


# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Authority Board Members

FROM: Claude Miller   
Director of Procurement

DATE: February 25, 2015

RE: Authorization to Execute Cooperative Purchase Agreement with  
GAI Consultants, Inc., for Right of Way Support Services  
Contract No. 001100

Board approval is requested to execute an agreement with GAI Consultants, Inc. (GAI) in the not-to-exceed amount of \$300,000.00 for an initial three-year term to provide right of way support services including land planning, engineering, site development, surveying, landscape, cost to cure, and specialty services such as sign specialists, personal property appraisers, general contractors and other specialists as needed.

This will be a cooperative purchase (piggyback) agreement based on a contract (No. Y14-904-B) between GAI and Orange County for the same services which will allow us to take advantage of the favorable rates already negotiated by Orange County.

cc: Joe Berenis, Deputy Executive Director, Engineering, Operations, Construction and Maintenance  
Laura Kelley, Deputy Executive Director, Finance and Administration  
Joe Passiatore, General Counsel  
Glenn Pressimone, Director of Engineering  
Contract File

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
COOPERATIVE PURCHASE AGREEMENT  
RIGHT OF WAY SUPPORT SERVICES  
CONTRACT NO. 001100**

This Contract is made this 12<sup>th</sup> day of March, 2015, between the CENTRAL FLORIDA COUNTY EXPRESSWAY AUTHORITY, a body politic and agency of the State of Florida, hereinafter called the AUTHORITY and GAI CONSULTANTS, INC., hereinafter the CONTRACTOR:

**WITNESSETH:**

**WHEREAS**, the AUTHORITY was created by statute and is charged with acquiring, constructing, operating and maintaining a system of limited access roadways known as the Central Florida Expressway System; and,

**WHEREAS**, the AUTHORITY has been granted the power under Section 348.754(2)(m) of Florida Statutes, "to do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority, in order to carry out the powers granted to it (by state law);" and,

**WHEREAS**, the AUTHORITY has determined that it is necessary and convenient in the conduct of its business to retain the services of a contractor to provide right of way support services as detailed in the Scope of Services included in the CONTRACTOR's contract with Orange County; and,

**WHEREAS**, on February 25, 2015, the CONTRACTOR entered into an agreement with Orange County under its Contract No. Y14-904-B to provide the same services as required by the AUTHORITY; and,

**WHEREAS**, a Request for Proposals seeking qualified contractors to perform such services for the AUTHORITY was not required because the CONTRACTOR has an existing contract with Orange County for the same services to be provided hereunder and the AUTHORITY has decided to contract with CONTRACTOR for the performance of the services described herein under the same conditions previously negotiated by Orange County; and,

**WHEREAS**, the CONTRACTOR agrees to provide the services under the same terms and conditions as included in its contract with Orange County, a copy of which is attached to this Contract, and such additional terms and conditions as detailed below;

**NOW THEREFORE**, in consideration of the mutual covenants and benefits set forth herein and other good and valuable consideration, the receipt and sufficiency of which being hereby acknowledged by each party to the other, the parties hereto agree as follows:

## **1. SERVICES TO BE PROVIDED**

The CONTRACTOR shall, for the consideration herein stated and at its cost and expense, do all the work and furnish all equipment, supplies, labor and incidentals necessary to perform this Contract in the manner and to the full extent as required by the AUTHORITY.

## **2. CONTRACT TERM AND TERMINATION**

The term of the Contract will be three (3) years from the Notice to Proceed issued by the AUTHORITY. There shall be two renewal options of 1 year each. The options to renew are at the sole discretion and election of the AUTHORITY. Renewals will be based, in part, on a determination by the AUTHORITY that the value and level of service provided by the CONTRACTOR are satisfactory and adequate for the AUTHORITY's needs. If a renewal option is exercised, the AUTHORITY will provide the CONTRACTOR with written notice of its intent at least 60 days prior to the expiration of the initial three-year Contract Term.

Termination shall be according to the CONTRACTOR's agreement with Orange County.

## **3. COMPENSATION FOR SERVICES**

The Contract amount for the initial Contract term will be \$300,000.00. Compensation shall be in accordance with the Method of Compensation included in the CONTRACTOR's contract with the Orange County.

## **4. CONTRACTOR INSURANCE**

CONTRACTOR shall carry and keep in force during the period of this Contract, the required amount of coverage as stated in the CONTRACTOR's contract with Orange County. Compliance with these insurance requirements shall not relieve or limit the CONTRACTOR's liabilities and obligations under this Agreement. Failure of the AUTHORITY to demand such certificate or evidence of full compliance with these insurance requirements or failure of the AUTHORITY to identify a deficiency from evidence provided will not be construed as a waiver of the CONTRACTOR's obligation to maintain such insurance. The acceptance of delivery by the AUTHORITY of any certificate of insurance evidencing the required coverage and limits does not constitute approval or agreement by the AUTHORITY that the insurance requirements have been met or the insurance policies shown in the certificates of insurance are in compliance with the requirements.

## **5. INDEMNITY**

The CONTRACTOR shall indemnify, defend and hold harmless AUTHORITY and all of its respective officers, agents, CONTRACTOR's or employees from all suits, actions, claims, demands, costs as defined elsewhere herein, expenses (including reasonable attorneys' fees as defined elsewhere herein), judgments, liabilities of any nature whatsoever (collectively, "Claims") arising out of, because of, or due to breach of the Contract by the CONTRACTOR (its

subcontractors, officers, agents or employees) or due to any negligent or intentional act or occurrence of omission or commission of the CONTRACTOR (its subcontractors, officers, agents or employees). CONTRACTOR will not be liable for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of the AUTHORITY or any of its officers, agents or employees.

## **6. PUBLIC RECORDS**

Upon receipt of any request by a member of the public for any documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by CONTRACTOR in conjunction with this Contract (including without limitation CONTRACTOR Records and Proposal Records, if and as applicable), CONTRACTOR shall immediately notify the AUTHORITY. Thereafter, CONTRACTOR shall follow AUTHORITY'S instructions with regard to such request. To the extent that such request seeks non-exempt public records, the AUTHORITY shall direct CONTRACTOR to provide such records for inspection and copying in compliance with Chapter 119. A subsequent refusal or failure by CONTRACTOR to timely grant such public access will be grounds for immediate, unilateral cancellation of the Contract by AUTHORITY.

## **7. PRESS RELEASES**

CONTRACTOR shall make no statements, press releases or publicity releases concerning the Contract or its subject matter, or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished under the Contract, or any particulars thereof, without first notifying AUTHORITY and securing its consent in writing.

## **8. PERMITS, LICENSES, ETC.**

Throughout the term of the Contract, the CONTRACTOR shall procure and maintain, at its sole expense, all permits and licenses that may be required in connection with the performance of Services by CONTRACTOR; shall pay all charges, fees, royalties, and taxes; and shall give all notices necessary and incidental to the due and lawful prosecution of the Services. Copies of required permits and licenses shall be furnished to AUTHORITY upon request.

## **9. CONFLICT OF INTEREST AND STANDARDS OF CONDUCT**

CONTRACTOR acknowledges that AUTHORITY officials and employees are prohibited from soliciting and accepting funds or gifts from any person who has, maintains, or seeks business relations with the AUTHORITY in accordance with the AUTHORITY'S Ethics Policy. The CONTRACTOR acknowledges that it has read, and to the extent applicable, acknowledges that it will comply with the aforesaid Ethics Policy in connection with performance of the Contract.

In the performance of the Contract, CONTRACTOR shall comply with all applicable local, state, and federal laws and regulations and obtain all permits necessary to provide the Contract services.

CONTRACTOR covenants and agrees that it and its employees, officers, agents, and subcontractors shall be bound by the standards of conduct provided in Florida Statutes 112.313 as it relates to work performed under this Contract, which standards will by reference be made a part of this Contract as though set forth in full.

#### **10. NONDISCRIMINATION**

CONTRACTOR, its employees, officers, agents, and subcontractors shall not discriminate on the grounds of race, color, religion, sex, national origin, or other protected class, in the performance of work or selection of personnel under this Contract.

#### **11. SUBLETTING AND ASSIGNMENT**

CONTRACTOR shall not sublet, sell, transfer, assign, delegate, subcontract, or otherwise dispose of this Contract or any portion thereof, or of the CONTRACTOR's right, title, or interest therein without the written consent of the AUTHORITY, which may be withheld in the AUTHORITY'S sole and absolute discretion. Any attempt by CONTRACTOR to dispose of this Contract as described above, in part or in whole, without AUTHORITY'S written consent shall be null and void and shall, at AUTHORITY's option, constitute a default under the Contract.

#### **12. PREVAILING PARTY ATTORNEY'S FEES**

If any contested claim arises hereunder or relating to the Contract (or CONTRACTOR's work hereunder), and either party engages legal counsel, the prevailing party in such dispute, as "prevailing party" is hereinafter defined, shall be entitled to recover reasonable attorneys' fees and costs as defined herein, from the non-prevailing party.

In order for CONTRACTOR to be the prevailing party, CONTRACTOR must receive an adjusted judgment or adjusted award equal to at least eighty percent (80%) of its contested claims filed with AUTHORITY, failing which AUTHORITY will be deemed the prevailing party for purposes of this Contract.

For purposes of determining whether the judgment of award is eighty percent (80%) or more of the contested claims, "adjusted award" or "adjusted judgment" shall mean the amount designated in the award or final judgment as compensation to CONTRACTOR for its claims (exclusive of interest, cost or expenses), less: (i) any amount awarded to AUTHORITY (exclusive of interest, costs or expenses) on claims asserted by AUTHORITY against CONTRACTOR in connection with the Contract, and (ii) any amount offered in settlement prior to initiation of CONTRACTOR litigation (exclusive of interest, cost or expense), which for purposes of enforcing this section only shall be admissible into evidence.

The term "contested claim" or "claims" shall include "Claims" as defined in Section 11, as well as the initial written claim (s) submitted to AUTHORITY by CONTRACTOR (disputed by AUTHORITY) which have not otherwise been resolved through ordinary close-out procedures

of the Contract prior to the initiation of litigation. CONTRACTOR claims or portions thereof, which AUTHORITY agrees or offers to pay prior to initiation of litigation, shall not be deemed contested claims for purposes of this provision. If CONTRACTOR submits a modified, amended or substituted claim after its original claim and such modified, amended or substituted claim(s) is for an amount greater than the prior claim(s), the higher amount shall be the claim(s) for purposes of determining whether the award is at least eighty percent (80%) of CONTRACTOR's claim(s).

Attorneys' fees and costs awarded to the prevailing party shall mean reasonable fees and costs incurred in connection with and measured from the date a claim is initially submitted to AUTHORITY through and including trial, appeal and collection. In the circumstance where an original claim is subsequently modified, amended or a substituted claim is filed therefore, fees and costs shall accrue from the date of the first written claim submitted, regardless of whether the original or subsequent claim amount is ultimately used in determining if the judgment or award is at least eighty percent (80%) of the cumulative claims.

"Attorneys' fees" shall include but not be limited to fees and charges of attorneys, paralegals, legal assistants, attorneys' CONTRACTOR's, expert witnesses, court reporters, photocopying, telephone charges, travel expenses, or any other charges, fees, or expenses incurred through use of legal counsel, whether or not such fees are provided by statute or contained in State-Wide guidelines, and shall apply to any pretrial fees (whether or not an action is filed), trial, appeal, collection, bankruptcy, arbitration, mediation, or administrative proceedings arising out of this Contract.

