RESOLUTION NO. 14-348

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, ACCEPTING THE PROPOSAL OF BURKE CONSTRUCTION GROUP, INC. FOR CONSTRUCTION OF THE NEW KEY WEST CITY HALL AT GLYNN ARCHER, IN ACCORDANCE WITH THE TERMS SPECIFIED IN RFP 001-15, WITH A BASE BID AMOUNT NOT TO EXCEED $14,997,500.00; AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT IN ACCORDANCE WITH THE SOLICITATION DOCUMENTS; PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, on October 22, 2014 three proposals were opened in response to RFP #001-15, for construction of the new Key West City Hall at Glynn Archer, and the proposals were determined to be fully responsive; and

WHEREAS, ranking committee members submitted ranking scores of each quality packet to the City Clerk in sealed envelopes, which were opened and tabulated, along with pricing packets, at a properly noticed meeting conducted consistent with the "Sunshine Law," on October 30, 2014, to rank the respondents to the RFP; and

WHEREAS, at a regular meeting on November 18, 2014, the City Commission reviewed the criteria of the RFP and determined that the proposal from Burke Construction Group, Inc. was the highest ranked.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the City Commission reviewed the proposals in accordance with the solicitation criteria and determined the attached proposal of Burke Construction Group, Inc. to be the highest ranked respondent for construction of the new Key West City Hall at Glynn Archer in accordance with the terms specified in RFP #001-15 with a base bid amount not to exceed $14,997,500.00.

Section 2: That the City Manager or his designee is authorized and directed to execute a contract in accordance with the solicitation documents.

Section 3: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the Presiding Officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 18 day of November, 2014.

Authenticated by the Presiding Officer and Clerk of the Commission on 13 day of January, 2014.

Filed with the Clerk on January 13, 2014.

| | |
|---|---|
| Mayor Craig Cates | Yes |
| Vice Mayor Mark Rossi | Yes |
| Commissioner Teri Johnston | No |
| Commissioner Clayton Lopez | Yes |
| Commissioner Billy Wardlow | Yes |
| Commissioner Jimmy Weekley | Yes |
| Commissioner Tony Yaniz | No |

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK

THE CITY OF KEY WEST
Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

MEMORANDUM

# EXECUTIVE SUMMARY

**Date:** November 4, 2014

**To:** City Manager

**From:** J. Michael Vieux, AIA, LEED© AP BD+C

**Cc:** James Bouquet, P.E., Director of Engineering
Greg Veliz, Assistant City Manager
Sarah Spurlock, Assistant City Manager
Don Craig, Director of Planning
Nancy Kielman, Director of Finance

**Subject:** **Approval to Declare Biltmore Construction the Successful Proposer for the Construction of the New City Hall at Glynn Archer School**

## Action Statement

Resolution approving Biltmore Construction the successful Proposer for the construction of New City Hall at Glynn Archer School. The City Manager is directed to negotiate a contract with the firm selected by the Commission for subsequent consideration.

## Background

The 90% Construction Documents for New City Hall at Glynn Archer School were completed May 28, 2014. An updated project estimate based on those drawings was received on August 8, 2014. This estimate reported the project as exceeding the total budget by approximately $1,800,000.

Prior to issuance of the Request for Proposal (RFP), staff and the design team spent a significant amount of time reviewing the documents and estimate for potential cost savings. The final estimate based on identified revisions showed the project approximately $150,000 under the total project budget. Based on this estimate, RFP #001-15 was issued on September 1, 2014. As an RFP, the recommended contractor selection was to be based on a scoring system of qualifications (60%) and cost (40%).

Three proposals, each consisting of a "quality packet" and "pricing packet", were received by the City Clerk on October 22, 2014. Quality packets were immediately issued to members of the ranking committee. The members of that committee were: Mike Vieux, Senior Construction Manager, Chair; Bert Bender, Project Architect; Don Craig, Director of Planning; and Jim Bouquet, Director of Engineering. The members reviewed the quality packets separately scored them without discussion among themselves. Individual scores were submitted to the City Clerk in sealed envelopes. Envelopes were opened by a Deputy City Clerk at a public meeting on October 30, 2014. Below is a table showing the results of the total combined score for each Proposer, averaged between the four evaluators.

| Rank | Bidder | | | Scoring | | | Base Bid Price |
|---|---|---|---|---|---|---|---|
| | | | | Quality | Price | Total | |
| 1 | Biltmore Construction | | | 561 | 394 | **955** | $15,236,557.00 |
| 2 | D.L. Porter Construcion | | | 448 | 390 | 838 | $15,400,000.00 |
| 3 | Burke Construction Group, Inc. | | | 400 | 400 | 800 | $14,997,500.00 |

A complete tabulation of pricing and qualifications of all proposers is attached.

**Purpose and Justification**

The purpose of this project is to provide a long-term, state of the art facility to serve the Key West community as a new City Hall.

The improvement of infrastructure is critical to meeting the current and future needs of the City. This project is in accordance with the City of Key West's Strategic Goal #5, *All of the City's Destinations and Resources Are Accessible to Residents and Visitors.*

**Options**

1. Based on evaluation and scoring of the three received proposals, City Staff recommends the selection of Biltmore Construction as the Contractor of Record. Biltmore Construction was scored as the most qualified proposer, based on the quality and depth of their experience while providing a competitive cost. Biltmore Construction's proposed cost was approximately 1.6% higher ($239,057) than the low bidder. Staff intends to discuss value engineering options and determine whether deductive change orders may be possible that do not diminish the quality of the project.

2. The City Commission may select one of the remaining proposers as the Contractor of Record and direct staff to determine whether deductive change orders may be possible that do not diminish the quality of the project.

3. The City Commission may chose not to select a Contractor of Record.

## Financial Issues

Staff to discuss value engineering options and negotiate for selective cost savings with the selected Vendor. Once a negotiated price is established, Staff will return to the Commission at a later date for approval of the negotiated project construction cost and any necessary fund transfers into project funding source (Capital Projects Fund Account # 303-1900-519-6200).

