

**Polk State College**  
 999 Avenue H, Northeast  
 Winter Haven, Florida 33881-4299  
 Phone: 863-297-1000  
 Fax: 863-297-1085



# Contract for Services #2009-103

www.polk.edu

Polk State College and the CONTRACTOR as named below hereby enter into a Contract subject to the terms and conditions stated herein and/or attached hereto.

<b>CONTRACTOR</b>	Company Name: <b>X</b>	
	Street Address: <b>X</b>	
	City/State/Zip: <b>X</b>	
	Contact Person: <b>X</b>	E Mail Address: <b>X</b>
	Telephone No.: <b>X</b>	Fax No: <b>X</b>
<b>CONTRACT TERM</b>	Effective Date: <b>X</b>	Expiration Date: <b>X</b>
<b>CANCELLATION</b>	This Contract shall remain in full force and effect for the entire term of the Contract period as stated above, unless canceled by PSC by giving the CONTRACTOR <b>30</b> days written notice of such intention.	
<b>TERMS AND CONDITIONS</b>	By Acceptance of this Contract, CONTRACTOR agrees to all terms and conditions stated on the reverse side of this Contract and attached Exhibits.	No. of Exhibits: <b>1</b>
<b>COMPLETE DESCRIPTION OF SERVICES</b> Include special provisions. Use additional sheets of same size if required	<b>SCOPE OF WORK:</b> <b>Engineering services associated with design, installation and permitting of a practice soccer field at PSC's Lakeland Campus in accordance with Exhibit A (Scope of Work) and B (Location Plan).</b>  <b>Construction grade drawings and specifications are due on or before January 31, 2010.</b>	
<b>COST &amp; SCHEDULE OF PAYMENTS</b>	<b>CONTRACT PRICE</b>	
	<i>Check One:</i> <b>\$ TBD<sup>00</sup></b> Fixed Fee / Lump Sum Fixed Fee includes all travel related expenses. / Travel expenses are not allowable.	
<b>ACCEPTANCE AND APPROVAL</b>	<b>Schedule of Payments</b>	
	<input type="checkbox"/> Payment in full to be made upon completion, and receipt of all deliverables. See reverse side for details.	
	<input checked="" type="checkbox"/> Payment to be made in accordance with the attached <b>Schedule of Payments</b> .	
	<input type="checkbox"/> Payment to be made at the <b>hourly rate</b> of \$ _____ <input type="checkbox"/> Payment to be made at the rate of \$ _____ <b>per student</b> .	
	CONTRACTOR	Date:
	<i>Owner or authorized official</i>	
	PSC Vice-President for Administration/CFO:	Date:
	<b>Peter Elliott, CPA</b> <i>Final Approval by PSC/Authorized to sign on behalf of PSC up to \$50,000</i>	
	PSC President:	Date:
	<i>Final Approval by PSC/Authorized to sign on behalf of PSC</i>	

Revised 6-22-2009

See reverse side, or attached, for Terms and Conditions

# Terms and Conditions

**ACCESS AND AUDITS:** Contractor shall maintain adequate records to justify all charges and costs incurred in performing the work for at least three (3) years after completion of this Contract. Polk State College (PSC) shall have access for the purpose of inspection or audit during normal working business hours at the Contractor's place of business.

**AVAILABILITY OF FUNDS:** The obligations of PSC under this Contract are subject to the availability of funds lawfully appropriated for its purpose by the Board of Trustees of PSC.

**COMPLIANCE WITH LAWS:** In performance of the Services, the Contractor will comply with all applicable regulatory requirements.

**COMPENSATION:** All invoices for services rendered shall be delivered to the above address, to the attention of ACCOUNTS PAYABLE. Invoices shall include a statement of progress made regarding the project, and a breakdown of hours spent on the project (unless contract is on a fixed-fee or progress payments basis). There shall be no reimbursable expenses allowable. Each individual invoice shall be due and payable thirty (30) days after receipt of correct, fully documented, invoice by PSC. Contractor will clearly state "Final Invoice" on the Contractor's final/last billing to PSC. This certifies that all services have been properly performed and all charges and costs have been invoiced to PSC. Since this account will thereupon be closed, any and other further charges if not properly included on this final invoice are waived by Contractor.

**TRAVEL:** Reimbursement for travel expenses, when clearly allowed on the reverse side, shall be in accordance with Florida Statute 112.061: \$36 per day for meals, \$0.445 per vehicle mile, and air fare at coach prices.

