GMP be increased by more than a cumulative total of two percent (2%) under the terms of Article 10 hereinafter, due to no fault of the Construction Manager, the Construction Manager's additional Construction Phase Fee will be based on the initial GMP as set forth in the below chart for that portion of the accumulative increases in the GMP that exceed the GMP by more than two percent (2%).

GMP	Construction Manager's Fee
\$0.00 to \$150,000	10%
\$150,001 to \$500,000	8%
\$500,001 to \$750,000	6%
\$750,001 to \$1,000,000	5%
\$1,000,001 to \$1,500,000	4%
\$1,500,001 to \$2,000,000	3%

Construction Manager's Exclusive Remedy - In the event the construction Substantial or Final Completion date is extended, regardless of whether delay is caused by any act or neglect of the

Owner or the Architect-Engineer, or is attributable to the Owner or the Architect-Engineer, the Construction Manager's sole and exclusive remedy is an extension of the Substantial Completion Date and payment of additional Construction Phase Costs and Construction Phase Fee as provided above.

- B. Costs and Expenses Included in Construction Phase Costs – The following are included in the Construction Phase Costs for services during the Construction Phase:
1. Salaries or other compensation of the Construction Manager's employees at its principal office and branch offices.
 2. General operating expenses of the Construction Manager's principal and branch offices related to the Project.
 3. The costs of all data processing staff.
 4. Salaries or other compensation of the Construction Manager's employees at the job site.
 5. General operating expenses incurred in the management and supervision of the Project, except as expressly included in Article 9.
 6. Those services set forth in Article 2.4(9)(A).
 7. Job office supplies including but not limited to paper, pencils, paper clips, file folders, staples and janitorial supplies.
3. Construction Phase Fee - For overhead, profit and general expenses of any kind, except as may be expressly included in Article 9, for services provided during and related to the construction phase, the amount shall be based on the initial GMP as set forth in the chart below and shall be converted to a fixed amount upon acceptance of the GMP, subject to changes as described herein, and shall be paid proportionally to the ratio of the cost of the work in place, including stored materials, as it bears on the latest estimate of the total construction cost and/or to the GMP, whichever is less. The balance of the fee shall be paid when construction of the Project, or portion thereof, is finally completed and occupancy of the Project, or portion thereof, is accepted by the Owner. If construction is authorized only for a part of the Project, the fee paid shall be proportionate to the amount of work authorized by the Owner. The Construction Manager's exclusive remedy for any adjustments in the Construction Phase Fee is provided in Article 8.1(2). The Construction Phase Fee shall be calculated based on the following schedule:

GMP	Construction Manager's Fee
\$0.00 to \$150,000	10%
\$150,001 to \$500,000	8%
\$500,001 to \$750,000	6%
\$750,001 to \$1,000,000	5%
\$1,000,001 to \$1,500,000	4%
\$1,500,001 to \$2,000,000	3%

ARTICLE 9

DIRECT COSTS OF THE PROJECT

9.1 Definition:

The term Direct Cost of the Project shall mean costs necessarily incurred in the Project during the Construction Phase for Construction Services and paid by the Construction Manager, which are not included in the Construction Phase Fee. Such costs shall include the items set forth below in this Article.

The Owner agrees to pay the Construction Manager for the Direct Costs of the Project as defined herein. Such payment shall be in addition to the Construction Phase Costs stipulated in Article 8. Invoices submitted under this Article 9 shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

9.2 Direct Cost Items:

1. Cost of all materials, supplies and equipment incorporated in the Project, including costs of transportation and storage thereof.
2. Payments due to subcontractors from the Construction Manager or made by the Construction Manager to subcontractors for work performed pursuant to contract under this Agreement.
3. Cost including transportation and maintenance of all materials, supplies, equipment, temporary facilities and hand tools not owned by the workmen, employed or consumed in the performance of the work.
4. Rental charges on all necessary machinery and equipment, exclusive of hand tools used at the site of the Project, whether rented from the Construction Manager or other, including installation, repairs and replacement, dismantling, removal, transportation and delivery costs thereof, which are used in the support of a subcontractor or the Construction Manager's own forces in the performance of the work, at rental charges consistent with those prevailing in the area.
5. Cost of the premiums for all insurance and cost of premiums for all bonds, which the Construction Manager is required to procure by this Agreement specifically for the construction of the Project. The cost of the work shall include any subcontractor

bonds the Construction Manager deems appropriate. There shall be no Construction Phase Fee on this item.

6. Losses and expenses sustained by the Construction Manager in connection with the work, not compensated by insurance, including deductibles provided they have resulted from causes other than the negligent misconduct of Construction Manager.
7. Sales, use, gross receipts or similar taxes related to allowable direct costs of the Project imposed by any governmental authority, and for which the Construction Manager is liable.
8. The cost of corrective work, subject to the GMP, except for any corrective work made necessary because of defective workmanship or other problems caused by the negligence of the Construction Manager or its subcontractors or suppliers. No costs shall be paid by the Owner to the Construction Manager for any expenses made necessary to correct defective workmanship or to correct any work not in conformance with the Contract Documents or to correct any deficiency or damage caused by the negligent acts by the Construction Manager.
9. Costs for repairs and maintenance, which are consistent with industry standards associated with work required during the warranty period, which may be the responsibility of Construction Manager. This shall not apply to work, which is the responsibility of subcontractors, except in the case of a subcontractor's default.
10. Costs for trash and debris control and removal from the site.
11. Costs incurred due to an emergency affecting the safety of persons and property.
12. Legal costs reasonably and properly resulting from the Project on behalf of the Owner, including handling claims for changes by Subcontractors and Vendors, subject to the following limitations:
 - A. The Owner approved incurring such costs in advance, which approval shall not be unreasonably denied; and
 - B. The legal costs were not incurred as result of the Construction Manager's own negligence or default.

This paragraph does not provide for payment of legal costs incurred in preparing or asserting claim or requests, by Construction Manager itself, for change orders or in enforcing the obligations of this contract.
13. All costs directly incurred in the performance of the Project for the benefit of the Project and not included in the Construction Phase Costs as set forth in Article 8.
14. If requested by the Owner, the Construction Manager will perform all or a portion of the General Conditions work as a Direct Cost of the Project.

15. If approved by the Owner, the Construction Manager, when qualified, may perform all or a portion of the work for any item listed on the estimate or GMP breakdown where it is deemed advantageous due to schedule or economic benefit as a Direct Cost of the Project.
16. Costs of all reproductions used for bidding or information purposes required by the Project to directly benefit the Project.
17. Costs for watchman and security services for the Project.
18. Costs for efficient logistical control of the site, including horizontal and vertical transportation of materials and personnel and costs for adequate storage and parking.
19. Costs for such temporary facilities and temporary protection during construction, as approved by the Owner, including temporary water, heat, power, sanitary facilities, telephones, radios and computers with software.
20. Costs for any job site items not referenced herein, not normally provided by the subcontractors, which will be provided by the Construction Manager as required to complete the Project.

ARTICLE 10

CHANGES IN THE PROJECT

10.1 Change Orders:

The Owner, without invalidating this Agreement, may order changes in the Project within the general scope of this Agreement consisting of additions, deletions or other revisions, with the GMP and the Substantial and/or Final Completion Dates being adjusted accordingly. All changes in the Project, not covered by an authorized contingency, shall be authorized by a Change Order signed by the Owner before the change is implemented.

1. A Change Order is a written order to the Construction Manager signed by the Owner issued after the execution of this Agreement, authorizing a change in the Project, the Construction Phase Fee, or other attributable cost of the Project.
2. The increase or decrease in the GMP resulting from a change in the Project shall be determined in one or more of the following ways:
 - A. by mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation by the Architect-Engineer and Owner;
 - B. by unit prices stated in the Agreement or subsequently agreed upon;

- C. by cost as defined in Article 9 and a mutually acceptable fixed or percentage fee; or
 - D. by the method provided in Article 10.1(3).
 - E. Should any costs be required for design of an alternative system that would be advantageous to the Project and result in a deductive change order, the Construction Manager shall include the cost of the redesign services of the Architect-Engineer so that the Owner can make proper assessment of the cost of such change. Payment for additional services shall be made by the Owner.
- 3. If none of the methods set forth in Article 10.1(2) is agreed upon, the Construction Manager, provided it receives a written order signed by the Owner, shall promptly proceed with the work involved. The cost of such work shall then be determined on the basis of the reasonable expenditures and savings of those performing the work attributed to the change. In the event a Change Order is issued under these conditions, the Construction Manager shall establish an estimated cost of the work and the Construction Manager shall not perform any work if the cost exceeds that estimate without prior written approval by the Owner.
 - 4. In the event of either Article 10.1(2) or Article 10.1(3) above, the Construction Manager shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data, of the increase in the Direct Cost of the Project as outlined in Article 9.
 - 5. The amount of decrease in the Guaranteed Maximum Price to be allowed by the Construction Manager to the Owner for any deletion or change which results in a net decrease in cost will be the amount of the actual net decrease.
 - 6. If unit prices are stated in the Agreement or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order, and that application of the agreed unit prices to the quantities of work proposed will cause substantial inequity to the Owner or the Construction Manager, the applicable unit prices and Guaranteed Maximum Price shall be equitably adjusted.
 - 7. In the performance of the work, should concealed conditions be encountered below the surface of the ground or should concealed or unknown conditions in an existing structure be inconsistent with the conditions indicated by the Drawings, Specifications, or Owner furnished information or should unknown physical conditions exist below the surface of the ground or should concealed or unknown conditions in an existing structure of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement, be encountered, the Guaranteed Maximum Price and the Substantial and/or Final Completion Dates shall be

equitably adjusted by Change Order upon a request for Change Order in accordance with Article 10.2.

8. In the event the Construction Manager encounters material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, petroleum waste, biohazardous substances, radioactive waste or any other substance falling within the category of hazardous or toxic waste under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or any other state or federal environmental statute or regulation, hereinafter collectively referred to as "hazardous waste," the Construction Manager shall immediately stop work in the area affected and report the condition to the Owner in writing. Owner shall thereafter as soon as reasonably possible conduct a thorough investigation to determine if the suspected material in the affected area is in fact hazardous waste and shall certify to Construction Manager that such material is not hazardous waste or if such material is in fact hazardous waste that such hazardous waste has been abated and that it is safe to return to the affected area and resume work. The Construction Manager may require the Owner to furnish copies of reports of tests conducted by a qualified testing laboratory acceptable to Construction Manager verifying the absence of such hazardous waste before Construction Manager will be required to resume work. The Contract time and amount shall thereafter be equitably adjusted to account for the time lost due to the encountering of the hazardous waste and the reasonable cost associated therewith. The Construction Manager shall, through an analysis of network schedule, prove such time delays and associated costs.
9. The Construction Manager shall not be required to perform any work relating to hazardous waste without consent pursuant to this Article 10.

10.2 Claims for Additional Cost or Time:

All claims for additional cost or time shall be made by request for a Change Order submitted as provided in Article 16.

The Substantial Completion date shall be extended by Change Order for such reasonable time as the Construction Manager may determine. If the Construction Manager is delayed at any time in the progress of the work by any act or neglect of the Owner or the Architect-Engineer or of any employee of either or by any separate Construction Manager employed by the Owner or by any changes ordered in the work by labor disputes, fire or unusual delay in transportation, unavoidable casualties or any causes beyond the Construction Manager's control or by delay authorized by the Owner pending resolution of disputes, and such delay extends the Substantial and/or Final Completion Date, then the dates for completion may be equitably adjusted.

Only delays which are determined to extend the critical path for the schedule for constructing the Project, will result in a time extension. Neither the Owner nor the Construction Manager shall be considered to own the schedule float time.

10.3 Minor Changes in the Project:

The Owner will have authority to order minor changes in the Project not involving an adjustment in the Guaranteed Maximum Price or an extension of the Substantial and/or Final Completion Date and not inconsistent with the intent of the Contract Documents. Such changes shall be affected by written order. The Documentation of changes shall be determined by the Construction Team, included in the Project Manual and displayed monthly in the Project Management Information System. Changes shall be approved by the Owner and Architect-Engineer.

10.4 Emergencies:

In any emergency affecting the safety of persons or property, the Construction Manager shall act at its discretion, to prevent threatened damage, injury or loss. Any increase in the Guaranteed Maximum Price or extension of time claimed by the Construction Manager on account of emergency work shall be determined as provided in this Article 10.

ARTICLE 11
DISCOUNTS

All discounts for prompt payment shall accrue to the Owner to the extent the cost of the item(s) purchased is paid directly by the Owner or from a fund made available by the Owner to the Construction Manager for such payments. To the extent the cost associated with the Project is paid with funds of the Construction Manager, all cash discounts shall accrue to the Construction Manager. All trade discounts, rebates and refunds, and all returns from the sale of surplus materials and equipment, shall be credited to the cost of the Project.

ARTICLE 12
PAYMENTS TO THE CONSTRUCTION MANAGER

12.1 Monthly Statements:

The Construction Manager shall submit to the Owner a sworn statement, along with the cost reports required under Article 2.1(5), showing, in detail, all moneys paid out, cost accumulated, or costs incurred during the previous period and the amount of the Construction Phase Fees due as provided in Article 8. This data shall be attached to the Partial Pay Request form shown in **Exhibit “E”**. Five percent (5%) retainage shall be held on all payments until the contract is fifty percent (50%) complete, except when approved by the Owner certain suppliers and subcontractors may be paid the entire amount due when such payment is generally the practice of the industry. At fifty percent (50%) completion, the Owner may approve a reduction of the retainage from five percent (5%) to two- and one-half percent (2.5%) at its discretion. Retainage shall not be withheld on services or fees set forth in Article 8. Payments by the Owner to the Construction Manager shall be made as described in this Article 12. As a condition to application for a monthly partial pay requisition, the Construction Manager agrees that all as-built information will be recorded

within thirty (30) days after receipt of information that a change to the Construction Documents has occurred.

12.2 Final Payment:

Final payment constituting the unpaid balance of the Construction Phase Cost of the Project and the Construction Phase Fee, shall be due and payable as described in Article 12.4 after Final Completion, provided that the Project has been finally completed, that the Construction Manager has verified by appropriate signature that it has completed all items and that this Agreement has been finally performed. However, if there should remain work to be completed, the Construction Manager, the Owner, and the Architect-Engineer shall list those items prior to receiving final payment and the Owner may retain a sum equal to the estimated cost of completing any unfinished work and portion of the Construction Manager's retainage, provided that said unfinished items are listed separately and the estimated cost of completing the unfinished items are likewise listed separately. Thereafter, Owner shall pay the Construction Manager monthly, the amount retained for each incomplete item after each such item is completed.

12.3 Payments to Subcontractors:

The Construction Manager shall promptly, within ten (10) days after receipt of payment from the Owner, pay all the amounts due to subcontractors less a retainage of five percent (5%) until the project is fifty percent (50%) complete, and based on Construction Manager's evaluation of the subcontractor's acceptable performance, the Owner may approve a reduction in retainage from five percent (5%) to two and one half percent (2.5%) thereafter. If there should remain items to be completed, the Construction Manager, the Owner and Architect-Engineer shall list those items required for completion and the Construction Manager shall require the retainage of a sum equal to two and one half percent (2.5%) of the estimated cost of completing any unfinished items, provided that said unfinished items are listed separately and the estimated cost of completing any unfinished items are likewise listed separately. Thereafter, the Construction Manager shall pay to the subcontractors monthly, the amount retained for each incomplete item after each such item is completed. Before issuance of final payment without any retainage, the subcontractor shall submit satisfactory evidence that all payrolls, material bills and other indebtedness connected with the Project have been paid or otherwise satisfied, warranty information is complete, as-built markups have been submitted and instruction for the Owner's operating and maintenance personnel is complete.

12.4 Construction Manager's Payment Rights:

All payments for construction services shall be governed by and made in accordance with Florida's Prompt Payment Act, Florida Statutes, Section 218.735.

12.5 Payments for Materials and Equipment:

Payments will be made for material and equipment not incorporated in the work but delivered and suitably stored at a Project site or another location that is insured to protect the Owner's assets subject to prior approval and acceptance by the Owner on each occasion.

12.6 Withholding Payments to Subcontractors:

The Construction Manager shall not withhold payments to subcontractors if such payments have been made to the Construction Manager. Should this occur, the Construction Manager shall return such moneys to the Owner, adjusting pay requests and project bookkeeping as required. However, this provision shall not apply should payments to subcontractors be withheld as a result of procuring normal process paperwork in accordance with the Construction Manager's contract with said subcontractor. The Construction Manager shall, if requested by the Owner, notify the Owner in writing as to the reason for withholding payment.

ARTICLE 13
INSURANCE, INDEMNITY AND WAIVER OF SUBROGATION

13.1 Indemnity:

The Construction Manager agrees to be liable for any and all damages, losses and expenses incurred, by the Owner, in any way related to or caused by the acts and/or omissions of the Construction Manager, or any of its employees, agents, sub-contractors, representatives, volunteers or the like, to the extent stemming from the services provided by this Agreement. The Construction Manager agrees to indemnify, defend and hold the Owner harmless for any and all claims, suits, judgments, damages, losses and expenses, including but not limited to, court costs, expert witness fees, consultation services and attorney's fees, through and including any appeals, arising from and related to any and all acts and/or omissions of the Construction Manager, or any of its employees, agents, sub-contractors, representatives, volunteers, or the like, to the extent stemming from the services provided by this Agreement. Said indemnification, defense and hold harmless activities shall not be limited by any required insurance coverage amounts set forth herein and shall survive termination or natural expiration of this Agreement.

13.2 Construction Manager's Insurance:

1. The Construction Manager shall not commence any construction work in connection with this Agreement until he has obtained all of the following types of insurance and such insurance has been approved by the Owner, nor shall the Construction Manager allow any subcontractor to commence work on its subcontract until all similar insurance required of the subcontractor has been so

obtained and approved. All insurance policies shall be from insurers qualified and doing business in Florida with an AM Best Company rating of no less than A.

