

EXHIBIT 2 – CONTRACT SAMPLE



THE SCHOOL DISTRICT OF LEE COUNTY

**BUILDING OFFICIAL SERVICES
AGREEMENT**

(Construction Management Edition)

«Vendor_Name»

«Project_Name»

Date: «Date»

STANDARD BUILDING OFFICIAL SERVICES AGREEMENT
(Construction Management Edition)

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BUILDING OFFICIAL SERVICES AGREEMENT
(Construction Management Edition)

THIS AGREEMENT is made and entered into this day of, by and between The School Board of Lee County, Florida (hereinafter referred to as the "OWNER"), and **«Vendor Name»**, whose business address is **«Address Line 1», «City State and Zip Code»** (hereinafter referred to as the "BUILDING OFFICIAL").

WITNESSETH:

WHEREAS, OWNER desires to obtain the professional BUILDING OFFICIAL services of BUILDING OFFICIAL concerning certain services for the plan review permitting, inspection and materials testing of **«Project Name»** (hereafter referred to as the "Project") located at **«Project Location»**, said services being more fully described in Schedule A, "Scope of Services", which is attached hereto and incorporated herein; and

WHEREAS, BUILDING OFFICIAL represents that it has expertise in the type of professional BUILDING OFFICIAL services that will be required for the Project.

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

ARTICLE 1. - BUILDING OFFICIAL'S RESPONSIBILITY

- 1.1 BUILDING OFFICIAL shall provide to OWNER professional BUILDING OFFICIAL services in all phases of the Project to which this Agreement applies. All services to be provided by BUILDING OFFICIAL pursuant to this Agreement shall be in conformance with the Scope of Services described in Schedule A. Any deviation from the Scope of Services must be brought to OWNER'S attention in writing by BUILDING OFFICIAL and all such deviations must be expressly approved by OWNER in writing.
- 1.2 The standard of care applicable to the services to be provided by BUILDING OFFICIAL pursuant to this Agreement shall be that BUILDING OFFICIAL will use the degree of care and skill ordinarily exercised under similar conditions by reputable and licensed BUILDING OFFICIALS in Southwest Florida. Subject to the foregoing standard, BUILDING OFFICIAL shall be held to the highest standards of its profession, and shall be held accountable for the inclusion of all requirements of this Agreement. An evaluation of BUILDING OFFICIAL'S performance will be made during and at the conclusion of the Project. The results of such evaluations will determine the recommendations for future work by BUILDING OFFICIAL with OWNER.
- 1.3 BUILDING OFFICIAL shall review the program furnished by OWNER to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with OWNER. OWNER shall contract with a DESIGN PROFESSIONAL to design the Project and a CONTRACTOR to construct the Project.
- 1.4 BUILDING OFFICIAL shall provide OWNER with Plan Review, Permitting, Inspections and Materials Testing Services, as more fully set forth in the Scope of Services in Schedule A.

- 1.5 BUILDING OFFICIAL shall be a representative of and shall advise and consult with OWNER during the administration of the Contract for Construction. BUILDING OFFICIAL shall have authority to act on behalf of OWNER only to the extent provided in this Agreement unless otherwise modified by written amendment.
- 1.6 BUILDING OFFICIAL shall at all times have access to the Work wherever it is in preparation or progress.
- 1.7 If BUILDING OFFICIAL causes any delay, BUILDING OFFICIAL shall be responsible and liable to OWNER for all damages, costs, losses and expenses incurred or suffered by OWNER as a result thereof, including, but not limited to, reasonable attorneys' fees, provided BUILDING OFFICIALS delay was the proximate cause of such damages, costs, losses and /or expenses.
- 1.8 BUILDING OFFICIAL agrees to obtain and maintain throughout the period of this Agreement all such licenses as are required to do business in the State of Florida and in Lee County, Florida, including, but not limited to, all licenses required by the respective state boards and other governmental agencies responsible for regulating and licensing the professional services to be provided and performed by BUILDING OFFICIAL pursuant to this Agreement.
- 1.9 BUILDING OFFICIAL agrees that, when the services to be provided hereunder relate to a professional service which, under Florida Statutes, requires a license, certificate of authorization or other form of legal entitlement to practice such services, it shall employ and/or retain only qualified personnel to provide such services.
- 1.10 BUILDING OFFICIAL has employed and hereby designates **«Contact Name»** to serve as BUILDING OFFICIAL'S representative (hereinafter referred to as the "Representative"). The Representative is authorized and responsible to act on behalf of BUILDING OFFICIAL with respect to directing, coordinating and administering all aspects of the services to be provided and performed under this Agreement. By execution of this Agreement, BUILDING OFFICIAL acknowledges that the Representative has full authority to bind and obligate BUILDING OFFICIAL on all matters arising out of or relating to this Agreement. BUILDING OFFICIAL agrees that the Representative shall devote whatever time is required to satisfactorily manage the services to be provided and performed by BUILDING OFFICIAL hereunder. Further, BUILDING OFFICIAL agrees that the Representative identified above shall not be removed by BUILDING OFFICIAL from the Project without OWNER'S prior approval, and if so removed must be immediately replaced with a person acceptable to OWNER.
- 1.11 BUILDING OFFICIAL agrees that its senior staff, subconsultants and subcontractors who will perform any services for the Project are subject to OWNER'S reasonable approval. Attached hereto as Schedule B is a listing of BUILDING OFFICIAL'S senior staff who have been assigned to the Project, as well as the subconsultants and subcontractors who will be used by BUILDING OFFICIAL on the Project. None of the senior staff, subconsultants and subcontractors identified in Schedule B shall be removed by BUILDING OFFICIAL from the Project without OWNER'S prior written approval (such approval not to be unreasonably withheld), and if so removed shall be immediately replaced with a person or firm reasonably acceptable to OWNER. BUILDING OFFICIAL further agrees, within fourteen (14) calendar days of receipt of a written request from OWNER, to promptly remove and replace the Representative, or any other personnel employed

or retained by BUILDING OFFICIAL, or any subconsultants or subcontractors or any personnel of any such subconsultants or subcontractors engaged by BUILDING OFFICIAL to provide and perform services or work pursuant to the requirements of this Agreement, whom OWNER shall request in writing to be removed, which request may be made by OWNER with or without cause.

