



RFP #18-02 for College-Wide Roof Repairs

## **Contract Template**

Attachment 1



# Contract for College-Wide Roof Repairs

RFP #18-02

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**This Contract** is made and entered into by and between **Polk State College** (hereinafter referred to as Polk State), an educational institution whose address is 999 Avenue H, NE, Winter Haven, Florida 33811-4299 and Florida Dept. of Revenue Consumer's Certificate of Exemption number is 85-8012557313C-6 and Federal Identification Number is 59-1209033, and \_\_\_\_\_ (hereinafter referred to as Contractor), whose address is \_\_\_\_\_, and Federal Identification Number is \_\_\_\_\_.

**Whereas**, Polk State requires professional roof repairs services for its campuses/centers/sites, and;

**Whereas**, Contractor represents it is capable and prepared to provide such Services:

**Now, therefore**, in consideration of the promises contained herein, the parties hereto agree as follows:

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**1. Effective/Start Date and Term of Contract**

- a. Prices will remain fixed for the duration of the contract. Polk State and the Contractor may negotiate any price increases. Any agreement that changes the prices contained in the original RFP must be approved by the District Board of Trustees of Polk State College, or are not applicable or enforceable. Any price changes must be in the form of an amendment to the contract.

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**2. Services to be Performed by Contractor**

Contractor shall perform the services as specifically stated in the repair specifications (attachment 3) and as may be specifically designated, authorized by Polk State's Contract administrator, and documented by Contract Amendment or Purchase Order (PO).

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**3. Compensation**

Price Proposal (Attachment 1).

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**4. Payment**

- a. Contractor shall submit a monthly invoice for services rendered.
- b. Each individual invoice shall be due and payable thirty (30) days after receipt of correct, fully documented, invoice by Polk State.
- c. All invoices shall be delivered to:

Polk State College  
999 Avenue H, NE  
Winter Haven, FL 33881-4299  
Attn: ACCOUNTS PAYABLE

- d. A monthly statement is required, unless there are no outstanding invoices.
- e. Contractor shall be paid on a monthly basis in arrears.
- f. Request for payment shall be in a AIA format.

- g. A 10% retainage will be enforced for each payment request.
- h. No claim for work furnished by the Contractor, not specifically provided for herein, shall be honored by Polk State.

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## 5. Access and Audits

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- a. Contractor shall maintain adequate records to document charges for Special Events.
- b. The auditor will need access to the following documents (but not limited to) during an audit:
  - 1) Copies of all contracts and copies of any contract amendments / change orders
  - 2) Insurance documents
  - 3) Payroll
  - 4) Time sheets
- c. Polk State shall have access to those books, records, and documents as required in this section for the purpose of inspection or audit during normal working business hours upon five (5) days written notice.
- d. Records shall be made available for review/audit at the Contractor's local place of business for at least two (2) years after completion of this Contract.

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## 6. Availability of Funds

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The obligations of Polk State under this Contract are subject to the availability of funds lawfully appropriated for its purpose by the District Board of Trustees of Polk State College.

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## 7. Termination of Contract

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- a. This Contract may be terminated by the Contractor upon ninety (90) days prior written notice to Polk State in the event of substantial failure by Polk State to perform in accordance with the terms of the Contract through no fault of the Contractor. Ninety (90) days are required so that Polk State may have sufficient time to re-procure another contract to provide services.
- b. It may also be terminated by Polk State with or without cause immediately upon written notice to the Contractor. Unless the Contractor is in breach of this Contract, the Contractor shall be paid for services rendered to Polk State's satisfaction through the date of termination. After receipt of a Termination Notice and except as otherwise directed by Polk State, the Contractor shall:
  - 1) Stop work on the date and to the extent specified
  - 2) Terminate and settle all orders and orders for supplies relating to the performance of the terminated work
  - 3) Continue and complete all parts of the work that have not been terminated
- c. The Contractor shall be paid for services actually rendered to the date of termination.

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## 8. Contract Administration

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- a. **Lakeland Campus/Advance Technology Center/Airside:** Services of Contractor shall be under the general direction of the **Lakeland Plant Manager**, who shall act as Polk State's Contract Site Representative.
- b. **Winter Haven Campus/Center for Public Service:** Services of Contractor shall be under the general direction of the **Winter Haven Plant Manager**, who shall act as Polk State's Contract Site Representative.