2. Worker's Compensation Insurance - The Construction Manager shall take out and maintain during the life of this Agreement Worker's Compensation Insurance for all his employees, and the like, connected with the work of this Project and, in case any work is sublet, the Construction Manager shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the subcontractor's employees unless such employees are covered by the protection afforded by the Construction Manager. Such insurance shall comply with Florida Worker's Compensation Law. In case any class of employees, engaged in hazardous work on the Project, is not protected under the Worker's Compensation statute, the Construction Manager shall provide adequate insurance, satisfactory to the Owner, for the protection of employees not otherwise protected. Employers' liability shall be no less than \$1,000,000/1,000,000/1,000,000.
3. Construction Manager's Public Liability and Property Damage Insurance - The Construction Manager shall take out and maintain during the life of this Agreement, Comprehensive General Liability and Comprehensive Automobile Liability Insurance to protect it from claims of damage for personal injury, including accidental death, as well as claims for property damage which may arise from its operations under this Agreement whether such operations are by the Construction Manager or by anyone directly or indirectly employed by it, and the amount of such insurance shall have the following minimum limits:
 - A. GENERAL LIABILITY: One Million Dollars (\$1,000,000.00) each occurrence; GENERAL AGGREGATE: Two Million Dollars (\$2,000,000.00). There shall not be an EFIS Exclusion Endorsement on any general liability policy;
 - B. Automobile Liability Coverages, One Million Dollars (\$1,000,000.00) combined single limit, and One Million Dollars (\$1,000,000.00) for each occurrence of bodily injury and property damage;
 - C. Excess Liability, Umbrella Coverage, Two Million Dollars (\$2,000,000.00) each occurrence.
4. Subcontractor's Public Liability and Property Damage Insurance - he Construction Manager shall require each of its subcontractors to procure and maintain during the life of any such subcontract, insurance coverage of the types specified above or insure the activities of the subcontractors in the Construction Manager's policies, as specified above.
5. "XCU" (Explosion. Collapse, Underground Damage) - The Construction Manager's Liability Policy shall provide "XCU" coverage for those classifications in which they are excluded.

6. Products and completed operations Coverages - The Construction Manager's Liability Policy shall include Broad Form Property Damage Coverage, Products and Completed Operations Coverages. The products and completed operations portions of the liability coverage shall extend for a period of two (2) years after the Final Acceptance of the Project by the Owner.
7. Contractual Liability Work Contracts - The Construction Manager's Liability Policy shall include Contractual Liability Coverage designed to protect the Construction Manager for contractual liabilities assumed by the Construction Manager in the performance of this Agreement.
8. Indemnification Rider -
 - A. To cover to the fullest extent permitted by law, the Construction Manager shall indemnify and hold harmless the Owner and the Architect-Engineer and their agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from the performance of the Project, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself), and to the extent it (2) is caused in whole or in part by any negligent act or omission of the Construction Manager, 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 part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right to obligation of indemnity which would otherwise exist as to any party or person described in this Article.
 - B. In any and all claims against the Owner or the Architect-Engineer or any of their agents or employees by any employee of the Construction Manager, any subcontractor, anyone directly or indirectly employed by either or anyone for whose acts either may be liable, the indemnification obligations under this Paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Construction Manager or any subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.
 - C. The obligations of the Construction Manager under this Article 13.2(8) shall not extend to the liability of Architect-Engineer, his agents or employees, arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications, or (2) the giving of or the failure to give directions or instruction by Architect-Engineer, its

agents or employees provided such giving or failure to give is the primary cause of the injury or damage.

- D. The Construction Manager hereby acknowledges receipt of Ten Dollars (\$10.00) and other good and valuable consideration from the Owner and acknowledges receipt of Ten Dollars (\$10.00) and other good and valuable consideration from the Architect-Engineer in exchange for giving the Owner and Architect-Engineer, respectively, the indemnification provided above in Articles 13.1 and 13.2.
9. Builder's Risk Coverage - The Construction Manager shall take out and maintain a "Builder's Risk Policy" for each assigned Project, issued to provide coverages on an "all risk" basis including theft. This coverage shall not lapse or be canceled because of partial occupancy by the Owner prior to Final Acceptance of the Project. The Owner may elect to take out and maintain this insurance coverage. Should the Owner purchase said insurance, the insurance policy shall have a deductible for each occurrence of Five Thousand and 00/100 Dollars (\$5,000.00). The Construction Manager shall be responsible for paying any deductible amount.
10. Certificate of Insurance - For every insurance policy required hereunder, the Construction Manager shall provide the Owner with a Certificate of Insurance evidencing such coverage for the duration of this Agreement, or such longer period if required hereunder. Said Certificate of Insurance shall be dated and show:
- A. The name of the insured Construction Manager;
 - B. The specified job by name and job number;
 - C. List the "HIGHLANDS COUNTY" as an Additional Insured;
 - D. Recognizes the Indemnification requirements of this Agreement;
 - E. The name of the insurer;
 - F. The number of the policy;
 - G. The effective date;
 - H. The termination date;
 - I. A statement that the insurer will mail notice to the Owner at least thirty (30) days prior to any material changes in the provisions or cancellation of the policy.
11. Receipt of certificates or other documentation of insurance or policies or copies of policies by the Owner, or by any of its representatives, which indicates less coverage than is required hereunder, does not constitute a waiver of the Construction Manager's obligation to fulfill the insurance requirements specified herein.
12. The Construction Manager shall ensure that any sub-contractor(s), hired to perform any of the work on any part of the Project, maintain appropriate insurance as determined by the Construction Manager. In addition, the Construction Manager

shall maintain proof of same on file and made readily available upon request by the Owner.

13.3 Waiver of Subrogation:

1. The Owner and the Construction Manager waive all rights against each other, for damages caused by perils covered by insurance provided under Article 13.2 to the extent they are covered by such insurance except such rights as either may have to the proceeds of such insurance held by the Owner and Construction Manager as trustees. The Construction Manager shall require similar waivers from all subcontractors and their sub-subcontractors.
2. The Owner and Construction Manager waive all rights against each other for loss or damage to any equipment used in connection with the Project and covered by any property insurance. The Construction Manager shall require similar waivers from all subcontractors and their sub-subcontractors.
3. The Owner waives subrogation against the Construction Manager on all property and consequential loss policies carried by the Owner on adjacent properties and under property and consequential loss policies purchased for the Project after its completion.
4. If the policies of insurance referred to in this Article require an endorsement to provide for continued coverage where there is a waiver of subrogation, the Owner of such policies will cause them to be so endorsed and failure to obtain proper endorsement nullifies the waiver of subrogation.

ARTICLE 14
TERMINATION OF THE AGREEMENT AND OWNER'S RIGHT TO
PERFORM CONSTRUCTION MANAGER'S OBLIGATION

14.1 Termination by the Construction Manager:

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

14.2 Owner's Right to Perform Construction Manager's Obligations and Termination by Owner for Cause:

1. If the Construction Manager fails to perform any of its obligations under this Agreement, including any obligation it assumes to perform work with its own forces, the Owner may correct any deficiencies after providing seven (7) days written notice to the Construction Manager. In such an event, the GMP, or the actual cost of the Project, whichever is less, shall be reduced by the cost to the Owner of correcting such deficiencies and the Construction Manager's Construction Phase Fee shall also be reduced by the amount required to manage the correction of such deficiencies.
2. The Owner may, without prejudice to any other right or remedy and upon providing the Construction Manager and its surety, if any, seven (7) days written notice of failures or deficiencies, terminate this Agreement with the Construction Manager and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon, owned by the Construction Manager, and may finish the Project by whatever means or method the Owner, in its sole discretion, deems appropriate.
3. If the Construction Manager is adjudged bankrupt, or if it makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the Construction Manager's insolvency, or if it persistently or repeatedly refuses or fails, except in cases for which an extension of time is provided, to supply enough properly skilled workmen or proper materials and fails to maintain an established schedule by falling forty-five (45) days or more behind the schedule adopted by the Construction Team, or if the Construction Manager fails to make prompt payments to subcontractors for materials or labor, or persistently disregards laws, rules, ordinances, regulations or orders of any public authority having jurisdiction, or otherwise is in breach of a material provision of this Agreement, the Construction Manager shall not be entitled to receive any further payment until the Project is finished nor shall it be relieved from its obligations assumed under Article 6. Reasonable termination expenses incurred by the Owner may be deducted from any payments which remain owed to the Construction Manager, excluding any monies owed the Construction Manager for subcontract work.

14.3 Termination by Owner Without Cause:

1. The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon, owned by the Construction Manager, and may finish the Project by whatever method he may deem expedient without prejudice to any right or remedy.
2. Upon seven (7) days written notice from the Owner of such termination for the Owner's convenience, the Contractor shall:

- A. cease operations as directed by the Owner in the notice;
 - B. take actions necessary, or that the Owner may direct, for the protection and preservation of the work; and
 - C. terminate all existing subcontracts and purchase orders and not enter into further subcontracts and purchase orders, except for work directed to be performed prior to the effective date of termination stated in the notice.
4. In case of such termination for the Owner's convenience, the Construction Manager shall be entitled to receive payment for work executed, and costs incurred by reason of such termination, along with a reasonable fee, as defined in Article 8.1(2), overhead and profit on the work performed.

ARTICLE 15
ASSIGNMENT AND GOVERNING LAW AND WAIVER OF JURY TRIAL

- 15.1 Neither the Owner nor the Construction Manager shall assign its interest in this Agreement without the written consent of the other except as to the assignment of proceeds.
- 15.2 This Agreement shall be governed by the laws of the State of Florida. Venue shall be in Highlands County, Florida. The parties waive all rights to trial by jury.

ARTICLE 16
NOTICE OF CLAIM; WAIVER OF REMEDIES

- 16.1 The Owner's liability to the Construction Manager for any claims arising out of or related to the subject matter of this Agreement, whether in contract or tort, including, but not limited to, claims for extension of construction time, for payment by the Owner of the costs, damages or losses because of changed conditions under which the work is to be performed, or for additional work, shall be governed by the following provisions:
- 1. All claims must be submitted as a Request for Change Order in the manner as provided herein;
 - 2. The Construction Manager must submit a Notice of Claim to Owner within twenty (20) days of the Construction Manager becoming aware of the occurrence, or the event, giving rise to the claim; and
 - 3. Within ten (10) days of submitting its Notice of Claim, the Construction Manager shall submit to the Owner its Request for Change Order, which shall include a written statement of all the details of the claim, including a description of the work affected.

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

- 16.2 After receipt of a Request for Change Order, the Owner, in consultation with the Architect-Engineer, shall deliver to the Construction Manager its written determination of the claim.
- 16.3 For work the Construction Manager performs with its own forces, and in addition to the adjustments provided for in Article 8, the Construction Manager's exclusive remedy for delays in performance of the construction caused by events beyond its control, including delays claimed to be caused by or attributable to the Owner or the Architect-Engineer, including claims based on breach of contract or negligence, shall be a claim submitted in compliance with Article 16.1 above, for an extension of the scheduled construction time. In the event of a change in such work, the Construction Manager's claims for adjustments in the contract sum are limited exclusively to its actual costs for such changes plus the Construction Manager's Fee established at each Project's initial GMP. The Construction Manager expressly agrees that the foregoing constitutes its sole and exclusive remedy for delays and changes in work and eliminates any other remedies for claims for increase in the contract price, delays, changes in the work, damages, losses or additional compensation.

ARTICLE 17
DIRECT MATERIALS ACQUISITION AND SALES TAX EXEMPT
PURCHASE PROCEDURES FOR PUBLIC PROJECTS

- 17.1 Direct Materials Acquisition by Owner - Supply Bonds:
1. The Construction Manager shall ensure that each subcontractor includes Florida state tax and other applicable sales tax for all material, supplies and equipment included in a subcontractor's bid.
 2. The Owner may, if not prohibited by law, exercise a right to purchase directly, various construction materials, supplies and equipment that may be part of this Agreement or of a subcontract, provided that the Owner receives proper authorization from the State of Florida in the form of a Technical Assistance Advisement as set forth in Florida Administrative Code, Rule 12-11.003. Any materials purchased by the Owner shall be referred to as "Owner Purchased Materials" and the responsibilities of both the Owner and the Construction Manager relating to such Owner Purchased Materials shall be governed by the terms and conditions of this Article, which shall take precedence over other conditions and terms of this Agreement where inconsistencies or conflicts exist.
 3. The Owner will issue its own purchase orders directly to a vendor. The Owner's Purchase Order shall contain or be accompanied by the Owner's exemption

certificate and must include the Owner's name, address and exemption number with issue and expiration date shown. The materials shall be purchased from the vendors and suppliers selected by the Construction Manager or subcontractor for prices negotiated by the Construction Manager or subcontractor, as applicable. The Construction Manager will provide all the necessary information for preparation of the purchase orders by the Owner and will coordinate the purchase of the materials in a timely manner so as to not negatively impact the performance of the construction activity of the Project.

4. The subcontract amount shall be reduced by the net, undiscounted amount of these purchase orders, plus all sales taxes. Issuance of the purchase orders by the Owner shall not relieve the subcontractor or the Construction Manager of any of their responsibilities regarding material purchases, or installation, with the exception of the payments for the material so purchased. The Construction Manager and the subcontractor shall remain, with respect to materials, supplies and equipment, fully responsible for coordination, correct quantities ordered, submittals, protection, storage, scheduling, shipping, security, expediting, receiving, installation, cleaning and the management of all applicable warranties.
5. As Owner Purchased Materials are delivered to the jobsite, the Construction Manager, as Owner's representative, shall visually inspect all shipments from the suppliers, and approve the vendor's invoice for material delivered. The Construction Manager shall assure that each delivery of Owner Purchased Material is accompanied by documentation adequate to identify the purchase order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the Purchase Order, together with such additional information as the Owner or Construction Manager may require. The Construction Manager, as Owner's representative, shall verify in writing to the Owner the accuracy of the delivery ticket. The vendor will then forward the invoice to the Owner through the Construction Manager for payment. The invoice shall be thereupon furnished to the Owner for processing and payment in the same manner that all other Owner invoices are processed. The Owner shall have the right to assign Owner personnel to verify and audit the accuracy of all Direct Purchase documents.
6. Notwithstanding the transfer of Owner Purchased Materials by the Owner to the Construction Manager's possession, the Owner shall retain title to any and all Owner Purchased Materials.
7. The Owner shall purchase and maintain insurance which shall be sufficient to protect against any loss of or damage to Owner purchased equipment, materials or supplies. Such insurance shall cover the value of any Owner Purchased Materials not yet incorporated into the Project from the time the Owner first takes title.
8. The material supplier may be required to provide a supply bond in the amount of 100% of the purchase order price. The bond shall be from a qualified surety

company authorized to do business in the State of Florida and acceptable to the Owner and the Construction Manager. If a supply bond is required, the cost of the bond will be added to the amount of the Purchase Order. The premium cost for this supply bond shall be included in the bid price. Verifying that a designated material supplier can furnish a supply bond, if required, will be the responsibility of the Construction Manager. Owner reserves the right to waive the requirement of providing a supply bond at the discretion of Owner.

9. If the State of Florida assesses any sales tax penalties and/or interest against the Construction Manager or any of its subcontractors or material suppliers relating to the direct acquisition of materials and/or equipment by Owner as authorized by this paragraph, such taxes, penalties, interest and/or any legal and administrative fees expended by the Construction Manager as a direct result of any action or assessment made by the State of Florida, shall be reimbursed by Owner to the Construction Manager in a prompt and reasonable manner and shall not be considered a Project Cost.

18.2 Sales Tax Exempt Purchasing Procedures for Public Projects:

1. The Construction Manager has included Florida sales tax and other applicable taxes in its bid for material, supplies and equipment. The Owner, being exempt from sales tax, reserves the right to make direct purchases of various construction equipment, materials or supplies included in any subcontractor's bid and/or contract.
2. Any equipment, materials or supplies directly purchased by the Owner that are included in the Construction Manager's contract or any subcontract shall be referred to as Owner Purchased Materials and the responsibilities of both the Owner and the subcontractor relating to such Owner Purchased Materials shall be governed by these procedures.
3. Material suppliers shall be selected by the Construction Manager or subcontractor, as applicable.
4. Owner purchasing of construction materials, if selected, will be administered on a deductive Change Order basis and the contract amount shall be reduced by the net undiscounted amount of the purchase orders issued by the Owner, plus all sales tax included.
5. The Construction Manager shall provide a list of all intended suppliers, vendors and materialmen for consideration as Owner Purchased materials with a description of the materials to be supplied, estimated quantities and prices. This information shall be submitted to the Owner as soon as practicable.
6. The Construction Manager or subcontractors, as applicable, shall prepare a purchase order requisition form in a form acceptable to the Owner and the Construction Manager, to specifically identify the materials, which Owner has, at

its sole option, elected to purchase directly. The purchase order requisition form shall include:

- A. the name, address, telephone number and contact person for the material supplier;
 - B. manufacturer or brand, model or specification number of the item;
 - C. estimated quantity needed;
 - D. the price quoted by the supplier for the materials identified therein;
 - E. any sales tax associated with such quote; and
 - F. delivery dates
7. Construction Manager or subcontractor shall include reference to any terms and conditions, which have been negotiated with the vendors, such as payment terms, warranties, retainage and the like. The purchase order requisition forms are to be submitted to the Owner's Representative no less than seven (7) days prior to the need for ordering such Owner Purchased Materials, in order to provide sufficient time for Owner review and approval and to assure that such directly purchased materials may be directly purchased by Owner and delivered to the Project site without any delay to the Project.
8. After receipt of the purchase order requisition form, Owner shall prepare the Purchase Order for equipment, materials or supplies which the Owner chooses to purchase directly. Pursuant to the Purchase Order, the vendor will provide the required quantities of material at the price established in the vendor's quote to the Construction Manager or subcontractor, less any sales tax associated with such price. Promptly upon receipt of each Purchase Order, the Construction Manager shall verify the terms and conditions of the Purchase Order prior to its issuance to supplier and in a manner to assure proper and timely delivery of items. The Owner's Purchase Orders shall be accompanied by the Owner's exemption certificate and must include the Owner's name, address, and exemption number with issue and expiration date shown.
9. In conjunction with the execution of the Purchase Orders, by the suppliers, one or more deductive Change Orders shall be issued, referencing the full value of all Owner Purchased Materials to be provided by each supplier from whom the Owner elected to purchase material directly, plus all sales tax savings associated with such materials in the Construction Manager's price or subcontractor's bid.
10. Construction Manager shall be fully responsible for all matters relating to the receipt of materials furnished by the Owner in accordance with these procedures, including, but not limited to, verifying correct quantities, verifying documentation

of orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees required by the Contract Documents, inspection and acceptance of the goods at the time of delivery, and loss or damage to equipment and materials following acceptance of items by the Owner. The Construction Manager shall coordinate delivery schedules, sequence of delivery, loading orientation and other arrangements normally required for the particular materials furnished. The Construction Manager shall provide all services required for the unloading, handling and storage of materials through installation. The Construction Manager agrees to indemnify and hold harmless the Owner from any and all claims of whatever nature resulting from non-payment of goods to suppliers arising from the actions or directions of the Construction Manager.

