

AGREEMENT

THIS AGREEMENT, by and between LEON COUNTY, a charter county and a political subdivision of the State of Florida, hereinafter referred to as the "County" and XXXXXXXXXX, hereinafter referred to as the "Contractor."

WHEREAS, the County has determined that it would be in the best interest of the citizens of Leon County, Florida, that the County be able to utilize the services of private persons when such services cannot be reasonably provided by the County; and

WHEREAS, the County has determined that it would be better to contract for these services than to hire the necessary personnel to satisfy the needs of the County: and

WHEREAS, in order to secure the lowest cost for these services, the County has sought and received competitive bids from contractor for such services.

NOW, THEREFORE, the parties hereto agree as follows:

1. SERVICES TO BE PROVIDED

The Contractor hereby agrees to provide professional Traffic and Intersection Engineering Services in accordance with the scope of work contained in Leon County Request for Proposal for Civil Engineering Services, Continuing Supply Re-Bid, Proposal Number BC-03-02-16-17 which is attached hereto and incorporated herein as Exhibit A, to the extent that it is not inconsistent with this Agreement; and 2) the Contractor's bid submission, which is attached hereto and incorporated herein as Exhibit B, to the extent that it is not inconsistent with this Agreement or with Exhibit A.

Traffic and Intersection Engineering

Work in this category shall consist of engineering services related to roadway intersections and traffic operations associated therewith. Services may include, but are not limited to, the design of complete intersections or any modifications or additions of amenities such as signalization, additional lanes, drainage and stormwater treatment, pedestrian access and utilization, etc. Services may also include traffic modeling, signal warrant study, multi-way stop warranty study, traffic safety study, concurrency impact assessments or other theoretical evaluation of traffic.

All professional services to be provided under this agreement shall be performed by Professionals licensed to practice in the State of Florida and in strict compliance with the Consultant's Competitive Negotiation Act, 287.055 F.S. (CCNA). Consultants providing services under this contract shall at all times be knowledgeable of the limiting thresholds of the CCNA statutes and shall insure that full compliance therewith is maintained at all times.

All Computer Aided Design and Drafting (CADD) work must be conducted and completed with AutoCAD Civil 3D software to ensure usability and compatibility with Leon County's system.

2. WORK

Any work to be performed shall be upon the written request of the County Administrator or his representative, which request shall set forth the commencing date of such work and the time within which such work shall be completed.

The performance of Leon County of any of its obligations under this Agreement shall be subject to and contingent upon the availability of funds lawfully expendable for the purposes of this Agreement for the current and any future periods provided for within the bid specifications.

3. TIME:

The Agreement shall be for a period of three (3) years, commencing on August 1, 2016, and shall continue until July 31, 2019. After the initial three (3) year period, at the sole option of the County, this Agreement may be extended for no more than two additional one (1) year periods. Such one (1) year extensions will be automatic unless the County provides written notice of non-renewal to the Contractor no less than thirty (30) days prior to the expiration date of the then current term.

4. CONTRACT SUM

The Contractor agrees that for the performance of the Services as outlined in Section 1 above, it shall be remunerated by the County according to the Leon County Request for Proposals BC-03-02-16-17, Section III. A., which is attached hereto and incorporated herein as Exhibit A.

5. PAYMENTS

Payments to the Contractor shall be made according to the requirements of the Local Government Prompt Pay Act, sections 218.70 – 218.79, Florida Statutes.

6. PROMPT PAYMENT INFORMATION REQUIREMENTS

A. The County Project Manager is:

Name:
Street Address:
City, State, Zip Code:
Telephone:
E-mail:

B. The Contractor's Project Manager is:

Name:
Street Address:
City, State, Zip Code:
Telephone:
E-mail:

C. Proper form for an invoice is:

A numbered invoice document with date of invoice; reference of the County purchase order number; itemized listing of all goods and services being billed with unit prices and extended pricing; vendor's name, address, billing contact person information, and Federal tax identification number. The invoice must be properly addressed to the Division listed on the County purchase order and delivered to that address. Delivery to another County address will void the invoice.