- 1.12 BUILDING OFFICIAL agrees that all Services to be provided by BUILDING OFFICIAL pursuant to this Agreement shall be subject to OWNER'S reasonable review and approval and shall be in accordance with all applicable published laws, statutes, ordinances, codes, rules, regulations (including utility regulations), state fire marshal requirements and the Florida Building Code, as well as the requirements of any governmental agencies which regulate or have jurisdiction over the Project or the services to be provided and performed by BUILDING OFFICIAL hereunder. In the event of any conflicts in these requirements, BUILDING OFFICIAL shall promptly notify OWNER of such conflict in writing and utilize its best professional judgment to resolve the conflict.
- 1.13 BUILDING OFFICIAL agrees not to divulge, furnish or make available to any third person, firm or organization, without OWNER'S prior written consent, or unless incident to the proper performance of BUILDING OFFICIAL'S obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the services to be rendered by BUILDING OFFICIAL hereunder, and BUILDING OFFICIAL shall require all of its employees, agents, subconsultants and subcontractors to comply with the provisions of this paragraph.
- 1.14 In addition to any other presentation or meeting requirements placed upon BUILDING OFFICIAL elsewhere in this Agreement, BUILDING OFFICIAL shall participate in regular Project Conferences with OWNER'S staff. These meetings shall be scheduled by OWNER at a location in Lee County, Florida, to be designated by OWNER.
- 1.15 BUILDING OFFICIAL agrees, for both itself and all of its subconsultants and subcontractors, to comply with all of OWNER'S rules and regulations with respect to safety and security at OWNER'S facilities, as said rules and regulations may be modified and amended by OWNER from time to time.
- 1.16 OWNER may have one or more representatives visit the site of the Project from time to time, or on a full-time basis, as the construction progresses, BUILDING OFFICIAL shall not interfere with the functions of said representatives and will cooperate and work with said representatives. No action or failure to act by a representative shall relieve BUILDING OFFICIAL from any of its duties or obligations hereunder.

ARTICLE 2. - ADDITIONAL SERVICES OF BUILDING OFFICIAL

- 2.1 If authorized in writing by OWNER, BUILDING OFFICIAL shall furnish or obtain from others Additional Services of the types listed in Article 2 herein. All Additional Services shall be performed for an agreed upon (in advance) fixed fee. If OWNER and BUILDING OFFICIAL are unable to agree upon a fixed fee, then the services will be paid for by OWNER as indicated in Schedule C. The following services, if not otherwise specified in Schedule A as part of Basic Services, shall be Additional Services, however, if any Additional Services are required or made necessary by any negligent act or omission of BUILDING OFFICIAL or any of BUILDING OFFICIAL'S

consultants, such services shall be performed by BUILDING OFFICIAL at no additional cost or expense to OWNER:

- 2.1.1 Services resulting from significant changes in the program, general scope, extent or character of the Project or its design including, but not limited to, changes in size, complexity, OWNER'S schedule or character of construction; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to and not reasonably anticipated prior to the preparation of such studies, reports or documents, or are due to any other causes beyond BUILDING OFFICIAL'S control and fault.
- 2.1.2 Furnishing services of independent professional associates and consultants for something other than the contract services to be provided by BUILDING OFFICIAL hereunder.
- 2.1.3 Preparing to serve or serving as a consultant or witness for OWNER in any litigation, or other legal or administrative proceeding, involving the Project (except for assistance in consultations which are included as part of the Basic Services to be provided herein).
- 2.1.4 Additional services rendered by BUILDING OFFICIAL in connection with the Project not otherwise provided for in this Agreement.

ARTICLE 3. - OWNER'S RESPONSIBILITIES

- 3.1 OWNER shall designate in writing a project coordinator to act as OWNER'S representative with respect to the services to be rendered under this Agreement (hereinafter referred to as the "Project Manager"). The Project Manager shall have authority to transmit instructions, receive information, interpret and define OWNER'S policies and decisions with respect to BUILDING OFFICIAL'S services for the Project. However, except as may be otherwise expressly authorized in writing by the Lee County School Board, neither the Project Manager nor any other party is authorized to issue any verbal or written orders or instructions to BUILDING OFFICIAL that would have the effect, or be interpreted to have the effect, of modifying or changing in any way whatever the: (1) scope of services to be provided and performed by BUILDING OFFICIAL hereunder; (2) the time BUILDING OFFICIAL is obligated to complete all such services; or (3) the amount of compensation OWNER is obligated or committed to pay BUILDING OFFICIAL. Additional Services must be approved in writing in the form of a written and executed amendment to this Agreement prior to starting such services. OWNER will not be responsible for the costs of Additional Services commenced without its express prior written approval. Failure to obtain prior written approval for Additional Services waives BUILDING OFFICIAL'S claim that it performed Additional Services and instead such services will be deemed to be part of the Basic Services required of BUILDING OFFICIAL hereunder.
- 3.2 OWNER shall provide, if available, all criteria and information requested by BUILDING OFFICIAL as to OWNER'S requirements for the Project, including design objectives and constraints, space, Educational Specifications, capacity and performance requirements, flexibility and expendability, and any budgetary limitations, which are not addressed within the Scope of Services. OWNER shall provide BUILDING OFFICIAL with five (5) copies of all design documents prepared by DESIGN

PROFESSIONAL that are required for BUILDING OFFICIAL to perform the Services required under this Contract (hereinafter referred to as "Construction Documents").

- 3.3 Upon request from BUILDING OFFICIAL, OWNER will assist BUILDING OFFICIAL by making available to BUILDING OFFICIAL all reasonably available information in OWNER'S possession pertinent to the Project, including existing drawings, specifications, shop drawings, product literature, previous reports and any other data relative to design or construction of the Project.
- 3.4 OWNER shall arrange for access to and make all provisions for BUILDING OFFICIAL to enter the Project site to perform the services to be provided by BUILDING OFFICIAL under this Agreement. BUILDING OFFICIAL acknowledges that such access may be provided during times that are not the normal business hours of BUILDING OFFICIAL.
- 3.5 OWNER shall provide written notice to BUILDING OFFICIAL of any deficiencies or defects discovered by OWNER with respect to the services to be rendered by BUILDING OFFICIAL hereunder.
- 3.6 Wherever the terms of this Agreement refer to some action, consent, or approval (excluding approvals of Additional Services or changes to this Agreement) to be provided by OWNER or some notice, report or document is to be provided to OWNER, such reference to "OWNER" shall mean OWNER, OWNER'S staff, or OWNER'S designee, unless otherwise stated.

ARTICLE 4. - TIME

- 4.1 Services to be rendered by BUILDING OFFICIAL shall be commenced subsequent to the execution of this Agreement and upon written Notice of Authorization from OWNER for all or any designated portion of the Project and shall be performed and completed in accordance with the Schedule attached hereto and made a part hereof as Schedule D. Time is of the essence with respect to the performance of this Agreement.
- 4.2 Should BUILDING OFFICIAL be obstructed or delayed in the prosecution or completion of its services as a result of unforeseeable causes beyond the control of BUILDING OFFICIAL, and not due to its own fault or neglect, including but not restricted to acts of God or of public enemy, acts of government or of OWNER, fires, floods, epidemics, quarantine regulations, strikes or lock-outs, then BUILDING OFFICIAL shall notify OWNER in writing within three (3) business days (unless OWNER expressly agrees in writing to a longer period of time) after commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which BUILDING OFFICIAL may have had to request a time extension.
- 4.3 No interruption, interference, inefficiency, suspension or delay in the commencement or progress of BUILDING OFFICIAL'S services from any cause whatsoever, including those for which OWNER may be responsible in whole or in part, shall relieve BUILDING OFFICIAL of its duty to perform or give rise to any right to damages or additional compensation from OWNER. BUILDING OFFICIAL expressly acknowledges and agrees that it shall receive no damages for delay. BUILDING OFFICIAL'S sole remedy, if any, against OWNER will be the right to seek an extension of time to its schedule; provided, however, the granting of any such time extension shall not be a condition

precedent to the aforementioned “No Damage for Delay” provision. This paragraph shall expressly apply to claims for early completion, as well as claims based on late completion.