- c. **Contractor's Contract Administrator:** Contractor shall submit in writing to Polk State's Contract Administrator, at least seven calendar days prior to the Contract starting date, the project of schedule. This schedule must be satisfactory to the Polk State's college Contract Administrator.
- d. **Meetings with Polk State Staff:** Polk State's Contract administrator shall hold regularly scheduled meetings (weekly) with the Contractor.
- e. **District Director of Facilities:** Shall have overall responsibilities and Contract Administration for compliance to this contract.

**9. Inspection and Penalties**

- a. Polk State's Contract Administrator, at his/her option, may inspect daily the Contractor's work using prescribed forms to record performance. Polk State's Contract administrator has the authority and responsibility to point out to the Contractor any incomplete or defective work.
- b. An insufficient number of personnel on the Contractor's staff shall not be an acceptable excuse/cause to waive penalties and/or contract delays.
- c. Failure to satisfactorily perform the quality of work required under this Contract shall be accepted as evidence that the Contractor's work force is too small or that supervision is inadequate. In either case, immediate corrective measures shall be made upon notice from Polk State's Contract Administrator.

**10. Notice**

- a. Any notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person or sent by certified mail, postage prepaid, as follows:

<p><b>As To Polk State:</b></p> <p>Polk State College          999 Avenue H, NE          Winter Haven, Florida 33881-4299          Attention: Director of Purchasing</p>	<p><b>As to Contractor:</b></p> <p>Name: _____          Address: _____          City/State/Zip: _____          Attention: _____</p>
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- b. Notices shall be effective when received at the addresses as specified above. Changes in the respective addresses to which such notice is to be directed may be made from time to time by either party by written notice to the other party. Facsimile transmission is acceptable notice effective when received; however, facsimile transmissions received (i.e.; printed) after 5:00 p.m. or on weekends or holidays will be deemed received on the next business day. The original of the notice must additionally be mailed as required herein.
- c. Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the Contractor and Polk State.

**11. Polk State's Responsibilities**

- a. Polk State shall be responsible for providing access to all facilities.
- b. Polk State will provide all water and electricity as are needed to perform these services. The Contractor shall use these commodities sparingly.

**12. Conduct**

- a. The Contractor shall require his employees to comply with any and all instructions pertaining to conduct and building regulations issued by duly appointed officials, such as Polk State's Contract Administrator and Security Officers.
- b. Contractor's employees shall refrain from using vulgar/foul language while on Polk State campuses and abide by Polk State's Sexual Harassment Policy (Exhibit 4).
- c. Contractor's employees shall be restricted from interior spaces.
- a. All personnel assigned and/or beginning work on this Contract shall be trained and fully aware of their responsibilities and duties.

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### **13. Criminal Record Check**

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- a. All employees working on the Polk State campuses shall have no criminal record/history for the past five (5) years.
- b. All contractors/vendors who are permitted access on school grounds when students are present have direct contact with students, or who have access to or control of school funds for Polk State, must meet the Level 2 screening requirements, pursuant to F.S. 1012.32, in order to comply with the Jessica Lunsford Act (F.S. 1012-465). The cost of such background screening and badging is to be paid by the Contractor/vendor.

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### **14. Supervision of Employees**

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- a. The Contractor shall at all times provide adequate on-site supervision of employees to ensure complete and satisfactory performance of all work in accordance with the contract. The Contractor's site supervisor shall be available on-site at all times when the work is being performed.
- b) Any records associated with this contract must be made available for review to the Polk State College Contract Administrator upon 24 hours' notice.

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### **15. Access to Polk State Premises**

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- a. Neither the Contractor nor their employees shall permit any authorized individual to have access to the building or rooms designated herein. Any person(s) requesting access to a building shall be referred to the Security Officer.
- b. Contractor's employees shall not bring any family and/or friends (or allow them access to Polk State buildings) with them during work hours to the Polk State campus. Any employee of the Contractor who does so, shall not be permitted to work on Polk State's campuses on this Contract, and shall immediately be replaced.

