

AGREEMENT BETWEEN
LEON COUNTY
AND
GPI SOUTHEAST, INC.

FOR ENGINEERING SERVICES
FOR
Professional Engineering Services, Leon County, Florida, Department of Community Affairs
Community Development Block Grant-Economic Development Category:
CDBG Agreement #07DB-3K-02-47-01-E17

THIS Agreement is entered into this 15th day of January, 2008, between **LEON COUNTY, FLORIDA**, hereinafter referred to as the "Owner" and **GPI SOUTHEAST, INC.**, a Florida Corporation, located at 3559 Timberlane School Road, Tallahassee, FL 32312, hereinafter referred to as the "Engineer". This Agreement shall become effective upon and subject to the release of funds by DCA, with Engineering Services subject to and in accordance with the Owner's Community Development Block Grant (CDBG) Agreement from the Florida Department of Community Affairs hereinafter referred to as the "Department".

Whereas, The Owner intends to provide construction of infrastructure for the Capital Circle Commerce Park located on Capital Circle NW, Leon County, Florida, the total grant amount of which is **\$750,000**.

NOW THEREFORE, the Owner and the Engineer in consideration of their mutual covenants herein contained do agree in respect of the performance of professional engineering services by Engineer and the payment for those services by Owner as set forth below.

I. Services To Be Provided:

The Engineer shall perform those services described in Attachment A, incorporated by Reference herein and made a part hereof as fully set forth below and with the terms and conditions set forth in this Agreement.

II. Availability of Funds

Payment of funds pursuant to this Agreement is subject to and conditioned upon the release of authorized appropriations from the Department. The Engineering Services will not begin until the Department has issued a release of funds and the Owner thereafter issues a notice to proceed. The Engineer shall be paid in accordance with Section III of this Agreement.

III. Consideration and Method of Payment

(A) The Owner agrees to pay the Engineer for the satisfactory completion of the following task an amount not to exceed:

- I. Resident Construction Inspection - \$26,343
- II. Additional Services - \$20,474

(B) The Engineer will submit invoices for amounts related to services rendered, as described in Paragraph A in accordance with percentage of completion and adopted work plans. The lump sum fee for the above services shall not exceed \$46,817.

(C) All financial reports shall be submitted in detail sufficient for a proper pre- and post- audit thereof.

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IV. Access to and Retention of Records and Audits

The Engineer shall allow public access to all documents, reports, papers, letters, or other material, subject to the provision of Chapter 119, Florida Statutes, prepared or received by the Engineer in conjunction with this Agreement. It is expressly understood that upon receipt of substantial evidence of the Engineer's refusal to comply with this provision, the Owner has the right to terminate this Agreement for breach. The Engineer shall retain all records relating to this contract for five years after the local government makes final payment and all other pending matters are closed.

The following agencies shall have access to the records without regard to authorization from the county: U.S. Department of Housing and Urban Development, U.S. Comptroller General, Florida Department of Community Affairs or any of their authorized representatives which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcriptions.

V. Subcontracts

- (A) If the Engineer subcontracts any of the work required under this Agreement, the Engineer agrees to include in the subcontract that the subcontractor is bound by the terms and conditions of this Agreement with the Owner.
- (B) The Engineer agrees to include in the subcontract that the subcontractor shall hold the Department, the Owner and the Engineer harmless against all claims of whatever nature by the subcontractor, arising out of the subcontractor's performance of work under this Agreement.
- (C) The Engineer shall submit proposed subcontractors name(s) to the Owner at least 15 days prior to entering into any contract. The Owner shall respond within 10 days from submission, either approving or disapproving said subcontractor. No response on the part of the Owner shall be deemed approval.

VI. Hold Harmless

The Engineer agrees, to the fullest extent permitted by law, to indemnify, defend and hold the Owner and the Department harmless from any claim, suit, damage, liability, or cost (including reasonable attorneys' fees and costs of defense) to the extent caused or alleged to be caused by the Engineer's negligent acts, errors, or omissions in the performance of services under this Agreement, and those of the Engineer's subconsultants or anyone for whom the Engineer is legally liable.

VII. Modification of Agreement

Modifications of the provisions of this Agreement shall only be valid when they have been reduced to writing, duly executed by the parties hereto. The Engineer hereby agrees to amend this Agreement's Scope of Services to remain consistent with the Owner/Department CDBG Agreement if said Agreement is amended. The amount of compensation to be paid to the Engineer will not be amended without mutual agreement of the Owner and the Engineer, formally executed in writing, subject to availability of funds from the Department.

VIII. Termination (Cause or Convenience)

- a. This contract may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this contract through no fault of the terminating party, provided that no termination may be effected unless the other party is given (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with the terminating party prior to termination to Owner within said 10 calendar day identified above..
- b. This contract may be terminated in whole or in part in writing by the owner for its convenience, provided that the other party is afforded the same notice and consultation opportunity specified in Paragraph VIII.a. above.

- c. If termination for default is effected by the Owner, an equitable adjustment in the price for this contract shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to the Engineer at the time of termination may be adjusted to cover any additional costs to the Owner because of the engineer's default.

If the owner effects termination for convenience, the equitable adjustment shall include reasonable profit for services or other work performed satisfactorily.

- d. Upon receipt of a termination notice under paragraphs a or b above, the Engineer shall (1) promptly discontinue all affected work (unless the notice directs otherwise) and (2) deliver or otherwise make available to the Owner all data, drawings, reports specifications, summaries and other such information, as may have been accumulated by the Engineer in performing this contract, whether completed or in process.
- e. Upon termination, the Owner may take over the work and may award another party a contract to complete the work described in this contract.
- f. If, after termination for failure of the Engineer to fulfill contractual obligations, it is determined that the Engineer had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the Owner. In such event, adjustment of the contract price shall be made as provided in paragraph c above.

IX. Notice and Contact

- (A) The Owner's Contract Manager for this Agreement is Bud Clark, CRA Consulting, Inc.
- (B) The representative of the Engineer responsible for the Engineering Services of this Agreement is David A. Freni, P.E. Project Manager shall be David A. Freni, P.E.
- (C) In the event that either party designates different representatives after execution of this Agreement, notice of the name and address of the new representative will be rendered in writing to the party and said notification attached to the original of this Agreement. A change in the representative of the Engineer is subject to the approval of the Owner.

X. Terms and Conditions

This Agreement contains all the terms and conditions agreed upon by the parties.

XI. Eligibility

The Engineer certifies that it is eligible to receive state and federally funded contracts. The Engineer also certifies that no party, which is ineligible for such work, will be subcontracted to perform services under this Agreement.

XII. Conflict of Interest

No member of or Delegate to the Congress of the United States, or Resident Councilman, and no elected state official or state employee shall share in any proceeds of this Agreement, or in any benefit to arise from the same.

No officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other official of the locality who exercises any function or responsibility with respect to this Agreement, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, the Engineer shall cause to be incorporated in all subcontracts the language set forth in this XII paragraph prohibiting conflict of interest.

XIII. Federal Statutory Requirements

The Engineer and the Owner shall comply with the provisions contained in Attachment B, which is hereby incorporated herein.

XIV. Lobbying

No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any federal contracts, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and extension, continuation, renewal, amendment or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, or any employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form -LLL, Disclosure Form to Report Lobbying.

XV. Remedies

Unless otherwise provided herein, all claims, counter claims, disputes and other matters in question between the parties arising out of or relating to this contract or any breach thereof, may be resolved by binding arbitration, if the parties agree, or in the absence of such agreement, by the appropriate state court in Leon County, Florida.

XVI. Environmental Compliance

If this contract exceeds \$100,000, the contractor shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and U.S. Environmental Protection Agency regulations (40 C.F.R. Part 15). The engineer shall include this clause in any subcontracts over \$100,000.

XVII. Energy Efficiency

The engineer shall comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

XVIII. Prohibition Against Contingent Fees

The engineer warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the engineer to solicit or secure this agreement and that he has not paid or agreed to pay any person, company, corporations, individual, or firm, other than a bona fide employee working solely for the engineer any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this agreement.

XIX. Truth-in-Negotiations

If a Truth-in-Negotiations certificate was required for this contract, the engineer agrees that the original contract price and additions thereto shall be adjusted to exclude any significant sums by which it is determined the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one year following the end of the contract.

XX. Insurance

The Engineer shall obtain and maintain during the life of this contract, at the Engineer's expense, such insurance as will protect the Engineer from claims under the Florida Worker's Compensation Law, and such professional liability insurance, comprehensive general liability insurance, and automobile liability insurance, in amounts approved by the Owner, as will protect the Owner and the Engineer from all claims for bodily injury, death, property damage or other claims which may arise from the performance by the Engineer. The comprehensive general liability insurance and automobile liability insurance shall be endorsed to include the Owner as an additional insured. Prior to commencing work under this Agreement, the Engineer will furnish Owner with policies or certificates of insurance

acceptable to Owner, which provides that the coverage will not be cancelled or materially changed except upon thirty (30) days written notice to Owner.

XXI. Conflicts with Other Clauses

If this contract contains any clauses which conflict with the above clauses, then this contract will be governed by the clauses(s) in this section.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their undersigned officials as duly authorized.

GPI SOUTHEAST, INC.

By: _____

Name and Title: David Van Leuven, P.E., Senior Vice-Pres./ Branch Manager

Witnessed: _____

LEON COUNTY

By: _____

Name and Title: Jane G. Sauls, Chairman
Leon County Board of County Commissioners

APPROVED AS TO FORM:
County Attorney's Office

ATTESTED:
Bob Inzer, Clerk of the Court

By: _____
Herbert W.A. Thiele, Esq.
County Attorney

By: _____
Bob Inzer, Clerk

ATTACHMENT A
SCOPE OF ENGINEERING SERVICES

GPI Southeast, Inc., referred to in this Section as the "Engineer", will assist the Owner in implementing the construction activities set forth in the Project.

SECTION 1 – BASIC SERVICES OF ENGINEER

SUMMARY OF ENGINEERING SERVICES

The Engineer shall provide all engineering, surveying, and construction inspection services in connection with the Owner's CDBG Agreement.

~~1.1 Preliminary Investigation Phase.~~

- ~~1.1.1 Consult with the Owner to determine its requirements for the Project and review available data.~~
- ~~1.1.2 Advise the OWNER as to the necessity of it providing or obtaining from others data or services of the types described in paragraph 3.2 and 3.3 and act as the OWNER's representative in connection with any such services.~~
- ~~1.1.3 Secure the services of other professionals as may be required by the project to provide information, such as boundary and topographical surveys and soils information.~~

~~1.2 Preliminary Design Phase.~~

After completion of the Preliminary Investigation Phase, the Engineer shall:

- ~~1.2.1 Prepare preliminary design documents consisting of final design criteria, preliminary drawings, outline specifications, and construction cost estimate.~~
- ~~1.2.2 Determine necessary property acquisitions and advise the OWNER of such.~~
- ~~1.2.3 Prepare permit applications and submit to the OWNER for approval.~~
- ~~1.2.4 Furnish two copies of the above preliminary design documents and present and review them with the OWNER.~~

1.3 Final Design Phase

After completion of the Preliminary Design Phase, the Engineer shall:

- 1.3.1 On the basis of the accepted preliminary design documents prepare for incorporation in the Contract Documents, final drawings to show the character and scope of the work to be performed by Contractors on the Project (hereinafter called "Drawings"), and Specifications.
- 1.3.2 Submit permit applications to appropriate agencies on behalf of the OWNER and obtain such permits.
- 1.3.3 Furnish the OWNER with three copies of the final plans, specifications, and construction costs estimates.
- 1.3.4 Request Wage Decision.
- 1.3.5 Submit plans, specifications, and bid documents to DCA for review and approval prior to bidding. Meet with DCA as necessary to resolve any concerns.

1.4 Bidding Phase

After written approval by the OWNER of the final Contract Documents and indication of intent to issue permits by other agencies, the Engineer shall:

- 1.4.1 Consult with the OWNER as to an acceptable time and place for bid opening.
- 1.4.2 Advertise the project for bid in local and regional newspapers and solicit bids from known contractors. Conduct Pre-bid Conference, if necessary.
- 1.4.3 Provide the Contract Documents to Contractors requesting such. Contractors shall pay a non-refundable deposit which represents the printing and handling cost of the documents.
- 1.4.4 Attend bid opening and assist the OWNER in opening and validating the bids.
- 1.4.5 Assure that all required permits and land acquisitions have been obtained prior to recommendation of award.
- 1.4.6 Determine the lowest responsive, responsible bidder and make recommendation to the OWNER.
- 1.4.7 Bidding phase tasks shall be paid for as additional services.

1.5 Construction Phase

- 1.5.1 Consult with and advise the OWNER and act as its representative. Conduct pre-construction conference with OWNER, Contractor, Subcontractor(s), and other interested parties.
- 1.5.2 Make periodic visits to the site to observe as an experienced and qualified design professional the progress and quality of the executed work and to determine in general if the work is proceeding on schedule and in accordance with the Contract Documents: ~~He shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of work;~~ He shall not be responsible for the means, methods, techniques, sequences, or procedures of construction selected by the Contractor(s) or the safety precautions and programs incident to the work of the Contractor(s). His efforts will be directed toward providing assurance for the OWNER that the completed Project will conform to the Contract Documents. He will give written notice to the OWNER when he observes or otherwise becomes aware of any defects or deficiencies in the work of the Contractor(s) and/or subcontractor(s). During such visits and on the basis of his on-site observations he shall keep the OWNER informed of the progress of the work; he shall endeavor to guard the OWNER against defects and deficiencies in the work of the Contractor(s) and/or subcontractor(s); and he may disapprove or reject work as failing to conform to the Contract Documents.
- 1.5.3 Review and approve Shop Drawings and samples, the results of tests and inspections and other data which any Contractor is required to submit, but only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents; determine the acceptability of substitute materials and equipment proposed by Contractor(s); and receive and review (for general content as required by the Specifications) maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection which are to be assembled by Contractor(s) in accordance with the Contract Documents.
- 1.5.4 Issue all instructions of the OWNER to Contractor(s); prepare routine change orders as required; he may, as OWNER's representative, require special inspection or testing of the work; he shall act as interpreter of the requirements of the Contract Documents and judge the performance thereunder by the parties thereto and shall make decisions on all claims of the OWNER and Contractor(s) relating to the execution and progress of the work and all other matters and questions related thereto; but Engineer shall not be liable for the results of any such interpretations or decisions rendered by him in good faith. Engineer shall oversee purchases of materials and prepare required specifications.

- 1.5.5 Based on his observations and the Contractor's Applications for Payment, he will determine the amount owing to the Contractor and will issue Certificates for Payment in such amounts. These Certificates will constitute a representation to the Owner, based on such observations and the data comprising the Application for Payment, the Engineer will also represent to the OWNER that, to the best of his knowledge, information and belief based on what his observations have revealed, the quality of work is in accordance with the Contract Documents.
- 1.5.6 Conduct an inspection to determine if the Project is substantially complete and a final inspection to determine if the Project has been completed in accordance with the Contract Documents and if each Contractor has fulfilled all of his obligations thereunder so the Engineer may approve, in writing, final payment to each Contractor.
- 1.5.7 The Engineer shall not be responsible for the acts or omissions of any Contractor, any subcontractor, or any of the Contractors' or subcontractors' agents or employees or any other persons (except the Engineer's own employees and agents) at the Project site, or otherwise performing any of the work of the Project, except to the extent such third party acts or omissions are attributable to the acts or omissions of the Engineer.
- 1.5.8 Preparing for the OWNER a set of reproducible record prints of Drawings showing those changes made during the construction process, based on the marked-up prints, drawings, and other data furnished by the Contractor(s) to the Engineer and which the Engineer considers significant.

SECTION 2 – ADDITIONAL SERVICES OF ENGINEER

2.1 General

If authorized in writing by the Owner, the Engineer shall furnish or obtain from others Additional Services of the following types which are not considered normal or customary Basic Services; these will be paid for by the Owner as indicated in Section 5.

- 2.1.1 Services resulting from significant changes in general scope of the Project or its design including, but not limited to, changes in size, complexity, OWNER's schedule, or character of construction; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are due to causes beyond the Engineer's control.
- 2.1.2 Providing renderings or models for OWNER's use.
- 2.1.3 Preparing documents for alternate bids required by the OWNER for work which is not executed or documents for out-of-sequence work.
- 2.1.4 When required by the OWNER, preparing documents for alternate Bids and Change Orders, or for supplemental work initiated after commencement of the construction phase.
- 2.1.5 Preparing for the OWNER, on request, an additional set of reproducible record prints of Drawings showing those changes made during the construction process, based on the marked-up prints, drawings, and other data furnished by the Contractor(s) to the Engineer and which the Engineer considers significant. Cost will be direct cost for reproduction.
- 2.1.6 Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) a significant amount of defective or neglected work of any Contractor, (3) prolongation of the contract time of any prime contract, (4) acceleration of the work schedule involving services beyond normal working hours, and (5) default by any Contractor.
- 2.1.7 Preparation of operating and maintenance manuals shall be included in basic services.
- 2.1.8 Services after completion of the Construction Phase, such as extensive assistance in the utilization of any equipment or system (such as initial start-up, testing, adjusting and balancing); and training personnel for operation and maintenance.

- 2.1.9 Preparing to serve or serving as a consultant or witness for the OWNER in any litigation, public hearing, or other legal or administrative proceeding involving the Project.
- 2.1.10 Additional services in connection with the Project, including services normally furnished by OWNER and services not otherwise provided for in this Agreement.
- 2.1.11 Services of sub-consultants for surveying, soils investigation, material testing, etc. shall be included in additional services.
- 2.1.12 Services of resident project representative shall be included in resident services.

SECTION 3 – OWNER 'S RESPONSIBILTIES

OWNER shall:

- 3.1 Provide full information as to its requirements for the Project.
 - 3.2 Assist the Engineer by placing at his disposal reasonably available information pertinent to the Project including previous reports and any other data relative to design and construction of the Project.
 - 3.3 Guarantee access to and make all provisions for the Engineer to enter upon public and private property as required for the Engineer to perform his services.
 - 3.4 Examine all studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by the Engineer, obtain advice of an attorney, insurance counselor, and other consultants as it deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of the Engineer.
 - 3.5 Designate in writing a person to act as the OWNER's representative with respect to the work to be performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define the OWNER's policies and decisions.
 - 3.6 Give prompt written notice to the Engineer whenever the OWNER observes or otherwise becomes aware of any defect in the Project.
 - 3.7 Furnish, or direct the Engineer to provide, necessary Additional Services as stipulated in Section 2 of this Agreement or other services as required.
4. Bear all costs incident to compliance with the requirements of this Section 3.

SECTION 4 – PERIOD OF SERVICE

- 4.1 The Engineer shall proceed with the performance of the services upon the notification by the OWNER, after the OWNER obtains necessary environmental clearance and release of funds.
- 4.2 The following services will be completed and submitted within the indicated calendar days following the authorization to proceed with that phase of services.
 - ~~4.2.1 Preliminary Investigation and Survey: 45 days~~
 - ~~4.2.2 Preliminary Design: 15 days~~
 - ~~4.2.3 Final Design & Permitting:~~

4.2.4 Bidding: 40 days

4.2.5 Construction: 135 days

4.3 If the Engineer's services for the project are delayed or suspended for reasons beyond the Engineer's control, additional time commensurable to the delay shall be granted upon documentation by the Engineer.

SECTION 5 – PAYMENTS FOR ENGINEERING SERVICES

5.1 Payments for Engineering Services shall be as given in Section III hereof.

5.1.1 Invoices shall be no more than monthly for Preliminary Investigation, Basic Services and Resident Services, payments shall be made based upon the percentage of completion of each phase of the work in proportion to the services performed. Payments shall be made by the OWNER upon receipt of funds from the State.

5.1.2 It is understood that the services provided by the Engineer and the compensation for such services will be based upon the above referenced lump sum fees. Engineer agrees to get the project done as outlined in the Section 4 above, and in accordance with the approved budget and work plans. Engineer to provide detailed information regarding Section 5.5.1. II. Additional Services, to the OWNER to comply with Section 5 of Attachment K of the agreement between the OWNER and DCA.

5.1.3 Additional Services shall include those referenced in Section 2 Attachment A of this Agreement, except for services included in the scope of services as set forth in Section III of the Agreement. Additional Engineering Services shall be furnished at the rate of Principal Engineer at \$175.00 per hour, Professional Engineer, Senior Land Planner & Senior Designer at \$125.00 per hour, Senior CADD at \$100.00 per hour, Junior CADD at \$80.00 per hour and Clerical at \$45.00 per hour. Hourly rates are based on an overhead factor of 1.77% plus an operating margin of 12% in accordance with the Engineer's approved overhead audit. Additional services of professional associates and consultants (i.e. geotechnical engineers, etc.) shall be furnished at amount billed to Engineer plus 15%.

ATTACHMENT B

FEDERAL PROVISIONS

I. Equal Employment Opportunity

During the performance of this Contract, the Engineer agrees as follows:

- a. The Engineer will not discriminate against any employee or applicant for employment because of race, creed, sex, color or national origin. The Engineer will take affirmative action to ensure that applicants are employed, and that employees are treated fairly during employment, without regard to their race, creed, sex, color or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Engineer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the OWNER setting forth the provisions of this non-discrimination clause.
- b. The Engineer will, in all solicitation or advertisements for employees placed by or on behalf of the Engineer, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, or national origin.
- c. The Engineer will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- d. The Engineer will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The Engineer will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by all the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the local government and the Florida and United States Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- f. In the event of the Engineer's non-compliance with the equal opportunity clauses of this Agreement or with any of such rules, regulations or orders, this Agreement may be canceled, terminated or suspended in whole or in part and the Engineer may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g. The Engineer will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Engineer will take such action with respect to any subcontract or purchase order as the local governing authority(s) representative may direct as a means of enforcing such provisions including sanction for non-compliance: Provided, however, that in the event the becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the OWNER, the Engineer may request the United States to enter into such litigation to protect the interests of the United States.