- 4.4 Should BUILDING OFFICIAL fail to commence, provide, perform or complete any of the services to be provided hereunder in a timely and diligent manner, in addition to any other rights or remedies available to OWNER hereunder, OWNER at its sole discretion and option may withhold any and all payments due and owing to BUILDING OFFICIAL until such time as BUILDING OFFICIAL resumes performance of its obligations hereunder in such a manner so as to establish to OWNER’S satisfaction that BUILDING OFFICIAL’S performance is or will shortly be back on schedule.

ARTICLE 5. - COMPENSATION

- 5.1 For Basic Services, as described in Article 2 and on Schedule A, and any other services included as part of Basic Services, Basic Compensation shall be computed as follows:

The stipulated sum of (**\$ _____**) for Pre-Construction Phase Services, as detailed in Article 1-2 and Schedule A.

The stipulated sum of (**\$ _____**) for Construction Phase Services, to be included as an amendment to this agreement, as detailed in Article 1-2 and Schedule A.

- 5.2 Payment for Pre-Construction Phase Services shall be made in progress payments of all plan review, permitting and other services detailed in Article 1-2 and Schedule A.

Payment for Construction Phase Services shall be made in progress payments for Basic Services in accordance with the following estimated allocations. Estimated amounts may be adjusted however, the total “not to exceed” fixed fee cannot be changed:

Building Inspections	\$
Threshold Inspections	\$
Fire Inspections	\$
Materials Testing	\$
Fireproof Testing	\$
Ground Improvement Monitoring	\$
Total “NOT TO EXCEED” Fixed Fee	\$

- 5.3 The compensation provided for under Section 5.2, shall be the total and complete amount payable to BUILDING OFFICIAL for the services to be performed under the provisions of this

Agreement, and shall include the cost of all materials, equipment, supplies and out-of-pocket expenses incurred in the performance of all services.

ARTICLE 6. - OWNERSHIP OF DOCUMENTS

- 6.1 Upon the completion or termination of this Agreement, as directed by OWNER, BUILDING OFFICIAL shall deliver to OWNER copies or originals of all records, documents, drawings, notes, tracings, plans, Auto CADD files, specifications, maps, evaluations, reports and other technical data, other than working papers, prepared or developed by or for BUILDING OFFICIAL under this Agreement ("Project Documents"). OWNER shall specify whether the originals of such Project Documents are to be delivered by BUILDING OFFICIAL. Accordingly, BUILDING OFFICIAL shall be solely responsible for all costs associated with delivering to OWNER the Project Documents. BUILDING OFFICIAL, at its own expense, may retain copies of the Project Documents for its files and internal use. However, in order to protect the security and safety of the facility, OWNER wishes to limit the number of copies of plans outside of OWNER'S possession. BUILDING OFFICIAL agrees that said copies are not to be shared with anyone other than members of BUILDING OFFICIAL'S staff and staff of subcontractors and consultants participating in the Project.
- 6.2 All Project Documents in any form prepared, assembled or provided by BUILDING OFFICIAL under this Agreement are and shall be the property of OWNER, including, as further described below, all copyrights inherent in them or their preparation.
- 6.3 As described above, the Project Documents are and shall remain the property of OWNER, and BUILDING OFFICIAL and BUILDING OFFICIAL'S consultants shall have no interest in any of the Project Documents whatsoever, nor any right to utilize them or any designs based on them, except as provided in this Agreement in connection with this Project.

ARTICLE 7. - MAINTENANCE OF RECORDS

- 7.1 BUILDING OFFICIAL shall keep adequate records and supporting documentation which concern or reflect its services hereunder. The records and documentation shall be retained by BUILDING OFFICIAL for a minimum of three (3) years from the date of termination of this Agreement or the date the Project is completed, or such longer period of time as may be required by law or this Agreement, whichever is later. OWNER, or any duly authorized agents or representatives of OWNER, shall have the right to audit, inspect and copy all such records and documentation as often as they deem necessary during the period of this Agreement and during the period noted above in which the records are to be retained; provided, however, such activity shall be conducted only during normal business hours.
- 7.2 BUILDING OFFICIAL shall sign and date CONTRACTOR'S "as-built" drawings on a weekly basis to ensure "as-builts" are documented correctly.

ARTICLE 8. - INDEMNIFICATION

To the fullest extent permitted by law, the BUILDING OFFICIAL shall indemnify and hold harmless the OWNER, and its officers and employees (“Indemnitees”) from and against all claims, liabilities, damages, losses, and costs including, but not limited to, reasonable costs and attorneys’ fees at the pre-trial, trial and appellate levels, arising out of, resulting from or incidental to BUILDING OFFICIAL’S performance under this Agreement to the extent caused by negligence, recklessness, or intentional wrongful conduct of the BUILDING OFFICIAL or other persons employed or utilized by the BUILDING OFFICIAL in the performance of this Agreement. The remedy provided to the Indemnitees by this indemnification shall be in addition to and not in lieu of any other remedy available under the Agreement or otherwise. This indemnification obligation shall not be diminished or limited in any way to any insurance maintained pursuant to the Agreement otherwise available to the BUILDING OFFICIAL. The remedy provided to the Indemnitees by this indemnification shall survive this Agreement. A claim for indemnity pursuant to this provision shall be commenced within the period established under Florida law for commencement of an action founded on the design, planning, or construction of an improvement to real property. The provisions of this Paragraph are intended to require the BUILDING OFFICIAL to furnish the greatest amount of indemnification allowed in accordance with 725.08, Florida Statutes. To the extent any indemnification requirement contained in this Agreement is deemed to be in violation of any law, that provision shall be deemed modified so that the BUILDING OFFICIAL shall be required to furnish the greatest level of indemnification to the Indemnitees as was intended by the parties hereto.

- 8.1 The BUILDING OFFICIAL agrees, at its own expense, and upon written request by the OWNER to defend any suit, action or demand brought against the OWNER on any claim or demand that is alleged to arise out of or result from the negligence, recklessness or intentional wrongful conduct of the BUILDING OFFICIAL or other persons or utilized by the BUILDING OFFICIAL in the performance of this Agreement.
- 8.2 The OWNER shall be liable only to the extent of its obligations under this contract, and no officer, director, partner, agent or employee of the OWNER shall ever be personally or individually liable with respect to this Agreement or the Work. Any subcontract entered into by the BUILDING OFFICIAL shall include the foregoing limitation, which shall be effective in the event the OWNER ever succeeds to the BUILDING OFFICIAL'S right and obligations under a subcontract.

ARTICLE 9. – DUTY TO DEFEND

The BUILDING OFFICIAL agrees, at its own expense, and upon written request by the OWNER to defend any suit, action or demand brought against the OWNER on any claim or demand that is alleged to arise out of or result from the negligence, recklessness or intentional wrongful conduct of the BUILDING OFFICIAL or other persons employed or utilized by the BUILDING OFFICIAL in the performance of this Agreement.