"Costs" shall include but not be limited to any filing fees, application fees, expert witnesses' fees, court reporters' fees, photocopying costs, telephone charges, travel expenses, or any other charges, fees, or expenses incurred whether or not legal counsel is retained, whether or not such costs are provided by statute or contained in State-Wide guidelines, and shall apply to any pretrial costs (whether or not an action is filed), trial, appeal, collection, bankruptcy, arbitration, mediation or administrative proceeding arising out of this Contract.

As a condition precedent to filing a claim with any legal or administrative tribunal, CONTRACTOR shall have first submitted its claim (together with supporting documentation) to AUTHORITY, and AUTHORITY shall have had sixty (60) days thereafter within which to respond thereto.

The purpose of this provision is to discourage frivolous or overstated claims and, as a result thereof, AUTHORITY and CONTRACTOR agree that neither party shall avail itself of Section 768.79, Florida Statutes, or any other like statute or rule involving offers of settlement or offers of judgment, it being understood and agreed that the purpose of such statute or rule are being served by this provision.

Should this section be judged void, unenforceable or illegal, in whole or in substantial part, by a court of competent jurisdiction, this section shall be void in its entirety and each party shall bear its own attorneys' fees and costs.

### **13. OTHER SEVERABILITY**

If any section of this Contract be judged void, unenforceable or illegal, then the illegal provision shall be, if at all possible, interpreted or re-drafted into a valid, enforceable, legal provision as close to the parties' original intention, and the remaining portions of the Contract shall remain in full force and effect and shall be enforced and interpreted as closely as possible to the parties' intention for the whole of the Contract.

### **14. GOVERNING LAW**

This Contract shall be governed by and construed in accordance with the laws of Florida. Venue of any legal or administrative proceedings arising out of this Contract shall be exclusively in Orange County, Florida.

### **15. RELATIONSHIPS**

CONTRACTOR acknowledges that no employment relationship exists between AUTHORITY and CONTRACTOR or CONTRACTOR's employees. CONTRACTOR shall be responsible for all direction and control of its employees and payment of all wages and salaries and other amounts due its employees. CONTRACTOR shall be responsible for all reports and obligations respecting such employees, including without limitation social security tax and income tax withholding, unemployment compensation, workers compensation, and employment benefits.

Any approval by AUTHORITY of a subcontract or other matter herein requiring AUTHORITY approval for its occurrence shall not be deemed a warranty or endorsement of any kind by AUTHORITY of such subcontract, subcontractor, or matter.

### **16. SURVIVAL OF EXPIRATION OR TERMINATION**

Any clause, sentence, paragraph, or section providing for, discussing, or relating to any of the following shall survive the expiration or earlier termination of the Contract:

16.1 Payment to CONTRACTOR for satisfactory work performed or for termination expenses, if applicable; and

16.2 Any other term or terms of this Contract which by their nature or context necessarily survive the expiration or earlier termination of the Contract for their fulfillment.

### **17. OBLIGATIONS UPON EXPIRATION OR TERMINATION OF CONTRACT**

CONTRACTOR shall initiate settlement of all outstanding liabilities and claims arising out of the Contract and any subcontracts or vending agreements to be canceled. All settlements shall be subject to the approval of AUTHORITY.

IN WITNESS WHEREOF, the authorized signatures named below have executed this Contract on behalf of the parties on the date below. This Contract was awarded by the Authority's Board of Directors at its meeting on March 12, 2015.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: \_\_\_\_\_  
Director of Procurement

GAI CONSULTANTS, INC.

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

Attest: \_\_\_\_\_ (Seal)

Approved as to form and execution, only.

\_\_\_\_\_  
General Counsel for the AUTHORITY



## CONTRACT

**#Y14-904-B**

THIS CONTRACT made and entered into this 25<sup>th</sup> day of February, 2015, by and between the:

**BOARD OF COUNTY COMMISSIONERS  
201 S. ROSALIND AVENUE  
ORLANDO, ORANGE COUNTY, FLORIDA**

a political subdivision of the State of Florida, hereinafter referred to as the COUNTY, and:

**GAI CONSULTANTS, INC.  
618 EAST SOUTH STREET 700  
ORLANDO, FLORIDA 32801  
FEDERAL I.D. #25-1260999**

hereinafter referred to as the **CONSULTANT**.

### RECITALS

WHEREAS, the COUNTY desires to retain the services of the CONSULTANT for continuing engineering services, referred to as "Task Authorization" or "Purchase Order"; and;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, upon the terms and conditions hereinafter set forth, and the CONSULTANT is desirous of obtaining such employment and of performing such services upon said terms and conditions; it is agreed by and between the parties hereto as follows:

### I SCOPE OF SERVICES

The CONSULTANT shall, diligently and timely, perform professional engineering services as described in Exhibit A - Scope of Professional Services, entitled, **"CONTINUING ENGINEERING SERVICES FOR RIGHT-OF-WAY ACQUISITION AND EMINENT DOMAIN"** which is attached hereto and made a part hereof by reference. As the COUNTY generates individual projects, a detailed scope of work will be prepared for each project and furnished to the CONSULTANT. Upon receipt of the scope of work, the CONSULTANT will submit a cost Proposal to the COUNTY depicting man hours, with hourly rates, as established in Exhibit B, sub-contracted services, period of performance for completion of projects, and out of pocket expenses. Proposal shall be submitted within fifteen (15) days of receipt of written request for Proposal by the COUNTY.

## CONSULTANTS COMPETITIVE NEGOTIATION ACT

This Contract is a continuing Contract as defined in Section 287.055 (2) (g), Florida Statutes. Task Authorizations to be performed by the CONSULTANT under this Contract shall be approved and authorized by the COUNTY in writing by issuance of County approved Purchase Orders, pursuant to the CONSULTANT'S Proposal and fee, whether or not modified by negotiation. The CONSULTANT'S authority to proceed with the specified scope of work will be either the County approved Purchase Orders or a County issued written Notice to Proceed to be determined by the County Project Manager.

### II PAYMENT

The COUNTY will pay to the CONSULTANT for duly authorized services performed by the CONSULTANT and accepted by the County as follows:

- A. FEES: For services performed under Article I, a firm fixed fee (lump sum) will be agreed upon prior to commencement of services; or, if a firm fixed fee cannot be determined, a not-to-exceed maximum dollar amount will be agreed upon; however, in either case, the fee shall be calculated in accordance with the hourly rate schedule identified as Exhibit B, which is attached and made a part of this Contract.
- B. PAYMENT: Payment will be due and payable monthly in proportion to the percentage of work approved and accepted by the COUNTY. All invoices shall be prepared in the format prescribed by the COUNTY. When an invoice includes charges from a subconsultant, the subconsultant's invoice/backup shall accompany the CONSULTANT'S invoice. A separate Pay Item Breakdown sheet for the CONSULTANT and each subconsultant shall accompany each invoice. The CONSULTANT'S Pay Item Breakdown sheet shall include, in aggregate, the CONSULTANT'S and subconsultant's pay items. All requests for payment must be accompanied by a narrative description of the scope of services from Exhibit A performed by the CONSULTANT and subconsultants during the period covered by the invoice. The narrative shall also describe the work to be performed during the next billing period.
- C. PAYMENT IN EVENT OF TERMINATION BY COUNTY: In the event this Contract is terminated or canceled prior to completion of any project in progress, payment shall be made in accordance with the provisions of Article IX.
- D. CHANGES WITHIN SCOPE; ALLOWANCE OF ADDITIONAL COMPENSATION: If instructed to do so by the COUNTY, the CONSULTANT shall change or revise work that has been performed, and if such work is not required as a result of error, omission or negligence of the CONSULTANT, the CONSULTANT may be entitled to additional compensation. In all disputes arising over the right to additional compensation, the COUNTY shall be the party to determine whether substantial acceptable work has been done on documents such that changes, revisions or preparation of additional documents will result in additional compensation to the CONSULTANT.

The additional compensation shall be computed by the CONSULTANT on a revised fee quotation Proposal that must be submitted to the COUNTY for prior approval. The fee shall be agreed upon before commencement of any additional work and shall be incorporated by Change Order to the corresponding Purchase Order issued against this Contract.

- E. SUBCONSULTANTS: The CONSULTANT shall, upon requiring the services of various sub-consultants, be responsible for the integration of all sub-consultants' work into the documents and for all payments to such sub-consultants out of the lump sum fee agreed to. Services rendered by the CONSULTANT in connection with the coordination of any such sub-consultants or other personnel services shall be considered within the scope of the basic contract and no additional fee will be due the CONSULTANT for such work.
- F. TRAVEL AND PER DIEM: Travel and per diem charges shall not exceed the limits as set forth in Section 112.061 Florida Statutes, as set forth in Exhibit C, which is attached to this Contract.
- G. COMPENSATION: The CONSULTANT'S compensation shall be established and authorized for each Task Authorization on the basis of the CONSULTANT'S personnel hourly billable rates and related allowable costs as set forth in the basic Contract. The CONSULTANT'S personnel hourly billable rates and multiplier shall remain in effect and unchanged during the duration of the Contract and any extensions thereto, except as provided by Article II, paragraph I, Price Adjustment. Compensation for any authorized cost that is not set forth in the basic Contract shall be negotiated prior to issuance of the Task Authorization and shall be supported by the appropriate cost and pricing data.
- H. MULTIPLIERS: The following multipliers are applicable to this contract and shall remain in effect and unchanged for the duration of the contract, including any extensions thereto:

|    |  |   |
|----|--|---|
| 1. | Prime Consultant<br>GAI Consultants, Inc.  | Multiplier<br>2.94                          |
| 2. | Sub-Consultants<br>JCB Construction<br>Rhodes + Brito Architects<br>American Environmental Consulting<br>Buchheit and Associates | Multiplier<br>2.805<br>2.71<br>2.99<br>2.99 |

I. PRICE ADJUSTMENT:

Written request for a price adjustment may be made only under the following conditions:

- i. If a project specific contract's performance period exceeds three years a price adjustment may be requested not more than 60 days after the end of the three year period and for each annual period thereafter or for the remaining period of the contract if less than one year.
- ii. For continuing contracts with a performance period that exceeds three years, an adjustment may be requested not more than 60 days after the end of three years.
- iii. Retroactive requests for price adjustments will not be considered.

**The provisions of this clause shall not apply to contracts with fees based on ranges. Retroactive requests for price adjustments will not be considered.**

Any request for a price adjustment will be subject to negotiation and must be approved by the Manager, Procurement Division. Any request for such increase shall be supported by adequate justification to include Consumer Price Index (CPI) documentation.

The CPI documentation shall be based on the All Items, CPI-U, U.S. City Average, not seasonally adjusted index.

The prevailing CPI in the month when the contract was executed by the County shall be the base period from which changes in the CPI will be measured for the initial request for a price adjustment. Any subsequent requests for a price adjustment shall be based on the CPI prevailing in the month when an amendment effecting a previous price adjustment was executed by the County. The maximum allowable increase shall not exceed the percent change in the CPI from the base period (either the month when the contract was executed by the County or the month when an amendment effecting a price adjustment was executed by the County) to the CPI prevailing at time of request for a price adjustment and in no case shall it exceed 4%. Any price adjustment shall only be effective upon the execution of a written amendment to the contract executed by both parties.

### III

#### **DESIGN WITHIN FUNDING LIMITATIONS**

The following provisions are applicable to contracts for design services:

- A. The CONSULTANT shall accomplish the design services under this Contract, when applicable, so as to permit the award of a contract (using standard Orange County procedures for the construction of the facilities) at a price that does not exceed the estimated construction contract price as set forth in paragraph (c) below. When bids or Proposals for the construction contract are received that exceed the estimated price, the CONSULTANT shall perform such redesign and other services as are necessary to permit contract award within the funding limitation. These additional services shall be performed at no increase in the price of this Contract. However, the CONSULTANT shall not be required to perform such additional services at no cost to the COUNTY, if the unfavorable bids or Proposals results from conditions beyond the CONSULTANT'S reasonable control. The COUNTY shall exercise reasonable commercial judgment in making the controlling determination as to whether such conditions are within the reasonable control of the CONSULTANT.
- B. The CONSULTANT will promptly advise the COUNTY if it finds that the project being designed will exceed or is likely to exceed the funding limitations and it is unable to design a usable facility within these limitations. Upon receipt of such information, the COUNTY will review the CONSULTANT'S revised estimate of construction cost. The COUNTY may, if it determines that the estimated construction contract price set forth in this Contract is so low that award of a construction contract not in excess of such estimate is improbable, authorize a change in scope or materials as required to reduce the estimated construction cost to an amount within the estimated construction contract price set forth in paragraph (c) below, or the COUNTY may adjust such estimated construction contract price via amendment to this Contract. When bids or Proposals are not solicited or are unreasonably delayed, the COUNTY shall prepare an estimate of constructing the design submitted and such estimate shall be used in lieu of bids or Proposals to determine compliance with the funding limitation.
- C. Task Authorizations issued for study activities may not exceed \$200,000.
- D. The CONSULTANT and its subsidiaries or affiliates who designed the project shall be ineligible for the award of the construction contract for that project.

### IV

#### **RESPONSIBILITY OF THE CONSULTANT**

- A. The CONSULTANT shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the CONSULTANT under this contract.

The CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in its designs, drawings, specifications, and other services.

- B. The Project Manager and the Assistant Project Manager must be two separate individuals both currently employed by the Prime Consultant. One of the individuals must be a professional engineer registered in the State of Florida.
- C. Substitution of the Project Manager, Assistant Project Manager or Other Key Personnel: The CONSULTANT shall not substitute any key personnel without the prior written approval of the Manager of the Procurement Division. Any such requests shall be supported by comprehensive documentation outlining the reason(s) for the proposed substitution to include the specific qualifications of the proposed substitute. Approval of the request shall be at the discretion of the COUNTY. Further, the COUNTY, in lieu of approving a substitution, may initiate other actions under the contract, including termination.
- D. Neither the County's review, approval or acceptance of, nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract, and the CONSULTANT shall be and remain liable to the COUNTY in accordance with applicable law for all damages to the COUNTY caused by the CONSULTANT'S negligent performance of any of the services furnished under this contract.
- E. The rights and remedies of the COUNTY provided for under this contract are in addition to any other rights and remedies provided by law.
- F. If the CONSULTANT is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.
- G. For contracts requiring design services, the CONSULTANT shall comply with the following requirements:
  - 1. Concurrent with the submission of the 100% design submittal to the user division, the CONSULTANT shall submit a complete breakdown of the subcontracting opportunities for the project based on traditional industry practices and their expertise to the Business Development Division, 400 E. South St., Orlando, FL 32801. This information will identify subcontracting elements such as electrical, trucking, sodding, surveying, etc. with the estimated percentage of the total project represented by each subcontracting element.
  - 2. Upon submission of the 100% submittals to the user department, the CONSULTANT shall provide to the Business Development Division an estimate of the percentage of work to be performed under each standard CSI division heading, the total of which shall in all cases equal 100%.

- H. The CONSULTANT shall maintain an adequate and competent staff of professionally qualified persons during the term of this Contract for the purpose of rendering the required services hereunder. The CONSULTANT shall not sublet, assign or transfer any services under this agreement without the written consent of the COUNTY.
- I. The COUNTY may require in writing that the CONSULTANT remove from the Work any of the CONSULTANT'S personnel that the COUNTY determines to be incompetent, careless or otherwise objectionable. No claims for an increase in Contract Amount or Contract Time based on the COUNTY'S use of this provision will be valid. CONSULTANT shall indemnify and hold the County harmless from and against any claim by CONSULTANT'S personnel on account of the use of this provision.
- J. All final plans and documents prepared by the CONSULTANT must bear the endorsement of a person in the full employ of the CONSULTANT and currently registered as a professional in the State of Florida.

## V

### COUNTY'S RIGHTS AND RESPONSIBILITIES

The COUNTY shall:

- A. Furnish the CONSULTANT with existing data, plans, profiles, and other information necessary or useful in connection with the planning of the program that is available in the COUNTY'S files, all of which shall be and remain the property of the COUNTY and shall be returned to the COUNTY upon completion of the services to be performed by the CONSULTANT,
- B. Make COUNTY personnel available on a time-permitting basis, where required and necessary to assist the CONSULTANT. The availability and necessity of said personnel to assist the CONSULTANT shall be determined solely within the discretion of the COUNTY,
- C. Be entitled, upon request and without additional cost, to any documents as requested by the COUNTY for any project on which the CONSULTANT is working.

## VI

### CONTRACT TYPE

This is an indefinite quantity contract for the goods and/or services specified in Exhibit A – Scope of Professional Services. The quantities of goods and/or services specified are unknown. Delivery or performance shall be only as authorized by task authorizations in accordance with the terms of this contract. The CONSULTANT shall furnish the goods and/or services to the COUNTY, when and if ordered. The COUNTY shall order at least **\$34,000.00** in fees during the initial contract performance period. The COUNTY may issue orders requiring delivery to multiple destinations or performance at multiple locations.

**VII**  
**TERM OF CONTRACT**

The term of this contract shall be for one (1) year from date of execution; however, by mutual consent, the contract may be extended for two additional one year terms, not to exceed a total of three (3) years.

Any Purchase Orders for Task Authorizations issued during the effective period of this contract and not completed within that period, shall be completed by the CONSULTANT within the time specified in the order. The contract shall govern the CONSULTANT'S and the COUNTY'S rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period.

**VIII**  
**TERMINATION OF CONTRACT**

**A. TERMINATION FOR DEFAULT:**

The COUNTY may, by written notice to the CONSULTANT, terminate this contract for default in whole or in part (task authorizations, if applicable) if the CONSULTANT fails to:

1. provide products or services that comply with the specifications herein or fails to meet the County's performance standards
2. deliver the supplies or to perform the services within the time specified in this contract or any extension.
3. make progress so as to endanger performance of this contract
4. perform any of the other provisions of this contract.

Prior to termination for default, the COUNTY will provide adequate written notice to the CONSULTANT through the Manager, Procurement Division, affording him/her the opportunity to cure the deficiencies or to submit a specific plan to resolve the deficiencies within ten (10) days (or the period specified in the notice) after receipt of the notice. Failure to adequately cure the deficiency shall result in termination action.

Such termination may also result in suspension or debarment of the CONSULTANT in accordance with the County's Procurement Ordinance. The CONSULTANT shall be liable for any damage to the COUNTY resulting from the CONSULTANT'S default of the contract. This liability includes any increased costs incurred by the COUNTY in completing contract performance.

In the event of termination by the COUNTY for any cause, the CONSULTANT will have, in no event, any claim against the COUNTY for lost profits or compensation for lost opportunities. After a receipt of a Termination Notice and except as otherwise directed by the COUNTY the CONSULTANT shall:



1. Stop work on the date and to the extent specified.
2. Terminate and settle all orders and subcontracts relating to the performance of The terminated work
3. Transfer all work in process, completed work, and other materials related to the terminated work as directed by the COUNTY.
4. Continue and complete all parts of that work that have not been terminated.

If the CONSULTANT'S failure to perform the contract arises from causes beyond the control and without the fault or negligence of the CONSULTANT, the contract shall not be terminated for default. Examples of such causes include (1) acts of God or the public enemy, (2) acts of a government in its sovereign capacity, (3) fires, (4) floods, (5) epidemics, (6) strikes and (7) unusually severe weather.

**B. TERMINATION FOR CONVENIENCE:**

The COUNTY, by written notice, may terminate this contract, in whole or in part, when it is in the COUNTY'S interest. If this contract is terminated, the COUNTY shall be liable only for goods or services delivered and accepted. The COUNTY Notice of Termination shall provide the contractor thirty (30) days prior notice before it becomes effective.

A termination for convenience may apply to individual purchase/delivery orders or to the contract in its entirety.

**C. PAYMENT**

If a Task Authorization or Purchase Order is terminated for the convenience of the COUNTY, a settlement will be negotiated. This settlement shall not exceed the total amount due for services rendered and accepted by the COUNTY in accordance with the payment terms of the Contract. If the Contract is terminated for convenience in its entirety, the CONSULTANT shall be paid an amount not in excess of all services rendered and accepted under the various orders issued against the Contract.

However, if the termination is for cause, no amount shall be allowed for anticipated profit on unperformed services or other work, and the payment may be adjusted to take into account any additional costs to be incurred by the COUNTY due to such default.

**D. TERMINATION NOTICE**

The Manager, Procurement Division, shall issue any and all notices involving termination of this contract.

**IX**  
**INDEMNITY/INSURANCE AND SAFETY REQUIREMENTS**

**Insurance Requirements:**

The CONSULTANT shall procure and maintain on a primary basis and at its sole expense during the life of this Contract, insurance of the types and limits including endorsements described herein. The requirements contained herein, as well as County's review or acceptance of insurance maintained by CONSULTANT is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by the CONSULTANT under the Contract. Insurance carriers providing coverage must be authorized and/or eligible to do business in the State of Florida and must possess a current A.M. Best's Financial Strength Rating of A- Class VIII.

**If the CONSULTANT intends to bid on this Contract as a Joint Venture then all insurance coverage required herein shall include the Joint Venture as "named insured". If the Joint Venture has no employees then this requirement is waived for workers' compensation. The Joint Venture shall also purchase discontinued completed operations coverage for any claims made after the dissolution of the Joint Venture. This coverage shall be for a period of two years following final completion of the project or continuing service contract.**

**Required Coverage:**

**Workers' Compensation -** The CONSULTANT shall maintain coverage for its employees with statutory workers' compensation limits, and no less than \$100,000 each incident of bodily injury or disease for Employers' Liability.

**Commercial General Liability -** The CONSULTANT shall maintain coverage issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with a limit of liability of not less than \$1,000,000 per occurrence. CONSULTANT further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Contractual Liability, or Severability of Interests. The General Aggregate limit shall either apply separately to this contract or shall be at least twice the required occurrence limit.

**Business Automobile Liability -** The CONSULTANT shall maintain coverage for all owned; non-owned and hired vehicles issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with limits of not less than \$500,000 per accident. In the event the CONSULTANT does not own automobiles the CONSULTANT shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

**Professional Liability -** The CONSULTANT shall maintain professional liability (errors and omissions) coverage with limits as specified below. The aggregate limit shall be twice the required claim limit for continuing contracts.

| <u>Project Cost</u>   | <u>Minimum Limit</u>   | <u>Maximum Deductible</u>                                   |
|-----------------------|--|---|
| \$0-1,000,000         | 50% of project cost<br>subject to a minimum<br>of \$100,000/occurrence | 10% of project cost<br>or \$25,000, whichever<br>is smaller |
| \$1,000,000-5,000,000 | \$1,000,000  | \$100,000   |
| over \$5,000,000      | Determined by the County   |   |

Optional Insurance: The COUNTY reserves the right to purchase "per project" professional liability coverage on behalf of the CONSULTANT and its sub-consultants of every tier. If the COUNTY elects to do so then COUNTY will notify CONSULTANT.

The coverage will include a deductible no greater than the deductible indicated above for professional liability, shall contain standard industry terms, conditions, and exclusions and be retroactive to the date the CONSULTANT began the design work. The CONSULTANT shall be financially responsible for any deductible.

The "per-project" policy will replace and supersede the professional liability insurance requirement above. Said requirement shall become null and void. In exchange, the CONSULTANT shall remove and exclude from its fees (and those of its sub-consultants of every tier) all premiums, costs, fees, charges, and overhead related in any way to the professional liability requirements above.

When a self-insured retention or deductible exceeds \$100,000 the COUNTY reserves the right to request a copy of CONSULTANT'S most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis the CONSULTANT agrees to maintain a retroactive date prior to or equal to the effective date of this contract.

In the event the policy is canceled, non-renewed, switched to occurrence form, or any other event which triggers the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this contract the CONSULTANT agrees to purchase the SERP with a minimum reporting period of not less than two years. Purchase of the SERP shall not relieve the CONSULTANT of the obligation to provide replacement coverage.

By entering into this contract CONSULTANT agrees to provide a Waiver of Subrogation in favor of the County for each policy as required herein. When required by the insurer or should a policy condition not permit the CONSULTANT to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONSULTANT agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others endorsement.

CONSULTANT agrees to endorse the COUNTY as an Additional Insured with a CG 20 26 Additional Insured – Designated Person or Organization endorsement, or its equivalent to all commercial general liability policies. The additional insured shall be listed in the name of Orange County Board of County Commissioners.

Prior to execution and commencement of any operations/services provided under this contract the CONSULTANT shall provide the COUNTY with current certificates of insurance evidencing all required coverage. In addition to the certificate(s) of insurance

the CONSULTANT shall also provide a blanket or specific additional insured endorsement for the CGL policy. For continuing service contracts renewal certificates shall be submitted upon request by either the COUNTY or its certificate management representative. The certificates shall clearly indicate that the CONSULTANT has obtained insurance of the type, amount and classification as required for strict compliance with this insurance section.

CONSULTANT shall notify the County within thirty (30) business days of any material change in or cancellation/non-renewal of insurance coverage. The CONSULTANT shall provide evidence of replacement coverage to maintain compliance with the aforementioned insurance requirements to the COUNTY or its certificate management representative five (5) business days prior to the effective date of the replacement policy (ies).

Failure of the COUNTY to demand such certificate or other evidence of full compliance with these insurance requirements or failure of the COUNTY to identify a deficiency from evidence provided will not be construed as a waiver of the CONSULTANT'S obligation to maintain such insurance.

Certificates shall specifically reference the respective contract number. The certificate holder shall read:

Orange County Board of County Commissioners  
Procurement Division  
400 E. South Street  
Orlando, Florida 32801

The CONSULTANT shall be responsible for the acts and omissions of its employees, sub consultants of every tier, their agents and employees, and other persons performing any portion of the CONSULTANT'S obligations under this contract. Failure of the CONSULTANT to maintain adequate insurance coverage for itself or for any other persons or entities for whom it is responsible, or to ensure that its sub consultants of every tier maintain adequate insurance coverage, shall not relieve the CONSULTANT of any contractual responsibility or obligation.

#### **Indemnification:**

The CONSULTANT shall defend, indemnify and hold harmless the COUNTY and its officers and employees from liabilities damages, losses, and costs (including attorney's fees) to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the CONSULTANT and persons employed or utilized by the CONSULTANT in the performance of this Contract. The remedy provided to the COUNTY by this paragraph shall be in addition to and not in lieu of any other remedy available under this Contract or otherwise and shall survive the termination of this Contract.

#### **Patents and Royalties:**

Unless otherwise provided, the Consultant shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of the contract.

The Consultant, without exception, shall indemnify and save harmless the County and its employees from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or unpatented invention, process, or article manufactured or supplied or any service provided by the Consultant.

In the event of any claim against the County of copyright or patent infringement, the County shall promptly provide written notification to the Consultant. If such a claim is made, the Consultant shall use its best efforts to promptly purchase for the County any infringing products or services or procure a license, at no cost to the County, which will allow continued use of the service or product.

If none of the alternatives are reasonably available, the County agrees to return the article on request to the Consultant and receive reimbursement, if any, as may be determined by a court of competent jurisdiction.

**X**

**TRUTH IN NEGOTIATION AND MAINTENANCE AND EXAMINATION OF RECORDS**

- A. The Consultant hereby represents, covenants and warrants that wage rates and other factual unit costs supporting the compensation provided for in this Contract are accurate, complete and current as of the date of contracting. It is further agreed that the Contract price shall be adjusted to exclude any amounts where the County determines the Contract price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs.
- B. The Consultant shall keep adequate records and supporting documents applicable to this Contract. Said records and documentation shall be retained by the Consultant for a minimum of five (5) years from the date of final payment on this contract. If any litigation, claim or audit is commenced prior to the expiration of the five (5) year period, the records shall be maintained until all litigation, claims or audit findings involving the records have been resolved.
- C. If applicable, time records and cost data shall be maintained in accordance with generally accepted accounting principles. This includes full disclosure of all transactions associated with the contract. Also, if applicable, all financial information and data necessary to determine overhead rates in accordance with Federal and State regulatory agencies and the contract shall be maintained.
- D. Consultant's "records and supporting documents" as referred to in this Contract shall include any and all information, materials and data of every kind and character, including without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, invoices, leases, contracts, commitments, arrangements, notes, daily diaries, superintendent reports, drawings, receipts, vouchers and memoranda, and any and all other agreements, sources of information and matters that may in the County's judgment have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any Contract document.

Such records and documents shall include (hard copy, as well as computer readable data, written policies and procedures; time sheets; payroll registers; cancelled checks; subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, etc.); original estimates; estimating

worksheets; correspondence; change order files (including pricing data used to price change proposals and documentation covering negotiated settlements); back-charge logs and supporting documentation; general ledger entries detailing cash and trade discounts earned, insurance rebates and dividends; and any other Consultant records which may have a bearing on matters of interest to the County in connection with the Consultant's dealings with the County (all foregoing hereinafter referred to as "records and supporting documents") to the extent necessary to adequately permit evaluation and verification of:

- 1) Consultant compliance with contract requirements; or
- 2) Compliance with provisions for pricing change orders; or
- 3) Compliance with provisions for pricing invoices; or
- 4) Compliance with provisions regarding pricing of claims submitted by the Consultant or his payees; or
- 5) Compliance with the County's business ethics; or
- 6) Compliance with applicable state statutes and County Ordinances and regulations.

- E. Records and documents subject to audit shall also include those records and documents necessary to evaluate and verify direct and indirect costs, (including overhead allocations) as they may apply to costs associated with this Contract. In those situations where Consultant's records have been generated from computerized data (whether mainframe, mini-computer, or PC based computer systems), Consultant agrees to provide the County's representatives with extracts of data files in computer readable format on data disks or suitable alternative computer exchange formats.
- F. The County and its authorized agents shall have the right to audit, inspect and copy records and documentation as often as the County deems necessary throughout the term of this contract and for a period of five (5) years after final payment. Such activity shall be conducted during normal business working hours. The County, or any of its duly authorized representatives, shall have access within forty-eight (48) hours to such books, records, documents, and other evidence for inspection, audit and copying.
- G. The County, during the period of time defined by the preceding paragraph, shall have the right to obtain a copy of and otherwise inspect any audit made at the direction of the Consultant as concerns the aforesaid records and documentation.
- H. Records and documentation shall be made accessible at the Consultant's local place of business. If the records are unavailable locally, it shall be the Consultant's responsibility to insure that all required records are provided at the Consultant's expense including payment of travel and maintenance costs incurred by the County's authorized representatives or designees in accessing records maintained out of the county. The direct costs of copying records, excluding any overhead cost, shall be at the County's expense.
- I. Consultant shall require all payees (examples of payees include sub Consultants, insurance agents, material suppliers, etc.) to comply with the provisions of this article by including the requirements hereof in a written contract agreement between Consultant and payee. Such requirements include a flow-down right of

audit provisions in contracts with payees, which shall also apply to Sub Consultants and Sub-sub Consultants, material suppliers, etc.

Consultant shall cooperate fully and shall cause all aforementioned parties and all of Consultant's sub Consultants (including those entering into lump sum subcontracts and lump sum major material purchase orders) to cooperate fully in furnishing or in making available to the County from time to time whenever requested in an expeditious manner any and all such records, documents, information, materials and data.

- J. The County's authorized representatives or designees shall have reasonable access to the Consultant's facilities, shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Contract and shall have adequate and appropriate work space, in order to conduct audits in compliance with this article.
- K. Even after a change order proposal has been approved, Consultant agrees that if the County later determines the cost and pricing data submitted was inaccurate, incomplete, not current or not in compliance with the terms of the Contract regarding pricing of change orders, then an appropriate contract price reduction will be made. Such post-approval contract price adjustment will apply to all levels of Consultants and/or sub Consultants and to all types of change order proposals specifically including lump sum change orders, unit price change orders, and cost-plus change orders.
- L. If an audit inspection or examination by the County, or its designee, in accordance with this article discloses overpricing or overcharges (of any nature) by the Consultant to the County in excess of one-half of one percent (.5%) of the total contract billings, the reasonable actual cost of the County's audit shall be reimbursed to the County by the Consultant. Any adjustments and /or payments that must be made as a result of any such audit or inspection of the Consultant's invoices and/or records and supporting documents shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of the County's findings to the Consultant.

## **XI**

### **OWNERSHIP OF DOCUMENTS**

It is understood and agreed that all documents, including detailed reports, plans, original drawings, "as built", specifications, original field survey, data notes, and all other data, prepared or obtained by the CONSULTANT in connection with its services hereunder shall be delivered to, and shall become the property of the COUNTY prior to final payment to the CONSULTANT.

The CONSULTANT shall not be liable for any use by the COUNTY of said documents or data if they are modified in any manner without written approval of the CONSULTANT.

**XII**  
**SUSPENSION OF WORK BY COUNTY**

Right of COUNTY to Suspend Work and Order Resumption - The performance of CONSULTANT'S services hereunder may be suspended by the COUNTY at any time.

However, in the event the COUNTY suspends the performance of CONSULTANT'S services hereunder, it shall so notify the CONSULTANT in writing, such suspension becoming effective upon the date of its receipt by CONSULTANT. The COUNTY shall promptly pay to the CONSULTANT all fees that have become due and payable to the CONSULTANT prior to the effective date of such suspension. COUNTY shall thereafter have no further obligation for payment to the CONSULTANT unless and until the COUNTY notifies the CONSULTANT that the services of the CONSULTANT called for hereunder are to be resumed.

Upon receipt of written notice from the COUNTY that CONSULTANT'S services hereunder are to be resumed, CONSULTANT shall complete the services of CONSULTANT called for in this Contract and CONSULTANT, shall, in that event, be entitled to payment of the remaining unpaid compensation which becomes payable to him under this Contract, same to be payable in the manner specified herein.