Anticipated value engineering related items currently identified to be discussed/evaluated by the project team include, but are not limited to:

Builder's Risk wind insurance
Counter-top materials
Elimination of exterior architectural stairways
Window materials
Cistern coating and irrigation system design
Auditorium seating
Reducing the number of video conferencing locations
Furnishings
Lighting
Bathroom finishes

## Recommendation

Accept Biltmore Construction as the Contractor of Record. Authorize the City Manager and staff to determine whether deductive change orders may be possible that do not diminish the quality of the project.

**Composite Tabulation**

**Alternate Combination:** **Base Only** **Base + Alt**

# NEW CITY HALL AT GLYNN ARCHER

**Proposal Date:** **10/22/2014** **10/22/20**

| Proposer: | | Burke | Biltmore | Porter | Burke |
|---|---|---|---|---|---|
| Craig | 1 | 225 | 555 | 390 | 2 |
| Bouquet | 2 | 450 | 550 | 300 | 4 |
| Vieux | 3 | 535 | 590 | 555 | 5 |
| Bender | 4 | 390 | 549 | 548 | 3 |
| **Total Qualification Points** | | 400 | 561 | 448 | 40 |
| **Total Price Points** | | 400 | 394 | 390 | 40 |
| **Total Score, this Option** | | **800** | **955** | **838** | **80** |

| | Low Pricing | This pricing | This pricing | This pricing | Low Pricing | This pricir |
|---|---|---|---|---|---|---|
| Low Price | 14,997,500 | | | | 14,919,500 | |
| ÷ This price | | 14,997,500 | 15,236,557 | 15,400,000 | | 14,919,50 |
| x | | 400 | 400 | 400 | | 400 |
| Base | 14,997,500 | 14,997,500 | 15,236,557 | 15,400,000 | 14,997,500 | 14,997,50 |
| Alt 1: Solar Array 2 | | 340,000 | 148,333 | 222,436.50 | | 340,000 |
| Alt 2: Solar Array 3 | | 325,000 | 144,131 | 216,009.68 | | 325,000 |
| Alt 3: Concrete for Asphalt | | 235,000 | 261,733 | 268,283.66 | | 235,000 |
| Alt 4: Commission Roof Framing | | 28,000 | 55,084 | 55,869.99 | | 28,000 |
| Alt 5: Butterfly Pavilion | | 32,000 | 22,661 | 20,311.85 | | 32,000 |
| Alt 6: Drip Irrigation | | 12,200 | 47,856 | 22,440.00 | | 12,200 |
| Alt 7: Delete Fire Escapes | | (78,000) | (96,850) | (95,980.00) | (78,000) | (78,000) |
| Alt 8: Motorized Shades | | 19,300 | 13,826 | 44,223.57 | | 19,300 |

BURKE
Construction Group Inc.

November 2, 2014

CITY OF KEY WEST
NOV 03 2014
CITY ATTORNEY

Shawn Smith
City Attorney
3126 Flagler Avenue
Key West, Florida

RE: RFP No. 001-015
KEY WEST CITY HALL AT GLYNN ARCHER
PHASE 2 – NEW CONSTRUCTION AND MAJOR RENOVATION

Dear City Clerk:

The purpose of this letter is to voice our concerns over the recent RFP No.001-015 referenced above. Our firm is one of three (3) firms whom tendered a bid proposal; in fact, our firm was the lowest bidder of the three bids proffered by the sum of $239,000.00.

All three firms are more than qualified and capable of performing this project, so our concern does not stem from a question of qualifications, but the bias perspective of the selection committee in awarding points for each qualification item is what we find to be highly questionable.

Our firm was the only firm to attend the Selection Committee evaluation meeting held on October 30th, 2014 where the selection committee members read the scores each member assigned for each of the proposers. The highest score possible was 600 in total and 100 for any individual category. To our shock and disbelief our firm went from being the lowest bidder to being ranked third (3rd) by the selection committee after appropriating the points for each category. Attached is a summary of the scores assigned to each firm by each of the committee members. You will notice that there is a very wide discrepancy between the committee members in scoring my firm. Although the scores vary greatly the materials provided that is being reviewed by each member does not vary, it is the exact same materials, and it does not change. Hence, even more reason to raise our suspicions regarding the bias in scoring.

Our dismay stems from several points of interest:

(i) Our bid saves the City close to a quarter of a million dollars;
(ii) Our firm maintains an office in Key west;
(iii) Our firm utilizes and listed all local subcontractors for executing the project, we are well known for supporting the local business community on our projects;
(iv) Our firm completed a very difficult restoration to a six story office building in which we cladded the beams and columns with carbon-fiber to reinforce the structure, which is also a requirement on this project.

Another point of interest that we believe lead to a very bias scoring is the fact that the bidder whom the committee ranked the highest and is recommending award had the advantage of working with the design professionals and the City on this project for well over a year. They provided the original detailed cost budgets and had the advantage of studying the project information first-hand a year in advance of the official bid.

Additionally, due to the fact that all of the bidders' proposals exceed the desire targeted budget, the committee members did not consider any of the additive alternates. The committee members did take into consideration the Base Bids and Alternate No. 7 which is a deductive alternate.

Furthermore, we have numerous concerns as it relates to members of the selection committee. The only member who did not to attend the October 30th meeting was Don Craig. We learned at the meeting that Mr. Craig has resigned and is leaving his position with the City. Unfortunately Mr. Craig issued the lowest score to our firm. What is difficult to comprehend is why Mr. Craig is part of the selection committee and his low score is very suspect to us. In addition, the architect Mr. Bender was also part of the selection committee. This is highly unusual due to the fact that Mr. Bender is in direct relationship with Biltmore Construction and has worked closely with them for over a year on this project. Not only is this a conflict of interest for Mr. Bender, it has also gave Biltmore a major advantage over the competition.