ARTICLE 10. - INSURANCE

- 10.1 During the term of this Agreement, BUILDING OFFICIAL shall, at its own cost and expense, provide and maintain the types of insurance described herein, with companies satisfactory to OWNER. All

insurance shall be from responsible companies duly authorized to do business in the State of Florida. Simultaneously with the execution and delivery of this Agreement by BUILDING OFFICIAL, BUILDING OFFICIAL has delivered to OWNER properly executed Certificates of Insurance, evidencing the fact that BUILDING OFFICIAL has acquired and put in place the insurance coverages and limits required hereunder. In addition, certified, true and exact copies of all insurance policies required shall be provided to OWNER, on a timely basis, if requested by OWNER. These Certificates and policies shall contain provisions that thirty (30) days' written notice by registered or certified mail shall be given OWNER of any cancellation, intent not to renew, or reduction in the policies' coverages, except in the application of the Aggregate Limits Provisions. BUILDING OFFICIAL shall also notify OWNER in a like manner, within twenty-four (24) hours after receipt, of any notices of expiration, cancellation, non-renewal or material change in coverages or limits received by BUILDING OFFICIAL from its insurer, and nothing contained herein shall relieve BUILDING OFFICIAL of this requirement to provide notice. In the event of a reduction in the aggregate limit of any policy to be provided by it hereunder, BUILDING OFFICIAL shall immediately take steps to have the aggregate limit reinstated to the full extent permitted under such policy. All insurance coverages of BUILDING OFFICIAL shall be primary to any insurance or self-insurance program carried by OWNER applicable to this Project.

- 10.2 All insurance policies required by this Agreement shall include the following provisions and conditions by endorsement to the policies:
- 10.2.1 The term "The School Board of Lee County, Florida" shall include the Lee County School Board, a body corporate, the Lee County School District, all Authorities, Boards, Bureaus, Commissions, Divisions, Departments and offices thereof, and individual members and employees thereof in their official capacity and/or while acting on behalf of the Lee County School Board.
 - 10.2.2 All insurance policies, other than the Workers Compensation policy, provided by BUILDING OFFICIAL to meet the requirements of this Agreement shall name The School Board of Lee County, Florida, as that name is defined in 9.2.1, above, as an additional insured as to the operations of BUILDING OFFICIAL under the Contract Documents and shall contain a severability of interests provisions.
 - 10.2.3 Companies issuing the insurance policy or policies shall have no recourse against OWNER for payment of premiums or assessments for any deductibles which all are at the sole responsibility and risk of BUILDING OFFICIAL.
 - 10.2.4 All insurance coverages of BUILDING OFFICIAL shall be primary to any insurance or self-insurance program carried by OWNER applicable to this Project, and the "Other Insurance" provisions of any policies obtained by BUILDING OFFICIAL shall not apply to any insurance or self-insurance program carried by OWNER applicable to this Project.
 - 10.2.5 The Certificates of Insurance, which are to be provided pursuant to paragraph 9.1 above, must identify the specific project name, as well as the site location and address.
 - 10.2.6 All insurance policies shall be fully performable in Lee County, Florida, and shall be construed in accordance with the laws of the State of Florida.

- 10.2.7 All insurance policies to be provided by BUILDING OFFICIAL pursuant to the terms hereof must expressly state that the insurance company will accept service of process in Lee County, Florida and that the exclusive venue for any action concerning any matter under those policies shall be in the appropriate state court situated in Lee County, Florida.
- 10.3 The acceptance by OWNER of any Certificate of Insurance for this Project evidencing the insurance coverages and limits required in this Agreement does not constitute approval or agreement by OWNER that the insurance requirements have been met or that the insurance policies shown on the Certificates of Insurance are in compliance with the requirements of this Agreement.
- 10.4 Before starting and until completion of all services required hereunder, BUILDING OFFICIAL shall procure and maintain insurance of the types and to the limits specified in Schedule E, "Insurance Coverage", which is attached hereto and made a part hereof. BUILDING OFFICIAL shall require each of its subconsultants and subcontractors to procure and maintain, until the completion of that subconsultant's or subcontractor's services, insurance of the types and to the limits specified in Schedule E, unless such insurance requirement for the subconsultant or subcontractor is expressly waived in writing by OWNER.
- 10.5 If any insurance provided pursuant to this Agreement expires prior to the completion of the services required hereunder, renewal Certificates of Insurance and, if requested by OWNER, certified, true copies of the renewal policies, shall be furnished to OWNER thirty (30) days prior to the date of expiration.
- 10.6 At any time, should BUILDING OFFICIAL not maintain the insurance coverages required in this Agreement, OWNER may cancel the Agreement or at its sole discretion shall be authorized to purchase such coverages and charge BUILDING OFFICIAL for such coverages purchased. If BUILDING OFFICIAL fails to reimburse OWNER for such costs within thirty (30) days after demand, OWNER has the right to offset these costs from any amount due BUILDING OFFICIAL under this Agreement. OWNER shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverages purchased or the insurance company/companies used. The decision of OWNER to purchase such insurance coverages shall in no way be construed to be a waiver of its rights under this Agreement.
- 10.7 BUILDING OFFICIAL, its subconsultants and OWNER shall waive all rights against each other for damages covered by insurance to the extent insurance proceeds are paid and received by OWNER, except such rights as they may have to the proceeds of such insurance held by any of them.
- 10.8 All insurance companies from whom BUILDING OFFICIAL obtains the insurance policies required hereunder must meet the following minimum requirements:
- 10.8.1 The insurance company must be duly licensed and authorized by the Department of Insurance of the State of Florida to transact the appropriate insurance business in the State of Florida.
- 10.8.2 The insurance company must have been in such insurance business continuously for not less than five (5) years immediately prior to the date of execution of this Agreement.

10.8.3 The insurance company must have an A. M. Best policyholder rating of either "A+", "A", or "A-".

10.8.4 The insurance company must have a current A. M. Best financial rating of "Class VI" or higher.

ARTICLE 11. - SERVICES BY BUILDING OFFICIAL'S OWN STAFF

11.1 The services to be performed hereunder shall be performed by the staff, subconsultants and subcontractors identified in Schedule B, unless otherwise authorized in writing by OWNER. The employment of, contract with, or use of the services of any other person or firm by BUILDING OFFICIAL, as independent consultant or otherwise, shall be subject to the prior written approval of OWNER. No provision of this Agreement shall, however, be construed as constituting an agreement between OWNER and any such other person or firm. Nor shall anything contained herein be deemed to give any such party or any third party any claim or right of action against OWNER beyond such as may otherwise exist without regard to this Agreement.

ARTICLE 12. - WAIVER OF CLAIMS

12.1 BUILDING OFFICIAL'S acceptance of final payment shall constitute a full waiver of any and all claims, by it against OWNER arising out of this Agreement or otherwise related to the Project, except those previously made in writing and identified by BUILDING OFFICIAL as unsettled at the time of the final payment. Neither the acceptance of BUILDING OFFICIAL'S services nor payment by OWNER shall be deemed to be a waiver of any of OWNER'S rights against BUILDING OFFICIAL.