2. Civil Rights Act of 1964

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

3. Section 109 of the Housing and Community Development Act of 1974

No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under Title I of the Housing and Community Development Act.

4. "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities

- (a) The work to be performed under this contract is assisted by direct federal assistance from the U. S. Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 170. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
- (b) The parties to this contract will comply with the provisions of said Section 3 and regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- (c) The Engineer will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or worker's representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- (d) The Engineer will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, CFR Part 135. The Engineer will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- (e) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractor and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.
- (f) Engineer to provide all copies of correspondence and evidence of compliance with subparagraphs (a) through (e) to the OWNER.

5. Records and Audits

The Engineer shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the OWNER to assure proper accounting for project funds, both federal and non-federal shares. These records will be made available for audit purposes to the OWNER or any authorized representative, and will be retained for three years after the expiration of this contract unless permission to destroy them is granted by the OWNER.

The following agencies shall have access to the records without regard to authorization from the county: U.S. Department of Housing and Urban Development, U.S. Controller General, Florida Department of Community Affairs or any of their authorized representatives.

SECTION 3 AND AFFIRMATIVE ACTION PLAN

1. Engineer will solicit and evaluate applications for employment in a manner that is non-discriminatory based on age, race, sex, national origin, ethnic background, and handicap status.
2. When training and/or employment opportunity arises in connection with this project, Engineer will provide maximum opportunity to residents of the jurisdiction. Employment opportunity will be locally advertised in a manner that will insure that potentially eligible applicants are (1) made aware of the opportunity, and (2) provided a convenient way to apply for employment. Special consideration will be given to qualified applicants who are lower income residents, members of a minority race or ethnic group or female.
3. During this project, Engineer will seek to purchase necessary goods and/or services from businesses that are located in, or owned by persons residing in the jurisdiction.
4. Engineer will utilize the HUD and Florida lists of minority businesses in filling subcontracting and/or purchasing needs.
5. Engineer will include applicable equal opportunity provisions in subcontracts issued in connection with this project.
6. Engineer shall publicize and post this policy in a conspicuous place available to employees and applicants for employment and training.
7. Engineer is under no contractual or other disability which would prevent compliance with this policy.

ATTACHMENT C

**SWORN STATEMENT UNDER SECTION 287.133(3)(a),
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES**

THIS FORM MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICE AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted with Bid, Proposal, or Contract No. 07DB-3K-02-47-01-E17 for Leon County for Professional Engineering Services in accordance with the CDBG agreement.
2. This sworn statement is submitted by GPI Southeast, Inc., whose business address is 3559 Timberlane School Road, Tallahassee, FL 32312 and (if applicable) its Federal Employers Identification Number (FEIN) is 59-3473116.
3. My name is David P. Van Leuven and my relationship to the entity named above is Senior Vice President.
4. I understand that a "Public Entity Crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with any agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or any agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
5. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b) means a finding of guilt or a conviction of a public entity crime, with or without adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
6. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:
 1. A predecessor or successor of a person convicted of a public entity crime; or
 2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another persons, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
7. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of any entity.

8. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement: (Please indicate which statement applies.)

X Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989, AND (Please indicate which additional statement applies.)

_____ There has been a proceeding concerning the conviction before a hearing officer of the State of Florida Division of Administrative Hearings. The final order entered by the hearing officer did not place the person or affiliate on the convicted vendor list. (Please attach a copy of the final order.)

_____ The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order was entered by the hearing officer determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. (Please attached a copy of the final order.)

_____ The person or affiliate has not been placed on the convicted vendor list. (Please describe any action taken by or pending with the Department of General Services.)

David P. Van Leuven, Senior Vice President

Date: _____

STATE OF FLORIDA
COUNTY OF _____

PERSONALLY APPEARED BEFORE ME, the undersigned authority, DAVID P. VAN LEUVEN, who after first providing _____ for identification and being sworn by me, affixed his signature in the space provided above on this _____ day of _____, 2008.

Notary Public