In addition, at the selection committee hearing, Mr. Bender stated that we were at a disadvantage because he did not know us personally and that he had worked closely with Biltmore and the other bidder DL Porter. He further stated that because of that we were scored lower.

The final major concern that we have with this process, is that not a single committee member called any of our references. As Mr. Bender clearly stated at the meeting, he had worked with the other firms and had a personal relationship with them that he did not have with us. Had he or any other committee member been diligent and not biased, with just a few phone calls they could have been enlightened to the fact that over the last 15 years my partner and I have completed double the amount of municipal projects than the other two firms combined.

To that end, I would like to offer you the following information by category, each was worth 100 points and see if your conclusion is the same as ours:

a. Successful completion of projects of similar size and complexity: 100pts:
***We have completed over $2 billion worth of projects, 18 schools, ranging from $11 to 50 Million, 5 courthouses including Freeman Justice Center in Key West, 3 City halls, Parrot Jungle Island, Nevatim Air Force Base in Israel just to name a few.***

b. Successful completion of sizeable LEED-certified projects, including providing all documentation for certification: 100 pts.
***We just finished 6 months ago the new Stock Island Fire Station which is the first green building in Monroe County which features the same cisterns as the new city hall, we also completed last year the Camp Blanding Live Fire shoot house for the US Military which was a LEED Silver Certified project.***

c. Experience in and knowledge of the labor and materials markets of the Florida Keys. 100pts.
***I was born and raised in Key West, a fourth generation conch and my family has been doing business in Key West since 1903. We have a local office on Flagler with one of the best managers Buddy Montgomery who was born and raised in Key West, we completed two successful projects this year in Key West, the Stock Island Fire Station and Nelson English/Willie Ward park. In addition we built the Freeman Justice Center in Key West and the Little Venice Water Treatment Plant in Marathon. None of the bidders have more local history and knowledge than myself.***

d. Successful completion of similarly-sized historic restoration projects: 100 pts.
***We built the new Parrot Jungle on Watson Island which was one of the most complicated historic projects built in Florida. Nearly $40 million in size and included the moving, storage and restoration of the historic Japanese gardens to an island that we built on an eco-sensitive strip of coastline. In addition, we just completed the restoration of the historic Thalatta Mansion in the Village of Palmetto Bay which had re-purposed Wood similar to the City Hall project.***

e. Successful experience with reinforcing of existing concrete structures, especially in the use of carbon fiber reinforcing: 100 pts.
***We have completed millions of square feet of reinforced concrete structures and are a leading expert in tilt-wall construction. Top 5 in the state of Florida for most Tilt-wall projects completed, which all use reinforced concrete. In addition we just completed the carbon fiber reinforcement of a 6 story building in Hollywood Florida and submitted a recommendation letter from one of Florida's leading carbon fiber engineering firms***

f. Successful experience with municipal government projects of similar size: 100pts.
***I submitted with my package just a partial sample of municipal projects that we have completed in just the last 10 years. There were 20 projects that totaled over $360M and averaged over $18M per project. Eleven of the projects were larger than the City Hall project. I have attached that list for your convenience.***

After reviewing just these shortened answers to the qualifications, you tell me whether or not a score of 225 and 390 out of 600 is a fair and balanced assessment of our qualifications.

I want to reiterate our concern as to the appearance of impropriety as it relates to this bid process and the selection process. The architect (Bender & Associates) working with the City staff, selected a firm (Biltmore Construction) in which they hired to review the project and prepare a budget. This process, to my knowledge has gone on for a few years. Working together, Biltmore & Bender, designed the project, developed the budget and created the bid criteria and process. This is a normal occurrence except that it created a major conflict of interest to then allow not only Biltmore to bid the project but further allowed Bender to be one of four members of the final selection committee.

Despite those facts and that conflict of interest, we were still able to submit the lowest bid for the project. At the end of the day, all 3 firms are qualified to do this project but we submitted the lowest bid. We have the

qualifications, the bonding capacity, the experience, the local office and most importantly the lowest bid. There is no logical reason that our firm should not have received the unanimous support of both the City and the selection committee.

Thank you for taking the time to review our concerns and I look forward to hearing from you regarding this matter.

Kind regards,

*David W. Martinez, CPA*
*Partner*

**RFP No. 001-15**
**Key West City Hall at Glynn Archer**
**Request for Proposal**

| | |
|---|---|
| **Request for proposal:** | RFP No. 001-015<br>Key West City Hall at Glynn Archer<br>Phase 2 – New Construction and Major Renovation |
| **RFP Date:** | August 31, 2014 |
| **Mandatory Pre-Bid Conference:** | September 15, 2014 @ 10:00am |
| **Bid Date:** | October 15, 2014 @ 3:00pm |
| **Revised Bid Date:** | October 22, 2014 @ 3:00pm |
| **Bid Submission:** | The Clerk of the City of Key West<br>3126 Flagler Avenue, Key West |
| **Bid Opening:** | Bids to be Publicly Opened and Read |
| **Requirements:** | The successful Proposer must demonstrate that he/she holds, as a minimum, the following licenses and certificates: |

A) City of Key West License as defined in the Code of Ordinaces Chapter 66, enabling the Contractor to perform the work as stated herein (the bid documents).