ARTICLE 13. - TERMINATION OR SUSPENSION

13.1 BUILDING OFFICIAL shall be considered in material default of this Agreement and such default will be considered cause for OWNER to terminate this Agreement, in whole or in part, as further set forth herein, for any of the following reasons: (a) failure to begin work under the Agreement within the times specified under the Notice(s) of Authorization, or (b) failure to properly and timely perform the services to be provided hereunder or as directed by OWNER, or (c) the bankruptcy or insolvency or a general assignment for the benefit of creditors by BUILDING OFFICIAL or by any of BUILDING OFFICIAL'S principals, partners, officers or directors, or (d) failure to obey laws, ordinances, regulations or other codes of conduct, or (e) otherwise materially breaching this Agreement. OWNER may so terminate this Agreement, in whole or in part, by giving BUILDING OFFICIAL five (5) calendar days' written notice. In such an event, BUILDING OFFICIAL shall not be due any further compensation hereunder, until, if at all, the Project is complete and appropriate accountings and offsets are made to account for costs and expenses related to any replacement BUILDING OFFICIAL(S) who completed any work required to be performed under this Agreement.

13.2 If, after notice of termination of this Agreement as provided for in paragraph 12.1 above, it is determined for any reason that BUILDING OFFICIAL was not in default, or that its default was excusable, or that OWNER otherwise was not entitled to the remedy against BUILDING OFFICIAL provided for in paragraph 12.1, then the notice of termination given pursuant to paragraph 12.1 shall be deemed to be the notice of termination provided for in paragraph 12.3 below and

BUILDING OFFICIAL'S remedies against OWNER shall be the same as and limited to those afforded BUILDING OFFICIAL under paragraph 12.3 below.

- 13.3 OWNER shall have the right to terminate this Agreement, in whole or in part, without cause upon five (5) calendar days' written notice to BUILDING OFFICIAL. In the event of such termination for convenience, BUILDING OFFICIAL'S recovery against OWNER shall be limited to that portion of BUILDING OFFICIAL'S compensation earned through the date of termination, and not otherwise. BUILDING OFFICIAL shall not be entitled to any other or further recovery against OWNER, including, but not limited to, anticipated fees or profit on work not already performed.
- 13.4 Upon termination, BUILDING OFFICIAL shall deliver to OWNER, as set forth in paragraph 6.1 herein, all papers, records, documents, Auto CADD Files, drawings, calculations, models, and other materials in BUILDING OFFICIAL'S possession or control arising out of or relating to this Agreement. If BUILDING OFFICIAL has any original documents listed above, the originals shall be provided to OWNER rather than copies.
- 13.5 OWNER shall have the authority to suspend all or any portions of the services to be provided by BUILDING OFFICIAL hereunder upon giving BUILDING OFFICIAL three (3) calendar days' prior written notice of such suspension. If all or any portion of the services to be rendered hereunder are so suspended, BUILDING OFFICIAL'S sole and exclusive remedy shall be to seek an extension of time to its schedule subject to the procedures set forth in Article 4.

ARTICLE 14. - SECURING AGREEMENT/PUBLIC ENTITY CRIMES

- 14.1 BUILDING OFFICIAL warrants that BUILDING OFFICIAL has not employed or retained any company or person, other than a bona fide employee working solely for BUILDING OFFICIAL, to solicit or secure this Agreement and that BUILDING OFFICIAL has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for BUILDING OFFICIAL, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this Agreement. At the time this Agreement is executed, BUILDING OFFICIAL shall sign and deliver to OWNER the Truth-In-Negotiation Certificate attached hereto and made a part hereof as Schedule F. BUILDING OFFICIAL'S compensation shall be adjusted to exclude any sums by which OWNER determines the compensation was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs.
- 14.2 By its execution of this Agreement, BUILDING OFFICIAL acknowledges that it has been informed by OWNER of the terms of Section 287.133(2)(a), Florida Statutes, which read as follows:

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may

not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

ARTICLE 15. - CONFLICT OF INTEREST

- 15.1 BUILDING OFFICIAL represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder. BUILDING OFFICIAL further represents that no persons having any such interest shall be employed to perform those services.

ARTICLE 16. - MODIFICATION

- 16.1 No modification or change in this Agreement shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

ARTICLE 17. - NOTICES AND ADDRESS OF RECORD

- 17.1 All notices required or made pursuant to this Agreement to be given by BUILDING OFFICIAL to OWNER shall be in writing and shall be delivered either (i) by mailing same by United States mail with proper postage affixed thereto, certified, return receipt requested, or (ii) by sending same by Federal Express, Express Mail or other expedited mail or package delivery, (iii) by hand delivery to the appropriate address as herein provided, or (iv) by email or OWNER-approved project management software, with confirmation copy to be mailed. Notices required hereunder shall be directed to the following address:

Lee County School District
Senior Program Manager of Facility Development & Programming
3308 Canal Street
Fort Myers, Florida 33916
Email: ScottCR@LeeSchools.Net

- 17.2 All notices required or made pursuant to this Agreement to be given by OWNER to BUILDING OFFICIAL shall be made in writing and shall be delivered either by mailing same by United States mail with proper postage affixed thereto, certified, return receipt requested, or (ii) by sending same by Federal Express, Express Mail or other expedited mail or package delivery, (iii) by hand delivery to the appropriate address as herein provided, or (iv) by email with confirmation copy to be mailed. Notices required hereunder shall be directed to the following address:

«Vendor_Name»
«Address_Line_1», «City_State_and_Zip_Code»
Attn: «Contact_Name»
Email: [«Email_Address»](#)

- 17.3 Either party may change its address of record by written notice to the other party given in accordance with requirements of this Article.

ARTICLE 18. - MISCELLANEOUS

- 18.1 BUILDING OFFICIAL, in representing OWNER, shall promote the best interest of OWNER and assume towards OWNER a fiduciary relationship of the highest trust, confidence, and fair dealing.
- 18.2 No modification, waiver, suspension or termination of the Agreement or of any terms thereof shall impair the rights or liabilities of either party.
- 18.3 This Agreement is not assignable by BUILDING OFFICIAL, in whole or in part, without the prior written consent of OWNER.
- 18.4 Waiver by either party of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Agreement.
- 18.5 The headings of the Articles, Sections, Schedules and Attachments as contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit or change the provisions in such Articles, Sections, Schedules and Attachments.
- 18.6 This Agreement, including any Addenda and referenced Schedules and Attachments hereto, constitutes the entire agreement between the parties hereto relating to the matter set forth herein and shall supersede, replace and nullify any and all prior agreements or understandings, written or oral, relating to the matter set forth herein, and any such prior agreements or understanding shall have no force or effect whatever on this Agreement.
- 18.7 Unless the content of the Agreement otherwise clearly requires, references to the plural include the singular, the term "including" is not limiting and the terms "hereof," "herein," "hereunder" and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. Additionally, the parties hereto acknowledge that they have carefully reviewed this Agreement and have been advised by counsel of their choosing with respect thereto, and that they understand its contents and agree that this Agreement should not be construed more strongly against any party hereto, regardless of who is responsible for its preparation.
- 18.8 All representations and covenants of the parties shall survive the expiration of this Agreement.
- 18.9 This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
- 18.10 Any and all other provisions of this Agreement to the contrary notwithstanding, this Agreement is contingent upon Department of Education (DOE) approval of this Project in the Educational Facilities Plan or Supplemental Survey. In the event such approval is not received, BUILDING OFFICIAL shall be entitled to pro rata compensation for all services provided prior to OWNER's delivery of notice that such approval has been denied, and this Agreement shall otherwise be null and void, and OWNER shall have no further liability to BUILDING OFFICIAL whatsoever as a result hereof.