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### **16. Employee Records**

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- a. The Contractor shall keep the following records for each employee performing work for this contract:
  - 1) Employee Name
  - 2) Employee Work Classification
  - 3) Daily Hours Worked
  - 4) Locations Cleaned
  - 5) Completed I-9
  - 6) Results of a criminal record check and finger printing as required in paragraph 11 (a) and (b)

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### **17. Supplies, Materials and Equipment**

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- a. The Contractor shall furnish all supplies, products, material, and equipment necessary for the performance of the work included in this contract. The supplies and materials shall be of a quality to conform with applicable specifications and remain the responsibility of the Contractor until installation is completed.
- b. Polk State's Contract Administrator shall require samples of the supplies intended for use before work commences on the contract, or during the term of the contract. Any items failing to meet with Polk State's Contract Administrator's approval shall be replaced by the Contractor.
- c. Equipment shall be maintained and replaced as needed, as directed by Polk State's Contract Administrator.
- d. Storing and staging areas to be designated by contract's administrator.

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## **18. Reporting**

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- a. Prior to commencement of the contract, Polk State's Contract Administrator and the Contractor shall meet and review the total workload. Written plans must be submitted by the Contractor no less than seven (7) days prior to the contract starting date.
- b. Status reports shall be submitted to Polk State's Contract Administrator on a regular basis. Said reports shall be submitted on forms furnished by the Contractor and acceptable to Polk State's Contract Administrator.

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## **19. Damage Caused by Contractor**

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- a. If Polk State's Contract Administrator finds that repairs or changes are required to a building, its contents, or its appurtenances that, in the opinion of Polk State's contract administrator, are rendered necessary as the result of the use of inferior or defective materials, equipment, or workmanship that is not in accordance with the Contract's Scope of Work; the Contractor shall promptly, upon receipt of notice from Polk State's Contract Administrator, place in satisfactory condition and/or correct all defects, and make good any work, materials, equipment, and contents of said building or site disturbed in making such restoration.
- b. If in any case where the fulfilling of the requirements of the Contract or any restoration work required thereby, the Contractor disturbs any work guaranteed under another contract, the Contractor shall restore such disturbed work to a condition satisfactory to Polk State's Contract Administrator and guarantee such restored work to the same extent as it was guaranteed under such other contract.
- c. Upon the Contractor's failure to proceed promptly to comply as above, Polk State may either:
  - 1) Have the work performed as Polk State's Contract Administrator deems necessary, or
  - 2) Allow the damaged or defective work or portion of the building, site contents, equipment, or work disturbed to remain in such unsatisfactory condition, provided that the Contractor shall promptly pay Polk State the sum expended by Polk State to correct the deficiency
- d. In the event the Contractor fails to pay promptly on demand any sum expended or estimated, Polk State shall deduct the amount from any monies due or to become due to the Contractor under this Contract.
- e. The Contractor shall replace any injured or dead plants/trees which were injured due to the disposal of waste water in planters or on Polk State grounds.

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## **20. Lost, Found, or Missing Articles**

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- a. All unclaimed articles found in or about the work areas by the Contractor shall be turned in immediately to Polk State's Security Officer.
- b. The Contractor shall be held responsible in the event of theft or damage of Polk State property or personal property of Polk State employees as the result of Contractor's employees' negligence.

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**21. Work Schedule**

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- a. Final schedules shall consider a fully occupied location at all times.
- b. Clean up shall be performed on a daily basis.

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**22. Indemnification**

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- a. Having considered the risks and potential liabilities that may exist during the performance of the Services and in consideration of the promises included herein, Polk State and the Contractor agree to allocate such liabilities as follows:
- b. Contractor agrees to protect, defend, indemnify, and hold harmless Polk State, its employees, students, guests and representatives from any and all claims and liabilities, including all attorney's fees and court costs, including appeals, for which Polk State, its employees, and representatives, can or may be held liable as a result of injury (including death) to persons or damage to property occurring by reason of any negligent acts or omissions of the Contractor, its employees, subcontractors, representatives or agents, arising out of or connected with this Contract.
- c. The Contractor shall not be required to indemnify Polk State or its agents, employees, or representatives when an occurrence results solely from the wrongful acts or omissions of Polk State or its agents, employees, or representatives.
- d. Upon completion of all services, obligations, and duties provided for in this Contract, or in the event of termination of this Contract for any reason, the terms and conditions of this Article shall survive.

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**23. Insurance**

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- a. During the performance of the services under this Contract, Contractor shall maintain the following insurance policies and be written by an insurance company authorized to do business in Florida.