B) A valid Certificate of Competency issued by the Chief Building Official of the City of Key West, which shall be valid throughout the Contract Time

C) A valid Business Tax Receipt issued by City of Key West

Proposer must meet all Insurance and Bond requirements

**Composite Tabulation**

**Alternate Combination:** Base Only Base + Alt

**NEW CITY HALL AT GLYNN ARCHER**

**Proposal Date:** 10/22/2014 10/22/20

Proposer:

| | | Burke | Biltmore | Porter | Burke |
|---|---|---|---|---|---|
| Don Craig | 1 | 225 | 555 | 390 | |
| Jim Bowquet | 2 | 450 | 550 | 300 | |
| Mike Vieux | 3 | 535 | 590 | 555 | |
| Bert Bender | 4 | 390 | 549 | 548 | |

| | | | | | |
|---|---|---|---|---|---|
| **Total Qualification Points** | | 800. | 955. | 838. | |
| **Total Price Points** | | 400 | 394 | 390 | 40 |
| **Total Score, this Option** | | 400 | 394 | 390 | 40 |

| | Low Pricing | This pricing | This pricing | This pricing | Low Pricing | This pricir |
|---|---|---|---|---|---|---|
| Low Price | 14,997,500 | | | | 14,919,500 | |
| ÷ This price | | 14,997,500 | 15,236,557 | 15,400,000 | | 14,919,50 |
| x | | 400 | 400 | 400 | | 400 |
| Base | 14,997,500 | 14,997,500 | 15,236,557 | 15,400,000 | 14,997,500 | 14,997,50 |
| Alt 1: Solar Array 2 | | 340,000 | 148,333 | 222,436.50 | | 340,000 |
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| Alt 3: Concrete for Asphalt | | 235,000 | 261,733 | 268,283.66 | | 235,000 |
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| Alt 5: Butterfly Pavilion | | 32,000 | 22,661 | 20,311.85 | | 32,000 |
| Alt 6: Drip Irrigation | | 12,200 | 47,856 | 22,440.00 | | 12,200 |
| Alt 7: Delete Fire Escapes | | (78,000) | (96,850) | (95,980.00) | (78,000) | (78,000) |
| Alt 8: Motorized Shades | | 19,300 | 13,826 | 44,223.57 | | 19,300 |

## Burke Construction Group / The Tower Group, Inc.

## Large Municpal Projects Completed in last 10 Years

| | Description | Contract Amount | Owner |
|---|---|---|---|
| 1 | Hallandale Elementary | 18,276,025 | Broward County School Board |
| 2 | Central County Transfer Station | 20,252,726 | Palm Beach County |
| 3 | Matanzas High School | 23,603,025 | Flager County School District |
| 4 | Central Region Operations Center | 16,507,138 | Palm Beach County Water Utilities Department |
| 5 | Hickory Creek Elementary | 11,904,855 | St. Johns County School Board |
| 6 | Freeman Justice Center | 14,761,414 | Monroe County |
| 7 | Yulee High School | 23,673,891 | Nassau County School Board |
| 8 | Green Cove Springs City Hall | 11,906,839 | City of Green Cove Springs |
| 9 | BBB High School | 16,230,213 | Flager County School District |
| 10 | South Dade Cultural Center | 38,412,280 | Miami Dade County |
| 11 | Emerald Office Building | 9,000,000 | US Army Corp of Engineers |
| 12 | Pacetti Bay Middle School | 33,248,114 | St. Johns County School Board |
| 13 | Wards Creek Elementary School | 14,899,000 | St. Johns County School Board |
| 14 | Timberlin Creek Elementary | 21,869,000 | Nassau County School Board |
| 15 | Ninth Grade Addition | 12,013,000 | St. Johns County School Board |
| 16 | Creekside High School | 48,154,000 | St. Johns County School Board |
| 17 | Nevatim AFB | 17,637,470 | US Army Corp of Engineers |
| 18 | Camp Blanding Live Fire Shoot House | 3,988,125 | US Department of Military Affairs |
| 19 | Stock Island Fire Station | 3,260,594 | Monroe County |
| 20 | Nelson English/Willie Ward Park | 1,204,747 | City of Key West |
| | Total | $360,802,456 | |

## Sue Harrison

**From:** Sue Harrison
**Sent:** Wednesday, November 12, 2014 1:54 PM
**To:** 'rhardy@sourcelinkinc.com'
**Subject:** RE: Revised Bid Tabulation RFP 001-15 Key West City Hall at Glynn Archer Phase 2

Mr. Hardy:
All the information regarding RFP 001-15 will be available to view on the November 18, 2014 City Commission Agenda due to be published by end of business today.

**Please note my new Email Address and update your contact information.**

Sue Harrison, CMC
Sharrison@Cityofkeywest-fl.gov
Senior Deputy City Clerk
City of Key West
305-809-3834

*Under Florida law, e-mail addresses are public records. If you do not want your email address released in response to a public-records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing." Fl. Stat. 668.6076*

**From:** Randy Hardy [mailto:rhardy@sourcelinkinc.com]
**Sent:** Tuesday, November 11, 2014 12:40 PM
**To:** Sue Harrison
**Subject:** RE: Revised Bid Tabulation RFP 001-15 Key West City Hall at Glynn Archer Phase 2

Mrs. Harrison,

Could you please send me a copy of biltmore construction bid? I specifically want to see the breakdown by divisions if they broke it out on their quote.

Thanks,
Randy Hardy
Executive Assistant
SourceLink Communications Inc
Phone: (407) 654-2400 Ext 206
Toll Free: (888) 692-5100
Fax: (407) 654-2428
E-Mail: rhardy@sourcelinkcommunications.com
Web: Http://www.sourcelinkcommunications.com

-----Original Message-----
From: daniel a. metzler [mailto:thedanmetzler@gmail.com]
Sent: Tuesday, November 18, 2014 12:00 PM
To: Cates Craig; Weekley Jimmy; Johnston Teri
Subject: the right thing to do

I think the value of the vacant land not used for the new City Hall on Simmington St. vs the cost for the reconstructed City Hall on White St. needs to be considered when looking at the costs of the reconstruction on White St.

The vacant land on Simmington St. still owned by the City after the new City Hall is complete on White St. has tremendous value due to its location and size. It could be sold as an asset to offset costs on White St, although I would not recommend that.