11. As Owner Purchased Materials are delivered to the jobsite, the Construction Manager, as Owner's representative, shall visually inspect all shipments from the suppliers and approve the vendor's invoice for material delivered. The Construction Manager shall assure that each delivery of Owner Purchased Material is accompanied by documentation adequate to identify the purchase order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the purchase order, together with such additional information as the Owner or Construction Manager may require. The Construction Manager, as Owner's representative, shall verify in writing to the Owner the accuracy of the delivery ticket. The vendor will then forward the invoice to the Owner through the Construction Manager for payment. The invoice shall be thereupon furnished to the Owner for processing and payment in the manner all other Owner invoices are processed. The Owner shall have the right to assign Owner personnel to verify and audit the accuracy of all Direct Purchase documents.
12. The Construction Manager shall ensure that Owner Purchased Materials conform to the Specifications, and determine prior to incorporation into the work if such materials are patently defective and whether such materials are identical to the materials ordered and match the description on the bill of lading. If the Construction Manager discovers defective or nonconformity in the Owner Purchased Material, upon such visual inspection, the Construction Manager shall not utilize such nonconforming or defective materials in the work, shall promptly take action to remedy the defect or nonconformance so as not to delay the Project and shall promptly notify the vendor of the defective or non-conforming condition in order to pursue repair or replacement of those materials without any undue delay or interruption to the Project. Additionally, the Construction Manager shall notify the Owner of such occurrence. If the Construction Manager fails to perform such inspection and otherwise incorporates defective or nonconforming Owner Purchased Materials, the condition of which it either knew or should have known by performance of an inspection, the Construction Manager shall be responsible for all damages to the Owner resulting from the incorporation of such materials into the Project, including liquidated or delay damages.

13. The Construction Manager shall maintain records of all Owner Purchased Materials it incorporates into the work from the stock of Owner Purchased Materials in its possession. The Construction Manager shall account monthly to the Owner for any Owner Purchased Materials delivered into the Construction Manager's possession, including portions of all such materials, which have been incorporated into the work.
14. The Construction Manager shall be responsible for obtaining and managing all warranties and guarantees for all materials and products. All repairs, maintenance or damage repair calls shall be handled by the Construction Manager for resolution with the appropriate supplier or vendor.
15. Notwithstanding the transfer of Owner Purchased Materials by the Owner to the Construction Manager's possession, the Owner shall retain title to any and all Owner Purchased Materials.
16. The transfer of possession of Owner Purchased Materials from the Owner to the Construction Manager shall constitute a bailment for mutual benefit of the Owner and the Construction Manager. The Owner shall be considered the bailor and the Construction Manager the bailee of the Owner Purchased Materials. Owner Purchased Materials shall be considered returned to the Owner for purposes of its bailment at such time as they are incorporated into the Project or consumed in the process of completing the project. The Construction Manager shall have the duty to safeguard, store and protect all Owner Purchased Materials.
17. The Owner shall purchase and maintain insurance which shall be sufficient to protect against any loss of or damage to Owner Purchased equipment, materials or supplies. Such insurance shall cover the full value of any Owner Purchased Materials not yet incorporated into the Project from the time the Owner first takes title.
18. The Owner shall in no way be liable for interruption or delay in the Project, for any defects or other problems with the Project, or for any extra costs or time resulting from delay in the delivery of, or defects in, Owner Purchased Materials.
19. On a monthly basis, the Construction Manager shall be required to review invoices submitted by all suppliers of Owner Purchased Materials delivered to the Project site during that month and either concur or object to the Owner's issuance of payment to the suppliers, based upon the Construction Manager's records of materials delivered to the site and any defects in such materials.
20. In order to arrange for the prompt payment to the supplier, the Construction Manager shall provide the Owner with a copy of the applicable Purchase Order, invoices, delivery tickets, written acceptance of the delivered items and such other documentation as may be reasonably required by the Owner. Upon receipt and verification of the appropriate documentation, the Owner shall prepare a check drawn to the supplier based upon the receipt of data provided. The check will be

released, delivered and remitted directly to the supplier. The Construction Manager agrees to assist the Owner to immediately obtain partial or final release of lien waivers as appropriate.

21. At the end of the Project, any refund for surplus materials returned to suppliers plus applicable sales tax savings amounts shall be credited with an additive Change Order to the applicable subcontractor agreement with the Construction Manager. Salvage materials shall be the property of the Owner and stored or removed from the site by the Construction Manager at the Owner's direction.

ARTICLE 18

MISCELLANEOUS

18.1 Harmony:

1. The Construction Manager is advised and hereby agrees that it will exert every reasonable and diligent effort to assure that all labor employed by the Construction Manager and its Subcontractors for work on the Project shall work in harmony with and be compatible with all other labor being used by building and construction contractors now or hereafter on the site of the Project.
2. The Construction Manager further agrees that the above provision will be included in all contracts with the subcontractors; however, said provision shall not be interpreted or enforced so as to deny or abridge, on account of membership or non-membership in any labor union or labor organization, the right of any person to work as guaranteed by Article 1, Section 6 of the Florida Constitution.

18.2 Dispute Resolution:

1. All claims, disputes and other matters in question, hereinafter referred to as a "Controversy" between the parties to this Agreement, arising out of or relating to this Agreement or the breach thereof shall be initially submitted to mediation if mutually agreeable in accordance with the Construction Mediation Rules of the American Arbitration Association ("AAA") or any other mutually agreeable mediation firm.
2. Should either the Owner or the Construction Manager feel it necessary and appropriate to take any legal action to enforce any of the terms or conditions of this Agreement, then each party shall be responsible for its own attorney's fees and costs associated with such litigation.

18.3 Construction Manager's Project Records:

The Construction Manager's Project records shall be maintained for the minimum period required by state and federal law, and shall be made available to the Owner or its authorized representative at mutually convenient times.

18.4 Consequential Damages:

The parties mutually waive all claims for consequential damages, except to the extent paid for by insurance maintained for this project.

18.5 Public Records:

1. Pursuant to Florida Statutes, Section 119.0701:

IF YOU HAVE QUESTIONS REGARDING THE APPLICATION OF FLORIDA STATUTES, CHAPTER 119, TO YOUR DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE COUNTY/OWNER'S CUSTODIAN OF PUBLIC RECORDS:

**OWNER: GLORIA RYBINSKI
600 SOUTH COMMERCE AVENUE
SEBRING, FLORIDA 33870
TELEPHONE NUMBER: (863) 702-6832
HCBCCRECORDS@HIGHLANDSFL.COM**

2. Construction Manager agrees to comply with public records laws, specifically to:
 - A. Keep and maintain public records required by the County/Owner to perform the services set forth herein.
 - B. Upon request from the County's/Owner's custodian of public records, provide the County/Owner 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 Florida Statutes, Chapter 119, or as otherwise provided by law.
 - C. Ensure that public records which are exempt or confidential and exempt from 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 Construction Manager does not transfer the records to the County/Owner.
 - D. Upon completion of the contract, transfer, at no cost to the County/Owner, all public records in possession of the Construction Manager or keep and maintain public records required by the County/Owner to perform the services set forth herein. If the Construction Manager transfers all public records to the County/Owner upon completion of the contract, the Construction Manager shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure

requirements. If the Construction Manager keeps and maintains public records upon completion of the contract, the Construction Manager shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County/Owner, upon request from the County's/Owner's custodian of public records, in a format that is compatible with the information technology systems of the County/Owner.

18.6 Auditing, Records, And Inspection:

In the performance of this Agreement, the Construction Manager shall keep books, records, and accounts of all activities, related to the Agreement, in compliance with generally accepted accounting procedures. Throughout the term of this Agreement, books, records, and accounts related to the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the Owner and shall be retained by the Construction Manager, for a period of five (5) years after termination or completion of the Agreement or until the full Owner audit is complete, whichever comes first. The Owner shall retain the right to audit the books during the Five (5) year retention period. All books, records, and accounts related to the performance of this Agreement shall be subject to the applicable provisions of the Florida Public Records Act, chapter 119, Florida Statutes. The Owner also has the right to conduct an audit within sixty (60) days from the effective date of this Agreement to determine whether the Construction Manager has the ability to fulfill its contractual obligations to the satisfaction of the Owner. The Owner has the right to terminate this Agreement based upon the findings in this audit without regard to any notice requirement for termination.

18.7 Severability:

All clauses found herein shall act independently of each other. If a clause is found to be illegal or unenforceable, it shall have no effect on any other provision of this Agreement. It is understood by the parties hereto that if any part, term, or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Florida or the United States, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

18.8 Waiver:

Failure of the parties to insist upon strict performance of any of the covenants, terms, provisions, or conditions of this Agreement or to exercise any right or option herein contained, shall not be construed as a waiver or a relinquishment for the future of any such covenant, term, provision, or condition, or right of election, but same shall remain in full force and effect.

18.9 Notice:

The parties hereto agree and understand that written notice, mailed or delivered to the last known mailing address, shall constitute sufficient notice to the Owner and the Construction

Manager. All notices required and/or made pursuant to this Agreement to be given to the Owner and the Construction Manager shall be in writing and given by way of the United States Postal Service, first class mail, postage prepaid, addressed to the following addresses of record:

Owner: Highlands County
Attention: County Administrator
600 South Commerce Avenue
Sebring, Florida 33870

Copy to: Highlands County
Attn: County Attorney
600 South Commerce Avenue
Sebring, Florida 33870
ssutphen@roperpa.com

Construction Manager: Weatherproofing Technologies, Inc.
Attention: Legal Department
3735 Green Road
Beachwood, OH 44122

18.10 Modification:

The covenants, terms, and provisions of this Agreement may be modified by way of a written instrument, mutually accepted by the parties hereto. In the event of a conflict between the covenants, terms, and/or provisions of this Agreement and any written Amendment(s) hereto, the provisions of the latest executed instrument shall take precedence.

18.11 Headings:

All headings of the sections, exhibits, and attachments contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit, or change the provisions contained in such sections, exhibits, and attachments.

18.12 Joint Authorship:

This Agreement shall be construed as resulting from joint negotiation and authorship. No part of this Agreement shall be construed as the product of any one of the parties hereto.

18.13 Equal Opportunity Employer:

The Construction Manager is an Equal Opportunity Employer and will comply with all equal opportunity employment laws. The Construction Manager will further ensure that all sub-contractors it utilizes in providing the services required hereunder will comply with

all equal opportunity employment laws. During the performance of this contract, the Construction Manager agrees as follows:

1. The Construction Manager will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity or national origin. The Construction Manager will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Construction Manager agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The Construction Manager will, in all solicitations or advertisements for employees placed by or on behalf of the Construction Manager, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity or national origin.
3. The Construction Manager will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing or action, including an investigation conducted by the employer or is consistent with the contractor's legal duty to furnish information.
4. The Construction Manager will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Construction Manager's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The Construction Manager will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

6. The Construction Manager will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
7. In the event of the Construction Manager's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated or suspended in whole or in part and the Construction Manager may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
8. The Construction Manager will include the provisions of paragraphs (1) through and including this paragraph (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Construction Manager will take such action with respect to any subcontract or purchase order as necessary.

18.14 Compliance with the Davis-Bacon Act:

1. To be determined at GMP, all transactions regarding this Agreement shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The Construction Manager shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
2. The Construction Manager is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

18.15 Compliance with the Copeland "Anti-Kickback" Act:

1. The Construction Manager shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
2. The Construction Manager shall ensure that any subcontracts contain the above clause and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors include these clauses in any lower

tier subcontracts. The Construction Manager shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all such contract clauses.

3. A breach of the contract clauses above may be grounds for termination of the Agreement.

18.16 Clean Air Act:

1. The Construction Manager agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The Construction Manager agrees to report each violation to the Owner and understands and agrees that the Owner will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The Construction Manager agrees to include these requirements in each subcontract exceeding \$150,000.00, financed in whole or in part with Federal assistance provided by FEMA.

18.17 Applicable Licensing and Compliance with all Laws:

The Construction Manager, at its sole expense, shall obtain all required federal, state, and local licenses, occupational and otherwise, required to successfully provide the services set forth herein. The Construction Manager, at its sole expense, shall comply with all laws, ordinances, judicial decisions, orders, and regulations of federal, state, county and municipal governments, as well as their respective departments, commissions, boards and officers, which are in effect at the time of execution of this Agreement or are adopted at any time following the execution of this Agreement, including any required processes, procedures or actions necessary to assist the Owner with reimbursement or enable the Owner to seek reimbursement from FEMA if the need arises. Notwithstanding any language herein to the contrary, in the event that any laws, ordinances, judicial decisions, orders, or regulations of the federal, state, county, or municipal governments change after execution of this Agreement, Construction Manager shall be entitled to an equitable adjustment in time as applicable and price to the extent the Construction Manager's direct costs, not including labor, are affected. Any such adjustment will be determined at the time of such an occurrence and there shall only be a construction phase fee on this item if it exceeds two percent (2%) for each separate GMP.

18.18 Sovereign Immunity.

The Owner expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section, article or paragraph of this Agreement to the contrary, nothing in this Agreement shall be deemed as a waiver of sovereign immunity or limits of liability which

may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature, and the cap on the amount and liability of the Owner for damages, attorney fees and costs, regardless of the number or nature of claims in tort, equity or contract, shall not exceed the dollar amount set by the Florida Legislature for tort. Nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim against the Owner which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law. This section shall not limit any remedies as specifically contained in this Agreement.

18.19 Use of Owner Logo, Name, Seal, Flag and/or Owner Letterhead:

The Construction Manager may only use the County's name, logo seal and/or flag with the express written permission of the Owner and consistent with any County policy related to use of the same. In addition, the Construction Manager shall not use the County's Letterhead for issuing any correspondence, for any purpose, without the express written consent of the Owner.

18.20 Employment Eligibility Verification (E-Verify):

Pursuant to Florida Statutes, Section 448.095, the Construction Manager shall be registered with and utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility status of all employees performing work under this Agreement as well as all newly hired employees. In addition, the Construction Manager shall require any and all subcontractors performing work in accordance with this Agreement to register with and utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility status of all employees performing work under this Agreement as well as all newly hired employees. Any such subcontractor shall provide an affidavit to the Construction Manager stating that the subcontractor does not employ, contract with or subcontract with any ineligible individuals and the Construction Manager must keep a copy of said affidavit for the duration of this Agreement. Violation of this section is subject to immediate termination of this Agreement by the Owner without regard to any notice otherwise required herein. In the event the Owner incurs costs as a result of the Construction Manager's breach of this provision, any and all such costs shall be paid by the Construction Manager immediately upon receipt of notice of the same from the Owner. Information on registration for and use of the E-Verify Program may be obtained at the Department of Homeland Security website: <http://www.dhs.gov/E-Verify>.

18.21 Attachments:

The Construction Manager hereby certifies and acknowledges the truthfulness and accuracy of any and all attachments submitted to Highlands County as part of the Contractor's response to Highlands County's for solicitation ITB 20-039. All such attachments are hereby ratified and if the Contractor knowingly submitting such attachments to Highlands County with false or incorrect information such submittal shall be deemed a material breach of this Agreement for which automatic termination without

notice shall be justified. Any such termination shall be in addition to any and all other remedies available to the County.

18.22 Electronic Signatures:

This Agreement may be executed in multiple counterparts, each one of which shall be deemed an original, but all of which together shall constitute the same Agreement. Electronic signatures shall be valid and sufficient to bind any party to this Agreement. Signatures to this Agreement transmitted by facsimile, email or other electronic transmission (for example, through the use of a Portable Document Format or “pdf” file) shall be valid and effective to bind the party so signing. All such signatures will be deemed to be original signatures for all purposes.

[Signatures on Following Pages]

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Agreement effective the _____ day of _____, 2023.

**BOARD OF COUNTY COMMISSIONERS OF
HIGHLANDS COUNTY**

Kevin Roberts, Chairman

ATTEST:

Jerome Kaszubowski, Clerk

**WEATHERPROOFING TECHNOLOGIES,
INC.**

By: _____

Print: Brian Stack

Title: Assistant Secretary

STATE OF ~~FLORIDA~~ Ohio
COUNTY OF Cuyahoga

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization of Brian Stack, the Assistant Secretary of Weatherproofing Technologies, Inc., who personally swore or affirmed that he she is authorized to execute this Agreement and thereby bind Weatherproofing Technologies, Inc., who is personally known to me or who produced _____ as identification, and who did/did not take an oath this 20 day of December, 2023.

(stamp)



JUSTIN RAY
Notary Public
State of Ohio
My Comm. Expires
December 28, 2027

NOTARY PUBLIC, State of ~~Florida~~ Ohio

AGREEMENT EXHIBITS

**EXHIBIT “A”
HIGHLANDS COUNTY, FLORIDA
TASK AUTHORIZATION
Pre-Construction Phase**

**EXHIBIT “B”
AGREEMENT HOURLY RATES
(to establish Master Agreement Hourly Rates for Task Authorization)**

**EXHIBIT “C”
HIGHLANDS COUNTY, FLORIDA
AMENDMENT TO TASK AUTHORIZATION
Construction Phase (GMP)**

**EXHIBIT "D"
CERTIFICATE OF SUBSTANTIAL COMPLETION**

**EXHIBIT "E"
CERTIFICATE OF FINAL COMPLETION**

**EXHIBIT "F"
PARTIAL PAY REQUEST FORM**

EXHIBIT "A"
HIGHLANDS COUNTY, FLORIDA
TASK AUTHORIZATION
Pre-Construction Phase

Select One of the following

TASK AUTHORIZATION	TOA#
In accordance with the terms and conditions of the Agreement between _____ (Construction Manager) and Highlands County, dated _____, (Master Contract date) the parties hereto agree to the scope of work, pricing/GMP, schedule, construction team and subcontractors attached hereto.	Pre-Construction Phase Amount: \$ _____
	Project Number: _____
Project Name: _____	Budget Account Number: Fund or cost enter/account/project #, if applicable. _____

NOTE: THE CMaR MAY NOT BEGIN WORK UNTIL RECEIVING THIS FULLY SIGNED AUTHORIZATION FORM AND A COUNTY PURCHASE ORDER.