Insurance Limit Requirements	
Type of Insurance	Minimum Limits of Liability
<b>General Liability:</b> Comprehensive Commercial General Liability including Products Liability	\$1,000,000 each occurrence \$1,000,000 Personal & Adv. Injury \$2,000,000 General Aggregate \$1,000,000 Products \$2,000,000 Products Aggregate
<b>Automobile Liability:</b> owned, non-owned, and hired automobiles	\$1,000,000 per occurrence \$1,000,000 combined single limit each accident
Waiver of Subrogation Endorsement	Show Polk State in Schedule
Excess Liability or Umbrella	\$5,000,000 each occurrence
Crime or Faithful Performance	\$100,000 Employee Theft or Loss \$100,000 Depositors Forgery or Alt \$100,000 Computer and Funds Transfer
Workers' Compensation	In accordance with statutory requirements, and \$100,000 each accident or disease \$500,000 aggregate
Employer's Liability	\$500,000 each accident \$500,000 each employee - disease \$500,000 policy limit - disease

- b. Policies, other than Workers' Compensation, shall be issued by only authorized companies maintaining certificates of authority issued to the companies by the Department of Insurance of the State of Florida to conduct business in the State of Florida and which maintain a Rating of "A" or better and a Financial Size Category of "VII" or better according to the A.M. Best Company. Policies

for Workers' Compensation may be issued by companies authorized as a group self-insurer by Florida Statute 440.57.

- c. **Deductible amounts** shall not exceed 5% of the total amount of required insurance in each category. Should any policy contain any unusual exclusions, said exclusions shall be so indicated on the certificate(s) of insurance.
- d. Contractor shall furnish Polk State **certificates of insurance** which shall include a provision that policy cancellation, non-renewal, or reduction of coverage will not be effective until at least **thirty (30) days** written notice has been made to Polk State.
- e. Contractor shall include Polk State as an **additional insured** on the General Liability and Automobile Liability insurance policy required by the Contract. All of the Contractor's sub-contractors shall be required to include Polk State and Contractor as **additional insured** on their General Liability insurance policies.
- f. If an "ACORD" Certificate of Liability Insurance form is used by the Contractor's insurance agent, the words "**endeavor to**" and "**... but failure to do so shall impose no obligation or liability of any kind upon the company, its agents or representatives**" (or other appropriate/similar language) in the 'Cancellation' paragraph of the form shall be deleted.
- g. In the event that a subcontractor intended to be used by the Contractor do not have insurance, or do not meet the insurance limits, Contractor shall promptly notify Polk State and consult with the appropriate representatives of Polk State regarding the use of said subcontractor. Subject to written approval by Polk State, the Contractor shall indemnify and hold harmless Polk State for any claim in excess of the subcontractor's insurance coverage, arising out of negligent acts, errors, or omissions of the subcontractors.
- h. It is preferred that all policies are in **Occurrence** form. "Claims made" insurance policies are **not** acceptable, unless there is an extended claims reporting period of five (5) years.
- i. Defense must be in addition to the limits of liability.
- j. Misrepresentation of any material fact, whether intentional or not, regarding the Contractor's insurance coverage, policies, or capabilities may be grounds for termination of this Contract.
- k. The Contractor shall not commence work under this Contract until all insurance required as stated herein has been obtained and such insurance has been approved by Polk State.

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#### **24. Standard of Quality**

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- a. The Contractor shall exercise the same degree of care, skill, and diligence in the performance of the Services as is ordinarily provided by a comparable professional under similar circumstances; and Contractor shall, at no additional cost to Polk State, re-perform services which fail to satisfy the foregoing standard of care.
- b. The Contractor warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field.

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#### **25. Independent Contractor**

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- a. Contractor undertakes performance of the services as an independent contractor and shall be wholly responsible for the methods of performance. Polk State shall have no right to supervise the methods used, but Polk State shall have the right to observe such performance. Contractor shall work closely with Polk State in performing services under this Contract.
- b. The Contractor shall not pledge Polk State's credit or make it a guarantor of payment of surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The Contractor further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

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**26. Subcontracting**

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Sub-contractors/sub-consultants may not be utilized without prior authorization from Polk State College contract administrator in performance of the duties for this contract.

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**27. Authority to Practice**

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The Contractor hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner.

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**28. Governing Law and Venue**

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- a. This Contract shall be governed by the laws of the State of Florida.
- b. Any and all legal action necessary to enforce the Contract will be held in Polk County and the Contract will be interpreted according to the laws of Florida.

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**29. Compliance with Laws**

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In performance of the services, the Contractor will comply with applicable regulatory requirements including federal, state, special district, and local laws, rules, regulations, orders, codes, criteria, and standards.