This asset would not have existed if the City Hall was built on the Simmington St. site. The Simmington St. land value needs to be recognized as an asset when discussing the cost on White St. as it would not exist if the City Hall was built on Simmington St.

The preservation of the old high school as the new City Hall is the right thing to do even if it cost some more. It is a wonderful historic building in the right location, very central to the residents of the City. It has the right building and land size with good parking. It has a nice, large auditorium for meetings so we do not have to pay rental for Old City Hall meetings (unless the City has some obligation to do so). It will spur economic activity on that end of White St. as an anchor tenant does in a shopping center by bringing more people to the area. It creates more civic pride for our City as it is a structure we are all proud of due to its history and image.

And we still have the vacant property on White St. which is worth a lot more than the recent added cost of preservation.

# PERFORMANCE BOND

BOND NO. SU1126462
AMOUNT: $14,997,500.00

**KNOW ALL MEN BY THESE PRESENTS,** that in accordance with Florida Statutes Section 255.05, Burke Construction Group, Inc.
with offices at 10145 N.W. 19th Street, Doral, FL 33172
hereinafter called the CONTRACTOR (Principal), and
Arch Insurance Company
with offices at 300 Plaza Three, Jersey City, NJ 07311 - 1107
a corporation duly organized and existing under and by virtue of the laws of the State of Florida, hereinafter called the SURETY, and authorized to transact business within the State of Florida, as SURETY, are held and firmly bound unto **CITY OF KEY WEST,** represented by its _____, hereinafter called the CITY (Obligee), in the sum of:

Fourteen Million Nine Hundred Ninety SevenThousand Five Hundred and 00/100DOLLARS ($ 14,997,500.00 ), lawful money of the United States of America, for the payment of which, well and truly be made to the CITY, the CONTRACTOR and the SURETY bind themselves and each of their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents as follows:

**THE CONDITION OF THE ABOVE OBLIGATION IS SUCH THAT:**

**WHEREAS,** the CONTRACTOR has executed and entered into a certain Contract hereto attached, with the CITY, dated December 19 , 20 14 ., to furnish at his own cost, charges, and expense all the necessary materials, equipment, and/or labor in strict and express accordance with said Contract and the Contract Documents as defined therein, all of which is made a part of said Contract by certain terms and conditions in said Contract more particularly mentioned, which Contract, consisting of the various Contract Documents is made a part of this Bond as fully and completely as if said Contract Documents were set forth herein;

**NOW THEREFORE,** the conditions of this obligation are such that if the above bounden CONTRACTOR:

1. Shall in all respects comply with the terms and conditions of said Contract and his obligation there under, including the Contract Documents (which include the plans, drawings, specifications, and conditions as prepared by the CITY, invitation to bid, instructions to bidders, the CONTRACTOR'S bid as accepted by the above CITY, the bid and contract performance and payment bonds, and all addenda, if any, issued prior to the opening of bids), being made a part of this bond by reference, at the times and in the manner prescribed in the contract; and

2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying PRINCIPAL with labor, materials, or supplies, used directly or indirectly by PRINCIPAL in the prosecution of the work provided for in the contract; and

3. Pays CITY all losses, costs, expenses, damages, attorney's fees, including appellate proceedings, injury or loss of whatever kind and however arising including, without limitation, delay damages to which said CITY may be subject by reason of any wrongdoing, misconduct, want of care or skill, negligence, failure of performance, breach, failure to petition within the prescribed time, or default, including patent infringements, on the part of said CONTRACTOR, his agents or employees, in the execution or performance of said Contract; and

4. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this obligation shall be void; otherwise, to remain in full force and effect for the term of said Contract.

**AND**, the said Surety for value received, hereby stipulates and agrees that no change involving any extension of time, or addition to the terms of the Contract Documents, or to the work to be performed, or materials to be furnished there under shall affect said obligation of said Surety on this Bond, and the said Surety does hereby waive notice of any such changes, extension of time, alterations, or additions of the terms of the Contract Documents, or to the work.

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05(2), Florida Statutes.

**IN WITNESS WHEREOF**, the above parties bonded together have executed this instrument this 29th day of December, 2014, the name and corporate seal of each corporate party being hereto affixed and those presents duly signed by its undersigned representative, pursuant to authority of its governing body.

**CONTRACTOR**
Burke Construction Group, Inc.
By: _____

(SEAL)

ATTEST
Anthony Burke

**SURETY**
Arch Insurance Company
By: _____
David R. Hoover, Attorney-In-Fact

(SEAL)

ATTEST: _____
Kristy Collins

AIC 0000120653

*THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS PRINTED ON BLUE BACKGROUND.*

***This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated. Not valid for Mortgage, Note, Loan, Letter of Credit, Bank Deposit, Currency Rate, Interest Rate or Residential Value Guarantees.***

# POWER OF ATTORNEY

Know All Persons By These Presents:

That the Arch Insurance Company, a corporation organized and existing under the laws of the State of Missouri, having its principal administrative office in Jersey City, New Jersey (hereinafter referred to as the "Company") does hereby appoint:

Arthur Lawrence Colley, Audria R. Ward, Brett Rosenhaus, Charles D. Nielson, Charles J. Nielson, David R. Hoover, Edward T. Ward, F. Danny Gann, John R. Neu, Kevin Wojtowicz and Laura D. Mosholder of Miami Lakes, FL (EACH)

its true and lawful Attorney(s)in-Fact, to make, execute, seal, and deliver from the date of issuance of this power for and on its behalf as surety, and as its act and deed:

Any and all bonds, undertakings, recognizances and other surety obligations, in the penal sum not exceeding Ninety Million Dollars ($90,000,000.00).

This authority does not permit the same obligation to be split into two or more bonds In order to bring each such bond within the dollar limit of authority as set forth herein.

The execution of such bonds, undertakings, recognizances and other surety obligations in pursuance of these presents shall be as binding upon the said Company as fully and amply to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at its principal administrative office in Jersey City, New Jersey.