- 18.11 BUILDING OFFICIAL will comply with all requirements of Sections 1012.32, 1012.465, 1012.467 and 1012.468, Florida Statutes. If compliance with these requirements requires background screening of any of BUILDING OFFICIAL's employees, subcontractors and their employees, BUILDING OFFICIAL will bear the cost of acquiring the background screening, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to BUILDING OFFICIAL and its employees. The parties agree that in the event that BUILDING OFFICIAL fails to perform any of the duties described in this paragraph, this will constitute a material breach of the contract entitling OWNER to terminate immediately with no further responsibility to make payment or perform any other duties under this contract. BUILDING OFFICIAL agrees to indemnify and hold harmless OWNER, its officers and employees from any liability in the form of physical injury, death, or property damage resulting from BUILDING OFFICIAL's failure to comply with the requirements of this paragraph or Sections 1012.32, 1012.465, 1012.467, and 1012.468 Florida Statutes.
- 18.12 BUILDING OFFICIAL will comply with requirement of Florida Department of Education, Office of Educational Facilities, OEF 110B - Certificate of Occupancy and OEF 209 - Certificate of Final Occupancy/Certificate of Final Inspection as referenced on Schedule G.
- 18.13 The following Schedules are incorporated herein by reference:
- Schedule A - Scope of Services
 - Schedule B - Staffing Schedule
 - Schedule C - Rate Schedule
 - Schedule D - Time Schedule
 - Schedule E - Insurance Coverage Requirements
 - Schedule F - Truth in Negotiation Certificate
 - Schedule G - Certificate of Occupancy / Certificate of Final Inspection
 - Schedule H – Federal Grants Terms and Conditions

ARTICLE 19. - APPLICABLE LAW

- 19.1 Unless otherwise specified, this Agreement shall be governed by the laws, rules, and regulations of the State of Florida, and by the laws, rules, and regulations of the United States when providing services funded by the United States government.
- 19.2 Any litigation between OWNER and BUILDING OFFICIAL, whether or not arising out of or relating to any claim or arising out of this Agreement or any breach thereof, shall be brought, maintained and pursued only in the courts of the State of Florida's Twentieth Judicial Circuit in and for Lee County, Florida; and OWNER and BUILDING OFFICIAL each hereby waive and renounce any and all rights and options which they, or either of them, have or might have to bring or maintain any such litigation or action in the Federal Court system of the United States. Venue of any such litigation between the parties hereto shall lie and be only in the appropriate State courts of the State of Florida's Twentieth Judicial Circuit in and for Lee County, Florida, and the parties consent and submit to the jurisdiction of any such court. This Agreement is entered into by the parties hereby in Lee County, Florida. **IN ADDITION, THE PARTIES EXPRESSLY WAIVE ALL RIGHTS TO TRIAL BY JURY IN ANY LITIGATION INVOLVING THE PROJECT OR THIS AGREEMENT.**

ARTICLE 20. - EQUAL EMPLOYMENT OPPORTUNITY/NONDISCRIMINATION

- 20.1 In performing all services to be provided hereunder, BUILDING OFFICIAL shall not discriminate against any employee or applicant for employment because of race, color, religion, gender, sexual orientation, pregnancy, marital status, disability, national or ethnic origin or other applicable Federal, State or locally recognized legally protected class. BUILDING OFFICIAL shall take affirmative action to insure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, , gender, sexual orientation, pregnancy, marital status, disability, national or ethnic origin or other applicable Federal, State or locally recognized legally protected class. Such action shall include, but not be limited to, the following: (i) employment, upgrading, demotion or transfer; (ii) recruitment or recruitment advertising; (iii) layoff or termination; (iv) rates of pay or other forms of compensation; and (v) selection for training, including apprenticeship. BUILDING OFFICIAL shall post in conspicuous places, available to employees and applicants for employment notices setting forth the terms of this Equal Employment Opportunity/ Nondiscrimination Clause and stating that all qualified candidates will receive consideration for employment without regard to race, color, religion, , gender, sexual orientation, pregnancy, marital status, disability, national or ethnic origin or other applicable Federal, State or locally recognized legally protected class.

ARTICLE 21. - DISPUTE RESOLUTION

- 21.1 Prior to the filing of any litigation by OWNER or BUILDING OFFICIAL against the other (and, except as described below, as a precondition to any such filing), OWNER and BUILDING OFFICIAL shall engage in pre-suit mediation. Such mediation may be requested by either party, at any time, and shall be conducted the same as if such mediation were ordered by a Florida Circuit Court (i.e., in accordance with, and subject to, all of the laws and rules applicable to court ordered mediation). Such mediation shall be conducted within a reasonable period of time after the same is requested in writing by either party. If the parties are unable to agree upon the selection of a mediator, either party may petition or request that the Circuit Court in Lee County, Florida (or the Mediation Coordinator for the Courts of Lee County, Florida) appoint a mediator. A mediator who is so appointed may only be challenged for cause, and not peremptory. While the request for and the conducting of such a mediation shall be a precondition to the filing of a civil action, in the event that either party is in jeopardy of losing its right to sue (e.g., the statute of limitations is about to expire), then a suit may be filed before mediation is conducted, provided that mediation is requested before, or simultaneously with, the filing of such suit, and is conducted before the named defendant in the suit is required to respond to the Complaint. In such an event, the parties shall stipulate to stay the litigation until the conclusion of the requisite mediation.

ARTICLE 22. - PUBLIC RECORDS

PUBLIC RECORDS NOTICE: If BUILDING OFFICIAL has questions regarding the application of Chapter 119, Florida Statutes, to its duty to provide public records related to the agreement, contact the Custodian of Public Records, PublicRecords@LeeSchools.Net, (239) 337-8420, 2855 Colonial Blvd., Fort Myers, FL 33966.

BUILDING OFFICIAL is required to comply with the Florida Public Records Law, Chapter 119, Florida Statutes, in the performance of its duties under this contract and will specifically:

- a) Keep and maintain public records required by the OWNER to perform the service.
- b) Upon request from the OWNER'S custodian of public records, provide the 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 the Chapter 119, Florida Statutes or as otherwise provided by law.
- c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Agreement if BUILDING OFFICIAL does not transfer the records to the OWNER.
- d) Upon completion of the contract, transfer, at no cost, to the OWNER all public records in possession of BUILDING OFFICIAL or keep and maintain public records required by the OWNER to perform the service. If BUILDING OFFICIAL transfers all public records to the OWNER upon completion of the contract, BUILDING OFFICIAL shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If BUILDING OFFICIAL keeps and maintains public records upon completion of the contract, BUILDING OFFICIAL shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the OWNER, upon request of the OWNER'S custodian of public records, in a format that is compatible with the information technology systems of the OWNER.
- e) The failure of the BUILDING OFFICIAL to comply with the provisions set forth herein shall constitute a default and material breach of this Agreement, which may result in immediate termination, with no penalty to the OWNER.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

OWNER

The School Board of Lee County, Florida

By: _____

Print Name: Gregory K. Adkins, Ed.D.