**COOPERATION:** Contractor shall be required to cooperate with PSC and other consultants relative to providing any requested information in a timely manner and in the specified form.

**ENFORCEMENT COSTS:** 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.

**FEDERAL AND STATE TAXES:** PSC is exempt from Federal Tax and State Sales and Use Taxes. Contractor may download the certificates at PSC Purchasing' website at [www.polk.edu/purchasing/WebSite/VendorInformation.htm](http://www.polk.edu/purchasing/WebSite/VendorInformation.htm). The Contractor shall not be exempted from paying sales tax to its suppliers for materials to fulfill contractual obligations with PSC, nor shall the Contractor be authorized to use PSC's Tax Exemption Number in securing such materials.

**GOVERNING LAW & VENUE:** This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Contract will be held in Polk County, Florida.

**INDEMNIFICATION:** Having considered the risks and potential liabilities that may exist during the performance of the Services and in consideration of the promises included herein, PSC and the Contractor agree to allocate such liabilities as follows: the Contractor agrees to protect, defend, indemnify, and hold harmless PSC, its employees and representatives, from any and all claims and liabilities including all attorney's fees and court costs, including appeals, for which PSC, 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 acts or omissions of the Contractor, its employees, or agents, arising out of or connected with this Contract. 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.

**INSURANCE:** The Contractor is required to continue insurance coverages as shown on their Certificate of Insurance (Exhibit A), if it is attached hereto. If so, it is hereby incorporated by reference as part of this Contract, for the term of the Contract.

**INDEPENDENT CONTRACTOR:** The Contractor undertakes performance of the Services as an independent contractor and shall be wholly responsible for the methods of performance. PSC shall have no right to supervise the methods used, but PSC shall have the right to observe such performance. The Contractor shall work closely with PSC in performing Services under this Contract. The Contractor shall not pledge PSC'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, in that it has and will continue to maintain all licenses and approvals required to conduct its business. The Contractor will not be eligible for any federal social security, industrial accident, or unemployment insurance benefits from this contract payment, except as a self-employed individual. PSC will report the total amount of all payments applicable, including any expenses, in accordance with federal Internal Revenue Service rules.

**NON-DISCRIMINATION:** Contractor warrants & represents that all of its employees are treated equally without regard to race, color, religion, gender, age or national origin.

**NOTICE:** Any notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person or sent by certified mail to the other party at their specified address. Notices shall be effective when received at the addresses as specified on the reverse page. 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. EMail and/or facsimile transmission is acceptable notice effective when received, however, transmissions received (i.e.; fax 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.

**OWNERSHIP OF DOCUMENTS/WORK PRODUCT:** Any and all documents, records, disks, data, original drawings, songs, artwork, curriculum developed, and/or other work product or information specifically created or prepared to fulfill this contract shall become the property of PSC for its use and/or distribution as may be deemed appropriate by PSC. Electronic media shall not be password protected. Ownership of intellectual property and/or curriculum developed for PSC shall be transferred to PSC upon final payment.

**SEVERABILITY:** 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.

**STANDARD OF CARE:** 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 shall, at no additional cost to PSC, re-perform services which fail to satisfy PSC. The Contractor warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field.

**SUBCONTRACTING:** PSC reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractor to perform properly under this Contract. If a subcontractor fails to perform or make progress, as required by this Contract, and it is necessary to replace the subcontractor to complete the work in a timely fashion, the Contractor shall promptly do so, subject to acceptance of the new subcontractor by PSC.

**SUCCESSORS AND ASSIGNMENT:** PSC and the Contractor each binds itself and its directors, officers, 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. The Contractor shall not assign this Contract without the express written approval of PSC via executed amendment.

**TRUTH-IN-NEGOTIATION CERTIFICATE:** 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. The said rates and costs shall be adjusted to exclude any significant sums should PSC determine that the rates and costs were increased due to inaccurate, incomplete or noncurrent wage rates or due to inaccurate representations of fees paid to outside consultants. PSC shall exercise its rights under this "Certificate" within one (1) year following payment.

**WAIVER:** A waiver by either party of any breach of this Contract shall not be binding upon the waiving party unless such waiver is in writing. 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. 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.

**ENTIRETY OF AGREEMENT:** PSC 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. This Contract supersedes all prior agreements, contracts, proposals, representations, negotiations, letters or other communications between PSC and the Contractor pertaining to the Services, whether written or oral. 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.