This Power of Attorney is executed by authority of resolutions adopted by unanimous consent of the Board of Directors of the Company on September 15, 2011, true and accurate copies of which are hereinafter set forth and are hereby certified to by the undersigned Secretary as being in full force and effect:

"VOTED, That the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, or the Secretary shall have the power and authority to appoint agents and attorneys-in-fact, and to authorize them subject to the limitations set forth in their respective powers of attorney, to execute on behalf of the Company, and attach the seal of the Company thereto, bonds, undertakings, recognizances and other surety obligations obligatory in the nature thereof, and any such officers of the Company may appoint agents for acceptance of process."

This Power of Attorney is signed, sealed and certified by facsimile under and by authority of the following resolution adopted by the unanimous consent of the Board of Directors of the Company on September 15, 2011:

VOTED, That the signature of the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, and the signature of the Secretary, the seal of the Company, and certifications by the Secretary, may be affixed by facsimile on any power of attorney or bond executed pursuant to the resolution adopted by the Board of Directors on September 15, 2011, and any such power so executed, sealed and certified with respect to any bond or undertaking to which it is attached, shall continue to be valid and binding upon the Company.

AIC 0000120653

In Testimony Whereof, the Company has caused this instrument to be signed and its corporate seal to be affixed by their authorized officers, this 5th day of June, 2014.

Attested and Certified

Arch Insurance Company

Patrick K. Nails, Secretary

David M. Finkelstein, Executive Vice President

STATE OF PENNSYLVANIA SS

COUNTY OF PHILADELPHIA SS

I, Helen Szafran, a Notary Public, do hereby certify that Patrick K. Nails and David M. Finkelstein personally known to me to be the same persons whose names are respectively as Secretary and Executive Vice President of the Arch Insurance Company, a Corporation organized and existing under the laws of the State of Missouri, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they being thereunto duly authorized signed, sealed with the corporate seal and delivered the said instrument as the free and voluntary act of said corporation and as their own free and voluntary acts for the uses and purposes therein set forth.

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
HELEN SZAFRAN, Notary Public
City of Philadelphia, Phila. County
My Commission Expires October 3, 2017

Helen Szafran, Notary Public
My commission expires 10/03/2017

CERTIFICATION

I, Patrick K. Nails, Secretary of the Arch Insurance Company, do hereby certify that the attached Power of Attorney dated June 5, 2014 on behalf of the person(s) as listed above is a true and correct copy and that the same has been in full force and effect since the date thereof and is in full force and effect on the date of this certificate; and I do further certify that the said David M. Finkelstein, who executed the Power of Attorney as Executive Vice President, was on the date of execution of the attached Power of Attorney the duly elected Executive Vice President of the Arch Insurance Company.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the Arch Insurance Company on this 29TH day of DECEMBER, 20 14.

Patrick K. Nails, Secretary

This Power of Attorney limits the acts of those named therein to the bonds and undertakings specifically named therein and they have no authority to bind the Company except in the manner and to the extent herein stated.

**PLEASE SEND ALL CLAIM INQUIRIES RELATING TO THIS BOND TO THE FOLLOWING ADDRESS:**

**Arch Insurance – Surety Division**
**3 Parkway, Suite 1500**
**Philadelphia, PA 19102**

*Nielson, Hoover & Associates*
*Bond Department*

**Public Works Bond**
**In compliance with Florida Statutes 255.05(1)(a)**

| | |
|---|---|
| **Bond No.** | **SU1126462** |
| **Contractor** | **Burke Construction Group, Inc.** |
| **Address** | **10145 N.W. 19th Street, Doral, FL 33172** |
| **Phone No.** | **305-986-0158** |
| **Surety Company** | **Arch Insurance Company** |
| **Address** | **300 Plaza Three, Jersey City, NJ 07311 - 1107** |
| **Phone No.** | **(321)400-6026** |
| **Owner Name** | **The City of Key West, Florida** |
| **Address** | **3132 Flagler Avenue, Key West, FL 33040** |
| **Phone No.** | **(305) 809-3700** |
| **Contract/Project No.** | **N/A** |
| **Project Name** | **Key West City Hall at Glynn Archer, Phase 2 - New Construction & Major Renovation** |
| **Project Location** | **1300 White Street, Key West, FL 33040** |
| **Legal Description and Street Address** | **1300 White Street, Key West, FL 33040** |
| **Description of Work** | **Repairs, alterations and additions to the existing historic Glynn-Archer School facilities as required to accommodatenew use as municipal city hall,including but not limited to selective demolition, repairs, renovations, alterations,additions, sitework, and related work indicated in the drawings and specifications.** |

**Front Page**
**All other bond page(s) are deemed subsequent to this page regardless of any page number(s) that may be preprinted thereon.**

# PAYMENT BOND

BOND NO. SU1126462
AMOUNT: $14,997,500.00

**KNOW ALL MEN BY THESE PRESENTS,** that in accordance with Florida Statutes Section 255.05, Burke Construction Group, Inc.
with offices at 10145 N.W. 19th Street, Doral, FL 33172
hereinafter called the CONTRACTOR, (Principal), and
Arch Insurance Company
with offices at 300 Plaza Three, Jersey City, NJ 07311 - 1107
a corporation duly organized and existing under and by virtue of the laws of the State of MO , hereinafter called the SURETY, and authorized to transact business within the State of Florida, as SURETY, are held and firmly bound CITY OF KEY WEST, represented by its _____, hereinafter called the City (Obligee), in the sum of: Fourteen Million Nine Hundred Ninety Seven Thousand Five Hundred and 00/100 DOLLARS ($ 14,997,500.00 ), lawful money of the United States of America, for the payment of which, well and truly be made to the CITY, and the CONTRACTOR and the SURETY bind themselves and each of their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents as follows:

**THE CONDITION OF THE ABOVE OBLIGATION IS SUCH THAT:**

**WHEREAS,** the CONTRACTOR has executed and entered into a certain Contract for Key West City Hall at Glynn Archer attached hereto, with the CITY, dated December 19 , 20 14 , to furnish at his own cost, charges, and expense the necessary materials, equipment, and/or labor in strict and express accordance with said Contract and the plans, drawings (if any), and specifications prepared by the CITY, all of which is made a part of said Contract by certain terms and conditions in said Contract more particularly mentioned, which Contract, consisting of the various Contract Documents specifically mentioned herein and relative hereto, is made a part of this Bond as fully and completely as if said Contract Documents were set forth herein.

**NOW THEREFORE,** the conditions of this obligation are such that if the above bounden CONTRACTOR shall in all respects comply with the terms and conditions of said Contract and his obligation thereunder, including the Contract Documents (which include the plans, drawings, specifications, and conditions prepared by the CITY, invitation to bid, instructions to bidders, the CONTRACTOR'S bid as accepted by the CITY, the bid and contract and payment bonds, and all addenda, if any, issued prior to the opening of bids), and further that if said CONTRACTOR shall promptly make payments to all persons supplying materials, equipment, and/or labor, used directly or indirectly by said CONTRACTOR or subcontractors in the prosecution of the work for said contract is accordance with Florida Statutes, Section 255.05 or Section 713.23, then this obligation shall be void; otherwise to remain in full force and effect for the term of

said contract, including and all guarantee periods as specifically mentioned in said Contract Documents.

AND, the said SURETY for value received, hereby stipulates and agrees that no change involving any extension of time, or addition to the terms of the Contract or to the work to be performed, or materials to be furnished thereunder, or in the Contract Documents and specifications accompanying the said contract shall affect said obligation of said SURETY on this Bond, and the said SURETY does hereby waive notice of any such changes, extension of time, alternations, or additions of the terms of the Contract, or to the work, to the Contract Documents, or to the specifications.

Claimant shall give written notice to the CONTRACTOR and the SURETY as required by Section 255.05 or Section 713.23, Florida Statutes. Any action instituted against the CONTRACTOR or SURETY under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05(2) or Section 713.23, Florida Statutes.

**IN WITNESS WHEREOF,** the above parties bounded together have executed this instrument this 29th day of December, 2014, the name and corporate seal of each corporate party being hereto affixed and those presents duly signed by its undersigned representative, pursuant to authority of its governing body.

**CONTRACTOR**
Burke Construction Group, Inc.
By:

(SEAL)

ATTEST
Anthony Burke

**SURETY**
Arch Insurance Company
By:
David R. Hoover, Attorney-In-Fact

(SEAL)

ATTEST: Kristy Collins

**The provisions and limitations of Section 255.05 Florida Statutes. including but not limited to the notice and time limitations in Sections 255.05(2) and 255.05(10) are incorporated in this bond by reference.**

AIC 0000120654

*THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS PRINTED ON BLUE BACKGROUND.*

***This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated. Not valid for Mortgage, Note, Loan, Letter of Credit, Bank Deposit, Currency Rate, Interest Rate or Residential Value Guarantees.***

# POWER OF ATTORNEY

Know All Persons By These Presents:

That the Arch Insurance Company, a corporation organized and existing under the laws of the State of Missouri, having its principal administrative office in Jersey City, New Jersey (hereinafter referred to as the "Company") does hereby appoint:

Arthur Lawrence Colley, Audria R. Ward, Brett Rosenhaus, Charles D. Nielson, Charles J. Nielson, David R. Hoover, Edward T. Ward, F. Danny Gann, John R. Neu, Kevin Wojtowicz and Laura D. Mosholder of Miami Lakes, FL (EACH)

its true and lawful Attorney(s)in-Fact, to make, execute, seal, and deliver from the date of issuance of this power for and on its behalf as surety, and as its act and deed:

Any and all bonds, undertakings, recognizances and other surety obligations, in the penal sum not exceeding Ninety Million Dollars ($90,000,000.00).

This authority does not permit the same obligation to be split into two or more bonds In order to bring each such bond within the dollar limit of authority as set forth herein.

The execution of such bonds, undertakings, recognizances and other surety obligations in pursuance of these presents shall be as binding upon the said Company as fully and amply to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at its principal administrative office in Jersey City, New Jersey.

This Power of Attorney is executed by authority of resolutions adopted by unanimous consent of the Board of Directors of the Company on September 15, 2011, true and accurate copies of which are hereinafter set forth and are hereby certified to by the undersigned Secretary as being in full force and effect:

"VOTED, That the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, or the Secretary shall have the power and authority to appoint agents and attorneys-in-fact, and to authorize them subject to the limitations set forth in their respective powers of attorney, to execute on behalf of the Company, and attach the seal of the Company thereto, bonds, undertakings, recognizances and other surety obligations obligatory in the nature thereof, and any such officers of the Company may appoint agents for acceptance of process."

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VOTED, That the signature of the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, and the signature of the Secretary, the seal of the Company, and certifications by the Secretary, may be affixed by facsimile on any power of attorney or bond executed pursuant to the resolution adopted by the Board of Directors on September 15, 2011, and any such power so executed, sealed and certified with respect to any bond or undertaking to which it is attached, shall continue to be valid and binding upon the Company.

AIC 0000120654

In Testimony Whereof, the Company has caused this instrument to be signed and its corporate seal to be affixed by their authorized officers, this 5th day of June, 2014.

Attested and Certified

Arch Insurance Company

Patrick K. Nails, Secretary

David M. Finkelstein, Executive Vice President

STATE OF PENNSYLVANIA SS

COUNTY OF PHILADELPHIA SS

I, Helen Szafran, a Notary Public, do hereby certify that Patrick K. Nails and David M. Finkelstein personally known to me to be the same persons whose names are respectively as Secretary and Executive Vice President of the Arch Insurance Company, a Corporation organized and existing under the laws of the State of Missouri, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they being thereunto duly authorized signed, sealed with the corporate seal and delivered the said instrument as the free and voluntary act of said corporation and as their own free and voluntary acts for the uses and purposes therein set forth.