SUMMARY OF WORK TO BE COMPLETED

Each Task Authorization package must include:

- | | |
|---|---|
| ☐ Exhibit A – Scope of Work | ☐ Exhibit D – CMaR Staff |
| ☐ Exhibit B – Fee Schedule-Pre-Construction Phase | ☐ Exhibit E – Construction Team |
| ☐ Exhibit C – Pre-Construction Schedule | |

DEPARTMENT APPROVAL

Recommended by Print Name:	Reviewed by Print Name:
X	X
1. County Project Manager Signature	2. County Director or Designee Signature

CONSTRUCTION MANAGER AT RISK ACCEPTANCE

CMaR Designated Agent Print Name:	CMaR Project Manager: Print Name:
X	
3. CMaR Signature Date	CMaR Project Manager E-mail:

PURCHASING REVIEW

LEGAL REVIEW

Purchasing Manager or Designee Print Name: Lori K. DeLoach, Purchasing Manager	County Attorney or Designee Print Name: Sherry Sutphen, County Attorney
X	X
4. Purchasing Manager or Designee Signature Date	5. County Attorney or Designee Signature Date

COUNTY APPROVAL

County Administrator or Designee (under \$50,000) Print Name: Laurie A. Hurner, County Administrator	Board Chair (over \$50,000) Print Name: Chris Campbell, Chair
X	X
6. County Administrator or Designee Signature Date	7. Board Chair or Designee Signature Date

EXHIBIT "B"
AGREEMENT HOURLY RATES
(to establish Master Agreement Hourly Rates for Task Authorization)

1. Hourly Rate (Roofer) = \$138.00/HR*
2. Material Mark-up = 10%

*Includes Drive Time, OH&P

*Does not include premium time (OT or Double Time)

EXHIBIT "C"
HIGHLANDS COUNTY, FLORIDA
AMENDMENT TO TASK AUTHORIZATION
Construction Phase (GMP)

Select One of the following

TASK AUTHORIZATION	TOA#
In accordance with the terms and conditions of the Agreement between _____ (Construction Manager) and Highlands County, dated _____, (Master Contract date) the parties hereto agree to the scope of work, pricing/GMP, schedule, construction team and subcontractors attached hereto.	Construction Phase Guaranteed Maximum Price (GMP) \$
	Project Number:
Project Name:	Budget Account Number: Fund or cost enter/account/project #, if applicable.

NOTE: THE CMaR MAY NOT BEGIN WORK UNTIL RECEIVING THIS FULLY SIGNED AUTHORIZATION FORM AND A COUNTY PURCHASE ORDER.

SUMMARY OF WORK TO BE COMPLETED

Each Task Authorization package must include:

- | | |
|---|---|
| ☐ Exhibit A – Scope of Work | ☐ Exhibit D – CMaR Staff |
| ☐ Exhibit B – Fee Schedule Construction Phase (GMP) | ☐ Exhibit E – Construction Team |
| ☐ Exhibit C – Construction Schedule | ☐ Exhibit F – Sub-Contractors |

DEPARTMENT APPROVAL

Recommended by Print Name:	Reviewed by Print Name:
X	X
8. County Project Manager Signature	9. County Director or Designee Signature

CONSTRUCTION MANAGER AT RISK APPROVAL

CMaR Designated Agent Print Name:	CMaR Project Manager: Print Name:
X	CMaR Project Manager E-mail:
10. Consultant Signature Date	

PURCHASING REVIEW

LEGAL REVIEW

Purchasing Manager or Designee Print Name: Lori K. DeLoach, Purchasing Manager	County Attorney or Designee Print Name: Sherry Sutphen, County Attorney
X	X
11. Purchasing Manager or Designee Signature Date	12. County Attorney or Designee Signature Date

COUNTY APPROVAL

County Administrator or Designee (under \$50,000) Print Name: Laurie A. Hurner, County Administrator	Board Chair (over \$50,000) Print Name: Chris Campbell, Chair
X	X
13. County Administrator or Designee Signature Date	14. Board Chair or Designee Signature Date

EXHIBIT "D"
CERTIFICATE OF SUBSTANTIAL COMPLETION

Project Name: _____
Project Address: _____
Project Number: _____
Contract Date: _____
Construction Manager: _____

TO OWNER:	TO CONSTRUCTION MANAGER	COPY TO:								
Name: _____	Name: _____	<table border="1" style="display: inline-table; vertical-align: top;"><tr><td style="width: 20px; height: 20px;"></td><td>Architect</td></tr><tr><td style="width: 20px; height: 20px;"></td><td>Engineer</td></tr><tr><td style="width: 20px; height: 20px;"></td><td>Field</td></tr><tr><td style="width: 20px; height: 20px;"></td><td>Other</td></tr></table>		Architect		Engineer		Field		Other
	Architect									
	Engineer									
	Field									
	Other									
Address: _____	Address: _____									
City/State/Zip _____	City/State/Zip _____									
E-Mail: _____	E-Mail: _____									

Project or portion of Project Designated for Partial Occupancy or Use: _____

The work performed on the Project under the Agreement has been reviewed and found, the Architect's best knowledge, information and belief to be substantially complete. Substantial Completion is the stage in the progress of the work when the work or designated portion is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the work for its intended use. The date of substantial completion of the Project or portion designated above is the date of issuance established by this Certificate of Substantial Completion, which is also the date of commencement of applicable warranties required by the Contract Documents as stated below:

Architect

By: _____ Date of Substantial Completion: _____
Print: _____

(Warranty Date of Commencement)

A Punch List of items to be completed or corrected is attached hereto. The failure to include any items on such Punch List does not alter the responsibility of the Construction Manager to complete all work in accordance with the Contract Documents. Unless otherwise agreed to in writing, the date of commencement of warranties for items on the attached list will be the date of issuance of the final Certificate of Payment or the date of final payment.

Cost Estimate of Work that is incomplete or defective _____

The Construction Manager will complete or correct the work on the Punch List within _____ Calendar days from the above date of Substantial Completion.

Construction Manager

By: _____ Date: _____
Print: _____

The Owner hereby accepts the work or designated portions as substantially complete and will assume full possession at _____ AM/PM on _____ (date)

Owner

By: _____ Date: _____
Print: _____

The responsibilities of the Owner and Construction Manager for security, maintenance, utilities, damage, and insurance are as follows:

EXHIBIT "E"
CERTIFICATE OF FINAL COMPLETION

Project Name: _____
Project Address: _____
Project Number: _____
Contract Date: _____
Construction Manager: _____
Substantial Completion Date: _____
Final Punchlist Inspection Date: _____

The Construction Manager hereby certifies that the work and all other requirements have been completed in accordance with the Contract Documents, including, but not limited to:

- ☐ Completion of all discrepancies (Punchlist Items) noted at the time of Substantial Completion
- ☐ Submission of "as-built" plans and specifications, shop drawings, and other record documents
- ☐ Completion of all Owner training – submission of all contractually required stock and spare parts
- ☐ Submission of all final Operations and Maintenance documents and other closeout deliveries
- ☐ Submission of consent of Builder's surety
- ☐ Submission and approval of all remaining change order proposals, claims, and applications for payment
- ☐ Payment of all costs incurred for equipment, material, labor and services against the Project

The Construction Manager further certifies that:

- ☐ No liens have been attached against the Project
- ☐ No suits are pending by reason of work on the Project under the Contract for Construction
- ☐ All workers' compensation claims are covered by Workers' Compensation Insurance as required by law
- ☐ All insurance required of the Construction Manager beyond final payment, if any, is in effect and will not be cancelled or allowed to be expired without notice to the Owner.
- ☐ All public liability claims are adequately covered by insurance and the Construction Manager shall save, protect, defend, indemnify, and hold the Owner harmless from and against any and all claims which arise as a direct or indirect result of any transactions, event, occurrence, omission related to performance of the work on the Project contemplated under said Contract for Construction

Upon execution below, this Project will be considered complete. This consideration does not relieve the Construction Manager from its post-construction responsibilities, including correction of discrepancies noted during the first year after Substantial Completion, warranty issues, latent defects, and other requirements of the Contract or under Florida law.

Construction Manager

By: _____ Date: _____
Print: _____

State of Florida

County of _____

The foregoing instrument was executed before me this _____ day of _____, 20 _____

By: _____ as _____
(Name of authorized CMaR Representative) (CMaR Representative Title)

Who is authorized to bind _____ (CMaR Firm Name) and is personally known
to me OR has produced _____ as identification.

(Stamp)

NOTARY PUBLIC, State of Florida

Recommended by Architect:

By: _____ Date: _____
Print: _____

Accepted by: Owner:

By: _____ Date: _____
Print: _____

EXHIBIT "F"
PARTIAL PAY REQUEST FORM



Weatherproofing Technologies Inc.
3735 Green Road
Beachwood, OH 44122
US: 800.852.6013
www.tremcoroofing.com

December 20, 2023

To Whom it may Concern:

RE: signing Authority

Please be advised that the undersigned has granted his authority for the Assistant Secretary, Brian Stack, to sign or apply his name to any applicable or required contracts as needed.

A handwritten signature in black ink, appearing to read "J.K. Milliken".

JK Milliken, President
Weatherproofing Technologies, Inc.

Certified by the undersigned as true, correct and complete this 20th day of December, 2023

State of Ohio
County of Cuyahoga

Subscribed and sworn to be before me, notary public, this 20th day of December, 2023



JUSTIN RAY
Notary Public
State of Ohio
My Comm. Expires
December 28, 2027

A handwritten signature in black ink, appearing to read "Justin Ray".
Notary

**HIGHLANDS COUNTY
COUNTY COMMISSION AGENDA ITEM**

DATE OF ACTION REQUEST: January 4, 2024

PRESENTER: Tanya Cannady, Business Services Director

SUBJECT/TITLE: Request approval of the Nu-Hope Elder Care Services, Inc., a Florida Non-Profit Corporation Grant Agreement.

STATEMENT OF ISSUE

This is a grant agreement for \$50,000 that was approved in the FY 23-24 Adopted Budget for the Nu-Hope Elder Care Services, Inc., a Florida Non-Profit Corporation, for the purpose of local match dollars for securing Federal and State grants. The grant agreement is required before distribution of funds to the outside agency.

RECOMMENDED ACTION

Move to approve Nu-Hope Elder Care Services, Inc., a Florida Non-Profit Corporation Grant Agreement.

FISCAL IMPACT

This grant award of \$50,000 was approved in the Adopted Budget for FY 23/24 on September 19, 2023.

Attachments: [Nu-Hope Agreement FY24 1.4.24.pdf](#)

AGREEMENT

THIS AGREEMENT is made by and between the HIGHLANDS COUNTY, a political subdivision of the State of Florida, 600 South Commerce Avenue, Sebring, Florida 33870, hereinafter referred to as the “COUNTY”, and NU-HOPE ELDER CARE SERVICES, INC. a Florida Non-Profit Corporation, 3530 Office Park Road, Sebring Florida 33870; FEIN: 59-1649814, hereinafter referred to as the “CONTRACTOR”.

WITNESSETH:

WHEREAS, the COUNTY provides funding to recipients of Federal and State Grants for the purpose of local matching dollars; and,

WHEREAS, the CONTRACTOR is one of these recipients and provides services to eligible elderly residents in Highlands County; and,

WHEREAS, the parties hereto have agreed to the terms and conditions cited herein;

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

SECTION 1. RECITALS.

The above Recitals are true and correct and are incorporated herein by this reference.

SECTION 2. TERM.

The term of this Agreement shall be for a period of one (1) year beginning on October 1, 2023 through September 30, 2024.

SECTION 3. SCOPE OF SERVICES.

The CONTRACTOR shall be responsible for performing the services described in **Exhibit “A”** attached hereto. To the extent of any conflict between **Exhibit “A”** and the terms and conditions of this Agreement, the terms and conditions of this Agreement shall prevail.

SECTION 4. WARRANTY.

The CONTRACTOR agrees to provide a full warranty to the COUNTY for all services which it provides hereunder for one full year following the date of final completion of such services. In the event that the CONTRACTOR is called to perform warranty work, the CONTRACTOR will be responsible for all costs incurred in repairing the warrantied services. To the extent applicable, any manufacturer’s warranty on materials provided or installed shall be in addition to the warranty required hereunder.

SECTION 5. OBLIGATIONS OF THE CONTRACTOR.

Obligations of the CONTRACTOR shall include, but not be limited to, the following:

- A. It is understood that the CONTRACTOR shall provide and pay for all labor, tools, materials, permits, equipment, transportation, supervision, and any and all other items or services, of any type whatsoever, which may be necessary to fully complete and deliver the goods and/or services requested by the COUNTY, and shall not have the authority to create or cause to be filed any liens for labor and/or materials on or against the COUNTY or any property owned by the COUNTY. Such lien, attachment, or encumbrance, until it is removed, shall preclude any and all claims or demands for any payment expected by virtue of this Agreement.
- B. The CONTRACTOR will ensure that all of its employees, agents, sub-contractors, representatives, volunteers, and the like, fully comply with all of the terms and conditions set herein when providing services for the COUNTY in accordance herewith.
- C. The CONTRACTOR will maintain an adequate and competent staff and remain authorized to do business within the State of Florida. The CONTRACTOR may subcontract the services requested by the COUNTY; however, the CONTRACTOR is fully responsible for the satisfactory completion of all subcontracted work.

SECTION 6. STANDARD OF CARE.

- A. The CONTRACTOR has represented to the COUNTY that it possesses a level of knowledge, experience, and expertise that is commensurate with firms in the areas of practice required for the services to be provided. By executing this Agreement, the CONTRACTOR agrees that the CONTRACTOR will exercise that degree of care, knowledge, skill, and ability as any other similarly situated contractor possessing the degree of skill, knowledge, experience, and expertise, working on similar activities. The CONTRACTOR shall perform the services requested in an efficient manner consistent with the COUNTY's stated objectives and standards.
- B. The CONTRACTOR covenants and agrees that it and its employees, agents, sub-contractors, representatives, volunteers, and the like, shall be bound by the same standards of conduct as stated above.

SECTION 7. COMPENSATION.

- A. Compensation for services completed by the CONTRACTOR will be in accordance with Florida Statutes, section 218.70, Florida's Prompt Payment Act. The amount to be paid under this Agreement for services shall be in accordance with the pricing schedule set forth in **Exhibit "B"** which is attached hereto. To the extent of any conflict between **Exhibit "B"** and the terms and conditions of this Agreement, the terms and conditions of this Agreement shall prevail.
- B. Services to be performed in accordance with this Agreement are subject to the annual appropriation of funds by the COUNTY. In its sole discretion, the COUNTY reserves the right to forego use of the CONTRACTOR for any work

which may fall within the Scope of Services listed herein. In the event the COUNTY is not satisfied with the services provided by the CONTRACTOR, the COUNTY will hold any amounts due until such time as the CONTRACTOR has appropriately addressed the problem, so long as the COUNTY has provided notice of defect to the CONTRACTOR.

SECTION 8. TERMINATION.

Either party may terminate this Agreement, with or without cause, given thirty (30) days written notice to the other party.

SECTION 9. PAYMENT WHEN SERVICES ARE TERMINATED.

- A. In the event of termination of this Agreement by the COUNTY, and not due to the fault of the CONTRACTOR, the COUNTY shall compensate the CONTRACTOR for all services performed prior to the effective date of termination.
- B. In the event of termination of this Agreement due to the fault of the CONTRACTOR, or at the written request of the CONTRACTOR, the COUNTY shall compensate the CONTRACTOR for all services completed, prior to the effective date of termination, which have resulted in a usable product, or otherwise tangible benefit to the COUNTY. All such payments shall be subject to an off-set for any damages incurred by the COUNTY resulting from any delay occasioned by early termination. This provision shall in no way be construed as the sole remedy available to the COUNTY in the event of breach by the CONTRACTOR.

SECTION 10. INSURANCE.

- A. The CONTRACTOR shall maintain the following types of insurance, with the respective limits, and shall provide proof of same to the COUNTY, in the form of a Certificate of Insurance prior to the start of any work hereunder:
 - 1. AUTOMOBILE:
 - a. Combined Single Limit: \$300,000 per accident,
 - OR**
 - b. Bodily Injury: \$300,000 per person,
 - AND**
 - Property Damage: \$100,000 per accident;
- 2. GENERAL LIABILITY: One Million Dollars (\$1,000,000.00) each occurrence;
- 3. GENERAL AGGREGATE: Two Million Dollars (\$2,000,000.00);

4. EXCESS COVERAGE: One Million Dollars (\$1,000,000.00); and,
 5. WORKERS' COMPENSATION: Employers' liability insurance which covers the statutory obligation for all persons engaged in the performance of the work required hereunder with limits not less than One Million Dollars (\$1,000,000.00) per occurrence. Evidence of qualified self-insurance status will suffice for this subsection.
- B. For every insurance policy required hereunder, the CONTRACTOR shall provide the COUNTY with a Certificate of Insurance evidencing such coverage for the duration of this Agreement. Said Certificate of Insurance shall be dated and show:
1. The name of the insured CONTRACTOR,
 2. The specified job by name and job number,
 3. List "HIGHLANDS COUNTY" as a Certificate Holder,
 4. Recognizes the Indemnification requirements of this Agreement.
 5. The name of the insurer,
 6. The number of the policy,
 7. The effective date,
 8. The termination date,
 9. A statement that the insurer will mail notice to the COUNTY at least thirty (30) days prior to any material changes in the provisions or cancellation of the policy.
- C. Receipt of certificates or other documentation of insurance or policies or copies of policies by the COUNTY, or by any of its representatives, which indicates less coverage than is required, does not constitute a waiver of the CONTRACTOR's obligation to fulfill the insurance requirements specified herein.
- D. The CONTRACTOR shall ensure that any sub-contractor(s), hired to perform any of the duties contained in the Scope of Services of this Agreement, maintain the same insurance requirements set forth herein. In addition, the CONTRACTOR shall maintain proof of same on file and made readily available upon request by the COUNTY.

SECTION 11. COUNTY OBLIGATIONS.

At the CONTRACTOR's request, the COUNTY agrees to provide, at no cost, all pertinent information known to be available to the COUNTY to assist the CONTRACTOR in providing and performing the required services.

SECTION 12. ENTIRE AGREEMENT.

This Agreement, including referenced exhibits and attachments hereto, constitutes the entire agreement between the parties and shall supersede, replace and nullify any and all prior agreements or understandings, written or oral, relating to the matters set forth herein, and any such prior agreements or understandings shall have no force or affect whatsoever on this Agreement.

SECTION 13. APPLICABLE LAW, VENUE, JURY TRIAL.

The laws of the State of Florida shall govern all aspects of this Agreement. In the event it is necessary for either party to initiate legal action regarding this Agreement, venue shall lie in Highlands County, Florida. The parties hereby waive their right to trial by jury in any action, proceeding or claim, arising out of this Agreement, which may be brought by either of the parties hereto.

SECTION 14. PUBLIC RECORDS.