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**30. Federal and State Taxes**

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- a. Polk State is exempt from Federal Tax and State Sales and Use Taxes. Upon request, Polk State will provide an exemption certificate to Contractor. The Contractor shall not be exempted from paying sales tax to its suppliers for materials to fulfill contractual obligations with Polk State, nor shall the Contractor be authorized to use Polk State's Tax Exemption Number in securing such materials.
- b. The Contractor shall be responsible for payment of its own and its share of its employee's payroll, payroll taxes, and benefits with respect to this Contract.

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**31. Enforcement Costs**

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If any legal action or other proceeding is brought for the enforcement of this Contract; or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs, and all expenses (including taxes) even if not taxable as court cost (including, without limitation, all such fees, costs, and expenses incidental to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

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**32. Uncontrollable Forces**

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- a. Neither Polk State nor the Contractor shall be considered to be in default of this Contract if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Contract and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to, fire, flood, earthquakes, storms, lightning, and other acts of nature, epidemic, war, riot, civil disturbance, sabotage, and governmental actions.
- b. Neither party shall, however, be excused from performance if nonperformance is due to forces which are preventable, removable, or remediable and which the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed, or remedied with reasonable dispatch.
- c. The non-performing party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the

circumstances and uncontrollable forces preventing continued performance of the obligations of this Contract

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### **33. Non-discrimination**

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The Contractor warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, gender, disability, age, or national origin.

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### **34. Waiver**

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- a. A waiver by either Polk State or the Contractor of any breach of this Contract shall not be binding upon the waiving party unless such waiver is in writing.
- b. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach.
- d. The making or acceptance of a payment by either party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any subsequent default or breach.

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### **35. Severability**

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- a. The invalidity, illegality, or unenforceability of any provision of this Contract, or the occurrence of any event rendering any portion or provision of this Contract void, shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract, and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.
- b. The provisions of this section shall not prevent the entire Contract from being void should a provision that is of the essence of the Contract be determined to be void.

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### **36. Entirety of Contractual Agreement**

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- a. Polk State and the Contractor agree that this Contract sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein.
- b. This Contract supersedes all prior agreements, contracts, proposals, representations, negotiations, letters, or other communications between Polk State and the Contractor pertaining to the services, whether written or oral.
- c. None of the provisions, terms, and conditions contained in this Contract may be added to, modified, superseded, or otherwise altered except by written instrument executed by the parties hereto.

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### **37. Modification**

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- a. The Contract may not be modified unless such modifications are evidenced in writing signed by both Polk State and the Contractor.
- b. Such modifications shall be in the form of a written Amendment executed by both parties.

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### **38. Successors and Assignment**

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- a. Polk State and the Contractor each binds itself and its directors, officers, partners, successors, executors, administrators, assigns, and legal representatives to the other party to this Contract and to the partners, successors, executors, administrators, assigns, and legal representatives.

- b. Contractor shall not assign this Contract without the express written approval of Polk State via executed amendment.

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**39. Contingent Fees**

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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 any other consideration contingent upon or resulting from the award or making of this Contract.

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**40. Truth-in-Negotiation Certificate**

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- a. Execution of this Contract by the Contractor shall act as the execution of a truth-in-negotiation certificate certifying that the wage rates and costs used to determine the compensation provided for in this Contract are accurate, complete, and current as of the date of the Contract.
- b. The said rates and costs shall be adjusted to exclude any significant sums should Polk State determine that the rates and costs were increased due to inaccurate, incomplete, or non-current wage rates or due to inaccurate representations of fees paid to outside contractors. Polk State shall exercise its rights under this "Certificate" within one (1) year following payment.

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**41. Conflict of Interest**

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During the course of any contractual relationship with Polk State, the Contractor agrees to promptly and fully disclose any direct potential conflict.

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**42. Exhibits Incorporated by Reference**

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The following exhibits attached hereto, are incorporated by reference:

- 1. Price Proposal
- 2. Damage Report
- 3. Repairs Specifications
- 4. DBOT Rule #3.27 regarding Sexual Harassment

**In Witness Whereof**, Polk State College has executed this Contract, and the Contractor has hereunto set his/her hand the day and year above written.

<b>Polk State College</b>
By: _____ Dr. Angela Falconetti
As: _____ President

<b>Contractor:</b> _____
By: _____
As: _____ President

**Approved by Polk State Board of Trustees on** \_\_\_\_\_