Its: Superintendent

BUILDING OFFICIAL

«Vendor_Name»

By: _____

Print Name: «Contact_Name»

Its: _____

Date: _____

Date: _____

Approved as to Form:

By: _____
School Board Attorney

SAMPLE

SCHEDULE A

SCOPE OF SERVICES

1. DESCRIPTION OF PROJECT:

- 1.1. This Project is located on **Block Lane, Estero, Florida**.
- 1.2. This Project consists of the plan review, permitting, inspections and materials testing for new construction of **“K” Elementary School (1,000 seats) and “NN” Middle School (1,300 seats)**:

2. PLAN REVIEW AND PERMITTING:

- 2.1. BUILDING OFFICIAL will provide licensed and certified plan examiners to review Construction Documents prepared by DESIGN PROFESSIONAL hired by OWNER.
- 2.2. BUILDING OFFICIAL will conduct reviews of the Construction Documents in the following areas:
 - Plan Review
 - Building Code Review
 - Mechanical Code Review
 - Electrical Code Review
 - Plumbing Code Review
 - Life Safety Code Review
 - Fire Code Review
 - Threshold Inspections

*And all inspections and reviews necessary for a complete inspection of all work.

- 2.3. BUILDING OFFICIAL will issue appropriate permits for the Project upon completion of the plan reviews set forth above if the Construction Documents comply with all laws, statutes, ordinances, codes, rules, regulations, state fire marshal requirements and the Florida Building Code as well as the requirements of any governmental agencies which regulate or have jurisdiction over the Project.
- 2.4. If BUILDING OFFICIAL determines that the Construction Documents show that the Project does not comply with any of the rules, regulations, codes or statutes that apply to the Project, BUILDING OFFICIAL will promptly notify OWNER of same.
- 2.5. When the Project has been completed to the point where occupancy can be allowed, BUILDING OFFICIAL will issue a Certificate of Occupancy for the Project.

3. BUILDING INSPECTIONS

- 3.1. As part of the Basic Services, BUILDING OFFICIAL will perform building inspections at various stages of construction of the Project, including, foundation inspection, framing inspection, sheathing inspection, roof inspection, roof framing, roof sheathing, roof final, erection of

structural masonry, structural steel, interior framing, fire stopping, insulation, dry-in, windows and doors, structural final, final inspection.

- 3.2. As part of the Basic Services, BUILDING OFFICIAL will perform electrical inspections at various stages of construction of the Project, including underground inspection, rough-in inspection, electric meter final and final inspection.
- 3.3. As part of the Basic Services, BUILDING OFFICIAL will perform plumbing inspections at various stages of construction of the Project, including underground inspection, rough-in inspection, sanitary sewer, final inspection.
- 3.4. As part of the Basic Services, BUILDING OFFICIAL will perform mechanical inspections at various stages of construction of the Project, including underground inspection, rough-in inspection, final inspection.
- 3.5. As part of the Basic Services, BUILDING OFFICIAL will perform gas inspections at various stages of construction of the Project, including rough piping inspection, final piping inspection, final inspection.

4. THRESHOLD INSPECTIONS:

- 4.1. As part of the Basic Services, BUILDING OFFICIAL will perform Threshold Inspection services including reinforcing steel placement, shoring, re-shoring inspections verification, concrete and grout placement, pre and post fill cell grouting, structural steel, welds and connections inspections. BUILDING OFFICIAL will also provide a daily record of type and location of work, including weather, temperature and time of day on days that BUILDING OFFICIAL is on site.

5. FIRE INSPECTIONS:

- 5.1. As part of the Basic Services, BUILDING OFFICIAL will perform Fire Inspection services including plan review, permitting, inspections and final inspection.

6. MATERIALS TESTING:

- 6.1 BUILDING OFFICIAL will, as part of the Basic Services, perform the following estimated Materials Testing:

Concrete Sets – _____ Total Tests, broken down as follows:

- _____ Foundations
- _____ Slab on Grade
- _____ Second Floor Slab
- _____ Beams/Columns
- _____ Masonry/Grout

Soil Density Testing – _____ Total Tests, broken down as follows:

- _____ Building Pad
- _____ Footings
- _____ Utilities
- _____ Walkways and Paved Areas

SCHEDULE B
STAFFING SCHEDULE

SAMPLE

SCHEDULE C
RATE SCHEDULE

Service	Estimated Cost
Plan Review and Permitting	\$
Building Inspections	\$
Threshold Inspections	\$
Fire Inspections	\$
Materials Testing	\$
Fireproof Testing	\$
Ground Improvement Monitoring	\$
Total "NOT TO EXCEED" Fixed Fee	\$

SCHEDULE D

TIME SCHEDULE

Inspections and testing shall be performed within 48 hours of request.

All final closeout documents must be completed within sixty (60) days of Substantial Completion date.

SAMPLE

SCHEDULE E

INSURANCE COVERAGE REQUIREMENTS

<u>INSURANCE TYPE</u>	<u>REQUIRED LIMITS</u>
<u>X</u> 1. Workers' Compensation	Statutory Limits of Florida Statutes, Chapter 440 and all Federal Government Statutory Limits and Requirements. Policy must include Employers Liability with a limits of <u>\$1,000,000.00</u> each incident <u>\$1,000,000.00</u> each employee <u>\$1,000,000.00</u> policy limit for disease
<u>X</u> 2. Commercial General Liability	<u>\$2,000,000.00</u> per Occurrence No exclusion shall apply to: premises, independent contractors, and contractual liability, property damage that results from explosion, collapse or underground (XCU) exposures, or limitations to Additional Insurance coverage, including time limitation for products /completed operations.
<u>X</u> 3. Indemnification: The BUILDING OFFICAL, in consideration of One Hundred Dollars (\$100.00), the receipt and sufficiency of which is accepted through the signing of this document, shall hold harmless and defend The School Board of Lee County and its agents and employees from all third party claims, suits and actions, including reasonable attorney's fees and all costs of litigation and judgments of any name and description to the extent caused by negligent acts or omissions in the performance of this contract or work performed there under. This provision shall also pertain to any claims brought against The School Board of Lee County by an employee of the named BUILDING OFFICIAL, any subconsultant, or anyone directly or indirectly employed by any of them. The BUILDING OFFICALS obligation under this provision shall not be limited in any way by the agreed upon contract price as shown in this Contract or the BUILDING OFFICIAL limit of, or lack of, sufficient insurance protection. The first One Hundred Dollars (\$100.00) or money received on the contract price is considered as payment of this obligation by The School Board of Lee County.	
<u>X</u> 4. Automobile Liability Owned/Non-owned/Hired Automobile Included	<u>\$2,000,000.00</u> Each Occurrence
<u>X</u> 5. Umbrella or Excess Liability can be utilized to provide the required limits. Coverage shall be "following form" and shall not be more restrictive than the underlying insurance policy coverages, including all special endorsements and District's Additional Insured status.	
<u>X</u> 6. Other Insurance as indicated below: a) Professional Liability	<u>\$2,000,000.00</u>
<u>X</u> 7. BUIILDING OFFICIAL firm shall insure that all sub-consultants comply with the same insurance requirements that they are required to meet. BUILDING OFFICIAL shall provide The School Board of Lee County with certificates of insurance meeting the required insurance provisions.	