- A. Pursuant to Florida Statutes, Section 119.0701:

IF YOU HAVE QUESTIONS REGARDING THE APPLICATION OF FLORIDA STATUTES, CHAPTER 119, TO YOUR DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS:

**COUNTY CLERK: GLORIA RYBINSKI
RECORDS MANAGER
600 SOUTH COMMERCE AVENUE
SEBRING, FLORIDA 33870
TELEPHONE NUMBER: (863) 402-6832
HCBCCRECORDS@HIGHLANDSFL.GOV**

- B. CONTRACTOR agrees to comply with public records laws, specifically to:

1. Keep and maintain public records required by the COUNTY to perform the services set forth herein.
2. Upon request from the COUNTY's custodian of public records, provide the COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Florida Statutes, Chapter 119, or as otherwise provided by law.
3. Ensure that public records which are exempt or confidential and exempt from 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 CONTRACTOR does not transfer the records to the COUNTY.

4. Upon completion of the contract, transfer, at no cost, to the COUNTY all public records in possession of the CONTRACTOR or keep and maintain public records required by the COUNTY to perform the services set forth herein. If the CONTRACTOR transfers all public records to the COUNTY upon completion of the contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the contract, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the COUNTY, upon request from the COUNTY's custodian of public records, in a format that is compatible with the information technology systems of the COUNTY.

SECTION 15. INDEPENDENT CONTRACTOR.

This Agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the CONTRACTOR, its employees, sub-contractors, representatives, volunteers, and the like, will be an independent contractor and not an employee of the COUNTY for all purposes, including, but not limited to, the application of the following, as amended: the Fair Labor Standards Act minimum wage and overtime payments, the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State of Florida revenue and taxation laws, the State of Florida workers' compensation laws, the State of Florida unemployment insurance laws, and the Florida Retirement System benefits. The CONTRACTOR will retain sole and absolute discretion in the judgment of the manner and means of carrying out the CONTRACTOR's activities and responsibilities hereunder.

SECTION 16. APPLICABLE LICENSING.

The CONTRACTOR, at its sole expense, shall obtain all required federal, state, and local licenses, occupational and otherwise, required to successfully provide the services set forth herein.

SECTION 17. COMPLIANCE WITH ALL LAWS.

The CONTRACTOR, at its sole expense, shall comply with all laws, ordinances, judicial decisions, orders, and regulations of federal, state, county, and municipal governments, as well as their respective departments, commissions, boards, and officers, which are in effect at the time of execution of this Agreement or are adopted at any time following the execution of this Agreement.

SECTION 18. INDEMNIFICATION.

The CONTRACTOR agrees to be liable for any and all damages, losses, and expenses incurred, by the COUNTY, in any way related to the services provided herein and this Agreement, caused by the acts and/or omissions of the CONTRACTOR, or any of its employees, agents, sub-contractors, representatives, volunteers or the like. The CONTRACTOR agrees to indemnify, defend and hold the COUNTY harmless for any and all such claims, suits, judgments or damages, losses and expenses, including but not limited to, court costs, expert witnesses, consultation

services and attorney's fees, arising from any and all acts and/or omissions of the CONTRACTOR, or any of its employees, agents, sub-contractors, representatives, volunteers, or the like through and including any appeals in any way related to the services provided herein and this Agreement. Said indemnification, defense, and hold harmless actions shall not be limited by any required insurance coverage amounts set forth herein and shall survive termination or natural termination of this Agreement.

SECTION 19. BANKRUPTCY OR INSOLVENCY.

If the CONTRACTOR shall file a Petition in Bankruptcy, or if the same shall be adjudged bankrupt or insolvent by any Court, or if a receiver of the property of the CONTRACTOR shall be appointed in any proceeding brought by or against the CONTRACTOR, or if the CONTRACTOR shall make an assignment for the benefit of creditors, or proceedings shall be commenced on or against the CONTRACTOR's operations of the premises, the COUNTY may terminate this Agreement immediately notwithstanding any notice requirements set forth herein.

SECTION 20. BINDING EFFECT.

This Agreement shall be binding upon and ensure to the benefit of the parties hereto, their heirs, personal representatives, successors, and/or assigns.

SECTION 21. ASSIGNMENT.

This Agreement shall only be assignable by the CONTRACTOR upon the express written consent of the COUNTY.

SECTION 22. SEVERABILITY.

All clauses found herein shall act independently of each other. If a clause is found to be illegal or unenforceable, it shall have no effect on any other provision of this Agreement. It is understood by the parties hereto that if any part, term, or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Florida or the United States, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid. If necessary, to preserve the intent of the parties, the parties shall negotiate in good faith to amend this Agreement, adopting a substitute provision for the one deemed invalid or unenforceable that is legally binding and enforceable.

SECTION 23. WAIVER.

Failure of the parties to insist upon strict performance of any of the covenants, terms, provisions, or conditions of this Agreement or to exercise any right or option herein contained, shall not be construed as a waiver or a relinquishment for the future of any such covenant, term, provision, or condition, or right of election, but same shall remain in full force and effect.

SECTION 24. NOTICE.

The parties hereto agree and understand that written notice, mailed or delivered to the last known mailing address, shall constitute sufficient notice to the COUNTY and the CONTRACTOR. All notices required and/or made pursuant to this Agreement to be given to the CLERK and the CONTRACTOR shall be in writing and given by way of the United States Postal Service, first class mail, postage prepaid, addressed to the following addresses of record:

COUNTY: Highlands County
Attn: Laurie Hurner
600 South Commerce Avenue
Sebring, Florida 33870

Copy to: Roper, P.A.
Sherry G. Sutphen, Esquire
2707 E. Jefferson Street
Orlando, Florida 32803
Ssutphen@Roperpa.com

CONTRACTOR: NU-HOPE ELDER CARE SERVICES, Inc.
3530 Office Park Road
Sebring, FL 33810

SECTION 25. MODIFICATION.

The covenants, terms, and provisions of this Agreement may be modified by way of a written instrument, mutually accepted by the parties hereto. In the event of a conflict between the covenants, terms, and/or provisions of this Agreement and any written Amendment(s) hereto, the provisions of the latest executed instrument shall take precedence.

SECTION 26. HEADINGS.

All headings of the sections, exhibits, and attachments contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit, or change the provisions contained in such sections, exhibits, and attachments.

SECTION 27. ADMINISTRATIVE DOCUMENTATION CONFLICT.

In the event the COUNTY issues a purchase order, memorandum, letter, or any other instrument addressing the services, work, and materials to be provided and performed pursuant to this Agreement, it is hereby specifically agreed and understood that any such purchase order, memorandum, letter, or other instrument is for the COUNTY's internal purposes only, and any and all terms, provisions, and conditions contained therein, whether printed or written, shall in no way modify the covenants, terms, and provisions of this Agreement and shall have no force or effect thereon. Likewise, any invoice or other instrument issued by the CONTRACTOR shall in no way modify the covenants, terms and provisions of this Agreement and shall have no force or effect thereon.

SECTION 28. CONFLICT OF INTEREST.

The CONTRACTOR warrants that the CONTRACTOR has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Agreement, and that the CONTRACTOR has not paid or agreed to pay any person, company, corporation, individual, or firm any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this Paragraph, the COUNTY shall have the right to terminate this

Agreement immediately, without liability and without regard to the notice requirements set forth herein.

SECTION 29. PUBLIC ENTITY CRIMES.

As required by section 287.133, Florida Statutes, the CONTRACTOR warrants that it is not on the convicted contractor list for a public entity crime committed within the past thirty-six (36) months. The CONTRACTOR further warrants that it will neither utilize the services of, nor contract with, any supplier, sub-contractor, or consultant in connection with this Agreement for a period of thirty-six (36) months from the date of being placed on the convicted contractor list.

SECTION 30. JOINT AUTHORSHIP.

This Agreement shall be construed as resulting from joint negotiation and authorship. No part of this Agreement shall be construed as the product of any one of the parties hereto.

SECTION 31. EQUAL OPPORTUNITY EMPLOYER.

The CONTRACTOR is an Equal Opportunity Employer and will comply with all equal opportunity employment laws. The CONTRACTOR will further ensure that all sub-contractors it utilizes in providing the services required hereunder will comply with all equal opportunity employment laws.

SECTION 32. SOVEREIGN IMMUNITY.

The COUNTY expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Florida Statutes, Section 768.28. Notwithstanding anything set forth in any section, article or paragraph of this Agreement to the contrary, nothing in this Agreement shall be deemed as a waiver of sovereign immunity or limits of liability which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature, and the cap on the amount and liability of COUNTY for damages, attorney fees and costs, regardless of the number or nature of claims in tort, equity or contract, shall not exceed the dollar amount set by the Florida Legislature for tort. Nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim against the COUNTY which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law. This section shall not limit any remedies as specifically contained in this Agreement.

SECTION 33. AUDITING, RECORDS, AND INSPECTION.

In the performance of this Agreement, the CONTRACTOR shall keep books, records, and accounts of all activities, related to the Agreement, in compliance with generally accepted accounting procedures. Throughout the term of this Agreement, books, records, and accounts related to the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the COUNTY and shall be retained by the CONTRACTOR, for a period of five (5) years after termination or completion of the Agreement or until the full COUNTY audit is complete, whichever comes first. The COUNTY shall retain the right to audit the books during the Five (5) year retention period. All books, records, and accounts related to the performance of this Agreement shall be subject to the applicable provisions of the Florida Public Records Act, chapter 119, Florida Statutes. The COUNTY also has the right to conduct an audit within sixty (60) days from the effective date of this Agreement to determine whether the CONTRACTOR has the ability to fulfill its contractual obligations to the satisfaction

of the COUNTY. The COUNTY has the right to terminate this Agreement based upon the findings in this audit without regard to any notice requirement for termination.

SECTION 34. EMPLOYMENT ELIGIBILITY VERIFICATION.

Pursuant to Florida Statutes, Section 448.095, and in the event performance of this Agreement is or will be funded using state or federal funds, the CONTRACTOR must comply with the Employment Eligibility Verification Program (“E-Verify Program”) developed by the federal government to verify the eligibility individuals to work in the United States and 48 CFR 52.222-54 (as amended) is incorporated herein by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the CONTRACTOR shall be registered with and utilize the U.S. Department of Homeland Security’s E-Verify system to verify the employment eligibility status of all employees performing work under this Agreement as well as all newly hired employees. In addition, the CONTRACTOR shall require any and all subcontractors performing work in accordance with this Agreement to register with and utilize the U.S. Department of Homeland Security’s E-Verify system to verify the employment eligibility status of all employees performing work under this Agreement as well as all newly hired employees. Any such subcontractor shall provide an affidavit to the CONTRACTOR stating that the subcontractor does not employ, contract with or subcontract with any ineligible individuals and the CONTRACTOR must keep a copy of said affidavit for the duration of this Agreement. Violation of this section is subject to immediate termination of this Agreement by the COUNTY without regard to any notice otherwise required herein. In the event the COUNTY incurs costs as a result of the CONTRACTOR’s breach of this provision, any and all such costs shall be paid by the CONTRACTOR immediately upon receipt of notice of the same from the COUNTY. Information on registration for and use of the E-Verify Program may be obtained at the Department of Homeland Security website: <http://www.dhs.gov/E-Verify>.

SECTION 35. USE OF COUNTY NAME, LOGO, SEAL AND/OR FLAG.

The CONTRACTOR may only use the COUNTY’S name, logo, seal and/or flag with the express written permission of the COUNTY and consistent with any COUNTY policy related to the same.

(Signatures on the following page)

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives,
have executed this Agreement effective the 4 day of January, 2024.

CONTRACTOR

By: Debra Slade

Print: Debra Slade

Title: Executive Director

STATE OF FLORIDA

COUNTY OF Highlands

The foregoing instrument was acknowledged before me by means of ☒ physical presence or [] online notarization of Debra Slade, as Executive Director, of Nu-Hope Elder Care Services, who personally swore or affirmed that he/she is authorized to execute this Agreement and thereby bind the Contractor, and who is personally known to me or who produced _____ as identification, and who did/did not take an oath this 5 day of December, 2023.

(stamp)

Katherine Stoll
NOTARY PUBLIC, State of Florida



KATHERINE STOLL
Notary Public
State of Florida
Comm# HH321817
Expires 11/5/2026

HIGHLANDS COUNTY

Kevin Roberts, Chairman

ATTEST:

Jerome Kaszubowski, Clerk

**Exhibit “A”
Scope of Services**



Supporting Seniors - Strengthening Communities

April 1, 2023

David Nitz, Office of Management & Budget
600 South Commerce Avenue, Suite B233
Sebring, Florida 33870

RE: 2023-2024 Highlands County Grant Request

Dear Mr. Nitz,

Attached is a copy of this organization's FY 2023-2024 Federal, State and Local grants budget. NU-HOPE Elder Care Services, Inc. (NU-HOPE) serves as the Designated Lead Agency of Home and Community-Based Services coordinator and provider of services for seniors in Highlands County. Since its inception, NU-HOPE has acted as a partner with Federal, State, and local government in the provision of aging services.

For 47 years, NU-HOPE has addressed the needs of seniors. The agency's focus and responsibility are to provide comprehensive home and community-based services to older adults and their caregivers.

The State of Florida has long recognized that the provision of aging services is a function of the government. As the Designated Lead Agency of Home and Community-Based Services, NU-HOPE provides cost-effective ways of keeping elders in their own homes and preventing inappropriate or unnecessary institutional placement.

The existence, funding, oversight, and evaluation of Lead Agencies are all mandated by Florida Law and are incorporated in Chapter 430 of the Florida Statutes. In particular, the Community Care for the Elderly Act (F.S. 430.201-205) details this governmental involvement.

The Florida Statutes and the Florida Department of Elder Affairs provide local governments with the authority to serve directly as the Lead Agency for coordinating/providing aging services. They also require local entities to provide a 10 percent "local match" to support program operations. As shown in the attached spreadsheet, securing State General Revenue and Federal (Older Americans Act) grants require a guaranteed match of \$115,118. NU-HOPE Elder Care Services, Inc. is respectfully requesting \$48,000 during FY 2023-2024.

Due to the economic demands, increase in minimum wage and the actual cost of doing business, the match money that is required is often considerably more.

NU-HOPE Elder Care Services, Inc. and the NU-HOPE Board of Directors continue to work to secure required match monies. This becomes increasingly more difficult due to the rise in costs associated with doing business. We accomplish this task through our Thrift Stores, private donations, churches, organizations, and fundraising events.

Our main goal is to provide the best and most economical care to the seniors of this County as possible. NU-HOPE would like to thank you for the opportunity to submit this request and we hope that together we can ensure the elders of Highlands County can look forward to aging with dignity.

Sincerely,

Debra Slade,
Executive Director

Serving Highlands and Hardee Counties.

NU-HOPE Elder Care Services, Inc. is a non-profit corporation that administers state and federal grants for elder services in agreement with the Florida Department of Elder Affairs and the Senior Connection Center.



Exhibit “B”

COMPENSATION

The COUNTY agrees to pay the CONTRACTOR FIFTY THOUSAND DOLLARS AND NO/100 (\$50,000.00) for providing the services described on Attachment A (CONTRACTOR’S Request for Funding). The COUNTY will release the funds on a monthly basis. The CONTRACTOR shall submit payment requests and expenditure documentation to the COUNTY, said requests being in detail sufficient for a proper pre-audit and post-audit thereof. The CONTRACTOR and the COUNTY understand and agree that there shall be no reimbursement of funds by the COUNTY for any expenditure made prior to the effective date of the contract or for any expenditure or amount in excess of the amount stated in this paragraph.

Exhibit B

Highlands County Expenditures By Cost Center - Detail 1 Year

Center: 5224 NU HOPE

Fund	Account	Proj/Acct	Title	2022 - 2023 Budget	2022 - 2023 Actuals	Current EOY Projection	2023 - 2024 Request	Variance
005	53439	56900	PROJECT HOPE	\$46,886	\$35,165	\$0	\$50,000	6.6%
			NU-HOPE ELDER CARE SERVICES				\$50,000	
Non Personal Expenditures				\$46,886	\$35,165	\$0	\$50,000	6.6%
Center: 5224 NU HOPE				\$46,886	\$35,165	\$0	\$50,000	6.6%

**HIGHLANDS COUNTY
COUNTY COMMISSION AGENDA ITEM**

DATE OF ACTION REQUEST: January 4, 2024

PRESENTER: Tanya Cannady, Business Services Director

SUBJECT/TITLE: Request approval of the Peace River Center for Personal Development, Inc., a Florida Non-Profit Corporation Grant Agreement.

STATEMENT OF ISSUE

This is a grant agreement for \$30,000 that was approved in the FY 23/24 Adopted Budget for the Peace River Center for Personal Development, Inc., a Florida Non-Profit Corporation, for the purpose of local match dollars for maintaining and staffing a Domestic Violence Safehouse for Highlands County. The grant agreement is required before distribution of funds to the outside agency.

RECOMMENDED ACTION

Move to approve Peace River Center for Personal Development, Inc., a Florida Non-Profit Corporation Grant Agreement.

FISCAL IMPACT

This grant award of \$30,000 was approved in the Adopted Budget for FY 23/24 on September 19, 2023.

Attachments: [Peace River Center Agreement FY24 1.4.24.pdf](#)

GRANT AGREEMENT

THIS AGREEMENT is made by and between the HIGHLANDS COUNTY, a political subdivision of the State of Florida, 600 South Commerce Avenue, Sebring, Florida 33870, hereinafter referred to as the "COUNTY", and PEACE RIVER CENTER FOR PERSONAL DEVELOPMENT, INC., a Florida Non-Profit Corporation, P.O. Box 1559, Bartow, Florida 33831-1559; FEIN: 59-0818924, hereinafter referred to as the "CONTRACTOR".

WITNESSETH:

WHEREAS, the COUNTY provides funding to recipients of Federal and State Grants for the purpose of local matching dollars; and,

WHEREAS, the CONTRACTOR is one of these recipients and provides a domestic violence safe house for Highlands County pursuant to Contractor's Request for Funding dated March 15, 2022; and,

WHEREAS, the parties hereto have agreed to the terms and conditions cited herein;

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

SECTION 1. RECITALS.

The above Recitals are true and correct and are incorporated herein by this reference.

SECTION 2. TERM.

The term of this Agreement shall be for a period of one (1) year beginning on October 1, 2023 through September 30, 2024.

SECTION 3. SCOPE OF SERVICES.

The CONTRACTOR shall be responsible for performing the services described in **Exhibit "A"** attached hereto. To the extent of any conflict between **Exhibit "A"** and the terms and conditions of this Agreement, the terms and conditions of this Agreement shall prevail.

SECTION 4. WARRANTY.

The CONTRACTOR agrees to provide a full warranty to the COUNTY for all services which it provides hereunder for one full year following the date of final completion of such services. In the event that the CONTRACTOR is called to perform warranty work, the CONTRACTOR will be responsible for all costs incurred in repairing the warranted services. To the extent applicable, any manufacturer's warranty on materials provided or installed shall be in addition to the warranty required hereunder.