In no event will the compensation or any part thereof become due or payable to CONSULTANT under this Contract unless and until CONSULTANT has attained that stage of work where the same would be due and payable to CONSULTANT under the provision of this Contract.

**XIII**  
**STANDARDS OF CONDUCT**

- A. The CONSULTANT represents that he has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this Contract and that he has not paid or agreed to pay any person, company, corporation, individual or firm other than a bona fide employee working solely for the CONSULTANT any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.
- B. The CONSULTANT shall comply with all Federal, State and local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this Contract.
- C. The CONSULTANT hereby certifies that no undisclosed conflict of interest exists with respect to the present Contract, including any conflicts that may be due to representation of other clients, other Contractual relationships of the CONSULTANT, or any interest in property that the CONSULTANT may have. The CONSULTANT further certifies that any apparent conflict of interest that arises during the term of this Contract will be immediately disclosed in writing to the COUNTY. Violation of this section will be considered as justification for immediate termination of this Contract under the provisions of Article VIII.
- D. The CONSULTANT and its subsidiaries or affiliates who designed the project, shall be ineligible for the award of the construction contract for that project.



**XIV**  
**ASSIGNABILITY**

The CONSULTANT shall not assign any interest in this Contract, and shall not transfer any interest in the same without prior written approval of the COUNTY, provided that claims for the money due or to become due the CONSULTANT from the COUNTY under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the COUNTY.

**XV**  
**MINORITY/WOMEN EMPLOYMENT PARTICIPATION**

- A. The CONSULTANT shall be responsible for reporting Minority/Women Business Enterprise (M/WBE) sub-consultant Contract dollar amount(s) for the M/WBE SUBCONSULTANT(s) listed in this document, by submitting the appropriate documents, which shall include but not limited to fully executed sub-contract agreements and/or purchase orders evidencing contract award of work, to the Business Development Division. Submittal of these sub-contract agreements/purchase orders is a condition precedent to execution of the prime contract with the County. Quarterly updated M/WBE utilization reports and Employment Data, Schedule of Minorities and Women reports are to be submitted every quarter during the term of the contract. Additionally, the Consultant shall ensure that the M/WBE participation percentage proposed in the Consultant's Proposal submitted for this Contract is accomplished.
- B. Subsequent amendments to this contract shall be submitted with the appropriate documentation evidencing contractual change or assignment of work to the Business Development Division, with a copy to the COUNTY'S designated representative, within ten (10) days after COUNTY'S execution.
- C. The CONSULTANT shall be responsible for reporting local minority/women employment percentage levels within the firm and the minority/women employment percentage levels that the firm anticipates utilizing to fulfill the obligations of this Contract. The report(s) shall be submitted to the Business Development Division, on a quarterly basis during the life of the Contract.
- D. The awarded prime consultant shall furnish written documentation evidencing actual dollars paid to **all sub-consultants** utilized by the prime consultant on the project. This will include, but not limited to: copies of cancelled checks, approved invoices, and signed affidavits certifying the accuracy of payments so that the County may determine actual MWBE participation achieved by the Prime Consultant prior to the issuance of final payment.
- E. In the event a certified M/WBE sub-consultant's sub-contract is terminated for convenience, the CONSULTANT shall submit a letter to the Business Development Division from the terminated sub-contractor evidencing their concurrence with the termination. In the event a certified M/WBE sub-consultant's sub-contract is terminated for cause, the CONSULTANT shall justify the replacement of that sub-consultant, in writing to the Business Development

Division, accompanied by the Project Manager's recommendation or consent to termination.

F. It is the intent of the COUNTY to insure prompt payment of all sub-consultants working on COUNTY projects. The CONSULTANT shall:

1. Submit copies of executed contracts between the CONSULTANT and all of its M/WBE sub-consultants to the Business Development Division.
2. The County may at its discretion require copies of subcontracts/purchase orders for the non-M/WBE's listed on Form B and or utilized on the project. However, if this option is not exercised the awarded Proposer shall provide a list of all non-M/WBE subcontractors certifying that a prompt payment clause has been included in that contract or purchase order.
3. Incorporate a prompt payment assurance provision and payment schedule in all contracts between the CONSULTANT and sub-consultants (including those with non-M/WBE's) stating that payment will be made to the sub-consultant within 72 hours of receipt of payment from the COUNTY. The CONSULTANT shall pay each sub-consultant for all work covered under an invoice within the 72 hour time frame.

G. By entering into this contract, the CONSULTANT affirmatively commits to comply with the M/WBE subcontracting requirements submitted with his/her Proposal. The failure of the CONSULTANT to comply with this commitment during the Contract's performance period may be considered a breach of Contract. The County may take action up to and including termination for default if this condition is not remedied within the time period specified by the Manager, Procurement Division.

#### **XVI**

#### **INDEPENDENT CONTRACTOR STATUS**

The CONSULTANT shall be an independent contractor and neither CONSULTANT nor anyone employed by CONSULTANT shall be deemed for any purpose to be the employee, agent, servant or representative of the COUNTY in the performance of the work hereunder. The COUNTY shall have no direction or control of CONSULTANT or CONSULTANT'S employees and agents, except in the results to be obtained.

#### **XVII**

#### **EQUAL OPPORTUNITY**

It is hereby declared that equal opportunity and nondiscrimination shall be the County's policy intended to assure equal opportunities to every person regardless of race, religion, sex, sexual orientation and gender expression/identity, color, age, disability or national origin, in securing or holding employment in a field of work or labor for which the person is qualified, as provided by Section 17-314 of the Orange County Code and the County Administrative Regulations.

Further, the awarded CONSULTANT shall abide by the following provisions:

1. The CONSULTANT shall represent that CONSULTANT has adopted and maintains a policy of nondiscrimination as defined by applicable County ordinance throughout the term of this contract.
2. The CONSULTANT shall allow reasonable access to all business and employment records for the purpose of ascertaining compliance with the nondiscrimination provision of the contract.
3. The provisions of the prime contract shall be incorporated by the CONSULTANT into the contracts of any applicable sub-consultants.

#### **XVIII**

#### **INDEMNIFICATION FOR TORT ACTIONS/LIMITATION OF LIABILITY**

- A. The provisions of Florida Statute 768.28 applicable to Orange County, Florida apply in full to this Contract.

Any legal actions to recover monetary damages in tort for injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the COUNTY acting within the scope of his/her office or employment are subject to the limitations specified in this statute.

- B. No officer, employee or agent of the COUNTY acting within the scope of his/her employment or function shall be held personally liable in tort or named as a defendant in any action for any injury or damage suffered as a result of any act, event, or failure to act.
- C. The COUNTY shall not be liable in tort for the acts or omissions of an officer, employee, or agent committed while acting outside the course and scope of his/her employment. This exclusion includes actions committed in bad faith or with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

#### **XIX**

#### **ASBESTOS FREE MATERIALS**

For contracts for design services, CONSULTANT shall provide a written and notarized statement on company letterhead to certify and warrant that the project was designed with asbestos free materials. Such statement shall be submitted with the final payment request. Final payment shall not be made until such statement is submitted. CONSULTANT agrees that if materials containing asbestos are subsequently discovered at any future time to have been included in the design, CONSULTANT shall be liable for all costs related to the redesign or modification of the construction of the project so that materials containing asbestos are removed from the design, plans or specifications or construction contract documents, and, in addition, if construction has begun or has been completed pursuant to a design that includes asbestos containing materials, the CONSULTANT shall also be liable for all costs related to the abatement of such asbestos.

**XX**  
**CONTROLLING LAWS**

This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the provisions of this Contract will be held in Orange County, Florida. Venue for any litigation involving this contract shall be the Ninth Circuit Court in and for Orange County, Florida.

**XXI**  
**AVAILABILITY OF FUNDS**

The obligations of Orange County under this Contract are subject to need and availability of funds lawfully appropriated for its purpose by the Board of County Commissioners, or other specified funding source for this contract.

**XXII**  
**WELFARE RECIPIENTS**

CONSULTANT has committed to hire zero (0) ZuCan participants residing in Orange County, Florida. Therefore, within five (5) days after contract award, CONSULTANT shall contact the Orange County Business Development Liaison at (407) 836-7317 to assist with meeting this requirement. The BDD Liaison will work with the ZuCan staff and the Consultant to ensure that the process is properly adhered until all requirements have been met. ZuCan participants may be employed in any position within the firm but must be hired on a fulltime basis.

The failure of the CONSULTANT to comply with these hiring commitments after contract award shall be grounds for termination of the contract for default.

During performance of the contract, the CONSULTANT will take appropriate steps to ensure that individual hired under this program are retained. However, if it becomes necessary to replace an employee, the CONSULTANT shall contact the BDD Liaison. At its discretion, COUNTY may periodically request submission of certified payrolls to confirm the employment status of program participants.

**XXIII**  
**SERVICE-DISABLED VETERAN PARTICIPATION**

- A. The CONSULTANT shall be responsible for reporting Service-Disabled Veteran (SDV) sub-consultant Contract dollar amount(s) for the SDV SUBCONSULTANT(s) listed in this document, by submitting the appropriate documents, which shall include but not limited to fully executed sub-contract agreements and/or purchase orders evidencing contract award of work, to the Business Development Division. Submittal of these sub-contract agreements/purchase orders is a condition precedent to execution of the prime contract with the County. Quarterly updated SDV utilization reports Schedule of Minorities and Women reports are to be submitted every quarter during the term of the contract. Additionally, the Consultant shall ensure that the SDV participation percentage proposed in the Consultant's Proposal submitted for this Contract is accomplished.
- B. Subsequent amendments to this contract shall be submitted with the appropriate

documentation evidencing contractual change or assignment of work to the Business Development Division, with a copy to the COUNTY'S designated representative, within ten (10) days after COUNTY'S execution.

- C. The awarded prime consultant shall furnish written documentation evidencing actual dollars paid to **all sub-consultants** utilized by the prime consultant on the project. This will include, but not limited to: copies of cancelled checks, approved invoices, and signed affidavits certifying the accuracy of payments so that the County may determine actual SDV participation achieved by the Prime Consultant prior to the issuance of final payment.
- D. In the event a certified SDV sub-Consultant's sub-contract is terminated for convenience, the CONSULTANT shall submit a letter to the Business Development Division from the terminated sub-contractor evidencing their concurrence with the termination. In the event a certified SDV sub-Consultant's sub-contract is terminated for cause, the CONSULTANT shall justify the replacement of that sub-consultant, in writing to the Business Development Division, accompanied by the Project Manager's recommendation or consent to termination.
- E. It is the intent of the COUNTY to insure prompt payment of all sub-consultants working on COUNTY projects. The CONSULTANT shall:
  - 1. Submit copies of executed contracts between the CONSULTANT and all of its SDV sub-consultants to the Business Development Division.
  - 2. The County may at its discretion require copies of subcontracts/purchase orders for the non-SDV's listed on Form B and or utilized on the project. However, if this option is not exercised the awarded Proposer shall provide a list of all non-SDV subcontractors certifying that a prompt payment clause has been included in that contract or purchase order.
  - 3. Incorporate a prompt payment assurance provision and payment schedule in all contracts between the CONSULTANT and sub-consultants (including those with non-SDV's) stating that payment will be made to the sub-consultant within 72 hours of receipt of payment from the COUNTY. The CONSULTANT shall pay each sub-consultant for all work covered under an invoice within the 72 hour time frame.
- F. By entering into this contract, the CONSULTANT affirmatively commits to comply with the SDV subcontracting requirements submitted with his/her Proposal. The failure of the CONSULTANT to comply with this commitment during the Contract's performance period may be considered a breach of Contract. The County may take action up to and including termination for default if this condition is not remedied within the time period specified by the Manager, Procurement Division.

## **XXIV**

### **CONTRACT CLAIMS**

"Claim" as used in this provision means a written demand or written assertion by one of the contracting parties seeking as a matter of right, the payment of a certain sum of money, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract.

Claims made by a Consultant against the County relating to a particular contract shall be submitted to the Procurement Division Manager in writing clearly labeled "Contract Claim" requesting a final decision. The Consultant also shall provide with the claim a certification as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Consultant believes the County is liable; and that I am duly authorized to certify the claim on behalf of the Consultant."

**Failure to document a claim in this manner shall render the claim null and void. Moreover, no claim shall be accepted after final payment of the contract.**

The decision of the Procurement Division Manager shall be issued in writing and shall be furnished to the Consultant. The decision shall state the reasons for the decision reached. The Procurement Division Manager shall render the final decision within sixty (60) days after receipt of Consultant's written request for a final decision. The Procurement Division Manager's decision shall be final and conclusive.

The Consultant shall proceed diligently with performance of this contract pending final resolution of any request for relief, claim, appeal or action arising under the contract and shall comply with any final decision rendered by the Manager of the Procurement Division.

## **XXV**

### **PROHIBITION AGAINST CONTINGENT FEES**

The Consultant warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Contract and that they have not paid or agreed to pay any person, company, corporation, individual or firm other than a bona fide employee working solely for the Consultant any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award of this Contract. For the breach or violation of this provision, the County shall have the right to terminate the Contract at its sole discretion, without liability and to deduct from the Contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

## **XXVI**

### **TOBACCO FREE CAMPUS**

All Orange County operations under the Board of County Commissioners shall be tobacco free. This policy shall apply to parking lots, parks, break areas and worksites. It is also applicable to Consultants and their personnel during contract performance on county-owned property. Tobacco is defined as tobacco products including, but not limited

to, cigars, cigarettes, pipes, chewing tobacco and snuff. Failure to abide by this policy may result in civil penalties levied under Chapter 386, Florida Statutes and/or contract enforcement remedies.

**XXVII**  
**VERIFICATION OF EMPLOYMENT STATUS**

Prior to the employment of any person performing services under this contract, the CONSULTANT shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of: (a) all employees within the State of Florida that are hired by the CONSULTANT after the execution of the contract who are providing labor under the contract during the contract term; and, (b) all employees within the State of Florida of any of the CONSULTANT'S sub-consultants that are hired by those sub-consultants after the execution of the contract who are providing labor under the contract during the contract term. Please refer to USCIS.gov for more information on this process.

GAI CONSULTANTS, INC.  
ORLANDO, FLORIDA

BOARD OF COUNTY COMMISSIONERS  
ORANGE COUNTY, FLORIDA

Signature

*Jeffrey M. Sievers*

Name Typed

*Vice-President*

Title

*Johnny M. Richardson*  
Johnny M. Richardson, CPPO, CFCM  
Manager, Procurement Division

Date:

*2-26-15*  
(for County use only)

**EXHIBIT A**  
**SCOPE OF SERVICES**



## **EXHIBIT A SCOPE OF SERVICES**

### **CONTINUING ENGINEERING SERVICES FOR RIGHT-OF-WAY ACQUISITION AND EMINENT DOMAIN**

This continuing engineering services contract may be utilized for land acquisition for any Orange County project such as roadways, recreation trails, stormwater ponds, easements, building sites, etc. However, the following standards were written specifically for a roadway project. This scope of services may need to be modified to fit other County projects.

This Scope of Services is specifically for engineering services that may be required for the acquisition of right-of-way for Orange County roadway projects from design review, right-of-way impact analysis and appraisal process through settlement negotiations and the eminent domain process.

These services include review, research and analysis of construction plans, right-of-way maps, title search reports, legal descriptions and sketches of description, and right-of-way acquisition reports in connection with the acquisition of property. These services also include research for specific types of property uses such as analysis of commercial and industrial processes or any research of any type that is involved with right-of-way acquisition and eminent domain. Sites will be analyzed to determine various impacts of the proposed acquisitions on the development potential and utility of the property. Fieldwork will be required to perform the analysis. Reports, graphics, sketches, and engineering cures shall be produced as necessary throughout the acquisition process. Participation in project progress meetings will be required. Engineering support including trial exhibit preparation and expert witness testimony will be required throughout the litigation process, including pre-order of taking meetings, order of taking hearings, mediations, depositions, and value trials.

As the County generates each project, a scope meeting will be called for the County and the Consultant to identify the work to be accomplished, the level of effort, participation by the subconsultants, identification of specialized subconsultants, time frame for work and any other details particular to the scope of work. The Consultant is encouraged to be fully familiar with the properties to be acquired by performing field inspections prior to the submittal of the proposal. The proposal to the County shall contain written scope and costs detailing required man-hours with approved hourly rates, subcontracted services by man-hours and approved rates, proposed schedule and all direct expenses required to complete the task. A sample of the format in which the Consultant should submit his invoices will be provided. Scope and cost proposals shall be submitted within fifteen (15) days of the scope meeting.

The following descriptions provide a minimum standard for reporting and parcel sketch requirements to develop the best quality product for Orange County.

## **RIGHT-OF-WAY ACQUISITION REPORT**

### **ANALYSIS OF PARENT TRACT**

Each Right-of-way Acquisition Report shall contain the following general information as a minimum.

- Project name and Orange County parcel number
- Name of owner and/or tenant(s)
- Use of property including the name of the business or businesses if applicable
- Location of property by street address, Property Appraiser's tax map parcel number, distance from a visibly recognizable location, and station numbers
- Property inspection date
- Person who performed analysis
- Dimensions of the property including the size of the parent tract, area to be acquired and the remainder area. Provide one sketch of the entire parent tract with an aerial background (no break lines).
- Aerial backgrounds are required for the before sketches and the sketches with the acquisition shown.
- Sketches of the acquisitions have the appropriate scale to clearly show details of the impacts.
- Footer of report shall contain page numbers, project name and parcel numbers and date of report.
- Verify that all math, dimensions etc. are consistent within the report, with the construction plans, right of way maps, legal descriptions and sketches of description.
- Right-of-way Acquisition Reports shall be provided electronically in Word format and as a .pdf file. Some appendices may also be required in CAD format.
- If there are issues with any aspect of the site in the after condition as a result of the road project, immediately contact the Public Works Department, Engineering Right-of-Way Acquisition Section and the Real Estate Management Division Appraisal Section so that an appropriate solution can be implemented prior to the completion of the appraisal and negotiations for the purchase of the property. Do not finish the Right-of-Way Acquisition Report until instructed to do so by the Right of Way Acquisition Section.

### **EXISTING CONDITION OF THE PARENT TRACT**

Investigate, determine and describe or summarize features of the property including but not limited to the following:

- (1) The Right-of-way Engineering Consultant will be provided copies of all reports developed during the Roadway Conceptual Analysis (RCA) and Roadway Design Phases of the roadway project. Data collected during the RCA and Roadway Design Phase shall be reviewed, evaluated, and verified. After verification it can be relied upon for the Right-of-way Acquisition Reports. If data collected during the RCA and Roadway Design Phase cannot be relied upon because it is either incorrect or outdated, it shall be updated as part of this work and coordinated with the design consultant through Public Works

Department, Engineering Division Right of Way Acquisition Section and Design Section.

- (2) Existing Use
- (3) Land: Factors such as area, shape, dimensions, ingress/egress, topography, flood plain data, drainage, soil conditions, utilities on site and availability, wetlands and their jurisdictional boundaries, wetland classification for mitigation, site improvements, easements, encroachments and their effect should be considered. Especially describe existing drainage patterns; use of public water supply, wells, on-site sewage disposal systems and/or public wastewater systems; availability of water and wastewater mains including location relative to pavement and property; areas of wetlands and uplands; and existing easements.
- (4) Buildings and Other Improvements: If improvements are to be affected by the acquisition, locate the improvements by actual survey and provide scaled drawings. All dimensions shall be displayed on the improvement sketches.
- (5) Parking Analysis: Evaluate the parking design of the parcel before the acquisition with respect to the number of spaces, configuration, layout, adherence to zoning and applicable design standards with the Consultant commenting on conformance with current code requirements including ADA/Florida Accessibility code, encroachments on existing right of way, and any lease, easements, or other cross parking or joint use arrangements applicable to the site.
- (6) Existing Driveway Analysis: Identify existing grade (if a significant difference is created by the project), all dimensions of driveway width, type of vehicular use, existing turning movements.
- (7) Site Signage: On-premise signs, including outdoor advertising signs and monument signs, should be analyzed as to zoning regulations, any effect to the exposure, size, height or clearance of the sign in the before condition.
- (8) Environmental Concerns: Investigate the current environmental regulations from the appropriate federal, state, municipal, county and regulatory agencies with respect to environmental features of the property. Review Corridor Contamination Assessment reports. Coordinate indications of contamination assessment with Public Works Department, Engineering Division, Right of Way Acquisition Section, Design Section and Risk Management Division. Additional evaluation and property value consideration may be necessary if contamination exists.
- (9) Site Drainage Design: Evaluate the adequacy of the existing on site drainage systems. Describe the existing outfall.
- (10) Driveways: The Consultant should analyze the maximum potential number of drives permitted for unimproved land tracts before the acquisition.

- (11) Identify and obtain copies of all development documents.

### **DESCRIPTION OF THE ROADWAY PROJECT**

**The consultant shall discuss the existing and proposed roadway. Such discussion shall be parcel-specific with sufficient detail (including drawings, as appropriate) to enable the reader to visualize the proposed changes as they affect the subject.**

### **ZONING, LAND USE PLANS AND CONCURRENCY**

The Consultant shall discuss the following items concerning zoning, land use plans and concurrency:

- (1) Determine and verify zoning designations for the subject parcel with the appropriate government entity. The consultant should discuss the present zoning of the subject property and how zoning regulations affect the use of the property. (i.e. setbacks, potential floor area ratio (FAR) issues, minimal building requirements). Document the person or persons interviewed.
- (2) State whether the investigation revealed any reasonably probable change in zoning and/or land use. If a zoning change is reasonably probable, discuss other nearby zoning changes to support the anticipated change, as appropriate. A land use change assumption must be approved and documented by the appropriate Department Manager or his designee, currently Alberto Vargas, Manager or John Smoger, Planning Administrator, Orange County Planning Division, for property in unincorporated Orange County, and with the appropriate municipal zoning official for property in a municipality.
- (3) Determine and verify the comprehensive land use plan status and/or development or building plans of each parcel with the local Planning/Building Department. The Consultant should also obtain concurrency ordinances from municipal and county governments and determine the concurrency status of the subject parcel.
- (4) Discuss future land use plan and effect on property, as well as any pending, proposed or reasonably probable changes to the subject's future land use classification.
- (5) Discuss any non-conformity with either land or building improvements.
- (6) Determine and verify any change in impact fees due to the acquisition.