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
HELEN SZAFRAN, Notary Public
City of Philadelphia, Phila. County
My Commission Expires October 3, 2017

Helen Szafran, Notary Public
My commission expires 10/03/2017

CERTIFICATION

I, Patrick K. Nails, Secretary of the Arch Insurance Company, do hereby certify that the attached Power of Attorney dated June 5, 2014 on behalf of the person(s) as listed above is a true and correct copy and that the same has been in full force and effect since the date thereof and is in full force and effect on the date of this certificate; and I do further certify that the said David M. Finkelstein, who executed the Power of Attorney as Executive Vice President, was on the date of execution of the attached Power of Attorney the duly elected Executive Vice President of the Arch Insurance Company.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the Arch Insurance Company on this 29TH day of DECEMBER, 20 14.

Patrick K. Nails, Secretary

This Power of Attorney limits the acts of those named therein to the bonds and undertakings specifically named therein and they have no authority to bind the Company except in the manner and to the extent herein stated.

**PLEASE SEND ALL CLAIM INQUIRIES RELATING TO THIS BOND TO THE FOLLOWING ADDRESS:**

**Arch Insurance – Surety Division**
**3 Parkway, Suite 1500**
**Philadelphia, PA 19102**

## Notice of Award

Date: December 19, 2014

Company: Burke Construction Group, Inc.

Attention: David Martinez

Address: 3210 Flagler Ave.

City, State, Zip: Key West, FL 33040

Project: Key West City Hall at Glynn Archer, Phase 2 – New Construction & Major Renovation

Dear David:

At a meeting of the Key West City Commission held on November 18, 2014, your firm, Burke Construction Group, Inc. was awarded the contract for Key West City Hall at Glynn Archer, Phase 2 – New Construction & Major Renovation for a total contract amount of Fourteen Million, Nine Hundred Ninety-Seven Thousand, Five Hundred and no/100 Dollars ($14,997,500). That vote was confirmed at a meeting on December 2, 2014.

Enclosed please find three (3) copies of the Contract Documents for your execution. Please complete the necessary pages, affixing signatures, notary and / or corporate seals, etc. where necessary and return to this office within ten (10) calendar days from the date of this letter.

The Certificate of Insurance must be attached to the documents; an original and two copies are acceptable. Please provide Performance and Payment Bonds in an amount equal to 100% of the contract value. Builders Risk is also required as part of this contract. The attached Performance and Payment Bonds boiler plates may be used or the Contractor may submit their own equivalent bond forms to the City for review and consideration.

A copy of your City of Key West Business Tax Receipt must be attached.

If you have additional questions, please do not hesitate to call me at (305) 809-3964.

Sincerely,

J. Michael Vieux, AIA, LEED AP, BD+C

Senior Construction Manager

# CONTRACT

This Contract, made and entered into this 19th day of December 2014, by and between the CITY, hereinafter called the "Owner", and Burke Construction Group, Inc. hereinafter called the "Contractor";

WITNESSETH:

The Contractor, in consideration of the sum to be paid him by the Owner and of the covenants and agreements herein contained, hereby agrees at his own proper cost and expense to do all the work and furnish all the materials, tools, labor, and all appliances, machinery, and appurtenances for the PROJECT: Key West City Hall at Glynn Archer, Phase 2 – New Construction & Major Renovation, to the extent of the PROPOSAL made by the Contractor, dated this 22nd day of October 2014, all in full compliance with the Contract Documents referred to herein:

PROPOSAL REQUIREMENTS, CONTRACT FORMS, CONDITIONS OF THE CONTRACT, TECHNICAL SPECIFICATIONS, AND DRAWINGS (if any), which consists of, Key West City Hall at Glynn Archer, dated August 8, 2014, complete with Addenda 1 through 4, are hereby referred to and by reference made a part of this Contract as fully and completely as if the same were fully set forth herein and are mutually cooperative therewith.

In consideration of the performance of the work as set forth in these Contract Documents, the Owner agrees to pay to the Contractor a maximum price of $14,997,500.00, as specified in the Proposal as adjusted in accordance with the Contract Documents, or as otherwise herein provided, and to make such payments in the manner and at the times provided in the Contract Documents.

The Contractor agrees to complete the work within the time specified in the Contract, and to accept as full payment hereunder the amounts as determined by the Contract Documents and based on the said Proposal.

The Contractor agrees to remedy all defects appearing in the work or developing in the materials furnished and the workmanship performed under this Contract during the warranty period after the date of final acceptance of the work by the Owner, and further agrees to indemnify and hold harmless the Owner from any costs encountered in remedying such defects.

The Contractor further agrees to begin work within twenty (20) calendar days after the date of the Notice to Proceed and to complete the construction of all items in the lump sum base Proposal, in all respects, for this particular project, within four hundred ten (410) calendar days after the date of the Notice to Proceed.

In the event that the Contractor shall fail to complete the work within the time limit or the extended time limit agreed upon, as more particularly set forth in the Contract Documents, liquidated damages shall be paid at the rate of twenty-five hundred dollars ($2,500) per calendar day. Sundays and legal holidays shall be included in determining days in default.

IN WITNESS WHEREOF, we, the parties hereto, each herewith subscribe the same, this 30 day of DEC 2014.

SEAL OF THE CITY OF KEY WEST, FLORIDA

Attest: Cheryl Smith

Cheryl Smith, City Clerk

By: J.K. Scholl

James K. Scholl, City Manager

Contractor: Burke Construction Group, Inc. Witness: _____

By: _____ Print Name: Tony Burke

Print Name: David Martinez

Title: VP