SECTION 5. OBLIGATIONS OF THE CONTRACTOR.

Obligations of the CONTRACTOR shall include, but not be limited to, the following:

- A. It is understood that the CONTRACTOR shall provide and pay for all labor, tools, materials, permits, equipment, transportation, supervision, and any and all other items or services, of any type whatsoever, which may be necessary to fully complete and deliver the goods and/or services requested by the COUNTY, and shall not have the authority to create or cause to be filed any liens for labor and/or materials on or against the COUNTY or any property owned by the COUNTY. Such lien, attachment, or encumbrance, until it is removed, shall preclude any and all claims or demands for any payment expected by virtue of this Agreement.
- B. The CONTRACTOR will ensure that all of its employees, agents, sub-contractors, representatives, volunteers, and the like, fully comply with all of the terms and conditions set herein when providing services for the COUNTY in accordance herewith.
- C. The CONTRACTOR will maintain an adequate and competent staff and remain authorized to do business within the State of Florida. The CONTRACTOR may subcontract the services requested by the COUNTY; however, the CONTRACTOR is fully responsible for the satisfactory completion of all subcontracted work.

SECTION 6. STANDARD OF CARE.

- A. The CONTRACTOR has represented to the COUNTY that it possesses a level of knowledge, experience, and expertise that is commensurate with firms in the areas of practice required for the services to be provided. By executing this Agreement, the CONTRACTOR agrees that the CONTRACTOR will exercise that degree of care, knowledge, skill, and ability as any other similarly situated contractor possessing the degree of skill, knowledge, experience, and expertise, working on similar activities. The CONTRACTOR shall perform the services requested in an efficient manner consistent with the COUNTY's stated objectives and standards.
- B. The CONTRACTOR covenants and agrees that it and its employees, agents, sub-contractors, representatives, volunteers, and the like, shall be bound by the same standards of conduct as stated above.

SECTION 7. COMPENSATION.

- A. Compensation for services completed by the CONTRACTOR will be in accordance with Florida Statutes, section 218.70, Florida's Prompt Payment Act. The amount to be paid under this Agreement for services shall be in accordance with the pricing schedule set forth in **Exhibit "B"** which is attached hereto. To the extent of any conflict between **Exhibit "B"** and the terms and conditions of this Agreement, the terms and conditions of this Agreement shall prevail.
- B. Services to be performed in accordance with this Agreement are subject to the annual appropriation of funds by the COUNTY. In its sole discretion, the COUNTY reserves the right to forego use of the CONTRACTOR for any work

which may fall within the Scope of Services listed herein. In the event the COUNTY is not satisfied with the services provided by the CONTRACTOR, the COUNTY will hold any amounts due until such time as the CONTRACTOR has appropriately addressed the problem, so long as the COUNTY has provided notice of defect to the CONTRACTOR.

SECTION 8. TERMINATION.

Either party may terminate this Agreement, with or without cause, given thirty (30) days written notice to the other party.

SECTION 9. PAYMENT WHEN SERVICES ARE TERMINATED.

- A. In the event of termination of this Agreement by the COUNTY, and not due to the fault of the CONTRACTOR, the COUNTY shall compensate the CONTRACTOR for all services performed prior to the effective date of termination.
- B. In the event of termination of this Agreement due to the fault of the CONTRACTOR, or at the written request of the CONTRACTOR, the COUNTY shall compensate the CONTRACTOR for all services completed, prior to the effective date of termination, which have resulted in a usable product, or otherwise tangible benefit to the COUNTY. All such payments shall be subject to an off-set for any damages incurred by the COUNTY resulting from any delay occasioned by early termination. This provision shall in no way be construed as the sole remedy available to the COUNTY in the event of breach by the CONTRACTOR.

SECTION 10. INSURANCE.

- A. The CONTRACTOR shall maintain the following types of insurance, with the respective limits, and shall provide proof of same to the COUNTY, in the form of a Certificate of Insurance prior to the start of any work hereunder:
 - 1. AUTOMOBILE:
 - a. Combined Single Limit: \$300,000 per accident,
 - OR**
 - b. Bodily Injury: \$300,000 per person,
 - AND**
 - Property Damage: \$100,000 per accident;
 - 2. GENERAL LIABILITY: One Million Dollars (\$1,000,000.00) each occurrence;
 - 3. GENERAL AGGREGATE: Two Million Dollars (\$2,000,000.00);

4. EXCESS COVERAGE: One Million Dollars (\$1,000,000.00); and,
5. WORKERS' COMPENSATION: Employers' liability insurance which covers the statutory obligation for all persons engaged in the performance of the work required hereunder with limits not less than One Million Dollars (\$1,000,000.00) per occurrence. Evidence of qualified self-insurance status will suffice for this subsection.

B. For every insurance policy required hereunder, the CONTRACTOR shall provide the COUNTY with a Certificate of Insurance evidencing such coverage for the duration of this Agreement. Said Certificate of Insurance shall be dated and show:

1. The name of the insured CONTRACTOR,
2. The specified job by name and job number,
3. List "HIGHLANDS COUNTY" as a Certificate Holder,
4. Recognizes the Indemnification requirements of this Agreement.
5. The name of the insurer,
6. The number of the policy,
7. The effective date,
8. The termination date,
9. A statement that the insurer will mail notice to the COUNTY at least thirty (30) days prior to any material changes in the provisions or cancellation of the policy.

C. Receipt of certificates or other documentation of insurance or policies or copies of policies by the COUNTY, or by any of its representatives, which indicates less coverage than is required, does not constitute a waiver of the CONTRACTOR's obligation to fulfill the insurance requirements specified herein.

D. The CONTRACTOR shall ensure that any sub-contractor(s), hired to perform any of the duties contained in the Scope of Services of this Agreement, maintain the same insurance requirements set forth herein. In addition, the CONTRACTOR shall maintain proof of same on file and made readily available upon request by the COUNTY.

SECTION 11. COUNTY OBLIGATIONS.

At the CONTRACTOR's request, the COUNTY agrees to provide, at no cost, all pertinent information known to be available to the COUNTY to assist the CONTRACTOR in providing and performing the required services.

SECTION 12. ENTIRE AGREEMENT.

This Agreement, including referenced exhibits and attachments hereto, constitutes the entire agreement between the parties and shall supersede, replace and nullify any and all prior agreements or understandings, written or oral, relating to the matters set forth herein, and any such prior agreements or understandings shall have no force or affect whatsoever on this Agreement.

SECTION 13. APPLICABLE LAW, VENUE, JURY TRIAL.

The laws of the State of Florida shall govern all aspects of this Agreement. In the event it is necessary for either party to initiate legal action regarding this Agreement, venue shall lie in Highlands County, Florida. The parties hereby waive their right to trial by jury in any action, proceeding or claim, arising out of this Agreement, which may be brought by either of the parties hereto.

SECTION 14. PUBLIC RECORDS.

- A. Pursuant to Florida Statutes, Section 119.0701:

**IF YOU HAVE QUESTIONS REGARDING THE APPLICATION OF
FLORIDA STATUTES, CHAPTER 119, TO YOUR DUTY TO PROVIDE
PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE
COUNTY'S CUSTODIAN OF PUBLIC RECORDS:**

**COUNTY CLERK: GLORIA RYBINSKI
RECORDS MANAGER
600 SOUTH COMMERCE AVENUE
SEBRING, FLORIDA 33870
TELEPHONE NUMBER: (863) 402-6832
HCBCCRECORDS@HIGHLANDSFL.GOV**

- B. CONTRACTOR agrees to comply with public records laws, specifically to:

1. Keep and maintain public records required by the COUNTY to perform the services set forth herein.
2. Upon request from the COUNTY's custodian of public records, provide the COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Florida Statutes, Chapter 119, or as otherwise provided by law.
3. Ensure that public records which are exempt or confidential and exempt from 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 CONTRACTOR does not transfer the records to the COUNTY.

4. Upon completion of the contract, transfer, at no cost, to the COUNTY all public records in possession of the CONTRACTOR or keep and maintain public records required by the COUNTY to perform the services set forth herein. If the CONTRACTOR transfers all public records to the COUNTY upon completion of the contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the contract, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the COUNTY, upon request from the COUNTY's custodian of public records, in a format that is compatible with the information technology systems of the COUNTY.

SECTION 15. INDEPENDENT CONTRACTOR.

This Agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the CONTRACTOR, its employees, sub-contractors, representatives, volunteers, and the like, will be an independent contractor and not an employee of the COUNTY for all purposes, including, but not limited to, the application of the following, as amended: the Fair Labor Standards Act minimum wage and overtime payments, the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State of Florida revenue and taxation laws, the State of Florida workers' compensation laws, the State of Florida unemployment insurance laws, and the Florida Retirement System benefits. The CONTRACTOR will retain sole and absolute discretion in the judgment of the manner and means of carrying out the CONTRACTOR's activities and responsibilities hereunder.

SECTION 16. APPLICABLE LICENSING.

The CONTRACTOR, at its sole expense, shall obtain all required federal, state, and local licenses, occupational and otherwise, required to successfully provide the services set forth herein.

SECTION 17. COMPLIANCE WITH ALL LAWS.

The CONTRACTOR, at its sole expense, shall comply with all laws, ordinances, judicial decisions, orders, and regulations of federal, state, county, and municipal governments, as well as their respective departments, commissions, boards, and officers, which are in effect at the time of execution of this Agreement or are adopted at any time following the execution of this Agreement.

SECTION 18. INDEMNIFICATION.

The CONTRACTOR agrees to be liable for any and all damages, losses, and expenses incurred, by the COUNTY, in any way related to the services provided herein and this Agreement, caused by the acts and/or omissions of the CONTRACTOR, or any of its employees, agents, sub-contractors, representatives, volunteers or the like. The CONTRACTOR agrees to indemnify, defend and hold the COUNTY harmless for any and all such claims, suits, judgments or damages, losses and expenses, including but not limited to, court costs, expert witnesses, consultation

services and attorney's fees, arising from any and all acts and/or omissions of the CONTRACTOR, or any of its employees, agents, sub-contractors, representatives, volunteers, or the like through and including any appeals in any way related to the services provided herein and this Agreement. Said indemnification, defense, and hold harmless actions shall not be limited by any required insurance coverage amounts set forth herein and shall survive termination or natural termination of this Agreement.

SECTION 19. BANKRUPTCY OR INSOLVENCY.

If the CONTRACTOR shall file a Petition in Bankruptcy, or if the same shall be adjudged bankrupt or insolvent by any Court, or if a receiver of the property of the CONTRACTOR shall be appointed in any proceeding brought by or against the CONTRACTOR, or if the CONTRACTOR shall make an assignment for the benefit of creditors, or proceedings shall be commenced on or against the CONTRACTOR's operations of the premises, the COUNTY may terminate this Agreement immediately notwithstanding any notice requirements set forth herein.

SECTION 20. BINDING EFFECT.

This Agreement shall be binding upon and ensure to the benefit of the parties hereto, their heirs, personal representatives, successors, and/or assigns.

SECTION 21. ASSIGNMENT.

This Agreement shall only be assignable by the CONTRACTOR upon the express written consent of the COUNTY.

SECTION 22. SEVERABILITY.

All clauses found herein shall act independently of each other. If a clause is found to be illegal or unenforceable, it shall have no effect on any other provision of this Agreement. It is understood by the parties hereto that if any part, term, or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Florida or the United States, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid. If necessary, to preserve the intent of the parties, the parties shall negotiate in good faith to amend this Agreement, adopting a substitute provision for the one deemed invalid or unenforceable that is legally binding and enforceable.

SECTION 23. WAIVER.

Failure of the parties to insist upon strict performance of any of the covenants, terms, provisions, or conditions of this Agreement or to exercise any right or option herein contained, shall not be construed as a waiver or a relinquishment for the future of any such covenant, term, provision, or condition, or right of election, but same shall remain in full force and effect.

SECTION 24. NOTICE.

The parties hereto agree and understand that written notice, mailed or delivered to the last known mailing address, shall constitute sufficient notice to the COUNTY and the CONTRACTOR. All notices required and/or made pursuant to this Agreement to be given to the CLERK and the CONTRACTOR shall be in writing and given by way of the United States Postal Service, first class mail, postage prepaid, addressed to the following addresses of record:

COUNTY: Highlands County
Attn: Laurie Hurner
600 South Commerce Avenue
Sebring, Florida 33870

Copy to: Roper, P.A.
Sherry G. Sutphen, Esquire
2707 E. Jefferson Street
Orlando, Florida 32803
Ssutphen@Roperpa.com

CONTRACTOR: Peace River Center for Personal Development, Inc.
P.O. Box 1559
Bartow, FL 33831-1559

SECTION 25. MODIFICATION.

The covenants, terms, and provisions of this Agreement may be modified by way of a written instrument, mutually accepted by the parties hereto. In the event of a conflict between the covenants, terms, and/or provisions of this Agreement and any written Amendment(s) hereto, the provisions of the latest executed instrument shall take precedence.

SECTION 26. HEADINGS.

All headings of the sections, exhibits, and attachments contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit, or change the provisions contained in such sections, exhibits, and attachments.

SECTION 27. ADMINISTRATIVE DOCUMENTATION CONFLICT.

In the event the COUNTY issues a purchase order, memorandum, letter, or any other instrument addressing the services, work, and materials to be provided and performed pursuant to this Agreement, it is hereby specifically agreed and understood that any such purchase order, memorandum, letter, or other instrument is for the COUNTY's internal purposes only, and any and all terms, provisions, and conditions contained therein, whether printed or written, shall in no way modify the covenants, terms, and provisions of this Agreement and shall have no force or effect thereon. Likewise, any invoice or other instrument issued by the CONTRACTOR shall in no way modify the covenants, terms and provisions of this Agreement and shall have no force or effect thereon.

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The CONTRACTOR warrants that the CONTRACTOR has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Agreement, and that the CONTRACTOR has not paid or agreed to pay any person, company, corporation, individual, or firm any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this Paragraph, the COUNTY shall have the right to terminate this

Agreement immediately, without liability and without regard to the notice requirements set forth herein.

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As required by section 287.133, Florida Statutes, the CONTRACTOR warrants that it is not on the convicted contractor list for a public entity crime committed within the past thirty-six (36) months. The CONTRACTOR further warrants that it will neither utilize the services of, nor contract with, any supplier, sub-contractor, or consultant in connection with this Agreement for a period of thirty-six (36) months from the date of being placed on the convicted contractor list.

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This Agreement shall be construed as resulting from joint negotiation and authorship. No part of this Agreement shall be construed as the product of any one of the parties hereto.

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of the COUNTY. The COUNTY has the right to terminate this Agreement based upon the findings in this audit without regard to any notice requirement for termination.

SECTION 34. EMPLOYMENT ELIGIBILITY VERIFICATION.

Pursuant to Florida Statutes, Section 448.095, and in the event performance of this Agreement is or will be funded using state or federal funds, the CONTRACTOR must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility individuals to work in the United States and 48 CFR 52.222-54 (as amended) is incorporated herein by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the CONTRACTOR shall be registered with and utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility status of all employees performing work under this Agreement as well as all newly hired employees. In addition, the CONTRACTOR shall require any and all subcontractors performing work in accordance with this Agreement to register with and utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility status of all employees performing work under this Agreement as well as all newly hired employees. Any such subcontractor shall provide an affidavit to the CONTRACTOR stating that the subcontractor does not employ, contract with or subcontract with any ineligible individuals and the CONTRACTOR must keep a copy of said affidavit for the duration of this Agreement. Violation of this section is subject to immediate termination of this Agreement by the COUNTY without regard to any notice otherwise required herein. In the event the COUNTY incurs costs as a result of the CONTRACTOR's breach of this provision, any and all such costs shall be paid by the CONTRACTOR immediately upon receipt of notice of the same from the COUNTY. Information on registration for and use of the E-Verify Program may be obtained at the Department of Homeland Security website: <http://www.dhs.gov/E-Verify>.

SECTION 35. USE OF COUNTY NAME, LOGO, SEAL AND/OR FLAG.

The CONTRACTOR may only use the COUNTY'S name, logo, seal and/or flag with the express written permission of the COUNTY and consistent with any COUNTY policy related to the same.

(Signatures on the following page)

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives,
have executed this Agreement effective the 4 day of January, 2024.

CONTRACTOR

By: Larry G. Williams, Jr.

Print: Larry G. Williams, Jr.

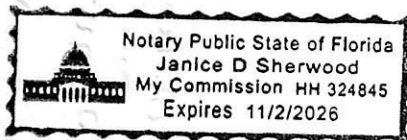
Title: CEO

STATE OF FLORIDA

COUNTY OF Polk

The foregoing instrument was acknowledged before me by means of [☒] physical presence
or [☐] online notarization of Larry G. Williams, Jr., as CEO,
of Peace River Center, who personally swore or affirmed that he/she is
authorized to execute this Agreement and thereby bind the Contractor, and who is personally
known to me or who produced Personally Known
as identification, and who did/did not take an oath this 6th day of December, 2023.

(stamp)



Janice D. Sherwood

NOTARY PUBLIC, State of Florida

HIGHLANDS COUNTY

Kevin Roberts, Chairman

ATTEST:

Jerome Kaszubowski, Clerk

**Exhibit “A”
Scope of Services**

Exhibit A



March 15, 2023

Highlands County Office of Management & Budget
Attn: Mr. David Nitz
Budget Manager
600 South Commerce Avenue, Suite B-233
Sebring, Florida 33870

Re: Peace River Center 2023-2024 Funding Request

Dear Mr. Nitz:

Peace River Center is requesting funding from Highlands County in the amount of **\$221,400** for the upcoming **2023-2024** fiscal year in support of our Crisis and Restoration Services, Safehouse and Outpatient Therapy Services for Highlands County residents.

- We ask that you commit **\$156,400** to assist in operating PRC's Crisis and Restoration Services. - 5103
- We ask that you commit **\$ 30,000** for continued partial support of Peace River Center's Safehouse. - 5225
- We ask that you commit **\$ 35,000** for continued support of the provision of Outpatient Therapy - 5103 services to unfunded residents of Highlands County.

Your partnership in funding critical community behavioral health services, and survivors of domestic violence positively impacts and strengthens our communities.

Because of this partnership, we continue to provide access points for community mental health treatment at the Avon Park office of Central Florida Health Care. The need for outpatient services to uninsured and underinsured Highlands County residents continues to increase.

We look forward to the continued opportunity to meet with Budget Staff and the County Commission to discuss the evolving community need and any funding opportunities available.

As always, Peace River Center appreciates the continuing support of Highlands County. If I can provide any further information, please feel free to contact me at (863) 519-0575, Extension 6005.