## **ANALYSIS OF PART ACQUIRED**

If land or land and improvements are partially acquired the following factors should be discussed by the Consultant:

- (1) Describe the topography, shape and area of land acquired.
- (2) Discuss the extent of access and frontage acquired.
- (3) Identify and describe all improvements to be acquired that are considered to be real property.
- (4) Provide description and delineation of jurisdictional wetland areas within the acquisition.
- (5) Describe impacts to buildings and other improvements utilizing actual survey data and provide drawings to scale including dimensions.
- (6) Discuss any other factors that may be considered necessary in the analysis of the acquisition area including but not limited to buildings, parking, driveways, environmental concerns, site drainage, site signage, zoning, land use plans, concurrency, etc.
- (7) Describe existing easements or other encumbrances.
- (8) The Consultant shall provide general contractor cost estimates of building and/or site improvements located within the acquisition area.

## **ANALYSIS OF THE REMAINDER-UNCURED**

The Consultant shall describe or summarize the effect of the acquisition on the remainder including but not limited to the following:

- (1) Describe any change in zoning, setbacks, non-conformity, comprehensive land use requirements, concurrency, etc. of the remainder.
- (2) Describe any changes in development potential of the remainder based on environmental regulations.
- (3) Partially remaining buildings and site improvements as well as analysis of setback impacts to remaining improvements utilizing actual survey data. Structural evaluations shall be made with recommendations for cut & face, demolitions or relocations.
- (4) Change of access or circulation (internal & external). Describe the access in the after condition including distances to U-turns, suggested routing for trucks, etc. Provide turning movement analysis as a separate report with drawings. Describe and consider specialty type vehicles that may access the property for

example, school buses, gasoline tanker trucks at gas stations, tow trucks, garbage trucks, and emergency vehicles. Describe access and circulation to buildings, such as, drive-through restaurants and banks, truck loading docks and bays, and dumpster access.

- (5) Change in parking or parking lot.
- (6) Change in grade analysis.
- (7) Change in drainage patterns. Evaluate the existing on-site drainage system after the acquisition
- (8) Change in driveway grade, width, and radius. The Consultant shall analyze the connection of the proposed driveway to the proposed roadway. Discuss driveway provided by roadway construction plans including analysis of grade, width, radius, type of vehicular use, and any increased construction costs resulting from changes in road elevation or the construction of roadside swales.
- (9) Potable water wells and on-site sewage disposal systems: The Consultant will evaluate any changes to potable water well and on-site sewage disposal systems due to the acquisition. The analysis should consider setbacks, separation distances and relocation.
- (10) Change in site signage-location, size or height including setback and exposure. On-premise signs, including outdoor advertising signs and monument signs, should be analyzed as to zoning regulations, any effect to the exposure, size, height or clearance of the sign in the after condition.
- (11) Discuss utility connections and availability in the after condition. This includes whether utility lines are on the property's side of the road and whether they are under pavement.
- (12) Discuss the impact on existing easements and whether the easement can co-exist with the project. If applicable, attach copy of easement document and development agreements to report as an appendix. Identify the Grantee and complete use for each easement affected. Show the extent of the easement on the parcel acquisition sketches.
- (13) Analysis of any other aspect of the acquisition that may affect the County, the owner or the public.

### **ANALYSIS OF THE REMAINDER-CURED**

The Consultant shall develop the most feasible cure plan to be utilized by the appraiser to mitigate any part or all damages created by the acquisition. The Consultant shall analyze and fully discuss the extent of the cure and where necessary provide a general contractor's bid estimate to perform the cure. The bid estimate should be valid for one year. Where a city is involved, it would be preferred for that city to provide concurrence with the cure developed by the general consultant. All cures shall be submitted to

Public Works Right-of-Way Acquisition Section for approval prior to finalizing the Right-of-way Acquisition Report. The following items should be considered:

- (1) Partially remaining buildings and site improvements as well as analysis of setback impacts to remaining improvements utilizing actual survey data. Structural evaluations shall be made with recommendations for cut & face, demolitions or relocations.
- (2) Analysis of setback impacts, zoning, development requirements, comprehensive land use requirements, and concurrency etc. to the remaining improvements. Applicable waivers, exceptions and/or variances shall be provided. Waivers, exceptions or variances for the remainder property shall include a signed document from the appropriate department manager in accordance with Orange County Code Section 30 Planning and Development, Article 13 Eminent Domain Waivers, Exceptions and Variances. Currently, Mitch Gordon, Manager of the Zoning Division grants these waivers in Orange County. The appropriate municipal zoning official should be contacted for waivers, exceptions and/or variance in a municipality.
- (3) Change of access or circulation (internal & external). Describe the access in the after condition including distances to U-turns, suggested routing for trucks, etc. Provide turning movement analysis as a separate report with drawings submitted directly to Public Works Right-of-Way Acquisition Section for approval. Describe and consider specialty type vehicles that may access the property for example, school buses, gasoline tanker trucks at gas stations, tow trucks, garbage trucks, and emergency vehicles. Describe access and circulation to buildings, such as, drive-through restaurants and banks, truck loading docks and bays, and dumpster access.
- (4) Parking lot design.
- (5) Drainage patterns. Evaluate the existing on-site drainage system after the acquisition and if necessary develop alternative drainage solutions. If there are issues with the site drainage, contact the Public Works Department, Engineering Division, Right-of-Way Acquisition Section so that an appropriate solution to the drainage issue can be implemented prior to the completion of the appraisal and negotiations for the purchase of the property.
- (6) Change in driveway grade, width, and radius: The Consultant shall analyze the proposed connection of the subject driveway to the proposed roadway. Discuss driveway provided by roadway construction plans including analysis of grade, width, radius, type of vehicular use, and any increased construction costs resulting from changes in road elevation or the construction of roadside swales. When such a connection shall require additional harmonizing or grading outside of the required right-of-way the Consultant shall provide a separate general contractor's bid estimate (harmonizing cure) for the cost of the work.

- (7) Potable water wells and on site sewage disposal systems. The Consultant will evaluate any changes to the well and septic systems due to the acquisition. The analysis should consider setbacks, separation distances, connection to public utilities and relocation of the potable water well and/or on-site sewage disposal system in accordance with County regulations and Health Department requirements. The Consultant shall develop a cure plan considering the above factors.
- (8) Change in site signage-location, size or height including setback and visibility in accordance with County regulations. On-premise signs, including outdoor advertising signs and monument signs, should be analyzed as to zoning regulations, any effect to the exposure, size, height or clearance of the sign in the after condition, and an area for the sign to be relocated and any impacts that may be caused by the relocation. A general contractor's bid to reconstruct signs to conform to current regulations must be provided.
- (9) Identify the probable length of time that will be required to implement any proposed cure and describe the possible impact of any down time on the owner.

**The Consultant shall discuss the feasibility and functional utility of the cure versus the property in the before condition.**

**It is the responsibility of the Consultant to coordinate any cure, which may affect the design or drainage of the roadway project with the Public Works Department, Engineering Division, Right-of-Way Acquisition Section.**



## SKETCH REQUIREMENTS

The Consultant is required to provide a before acquisition, after acquisition and remainder sketch. Cure sketches will be required when a cure is proposed. The following criteria should be met:

1. Parent tract, each part to be acquired and each remainder. If partial acquisition, cross hatch or shade each area to be acquired. A separate sketch of the remainder may be included. Provide one sketch of the entire parent tract with an aerial background (no break lines, may be at a different scale).
2. Aerial backgrounds are required for the before acquisition sketches and the sketches with the acquisition shown.
3. Sketches are to be provided electronically in AutoCAD on CD to the Public Works Department, Engineering Division, Right of Way Acquisition Section and as .pfd files to the Public Works Department, Engineering Division, Right of Way Acquisition Section, Real Estate Management Division and the project appraiser.
4. All sketches shall have the appropriate scale, line weights, shadings and layout to clearly show all details and not obscure any information.
5. All acquisition sketches shall have dimensions and areas of parent tracts, parcels and remainders from the right-of-way map, legal descriptions and sketches of description. Verify that all three match.
6. All sketches shall show improvements, including location, dimensions, distance to existing and new right-of-way line, all drives, number and layout of parking, and known location of septic tank(s) and drain fields.
7. Street or road name and ingress/egress to parcel.
8. Other significant natural or manmade features.
9. Directional pointer (north arrow to top or right).
10. Location, size and user/type of any easements, whether affecting value or not.
11. The proposed site of any on-premise sign or other improvements to be relocated.
12. A floor plan sketch for each significant building showing exterior dimensions, general layout of interior including all entry/exit doors, other significant or affected features.
13. Include station locations on all sketches. Show roadway plan view with stationing on all sketches except the parent tract sketch and the before sketch.

Show medians and distances to nearest U-turns or intersections for access.  
Stationing shall be legible.

14. Include a legend.
15. All information on sketches provided shall clearly and legibly shown.
16. Sample sketches will be provided during the negotiations for the contract.

**EXHIBIT B**  
**PRIME CONSULTANT**  
**GAI CONSULTANTS,**  
**INC.**

## FEE QUOTATION PROPOSAL

RE: ORANGE COUNTY CONTINUING SERVICE CONTRACT #Y14-904

As requested, the following is our information regarding overhead multipliers and personnel hourly rates for projects with Orange County. These rates will be used throughout the duration of the Contract:

|                            |          |
|----------------------------|----------|
| Base Rate                  | 100%     |
| Overhead & Fringe Benefits | 162.85 % |
| Subtotal                   | 262.85%  |
| <b>Profit</b>              | 12%      |
| <b>OVERALL MULTIPLIER</b>  | 2.94 %   |

Individual classification for personnel hourly rates are as follow:

| Classification                 | Basic Hourly Rate | Overall Multiplier | Billable |
|--------------------------------|-------------------|--------------------|----------|
| Project Manager                | \$88.00           | 2.94               | \$250.00 |
| Assistant Project Manager      | \$57.53           | 2.94               | \$169.00 |
| Planning Manager               | \$34.14           | 2.94               | \$100.00 |
| Project Planner                | \$31.56           | 2.94               | \$93.00  |
| Senior Landscape Architect     | \$34.14           | 2.94               | \$100.00 |
| Registered Landscape Architect | \$44.72           | 2.94               | \$130.00 |
| Senior Environmental Manager   | \$39.61           | 2.94               | \$116.00 |
| Project GIS Specialist         | \$26.01           | 2.94               | \$76.00  |
| Engineering Manager            | \$46.01           | 2.94               | \$135.00 |
| Senior Project Engineer        | \$41.97           | 2.94               | \$123.00 |
| Project Engineer               | \$33.26           | 2.94               | \$98.00  |
| Lead CAD Designer              | \$30.64           | 2.94               | \$90.00  |
| CAD Operator                   | \$22.09           | 2.94               | \$65.00  |
| Administrative Assistant       | \$17.00           | 2.94               | \$50.00  |

Under penalty of perjury, I declare that I have read the foregoing and the facts stated in it are true. False statements may result in criminal prosecution for a felony of the third degree as provided for in Section 92.525(3), Florida Statutes.

*Jeffrey M. Sievers / Vice-President*

PRINTED NAME / TITLE

*Jeffrey M. Sievers / 10/7/14*

SIGNATURE / DATE

**EXHIBIT B**  
**SUB CONSULTANT**  
**JCB CONSTRUCTION**



800 W. Gore Street  
Orlando, FL 32805

construction inc.

407.425.9880  
fax: 407.425.9972

October 29, 2014

GAI Consultants, Inc.  
618 East South Street, Suite 700  
Orlando, Florida 32801

Re: Orange County Right-of-Way and Eminent Domain Services  
Attention: Jeffrey M. Sievers, P.E., Vice President

Dear Mr. Sievers;

JCB Construction, Inc. is pleased to be able to offer our estimating services to GAI Consultants, Inc. as Subconsultant for the above-captioned project. As requested, the following is our information regarding overhead multipliers and personnel hourly rates for projects within Orange County. These rates will be used for the duration of the Contract.

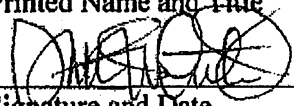
|                            |                     |
|----------------------------|---------------------|
| Base Rate                  | 100%                |
| Overhead & Fringe Benefits | 155%                |
| Subtotal                   | 255%                |
| Profit (10%)               | 0.255               |
| <b>OVERALL MULTIPLIER</b>  | <b><u>2.805</u></b> |

| <u>Classification</u> | <u>Basic Hourly Rate</u> | <u>Overall Multiplier</u> | <u>Billable</u> |
|-----------------------|--------------------------|---------------------------|-----------------|
| Chief Estimator       | \$75.00                  | 2.805                     | \$210.38        |
| Senior Estimator      | \$45.00                  | 2.805                     | \$126.23        |
| Estimator             | \$40.00                  | 2.805                     | \$112.20        |

Under penalty of perjury, I declare that I have read the foregoing and the facts stated in it are true. False statements may result in criminal prosecution for a felony of the third degree as provided for in Section 92.525(3), Florida Statutes.

Gratten L. White, Jr. Vice President

Printed Name and Title

  
\_\_\_\_\_  
Signature and Date

**EXHIBIT B**  
**SUB CONSULTANT**  
**RHODES + BRITO**  
**ARCHITECTS**

October 30, 2014

Re: Orange County Continuing Service Contract  
Rate Schedule for Rhodes+Brito Architects



Base Rate: 100%  
Overhead & Fringe Benefits: 142%  
Subtotal: 242%  
Profit (12%) .29  
Overall Multiplier: 2.71

| Classification             | Base Hourly Rate | Overall Multiplier | Billable |
|----------------------------|------------------|--------------------|----------|
| SR. PROJECT MANAGER        | \$52.00          | 2.71               | \$140.90 |
| PROJECT MANAGER            | \$48.00          | 2.71               | \$130.08 |
| PROJECT ARCHITECT          | \$40.00          | 2.71               | \$108.40 |
| PROJECT COORDINATOR III    | \$34.00          | 2.71               | \$92.14  |
| PROJECT COORDINATOR II     | \$27.00          | 2.71               | \$73.17  |
| PROJECT COORDINATOR I      | \$19.00          | 2.71               | \$51.49  |
| CONSTRUCTION ADMINISTRATOR | \$37.00          | 2.71               | \$100.27 |
| PROJECT ADMINISTRATOR      | \$29.50          | 2.71               | \$79.95  |
| CLERICAL                   | \$15.50          | 2.71               | \$42.01  |

Under penalty of perjury, I declare that I have read the foregoing and the facts stated in it are true.  
False statements may result in criminal prosecution for a felony of the third degree as provided in  
Section 92.525(3) Florida Statutes.

Ruffin A. Rhodes, AIA – President

Printed Name and Title

Signature

Date: October 30, 2014





**EXHIBIT B**  
**SUB CONSULTANT**

**AMERICAN**  
**ENVIRONMENTAL**  
**CONSULTING**



# Camerican environmental consulting

September 27, 2014

Mr. J. M. "Rusty" Sievers, P.E., Vice President  
GAI Consultants, Inc.  
618 E. South Street, Suite 700  
Orlando, Florida 32801

RE: Orange County Right of Way/Eminent Domain Contract Y14-904-CH  
American Environmental Consulting, Inc. (AEC) Scope of Services

---

Dear Mr. Sievers:

Thank you for the opportunity to provide environmental services to GAI under this Continuing Orange County Services Contract. We understand the scope of our general services will be to provide Environmental Consulting Support services.

Specifically, AEC will support the GAI team by ensuring the appropriate federal, state, municipal, county and regulatory agency environmental regulations are being applied to any properties under Orange County's consideration for right-of-way or eminent domain acquisition. As such, AEC will review any existing corridor contamination assessment reports; coordinate communication through GAI to the appropriate Orange County staff regarding any potential contamination indicators; and provide Phase I environmental assessments, and Phase II environmental assessment support as needed or requested.

We look forward to providing you and Orange County with exemplary service.

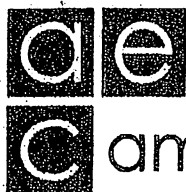
Sincerely,

*Sandra Winkler-Ehmer*

Sandra Winkler-Ehmer  
Sr. Vice President  
American Environmental Services, Inc.  
407-361-4975  
sandy@aeciservices.com

9009 Terrace Oak Court  
Windermere, FL 34786

407-718-8802  
Fax: 407-957-9237



# american environmental consulting

September 29, 2104

## Example Fee Quotation Proposal

As requested, the following is our information regarding overhead multipliers and personal hourly rates for projects with Orange County. These rates will be used throughout the duration of the Contract.

American Environmental Consulting, Inc. (AEC) is a certified Woman-Owned Business (WBE) with Orange County. The firm is just two years old and has not undergone the expense of an overhead and labor audit. A K1 Tax document for both AEC Owners is available to Orange County upon request.

The Classification Basic Hourly Rates below are based upon the billable rates AEC charges to both public and private clients. Supporting invoice documents have been provided to PSI, the Prime Firm.

| Classification                           | Basic Hourly Rate | Overall Multiplier | Billable |
|--|-------------------|--------------------|----------|
| Senior Environmental Scientist/Principal | \$50.17           | 2.99               | \$150.00 |
| Environmental Technician                 | \$21.74           | 2.99               | \$ 65.00 |

Under penalty of perjury, I declare that I have read the foregoing and the facts stated in it are true. False statement may result in criminal persecution for a felony of the third degree as provided for in Section 92.525(3) Florida Statutes.

Sandra Winkler Ehmer

Printed Name and Title

*Sandra Winkler Ehmer*

Signature

Date: 9/29/2014

9009 Terrace Oak Court  
Windermere, FL 34786

407-718-8802  
Fax: 407-957-9237  
[www.aeciservices.com](http://www.aeciservices.com)

**EXHIBIT B**  
**SUB CONSULTANT**

**BUCHHEIT**  
**ASSOCIATES, INC.**

## SCHEDULE OF PROPOSED BILLING RATES

### Orange County Continuing Services Right of Way/Eminent Domain

November 24, 2014

The following is our information regarding overhead multipliers and proposed personnel hourly rates for the above mentioned contract with Orange County.

|                            |         |
|----------------------------|---------|
| Base Rate                  | 100.00% |
| Overhead & Fringe Benefits | 242.02% |
| Subtotal (BREAKEVEN)       | 342.02% |
| Profit (0%)                | 0.00%   |

|   |             |
|---|-------------|
| <b>ORANGE COUNTY MAXIMUM MULTIPLIER</b> | <b>2.99</b> |
|---|-------------|

Individual classification for personnel hourly rates are as follows:

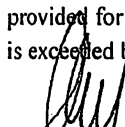
| Classification                    | Basic Hourly Rate | Overall Multiplier | Current Billable Rate |
|-----------------------------------|-------------------|--------------------|-----------------------|
| SURVEY PROJECT MANAGER            | \$50.00           | 2.9900             | \$149.50              |
| SURVEYOR AND MAPPER (Supervisory) | \$35.50           | 2.9900             | \$106.15              |
| PROJECT SURVEYOR                  | \$30.00           | 2.9900             | \$89.70               |
| TECHNICIAN                        | \$24.00           | 2.9900             | \$71.76               |
| CLERICAL                          | \$19.75           | 2.9900             | \$59.05               |
| TWO PERSON CURVEY CREW (A)        | \$59.50           | 2.9900             | \$177.91              |
| TWO-PERSON SURVEY CREW (B)        | \$48.00           | 2.9900             | \$143.52              |
| THREE-PERSON SURVEY CREW          | \$60.50           | 2.9900             | \$180.90              |

#### NOTES:

The rates as proposed are based on:

Payroll Figures verified as of date 9/19/2014

Under Penalty of perjury, I declare that I have read the foregoing and the facts stated in it are true. False statements may result in criminal prosecution for a felony of the third degree as provided for in Section 92.525(3), Florida Statutes. The Overhead & Fringe Benefits rate proposed is exceeded by our actual rate at this time, therefore profit margin is negative.

  
\_\_\_\_\_  
Kimberly A. Buchheit, P.S.M., President  
Buchheit Associates, Inc. Surveyors & Mappers  
427 CenterPointe Circle, Suite 1811  
Altamonte Springs, FL 32701  
Phone (407) 331-0505, ext. 12  
Fax (407) 331-3266  
email: kbuchheit@buchheitassoc.com

11/24/2014

Date



# **EXHIBIT C**

## EXHIBIT "C"

### ORANGE COUNTY TRAVEL AND SUBSISTENCE POLICY AND ALLOWANCES

1. Reimbursement for air fare shall be based on coach rates. First class rates will only be approved if the County required an expeditious action and coach rates were unavailable.
2. Maximum mileage allowance will be 44.5 cents per mile. Local mileage not allowed.
3. Car rental reimbursement shall be for compact cars, up to two occupants, and intermediate cars for over two occupants. The **CONSULTANT** shall attempt to obtain the lowest rates available.
4. Reimbursement for lodging shall be \$80.00 per diem or the actual expenses for lodging at a single room rate at a "non-resort" type hotel located in the vicinity of the **COUNTY'S** administrative offices.
5. Meals shall be reimbursed as follows:

|    |           |         |
|----|-----------|---------|
| A. | Breakfast | \$ 6.00 |
| B. | Lunch     | \$11.00 |
| C. | Dinner    | \$19.00 |

Reimbursement for meals shall not apply to local employees of the **CONSULTANT**.

6. Other necessary identifiable travel expenses such as tolls, parking, taxis, etc., shall also be reimbursed.

All of the above expenses shall be supported by a source document, such as a receipt or invoice, with the employee's name, project name, and brief explanation. These should be reconciled to the monthly invoice.

**NOTE: THE COST OR EXPENSE FOR MEALS, VEHICLE MILEAGE, TOLLS, PARKING OR TAXIS, IF INCURRED WITHIN ORANGE COUNTY, SHALL NOT BE ELIGIBLE FOR REIMBURSEMENT.**

**DRUG-FREE  
WORKPLACE FORM**



## DRUG-FREE WORKPLACE FORM

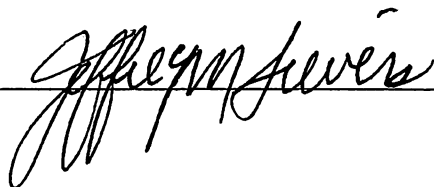
The undersigned vendor, in accordance with Florida Statute 287.087, hereby certifies that  
GAI CONSULTANTS, INC. does:

**Name of Proposer**

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, employee assistance programs and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in Paragraph 1.
4. In the statement specified in Paragraph 1, notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any convictions of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for any violation occurring in the workplace, no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in, a drug abuse assistance or rehabilitation program, if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free work-place through implementation of Paragraphs 1 through 5.

As the person authorized to sign this statement, I certify that this firm complies fully with the above requirements.

Proposer's Signature: \_\_\_\_\_



Date: \_\_\_\_\_

2/10/2015