8. Current valid insurance policies meeting the requirements shall be maintained for the duration of the named project. Renewal certificates shall be sent to the School Board 30 days prior to any expiration date.

9. **Thirty (30) Days Cancellation, Non-Renewal, or Material Change in coverage, Notice is required, either via insurance policy or directly by BUILDING OFFICIAL.**

10. The School Board of Lee County must be named as **“ADDITIONAL INSURED”** on the Insurance Certificate for all coverages except Workers Compensation and Professional Liability.

11. The School Board of Lee County must be named as the Certificate Holder.

NOTE: The “Certificate Holder” should read as follows:

The School Board of Lee County, Florida

Attn: Procurement Services

2855 Colonial Boulevard

Fort Myers, Florida 33966

13. **The Certificate must state the RFQ Number and Title.**

BUILDING OFFICIAL AND INSURANCE AGENT STATEMENT:

We understand the insurance requirements contained in these specifications, and that the evidence of said insurance is required within ten (10) calendar days of the Notice of Award. The School Board of Lee County must be named as “ADDITIONAL INSURED” on the Insurance Certificate for all coverages except Workers Compensation and Professional Liability Policies. The School Board of Lee County desires proof of insurability at levels required for this project.

A current certificate of insurance is attached: _____ YES _____ NO

Name

Title

Signature

SCHEDULE F

TRUTH IN NEGOTIATION CERTIFICATE

In compliance with the Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes, **«Vendor Name»** hereby certifies that wage rates and other factual unit costs supporting the compensation for the architectural and/or engineering services of BUILDING OFFICIAL to be provided under this Agreement, concerning BUILDING OFFICIAL Services for **«Project Name»** are accurate, complete and current as of the time of contracting.

BUILDING OFFICIAL: «Vendor_Name»

By: _____

Print Name: _____

Title: _____

Date: _____

SAMPLE

SCHEDULE G

CERTIFICATE OF OCCUPANCY/CERTIFICATE OF FINAL INSPECTION

Department of Education Form OEF 110B

Department of Education Form OEF 209

SAMPLE

SCHEDULE H

FEDERAL GRANTS TERMS AND CONDITIONS

For any projects on the awarded contract that involve, receive or utilize Federal Grants funding, the following terms and conditions shall be considered a part of the contract and the Building Official accepts and acknowledges that it is and will continue to be in compliance with said terms and conditions for the term of the award. If Building Official fails to comply with these terms, Building Official shall notify owner in writing within five (5) business days.

1. **ILLEGAL ALIEN LABOR**

Building Official shall comply with all federal and state laws prohibiting the hiring and continued employment of aliens not authorized to work in the United States. Building Official must not knowingly employ unauthorized aliens and should such violation occur shall be cause for cancellation of the contract. The Building Official and its subcontractors will utilize the E-verify system established by the U.S. Department of Homeland Security to verify the employment eligibility of its employees.

2. **RECOVERED MATERIALS (2 CFR §200.322) applies to all contracts greater than \$10,000.** Building Official must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

3. **FEDERAL DRUG FREE WORKPLACE** Building Official agrees to comply with the drug-free workplace requirements for federal Building Officials pursuant to 41 U.S.C.A. § 8102.

4. **BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352) applies if contract is greater than or equal to \$100,000.** Building Official certifies that it has filed the required certification and that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of an agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Building Official must disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

5. **ENERGY EFFICIENCY / CONSERVATION (42 U.S.C. 6201)** Building Official agrees to comply with the mandatory standards and policies relating to energy efficiency contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

6. **CLEAN AIR ACT (42 U.S.C. 7401 et seq.) and the FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. 1251 et seq.), as amended applies to contracts and subgrants in excess of \$150,000.** Building Official agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Building Official shall report any and all violations to the Federal awarding agency and the Regional Office of the EPA, and notify SBSC concurrently within 30 days of notice of the violation.
7. **REMEDIES FOR VIOLATION OR BREACH OF CONTRACT** Failure of the vendor to provide products within the time specified in the ITB shall result in the following: The Buyer shall notify vendor in writing within five (5) calendar days via the Vendor Performance Form and provide five (5) calendar days to cure. If awarded vendor cannot provide product, SBSC reserves the right to purchase product from the next lowest responsive and responsible bidder. The defaulting vendor may be responsible for reimbursing SBSC for the price differences.
8. **DEBARMENT AND SUSPENSION** Building Official certifies that it complies fully with the Federal Debarment Certification regarding debarment suspension, ineligibility and voluntary exclusion. In accordance with 2 CFR part 180 that implement Executive Orders 12549 and 12689. Furthermore, Building Official certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
9. **EQUAL EMPLOYMENT OPPORTUNITY** During the performance of this contract, the Building Official agrees as follows:
 - a. The Building Official will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Building Official 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 Building Official agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
 - b. The Building Official will, in all solicitations or advancements for employees placed by or on behalf of the Building Official, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
 - c. The Building Official 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 Building Official's legal duty to furnish information.

- d. The Building Official will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a Record Retention and access requirements to all records The Building Official 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 by the agency contracting officer, advising the labor union or workers' representative of the Building Official's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. The Building Official will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f. The Building Official will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of the Building Official's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the Building Official may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h. The Building Official will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Building Official will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Building Official becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Building Official may request the United States to enter into such litigation to protect the interests of the United States.

10. **COPELAND "ANTI-KICKBACK" ACT (18 U.S.C. 874 AND 40 U.S.C. 276C)** The Building Official certifies that it is, and will continue to be, for the term of this contract in for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Building Officials and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each Building Official or sub recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
11. **DAVIS-BACON ACT, AS AMENDED (40 U.S.C. 276A TO A-7)** Building Official, certifies that it is, and will continue for the term of this contract, to be in compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146- 3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, the Building Official is herein 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. In addition, Building Official agrees to pay wages not less than once a week. The Building Official must provide a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. Building Official acknowledge that the decision to award this contract or subcontract is conditioned upon the acceptance of the wage determination which the Building Official accepts. The Building Official agrees to report all suspected or reported violations to the Federal awarding agency and to notify SBSC concurrently. The Building Official certifies that it is, and will continue to be, for the term of this contract in full compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Building Officials and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each Building Official or sub recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
12. **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. 327-333)** Building Official, certifies that it is, and will continue for the term of this contract, to be in compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each Building Official must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

13. **HEALTH AND SAFETY STANDARDS IN BUILDING TRADES AND CONSTRUCTION industry (40**

U.S.C. 3704) No laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous.

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