Respectfully,

David Tournade
Chief Financial Officer





Peace River Center's mission is to engage, restore, and empower individuals in our community to reach their fullest potential.



HIGHLANDS COUNTY FY22 IMPACT

Value of Services/Charges for Highlands County

\$2,920,600*

*Value of treatment does not include clients seen by Domestic Violence or Rape Recovery Staff

368

Total Individuals Served by CSU

CRISIS STABILIZATION UNIT (CSU)



325

Adults CSU Admissions



135

Youth CSU Admissions

538

Total Individuals Served by Outpatient Therapy

OUTPATIENT THERAPY



354

Adult Outpatient Therapy Clients



184

Youth Outpatient Therapy Clients

ADDITIONAL SERVICES



126

Crisis Response Team Call/Assessments



400

Clients Receiving Medication Management Services and Psychiatric Assessments



2,409

Total Services Provided by Victim Services

PRC Highlands Crisis Lines

Rape Recovery
Program 24-Hour Crisis
Line: 863.413.2707
Toll-free 24-Hour Crisis
Line: 877.688.5077

Domestic Violence
(DV) 24-Hour Crisis
Line: 863.386.1167
DV Outreach Line:
863.386.1167

Crisis Response Team
Sebring Office
400 S Eucalyptus St
Sebring, FL 33870
863.519.3744

PRC Highlands County Locations

Avon Park
950 CR 17A W
Avon Park, FL 33825

Sebring
Sebring Domestic
Violence Shelter
*Confidential Location

Sebring Victim
Services Office
1570 Lakeview Dr
Sebring, FL 33870
863.604.4774



Client Testimonial

Children's Services Highlands County

George* is a 7-year old boy living in Highlands County with his family. George came to Peace River Center for the first time two years ago with his mom after experiencing extreme aggression, defiance, and hyperactivity. George was connected with Outpatient Therapy and Medication Management services.

When it became apparent that George and his family needed more help at home and in school to manage the disruptive behaviors, he was referred to community-based services with Peace River Center's Resiliency Team. He began receiving Targeted Case Management and TBOS Therapy. With the help of his Targeted Case Manager, George's mom advocated for his needs to be met at school through an IEP and he is now thriving in the mainstream classroom setting with accommodations to help maintain his attention. TBOS Therapy provided George and family with the intensive individual and family therapy that was needed to help decrease his aggression in the home, strengthen family dynamics, and promote healthy communication.

After a year and a half of services, George continues to receive weekly support to continue to improve his communication and emotional regulation skills.



**Stock Photo used for confidentiality*

Exhibit "B"

COMPENSATION

The COUNTY agrees to pay the CONTRACTOR THIRTY THOUSAND DOLLARS AND NO/100 (\$30,000.00) for providing the services described in Exhibit A for support of the domestic violence safe house (CONTRACTOR'S Request for Funding). The COUNTY will release the funds on a monthly basis. The CONTRACTOR shall submit payment requests and expenditure documentation to the COUNTY, said requests being in detail sufficient for a proper pre-audit and post-audit thereof. The CONTRACTOR and the COUNTY understand and agree that there shall be no reimbursement of funds by the COUNTY for any expenditure made prior to the effective date of the contract or for any expenditure or amount in excess of the amount stated in this paragraph.

Exhibit B

Highlands County Expenditures By Cost Center - Detail 1 Year

Center: 5225 NON-PROFIT COMMUNITY AGENCIES

Fund	Account	Proj/Acct	Title	2022 - 2023 Budget	2022 - 2023 Actuals	Current EOY Projection	2023 - 2024 Request	Variance
005	53400	56900	CONTRACTUAL SERVICES PEACE RIVER'S SAFE HOUSE	\$30,000	\$20,000	\$0	\$30,000 \$30,000	0.0%
Non Personal Expenditures				\$30,000	\$20,000	\$0	\$30,000	0.0%
Center: 5225 NON-PROFIT COMMUNITY AGENCIES				\$30,000	\$20,000	\$0	\$30,000	0.0%

**HIGHLANDS COUNTY
COUNTY COMMISSION AGENDA ITEM**

DATE OF ACTION REQUEST: Jan 4, 2024

PRESENTER: Paul Blackman, Sheriff

SUBJECT/TITLE: Request adoption of Resolution 23-24-46 for Budget Amendment 23-24-036 to set up Project 23047 funds for the Bullet Proof Vest grant program for the Sheriff within the General Fund.

STATEMENT OF ISSUE

Highlands County has been awarded \$7,747.92 from the Florida Sheriff's Association Bullet Proof Vest Grant Program.

RECOMMENDED ACTION

Move to Adopt Resolution 23-24-46 for Budget Amendment 23-24-036 to set up Project 23047 funds for the Bullet Proof Vest grant program for the Sheriff within the general fund.

FISCAL IMPACT

The fiscal impact is an increase to Fund 005 (General) and the overall budget in the amount of \$7,747.92; these funds will be received thru a donation from the Florida Sheriff's Association and will be appropriated in cost center 3101 (Sheriff-005), account 53001Z (Project Operating Expense – Elected Official), project 23047 (BPV FY23-24).

Attachments: [23-24-036 Project 23047 BPV FY23-24 \(BA\).pdf](#)
[23-24-036R Project 23047 BPV FY23-24 \(Resolution\).pdf](#)

RESOLUTION NO. 23-24-46

A RESOLUTION OF HIGHLANDS COUNTY, FLORIDA PERTAINING TO BUDGET AMENDMENT 23-24-036 TO THE GENERAL FUND; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR APPROVAL OF BUDGET AMENDMENT; PROVIDING FOR THE IMPLEMENTATION OF ADMINISTRATIVE ACTIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Florida Statutes, Section 129.06, (Execution and Amendment of Budget) provides that the Board of County Commissioners may by resolution amend its budget; and

WHEREAS, Highlands County has determined that the following budget amendment is necessary and proper within the General Fund.

NOW, THEREFORE, BE IT RESOLVED BY HIGHLANDS COUNTY, FLORIDA AS FOLLOWS:

SECTION 1. Legislative Findings and Intent. Highlands County has complied with all requirements and procedures of Florida law in processing this Resolution. The above recitals are hereby adopted.

SECTION 2. Approval of Budget Amendment. Budget Amendment 23-24-036 is hereby approved and authorized to set up and appropriate funding in the amount of \$7,747.92, for project #23047 BPV 23-24 to be received from the Florida Sheriff's Association.

SECTION 3. Implementation of Administrative Actions. The County Administrator is hereby authorized and directed to take such action as may be deemed necessary and appropriate in order to implement the provisions of this Resolution. The County Administrator may, as deemed appropriate, necessary and convenient, delegate the powers of implementation as herein set forth to such County employees as deemed effectual and prudent.

SECTION 4. Savings Clause. All prior actions of Highlands County pertaining to the budget amendment approved hereby, as well as any and all matters relating thereto, are hereby ratified and affirmed consistent with the provisions of this Resolution.

SECTION 5. Scrivener's Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Resolution, as determined by the County Administrator and County Attorney, may be corrected.

SECTION 6. Conflicts. All Resolutions or parts of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 7. Severability. If any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Resolution.

SECTION 8. Effective Date. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 4th day of January 2024.

HIGHLANDS COUNTY, FLORIDA

By: _____
Kevin J. Roberts, Chairperson

ATTEST:

Jerome Kaszubowski, Clerk of Court

**HIGHLANDS COUNTY
COUNTY COMMISSION AGENDA ITEM**

DATE OF ACTION REQUEST: Jan 4, 2024

PRESENTER: David Nitz, OMB Manager

SUBJECT/TITLE: Request adoption of Resolution 23-24-44 for Budget Amendment 23-24-030 to appropriate CARE Award donation.

STATEMENT OF ISSUE

Upon the completion of the FY23/24 budget process, the Chair of the Board of County Commissioners volunteered to make a personal financial donation to the top three (3) departments that kept their requested budgets close to or below the recommended 5% increase cap. The three (3) finalists were Ingra Gardner/Community Programs, Jonathan Harrison/Road & Bridge, and Clinton Howerton/Solid Waste (with Capital removed for both years).

RECOMMENDED ACTION

Move to adopt Resolution 23-24-44 for Budget Amendment 23-24-030 to appropriate CARE Award donation.

FISCAL IMPACT

The fiscal impact is an increase to Fund 005 (General) and Fund 110 (Transportation Trust) in the amounts of \$1,350.00 and \$500.00, respectively. Funds will be appropriated in cost center 5200 (Community Programs), cost center 4200 (Road & Bridge), and cost center 4500 (Critical Infrastructure-Exec) in the amounts of \$1,000.00, \$500.00, and \$350.00, respectively, for a total of \$1,850.00.

Attachments: [23-24-030 Comm. CARE Awards Donation \(BA\).pdf](#)
[23-24-030R Comm. CARE Awards Donation \(Resolution\).pdf](#)

December 19, 2023

BOARD OF COUNTY COMMISSIONERS
HIGHLANDS COUNTY FLORIDA

BOARD OF COUNTY COMMISSIONERS

BUDGET AMENDMENTS

(Transfers over \$5,000 require Board approval)

DATE: 12/5/2023

SUBMITTED BY: OMB

FUND(S): 005, 110 FUND TITLE(S): General, Transportation Trust COST CENTER(S) #: 4500, 5200, 4200
Critical Infrastructure-Exec, Community Programs, Road &
 PROJECT(S) #: _____ PROJECT TITLE(S): _____ COST CENTER TITLE(S): Bridge
 *list additional cost centers on reverse side of form

TYPE	FUND	COST CENTER	ACCOUNT	ACCOUNT NAME	ACTIVITY	BUDGET	INCREASE	DECREASE	REVISED BUDGET
R	005		3661000	Contributions & Donations		0.00	1,350.00		1,350.00
E	005	4500	54900	Other Charges & Obligations		0.00	350.00		350.00
E	005	5200	54900	Other Charges & Obligations		0.00	1,000.00		1,000.00
R	110		3661000	Contributions & Donations		0.00	500.00		500.00
E	110	4200	54900	Other Charges & Obligations		0.00	500.00		500.00
									0.00
									0.00

REASON: To appropriate the donation for the CARE Awards to the top three (3) departments that limited the budget increases.

OFFICE USE ONLY

OMB RECOMMENDATION:

REQUEST # 23-24-030

TRANSFER TYPE:

____ Approval

ACTION:

____ Denial

Board _____ Approved _____ Denied
 County Administrator _____ Approved _____ Denied

____ ITEM TO ITEM
 ____ RESERVE
XX BY RESOLUTION
 ____ SUPPLEMENTAL BUDGET

SIGNATURE: _____

Signature: _____

DATE: _____ / _____ / _____

Posted by Clerk: _____

RESOLUTION NO. 23-24-44

**A RESOLUTION OF HIGHLANDS COUNTY, FLORIDA
PERTAINING TO BUDGET AMENDMENT 23-24-030 TO
THE GENERAL AND TRANSPORTATION TRUST FUNDS;
PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT;
PROVIDING FOR APPROVAL OF BUDGET AMENDMENT;
PROVIDING FOR THE IMPLEMENTATION OF
ADMINISTRATIVE ACTIONS; PROVIDING A SAVINGS
CLAUSE; PROVIDING FOR SCRIVENER'S ERRORS;
PROVIDING FOR CONFLICTS; PROVIDING FOR
SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Florida Statutes, Section 129.06, (Execution and Amendment of Budget) provides that the Board of County Commissioners may by resolution amend its budget; and

WHEREAS, Highlands County has determined that the following budget amendment is necessary and proper within the General and Transportation Trust Funds.

**NOW, THEREFORE, BE IT RESOLVED BY HIGHLANDS COUNTY,
FLORIDA AS FOLLOWS:**

SECTION 1. Legislative Findings and Intent. Highlands County has complied with all requirements and procedures of Florida law in processing this Resolution. The above recitals are hereby adopted.

SECTION 2. Approval of Budget Amendment. Budget Amendment 23-24-030 is hereby approved and authorized to appropriate a donation for the CARE Awards to the departments with the largest cost-savings for the FY23/24 budget (percentage wise). The net fiscal impact is an increase in the amount of \$1,850.00.

SECTION 3. Implementation of Administrative Actions. The County Administrator is hereby authorized and directed to take such action as may be deemed necessary and appropriate in order to implement the provisions of this Resolution. The County Administrator may, as deemed appropriate, necessary and convenient, delegate the powers of implementation as herein set forth to such County employees as deemed effectual and prudent.

SECTION 4. Savings Clause. All prior actions of Highlands County pertaining to the budget amendment approved hereby, as well as any and all matters relating thereto, are hereby ratified and affirmed consistent with the provisions of this Resolution.

SECTION 5. Scrivener's Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Resolution, as determined by the County Administrator and County Attorney, may be corrected.

SECTION 6. Conflicts. All Resolutions or parts of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 7. Severability. If any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Resolution.

SECTION 8. Effective Date. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 4th day of January 2024.

HIGHLANDS COUNTY, FLORIDA

By: _____
Kevin J. Roberts, Chairperson

ATTEST:

Jerome Kaszubowski, Clerk of Court

**HIGHLANDS COUNTY
COUNTY COMMISSION AGENDA ITEM**

DATE OF ACTION REQUEST: January 4, 2024

PRESENTER: Brandon Gunn, Parks & Facilities Director

SUBJECT/TITLE: Request approval of Budget Amendment 23-24-037 moving funds from Regular Salaries and Wages to Contractual Services for temporary staffing in Facilities Management.

STATEMENT OF ISSUE

This Budget Amendment will realign funding in the Facilities Management budget to provide temporary staffing to come from lapse personnel budgeted funds.

RECOMMENDED ACTION

Move to approve Budget Amendment 23-24-037 moving funds from Regular Salaries and Wages to Contractual Services for temporary staffing in Facilities Management.

FISCAL IMPACT

The fiscal impact is a decrease of \$26,265.00 to account 51200 (Regular Salaries & Wages) and increase to account 53400 (Contractual Services) within Fund 005 (General), cost center 2673 (Facilities Management).

Attachments: [23-24-037 Facilities Mgmt Contractual Realign \(BA\).pdf](#)

BOARD OF COUNTY COMMISSIONERS

BUDGET AMENDMENTS

(Transfers over \$5,000 require Board approval)

REVIEWED

O.M.B DEPARTMENT

December 20, 2023

BOARD OF COUNTY COMMISSIONERS
HIGHLANDS COUNTY FLORIDA

DATE: 12/19/2023

SUBMITTED BY: Brandon Gunn

FUND(S): 005 FUND TITLE(S): General COST CENTER(S) #: 2672

PROJECT(S) #: _____ PROJECT TITLE(S): _____ COST CENTER TITLE(S): Facilities Management

*list additional cost centers on reverse side of form

TYPE	FUND	COST CENTER	ACCOUNT	ACCOUNT NAME	ACTIVITY	BUDGET	INCREASE	DECREASE	REVISED BUDGET
E	005	2672	51200	Regular Salaries & Wages		935,714.00		26,265.00	909,449.00
E	005	2672	53400	Contractual Services		63,570.00	26,265.00		89,835.00
									0.00
									0.00
									0.00
									0.00
									0.00

REASON: To realign funding in the Facilities Management budget to provide temporary staffing to come from lapsed personnel budgeted funds.

OFFICE USE ONLY

OMB RECOMMENDATION:

REQUEST # 23-24-037

TRANSFER TYPE:

Approval

ACTION:

Denial

Board _____ Approved _____ Denied _____
County Administrator _____ Approved _____ Denied _____

XX ITEM TO ITEM

RESERVE

BY RESOLUTION

SUPPLEMENTAL BUDGET

SIGNATURE: _____

DATE: _____ / _____ / _____

Signature: _____

Posted by Clerk: _____

Form Revised 08/05/2020

**HIGHLANDS COUNTY
COUNTY COMMISSION AGENDA ITEM**

DATE OF ACTION REQUEST: January 4, 2024

PRESENTER: Jeff King, Executive Manager of Business and Economic Development

SUBJECT/TITLE: Request to appoint President Fred Hawkins, of South Florida State College, and Benjamin Wyatt, with Crews Bank and Trust, to the Highlands County Industrial Development Authority and Economic Development Commission.

STATEMENT OF ISSUE

The Highlands County Industrial Development Authority (IDA) and Economic Development Commission (EDC) recommends to the Highlands County Board of County Commissioners to appoint both President Fred Hawkins and Mr. Benjamin Wyatt to the IDA/EDC to fulfill two vacant positions.

There are two vacant positions and two applications have been received.

RECOMMENDED ACTION

Move to appoint President Fred Hawkins, of South Florida State College, and Benjamin Wyatt, with Crews Bank and Trust, to the Highlands County Industrial Development Authority and Economic Development Commission.

FISCAL IMPACT

There is no fiscal impact.

Attachments: [Ben Wyatt.pdf](#)
[Copy of President Hawkins - IDA Application.pdf](#)



INDUSTRIAL DEVELOPMENT AUTHORITY

The Highlands County Industrial Development Authority, as authorized by Florida Statute 159.44 - 159.53, is responsible for authorizing industrial revenue bond financing and refinancing projects for the public purposes described in, and in the manner provided by, the Florida Industrial Development Financing Act and by Florida Statute 159.44-159.53, and for fostering the economic development of a county. Each IDA shall study the advantages, facilities, resources, products, attractions, and conditions concerning the county with relation to the encouragement of economic development in that county, and shall use such means and media as the authority deems advisable to publicize and to make known such facts and material to such persons, firms, corporations, agencies, and institutions which, in the discretion of the authority, would reasonably result in encouraging desirable economic development in the county.

IDA members are appointed by the Board of County Commissioners and serve four-year terms. The IDA is coordinated by the BOCC's Economic Development office, which is part of the County's Development Services Division.

IDA board members also serve concurrent terms on the Highlands County Economic Development Commission, which is the nonprofit component of economic development efforts in Highlands County.

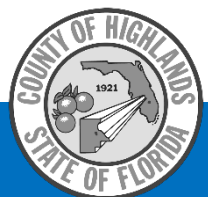
Applicants must be electors of Highlands County and may not serve on more than three County Commission committees simultaneously, provided only one of the committees has final decision-making authority.

The committee appointment process requires the attached "Application for Committee Appointments" form to be completed, either online and submitted via e-mail to mdrake@highlandsfl.gov, or printed and mailed to:

Highlands County Board of County Commissioners
Attn: Michelle Drake
600 S. Commerce Ave.,
Sebring, FL 33870

Additionally, please review the Policy for Appointed Committee for guidelines on serving on a BOCC advisory committee. The Policy is available on the [Citizen Committees tab on highlandsfl.gov](#).