D. Payment Dispute Resolution

Section 14.1 of the Leon County Purchasing and Minority, Women and Small Business Enterprise Policy details the policy and procedures for payment disputes under the contract.

7. STATUS

The contractor at all times relevant to this Agreement shall be an independent contractor and in no event shall the Contractor nor any employees or sub-contractors under it be considered to be employees of Leon County.

8. INSURANCE

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the Contractor's bid.

A. Minimum Limits of Insurance. Contractor shall maintain limits no less than:

1. General Liability: \$1,000,000 Combined Single Limit for bodily injury and property damage per occurrence with a \$2,000,000 annual aggregate. Completed operations coverage will be provided for a period of three (3) years beyond termination and/or completion of the project. Coverage must include bodily injury and property damage, including Premise/Operations: a per location aggregate, Broad Form Contractual liability; Broad Form Property Damage; Fire Legal liability; Independent Contractors coverage; Cross Liability & Severability of Interest Clauses; and Personal Injury, and coverage for explosion, collapse, and underground (X,C,U).
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage. **(Non-owned, Hired Car).**
3. Workers' Compensation and Employers Liability: Insurance covering all employees meeting Statutory Limits in compliance with the applicable state and federal laws and Employer's Liability with a limit of \$500,000 per accident, \$500,000 disease policy limit, \$500,000 disease each employee. **Waiver of Subrogation in lieu of Additional Insured is required.**
4. Professional Liability Insurance, including errors and omissions: for all services provided under the terms of this agreement with minimum limits of One Million and 00/100 (\$1,000,000.00) Dollars per occurrence; or claims made form with "tail coverage" extending four (4) years beyond the term of the agreement. Proof of "tail coverage" must be submitted with the invoice for final payment. In lieu of "tail coverage", Contractor may submit annually to the County a current Certificate of Insurance proving claims made insurance remains in force throughout the same four (4)-year period.
5. Umbrella: \$5,000,000 combined single limit for bodily injury and property damage combined per occurrence and annual aggregate. The coverage shall provide excess coverage for employer's liability, general liability, including completed operations and auto liability.

B. Other Insurance Provisions: The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverages (County is to be named as Additional Insured).
 - a. The County, its officers, officials, employees and volunteers are to be covered as insureds as respects; liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protections afforded the County, its officers, officials, employees or volunteers.
 - b. The Contractor's insurance coverage shall be primary insurance as respects the County, it officers, officials, employees and volunteers. Any insurance of self-insurance maintained by the County, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
 - c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the county, its officers, officials, employees or volunteers.

- d. The Contractor's insurance shall apply separately to each insured against whom claims are made or suit is brought, except with respect to the limits of the insurer's liability.
 - e. Companies issuing the insurance policy, or policies, shall have no recourse against the County for payment of premiums or assessments for any deductibles which are all at the sole responsibility and risk of the Contractor.
- C. All Coverages: Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the County.
- D. Acceptability of Insurers: Insurance is to be placed with insurers with a Best's rating of no less than A:VII.
- E. Verification of Coverage: Contractor shall furnish the County with certificates of insurance and with original endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by the County before work commences. The County reserves the right to require complete, certified copies of all required insurance policies at any time.
- F. Subcontractors: Contractors shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

9. PERMITS

The Contractor shall pay for all necessary permits as required by law.

10. LICENSES

The Contractor shall be responsible for obtaining and maintaining his city or county occupational license and any licenses required pursuant to the laws of Leon County, the City of Tallahassee, or the State of Florida. Should the Contractor, by reason of revocation, failure to renew, or any other reason, fail to maintain his license to operate, the contractor shall be in default as of the date such license is lost.

11. ASSIGNMENTS

This Agreement shall not be assigned or sublet as a whole or in part without the written consent of the County nor shall the contractor assign any monies due or to become due to him hereunder without the previous written consent of the County.

12. INDEMNIFICATION

The Contractor shall indemnify and hold harmless the County, its officials, officers and employees from and against all liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fee, to the extent caused by negligence, recklessness, or intentionally wrongful conduct of the Contractor and other persons employed or utilized by the Contractor in the performance of this agreement.

The Contractor acknowledges that the sum of ten dollars (\$10.00) of the amount paid to the Contractor constitutes sufficient consideration for the Contractor's indemnification of the County, its officials, officers and employees.

The Contractor shall be liable to the County for any reasonable costs incurred by it to correct, modify, or redesign any portion of the project, which is the subject of the services provided under this Agreement, that is found to be defective or not in accordance with this Agreement, as a result and to the extent caused by the negligence, recklessness, or intentional wrongful conduct on the part of the Contractor and other

persons employed or utilized by the Contractor in the performance of this Agreement.

13. AUDITS, RECORDS, AND RECORDS RETENTION

The Contractor agrees:

- a. To establish and maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting procedures and practices, which sufficiently and properly reflect all revenues and expenditures of funds provided by the County under this Agreement.
- b. To retain all client records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to this Agreement for a period of five (5) years after termination of the Agreement, or if an audit has been initiated and audit findings have not been resolved at the end of five (5) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of this Agreement.
- c. Upon completion or termination of the Agreement and at the request of the County, the Contractor will cooperate with the County to facilitate the duplication and transfer of any said records or documents during the required retention period as specified in paragraph 1 above.
- d. To assure that these records shall be subject at all reasonable times to inspection, review, or audit by Federal, state, or other personnel duly authorized by the County.
- e. Persons duly authorized by the County and Federal auditors, pursuant to 45 CFR, Part 92.36(l)(10), shall have full access to and the right to examine any of provider's Agreement and related records and documents, regardless of the form in which kept, at all reasonable times for as long as records are retained.
- f. To include these aforementioned audit and record keeping requirements in all approved subcontracts and assignments.

14. MONITORING

To permit persons duly authorized by the County to inspect any records, papers, documents, facilities, goods, and services of the provider which are relevant to this Agreement, and interview any clients and employees of the provider to assure the County of satisfactory performance of the terms and conditions of this Agreement.

Following such evaluation, the County will deliver to the provider a written report of its findings and will include written recommendations with regard to the provider's performance of the terms and conditions of this Agreement. The provider will correct all noted deficiencies identified by the County within the specified period of time set forth in the recommendations. The provider's failure to correct noted deficiencies may, at the sole and exclusive discretion of the County, result in any one or any combination of the following: (1) the provider being deemed in breach or default of this Agreement; (2) the withholding of payments to the provider by the County; and (3) the termination of this Agreement for cause.

15. TERMINATION

Leon County may terminate this Agreement without cause, by giving the Contractor thirty (30) days written notice of termination. Either party may terminate this Agreement for cause by giving the other party hereto thirty (30) days written notice of termination. The County shall not be required to give Contractor such thirty (30) day written notice if, in the opinion of the County, the Contractor is unable to perform its obligations hereunder, or if in the County's opinion, the services being provided are not satisfactory. In such case, the County may immediately terminate the Agreement by mailing a notice of termination to the Contractor.

16. PUBLIC ENTITY CRIMES STATEMENT

In accordance with Section 287.133, Florida Statutes, Contractor hereby certifies that to the best of his knowledge and belief neither Contractor nor his affiliates has been convicted of a public entity crime. Contractor and his affiliates shall provide the County with a completed public entity crime statement form no later than January 15 of each year this Agreement is in effect. Violation of this section by the Contractor shall be grounds for cancellation of this Agreement by Leon County.

17. UNAUTHORIZED ALIEN(S)

The Contractor agrees that unauthorized aliens shall not be employed nor utilized in the performance of the requirements of this solicitation. The County shall consider the employment or utilization of unauthorized aliens a violation of Section 274A(e) of the Immigration and Naturalization Act (8 U.S.C. 1324a). Such violation shall be cause for unilateral termination of this Agreement by the County.

18. EMPLOYMENT ELIGIBILITY VERIFICATION

- a. Contractor agrees that it will enroll and participate in the federal E-Verify Program for Employment Verification under the terms provided in the "Memorandum of Understanding" governing the program. Contractor further agrees to provide to the County, within thirty days of the effective date of this contract/amendment/extension, documentation of such enrollment in the form of a copy of the E-Verify "Edit Company Profile" screen, which contains proof of enrollment in the E-Verify Program (this page can be accessed from the "Edit Company Profile" link on the left navigation menu of the E-Verify employer's homepage).
- b. Contractor further agrees that it will require each subcontractor that performs work under this contract to enroll and participate in the E-Verify Program within sixty days of the effective date of this contract/amendment/extension or within sixty days of the effective date of the contract between the Contractor and the subcontractor, whichever is later. The Contractor shall obtain from the subcontractor(s) a copy of the "Edit Company Profile" screen indicating enrollment in the E-Verify Program and make such record(s) available to the Agency upon request.
- c. Contractor will utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of: (a) all persons employed during the term of the Agreement by Contractor to perform employment duties within Florida; and (b) all persons (including subcontractors) assigned by Contractor to perform work pursuant to the Agreement.
 - 1) Contractor must use E-Verify to initiate verification of employment eligibility for all persons employed during the term of the Agreement by Contractor to perform employment duties within Florida within 3 business days after the date of hire.
 - 2) Contractor must initiate verification of each person (including subcontractors) assigned by Contractor to perform work pursuant to the Agreement within 60 calendar days after the date of execution of this contract or within 30 days after assignment to perform work pursuant to the Agreement, whichever is later.
- d. Contractor further agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the County or other authorized state entity consistent with the terms of the Memorandum of Understanding.
- e. Compliance with the terms of this Employment Eligibility Verification provision is made an express condition of this contract and the County may treat a failure to comply as a material breach of the contract.

19. NON-WAIVER

Failure by the County to enforce or insist upon compliance with any of the terms or conditions of this

Agreement or failure to give notice or declare this Agreement terminated shall not constitute a general waiver or relinquishment of the same, or of any other terms, conditions or acts; but the same shall be and remain at all times in full force and effect.

20. DELAY

No claim for damages or any claim other than for an extension of time shall be made or asserted against the County by reason of any delays. The Contractor shall not be entitled to an increase in the contract sum or payment or compensation of any kind from the County for direct, indirect, consequential, impact or other costs, expenses or damages, including but limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable; provided, however, that this provision shall not preclude recovery of damages by the Contractor for hindrances or delays due solely to fraud, bad faith, or active interference on the part of the County or its agents. Otherwise, the Contractor shall be entitled only to extensions of the contract time as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above.

21. REVISIONS

In any case where, in fulfilling the requirements of this Agreement or of any guarantee, embraced in or required thereby it is necessary for the Contractor to deviate from the requirements of the bid, Contractor shall obtain the prior written consent of the County.

22. VENUE

Venue for all actions arising under this Agreement shall lie in Leon County, Florida.

23. CONSTRUCTION

The validity, construction, and effect of this Agreement shall be governed by the laws of the State of Florida.

24. CONFLICTING TERMS AND CONDITIONS

In the instance that any other agreement exists concerning the matters herein, then the terms and conditions in this Agreement shall prevail over all other terms and conditions.

ORDER OF PRECEDENCE

1. Agreement
2. Solicitation Document
3. Vendor Response

ATTACHMENTS

- Exhibit A – Solicitation Document
- Exhibit B – Vendor Response

WHERETO, the parties have set their hands and seals effective the date whereon the last party executes this Agreement.

LEON COUNTY, FLORIDA

<Insert Vendor Name>

By: _____
Vincent S. Long
County Administrator

By: _____
President or designee

Date: _____

Title: _____

Date: _____

ATTEST:
Bob Inzer, Clerk of the Circuit Court & Comptroller
Leon County, Florida

BY: _____

Approved as to Form:
Leon County Attorney's Office

BY: _____
Herbert W. A. Thiele, Esquire
County Attorney