To learn more about economic development efforts in Highlands County, visit highlandsbusiness.com.



Application for Appointment

(To request appointment to a board, committee, authority or other special activity)

Name: Benjamin J Wyatt

Address: 4541 Avon Park Cutoff Rd., Avon Park, FL 33825

Phone: 863-835-2374

Email: benjwyatt@gmail.com or bwyatt@wauchulastatebank.com

I wish to be appointed to the following board, committee, authority or special activity of the Highlands County Board of County Commissioners:

as a: ☒ regular member ☐ alternate ☐ advisory only

Employment experience

Current: VP, Commercial Banker

Brief description: Providing commercial financing for Highlands and Hardee county businesses.

Previous: US Navy

Brief description: Cryptologist with Naval Intelligence during Iraq & Afghan war. Served aboard two amphibious assault vessels, a destroyer and a fast attack sub. Held TS/SCI (Top Secret) clearance.

Education/special training

High School: Livingston Academy, TN

College: M.B.A. through WGU, UT

Special training:

Activities & interests: Painting, astronomy, diving, long distance running.

List any boards or committees to which you are currently appointed, elected offices held, or law enforcement positions held:

N/A

Are you related to any county employee or county commissioner ? ☐ Yes ☒ No

Name of relative: N/A

Relationship:

Important:

The Highlands County Board of County Commissioners has an adopted Code of Conduct for persons serving on committees, boards, and panels appointed by the Highlands County Board of County Commissioners. A copy can be found at <http://hcbcc.net/section/index.php>. Please indicate by signing below that you have read and understand the adopted Code of Conduct.

Signature:

Ben Wyatt

Date submitted: 9/19/23

**Highlands County Industrial Development Authority and Economic Development
Commission Board of Directors Q&A**

1) What does economic development mean to you?
I believe we achieve economic development by fostering an environment that is conducive to the growth of existing businesses, attractive to new businesses, competitive with surrounding counties and takes advantage of the resources and opportunities that are naturally occurring within our community.
2) Why do you want to serve on the Board of Directors for the Highlands County IDA/EDC?
I've been a member of Highlands County since my family moved here in 1997. My wife is a life-long resident, and we've raised three beautiful children here. I would be honored to have the opportunity to ensure it's the best possible place for my loved ones to live and thrive.
3) As a board member, how would you promote economic development for the county?
Through collaboration, long-term planning, and innovation. We serve our community best when we engage with them and find their needs and challenges. We then pursue policies that support their growth while also improving infrastructure to attract outside business. Lastly, we use technology and data-analytics to make informed economic decisions as well as measure developmental progress.
4) What are your goals for Highlands County economic development?
Improve the technological infrastructure within the county to attract new businesses and provide needed services. Promote the creation and retention of a skilled labor force through education, increased services and an improved quality of life within the community.
5) What other organizations, if any, have you previously or do you currently belong to? What responsibilities did you have (Officer seats, Community Service, etc.)?
I have belonged to the Highlands Young Professionals, the American Legion and the Veterans of Foreign Wars (VFW). I am currently a member of Leadership Highlands and the Highlands and Hardee County Chambers of Commerce.

Please submit formal résumé



INDUSTRIAL DEVELOPMENT AUTHORITY

The Highlands County Industrial Development Authority, as authorized by Florida Statute 159.44 - 159.53, is responsible for authorizing industrial revenue bond financing and refinancing projects for the public purposes described in, and in the manner provided by, the Florida Industrial Development Financing Act and by Florida Statute 159.44-159.53, and for fostering the economic development of a county. Each IDA shall study the advantages, facilities, resources, products, attractions, and conditions concerning the county with relation to the encouragement of economic development in that county, and shall use such means and media as the authority deems advisable to publicize and to make known such facts and material to such persons, firms, corporations, agencies, and institutions which, in the discretion of the authority, would reasonably result in encouraging desirable economic development in the county.

IDA members are appointed by the Board of County Commissioners and serve four-year terms. The IDA is coordinated by the BOCC's Economic Development office, which is part of the County's Development Services Division.

IDA board members also serve concurrent terms on the Highlands County Economic Development Commission, which is the nonprofit component of economic development efforts in Highlands County.

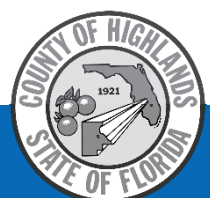
Applicants must be electors of Highlands County and may not serve on more than three County Commission committees simultaneously, provided only one of the committees has final decision-making authority.

The committee appointment process requires the attached "Application for Committee Appointments" form to be completed, either online and submitted via e-mail to mdrake@highlandsfl.gov, or printed and mailed to:

Highlands County Board of County Commissioners
Attn: Michelle Drake
600 S. Commerce Ave.,
Sebring, FL 33870

Additionally, please review the Policy for Appointed Committee for guidelines on serving on a BOCC advisory committee. The Policy is available on the [Citizen Committees](#) tab on highlandsfl.gov.

To learn more about economic development efforts in Highlands County, visit highlandsbusiness.com.



Application for Appointment

(To request appointment to a board, committee, authority or other special activity)

Name: Fred Hawkins

Address: 600 West College Dr., Avon Park 33825

Phone: 863.874.7111

Email: fred.hawkins@southflorida.edu

I wish to be appointed to the following board, committee, authority or special activity of the
Highlands County Board of County Commissioners:

as a: ☒ regular member ☐ alternate ☐ advisory only

Employment experience

Current: President South Florida State College

Brief description:

Previous: Florida House of Representatives

Brief description:

Education/special training

High School: Southeast High

College: University of Akron

Special training:

Activities & interests: Cooking, Reading, Golf, Rodeo, & Football

List any boards or committees to which you are currently appointed, elected offices held, or law enforcement positions held:

Osceola County Commissioner, Florida House of Representatives, Advent Health, Career Source

Are you related to any county employee or county commissioner ? ☐ Yes ☒ No

Name of relative:

Relationship:

Important:

The Highlands County Board of County Commissioners has an adopted Code of Conduct for persons serving on committees, boards, and panels appointed by the Highlands County Board of County Commissioners. A copy can be found at <http://hcbcc.net/section/index.php>. Please indicate by signing below that you have read and understand the adopted Code of Conduct.

Signature:

Date submitted: October 31, 2023

**Highlands County Industrial Development Authority and Economic Development
Commission Board of Directors Q&A**

1) What does economic development mean to you?
Expanding or bringing in business that fits with the assets the area has to offer. Expanding job creation and increasing salaries.
2) Why do you want to serve on the Board of Directors for the Highlands County IDA/EDC?
I feel my past experience and current position could be an asset to the board.
3) As a board member, how would you promote economic development for the county?
Researching the economic drivers and seeking partnerships that can provide positive returns on investment for the area. Looking at other areas to see what has worked and where we can be better with the assets the area has to offer.
4) What are your goals for Highlands County economic development?
Seeking new business and industry that can provide opportunities to increase the average wages for the area while supply jobs and room for growth within those industries.
5) What other organizations, if any, have you previously or do you currently belong to? What responsibilities did you have (Officer seats, Community Service, etc.)?
I have been a member of the Orlando Economic Partnership. Served on several Chamber boards

Please submit formal résumé

**HIGHLANDS COUNTY
COUNTY COMMISSION AGENDA ITEM**

DATE OF ACTION REQUEST: January 4, 2024

PRESENTER: Dustin Fitch, Interim Deputy Chief

SUBJECT/TITLE: Request adoption of Resolution 23-24-51 extending the Certificate of Public Convenience and Necessity for Atlantic Palm Beach Ambulance, Inc. d/b/a AMR.

STATEMENT OF ISSUE

The current Certificate of Public Convenience and Necessity (COPCN) for Class 1 Non-emergency transport Class 2 Basic Life Support ambulance (BLS) and Class 3 Advanced Life Support ambulance (ALS) for Affordable Transport, Inc., a Florida corporation will expire on January 7, 2024. Atlantic Palm Beach Ambulance, Inc. d/b/a AMR submitted its renewal application for COPCN for Class 1 Non-emergency medical transportation, Class 2 Basic Life Support ambulance (BLS) and Class 3 Advanced Life Support ambulance (ALS) on December 18, 2023. Due to the submission of application that was submitted being late and the time requirements in Chapter 5 of the Code of Ordinances, Highlands County, Florida, the COPCN cannot be renewed prior to its expiration date. Atlantic Palm Beach Ambulance, Inc. d/b/a AMR has one or more contracts to provide ambulance service to facilities in Highlands County, Florida, and service interruptions to AMR's customers are not in the best interests of those customers or the public.

RECOMMENDED ACTION

Move to adopt Resolution 23-24-51 extending the Certificate of Public Convenience and Necessity for Atlantic Palm Beach Ambulance, Inc. d/b/a AMR.

FISCAL IMPACT

No Fiscal Impact

Attachments: [Resolution extension Atlantic Palm.CLEAN.SGS.pdf](#)

RESOLUTION NO. 23-24-51

**A RESOLUTION OF HIGHLANDS COUNTY, FLORIDA
PERTAINING TO THE EXTENSION OF A CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY FOR
ATLANTIC PALM BEACH AMBULANCE, INC. D/B/A AMR;
PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT;
PROVIDING FOR APPROVAL OF PROVISIONAL
EXTENSION OF CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY; PROVIDING FOR THE
IMPLEMENTATION OF ADMINISTRATIVE ACTIONS;
PROVIDING A SAVINGS CLAUSE; PROVIDING FOR
SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS;
PROVIDING FOR SEVERABILITY; AND PROVIDING AN
EFFECTIVE DATE.**

WHEREAS, Atlantic Palm Beach Ambulance, Inc., d/b/a AMR, a Florida corporation, holds a Certificate of Public Convenience and Necessity (COPCN) for Class 1 Non emergency transport, Class 2 Basic Life Support ambulance (BLS) and Class 3 Advanced Life Support ambulance (ALS); and

WHEREAS, Atlantic Palm Beach Ambulance, Inc., d/b/a AMR, timely submitted the renewal application for its COPCN on December 18, 2023; however, additional information was needed by the County; and

WHEREAS, the Atlantic Palm Beach Ambulance, Inc., d/b/a AMR, COPCN will expired as of January 7, 2024, while the application for renewal is still being processed; and

WHEREAS, Atlantic Palm Beach Ambulance, Inc., d/b/a AMR, has one or more contracts to provide ambulance service to facilities in Highlands County, Florida; and

WHEREAS, such service interruptions to the customers of Atlantic Palm Beach Ambulance, Inc., d/b/a AMR, are not in the best interest of citizens of Highlands County.

**NOW, THEREFORE, BE IT RESOLVED BY HIGHLANDS COUNTY, FLORIDA
AS FOLLOWS:**

SECTION 1. Legislative Findings and Intent. Highlands County has complied with all requirements and procedures of Florida law in processing this Resolution. The above recitals are hereby adopted.

SECTION 2. Approval of Provisional Extension of Certificate of Public Convenience and Necessity. Highlands County hereby approves the provisional extention of the Certificate of Public Convenience and Necessity for Atlantic Palm Beach

Ambulance, Inc., d/b/a AMR, for a period of 60 days during the processing of the renewal application.

SECTION 3. Implementation of Administrative Actions. The County Administrator is hereby authorized and directed to take such action as may be deemed necessary and appropriate in order to implement the provisions of this Resolution. The County Administrator may, as deemed appropriate, necessary and convenient, delegate the powers of implementation as herein set forth to such County employees as deemed effectual and prudent.

SECTION 4. Savings Clause. All prior actions of Highlands County pertaining to the provisional extension of COPCN for Atlantic Palm Beach Ambulance, Inc., d/b/a AMR, approved hereby, as well as any and all matters relating thereto, are hereby ratified and affirmed consistent with the provisions of this Resolution.

SECTION 5. Scrivener's Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Resolution, as determined by the County Administrator and County Attorney, may be corrected.

SECTION 6. Conflicts. All Resolutions or parts of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 7. Severability. If any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Resolution.

SECTION 8. Effective Date. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 4 day of January, 2024.

HIGHLANDS COUNTY, FLORIDA

By: _____
Kevin Roberts, Chairperson

ATTEST:

Jerome Kaszubowski, Clerk of Court

**HIGHLANDS COUNTY
COUNTY COMMISSION AGENDA ITEM**

DATE OF ACTION REQUEST: January 4, 2024

PRESENTER: Dustin Fitch, Interim Deputy Chief

SUBJECT/TITLE: Request adoption of Resolution 23-24-50 extending the Certificate of Public Convenience and Necessity for Lifefleet Southeast Inc. d/b/a American Medical Response.

STATEMENT OF ISSUE

The current Certificate of Public Convenience and Necessity (COPCN) for Class 2 Basic Life Support ambulance (BLS) and Class 3 Advanced Life Support ambulance (ALS) for Lifefleet Southeast Inc. d/b/a American Medical Response, a Florida corporation will expire on January 7, 2024. Lifefleet Southeast Inc. d/b/a American Medical Response submitted its renewal application for COPCN for Class 2 Basic Life Support ambulance (BLS) and Class 3 Advanced Life Support ambulance (ALS) on December 6, 2023. Due to the submission of application that was submitted being late and the time requirements in Chapter 5 of the Code of Ordinances, Highlands County, Florida, the COPCN cannot be renewed prior to its expiration date. Lifefleet Southeast Inc. d/b/a American Medical Response, has one or more contracts to provide ambulance service to facilities in Highlands County, Florida, and service interruptions to Lifefleet Southeast Inc. d/b/a American Medical Response customers are not in the best interests of those customers or the public.

RECOMMENDED ACTION

Move to adopt Resolution 23-24-50 extending the Certificate of Public Convenience and Necessity for Lifefleet Southeast Inc. d/b/a American Medical Response.

FISCAL IMPACT

No fiscal Impact

Attachments: [Resolution extension Lifefleet.CLEAN.SGS.pdf](#)

RESOLUTION NO. 23-24-50

A RESOLUTION OF HIGHLANDS COUNTY, FLORIDA PERTAINING TO THE EXTENSION OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR LIFEFLEET SOUTHEAST INC., D/B/A AMERICAN MEDICAL RESPONSE ; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR APPROVAL OF PROVISIONAL EXTENSION OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY; PROVIDING FOR THE IMPLEMENTATION OF ADMINISTRATIVE ACTIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Lifefleet Southeast Inc., d/b/a American Medical Response, a Florida corporation, holds a Certificate of Public Convenience and Necessity (COPCN) for Class 2 Basic Life Support ambulance (BLS) and Class 3 Advanced Life Support ambulance (ALS); and

WHEREAS, Lifefleet Southeast Inc., d/b/a American Medical Response, timely submitted the renewal application for its COPCN on December 6, 2023; however, additional information was needed by the County; and

WHEREAS, the Lifefleet Southeast Inc., d/b/a American Medical Response, COPCN expired as of January 7, 2024, while the application for renewal is still being processed; and Lifefleet Southeast Inc., d/b/a American Medical Response,

WHEREAS, Lifefleet Southeast Inc., d/b/a American Medical Response, has one or more contracts to provide ambulance service to facilities in Highlands County, Florida; and

WHEREAS, such service interruptions to the customers of Lifefleet Southeast Inc., d/b/a American Medical Response, are not in the best interest of the citizens of Highlands County.

NOW, THEREFORE, BE IT RESOLVED BY HIGHLANDS COUNTY, FLORIDA AS FOLLOWS:

SECTION 1. Legislative Findings and Intent. Highlands County has complied with all requirements and procedures of Florida law in processing this Resolution. The above recitals are hereby adopted.

SECTION 2. Approval of Provisional Extension of Certificate of Public Convenience and Necessity. Highlands County hereby approves the provisional extension of the Certificate of Public Convenience and Necessity for Lifefleet Southeast Inc., d/b/a American Medical Response, for a period of 60 days during the processing of the renewal application.

SECTION 3. Implementation of Administrative Actions. The County Administrator is hereby authorized and directed to take such action as may be deemed necessary and appropriate in order to implement the provisions of this Resolution. The County Administrator may, as deemed appropriate, necessary and convenient, delegate the powers of implementation as herein set forth to such County employees as deemed effectual and prudent.

SECTION 4. Savings Clause. All prior actions of Highlands County pertaining to the provisional extension of COPCN for Lifefleet Southeast Inc., d/b/a American Medical Response, approved hereby, as well as any and all matters relating thereto, are hereby ratified and affirmed consistent with the provisions of this Resolution.

SECTION 5. Scrivener's Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Resolution, as determined by the County Administrator and County Attorney, may be corrected.

SECTION 6. Conflicts. All Resolutions or parts of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 7. Severability. If any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Resolution.

SECTION 8. Effective Date. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 4 day of January 2024.

HIGHLANDS COUNTY, FLORIDA

By: _____
Kevin Roberts, Chairperson

ATTEST:

Jerome Kaszubowski, Clerk of Court

**HIGHLANDS COUNTY
COUNTY COMMISSION AGENDA ITEM**

DATE OF ACTION REQUEST: December 5, 2023

PRESENTER: Sherry G. Sutphen, County Attorney

SUBJECT/TITLE: County Attorney Status Report.

STATEMENT OF ISSUE

Attached is a copy of the pending items on the County Attorney File Log as of December 22, 2023.

RECOMMENDED ACTION

None. This is being provided for informational purposes.

FISCAL IMPACT

There is no fiscal impact.

Attachments: [Legal_Long_Range_Log.docx](#)

Legal Department
Long-range Log

Priority	Matter	Notes
N/A	Employee Manual revisions	
N/A	Purchasing Policy revisions	
1	Hospital sale issues	
2, 7	Annexation issues with all cities (enclaves and roads)	
3, 8	Impact Fees and other funding mechanisms related to growth and infrastructure	
N/A	Revisions to organization of Advisory Boards and Committees	
2, 7	Joint Planning Agreements with cities	
N/A	Procedure/Policies on vacation of a right of way, roadway, easement, or a portion thereof, owned by the County.	
N/A	Various Assessment Resolutions for FY 23-24	
N/A	Update of all County policies which are not codified in a manual	

**HIGHLANDS COUNTY
COUNTY COMMISSION AGENDA ITEM**

DATE OF ACTION REQUEST: January 4, 2024

PRESENTER: Laurie Hurner, County Administrator

SUBJECT/TITLE: Commissioner's Priorities and the Project Status Report.

RECOMMENDED ACTION

None. This information is being provided for informational purposes only.

FISCAL IMPACT

There is no fiscal impact.

Attachments:

HIGHLANDS COUNTY
COUNTY COMMISSION AGENDA ITEM

DATE OF ACTION REQUEST: January 4, 2024

PRESENTER:

SUBJECT/TITLE: Board payables from to December 19, 2023, to January 3, 2024

Attachments: