

PLEASE NOTE THERE ARE SOME TERMS ASSOCIATED WITH LAP PROJECTS IN THIS AGREEMENT THAT MAY NOT BE APPLICABLE. THEY WILL BE REMOVED WITH FINAL AGREEMENT

**PROFESSIONAL ENGINEERING SERVICES NON-CONTINUING SERVICES  
SAMPLE AGREEMENT: 145-0176-NC**

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**SECTION 1  
INTENT OF AGREEMENT**

**AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES FOR**

THIS AGREEMENT, entered into on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between PINELLAS COUNTY, a political subdivision of the State of Florida, hereinafter referred to as the COUNTY, represented by its Board of County Commissioners, and, (Insert Company Name) with offices in (Insert City), Florida hereinafter referred to as the CONSULTANT.

WITNESSETH, That:

WHEREAS, Pinellas County, herein referred to as the COUNTY, requires **PROFESSIONAL ENGINEERING SERVICES** associated with support to develop plans and specifications and perform all other professional engineering services as may be required during the construction of (Insert brief description of project and location) Pinellas County, Florida

WHEREAS, the COUNTY desires the CONSULTANT provide PROFESSIONAL ENGINEERING SERVICES requisite to the development of the PROJECT; and

WHEREAS, the CONSULTANT has expressed the willingness and ability to provide the aforementioned Services; and

NOW THEREFORE, the COUNTY and the CONSULTANT, in consideration of the mutual covenants hereinafter set forth, agree as follows:

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## **SECTION 2 SCOPE OF PROJECT**

### **2.1 PROJECT DESCRIPTION AND PROFESSIONAL REQUIREMENTS**

For the purposes of this Agreement the term PROJECT shall include all areas of proposed improvements, all areas that may reasonably be judged to have an impact on the PROJECT, and all PROJECT development phases and the services and activities attendant thereto. It is not the intent of this Agreement to identify the exact limits or details involved in providing satisfactorily completed PROJECT construction documents. The CONSULTANT shall provide the following professional services to prepare construction plans, specifications, and complete applications for and receive all federal, state, and local permits required for construction of the PROJECT. The PROJECT design shall be based on the following data:

**(Insert all relevant information about requirements).** All required permits shall be obtained by the engineering consultant. Plans shall be prepared in accordance with Civil 3D Pinellas County Requirements. Exhibit A, Scope of Services is attached.

a) Required Deliverables

- Civil 3D file (eTransmit) of construction plans and for each transmittal phase. The plans shall be provided electronically, plus two (2) paper prints signed and sealed by a Professional Engineer certified in the State of Florida.
- All technical specifications required for construction of project.

### **2.2 PROJECT PHASES**

All project phases shall be completed on or before the milestone dates provided in the County approved PROJECT design schedule referenced in 2.3 E.

### **2.3 CONSULTING RESPONSIBILITIES**

- A. It is the intention of the COUNTY that the CONSULTANT is held accountable for its work, including checking and review of plans, and that submittals are complete.
- B. The CONSULTANT shall be responsible for the accuracy of the work and shall promptly correct its errors and omissions without additional compensation. Acceptance of the work by the COUNTY will not relieve the CONSULTANT of the responsibility for subsequent correction of any errors and the clarification of any ambiguities.
- C. The CONSULTANT represents that it has secured or will secure, at its own expense, all personnel necessary to complete this Agreement; none of whom shall be employees of or have any contractual relationship with the COUNTY. Primary liaison with the COUNTY will be through the CONSULTANT'S Project Manager. All of the services required hereunder will be performed by the CONSULTANT or under the CONSULTANT'S supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under law to perform such services.
- D. The CONSULTANT shall endorse all reports, calculations, contract plans, and survey data. Services shall be prepared under the direction of an engineer registered in the State of Florida and qualified in the required discipline. Products or services performed or checked shall be signed and sealed by the CONSULTANT'S Florida registered engineer.

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- E. The CONSULTANT shall be responsible for the preparation of a PROJECT design schedule, which shows a breakdown of all tasks to be performed, and their relationship in achieving the completion of each phase of work. A bar chart schedule showing overall PROJECT time frames should also be prepared. These schedules must be submitted for COUNTY approval within ten (10) days of the initial PROJECT Notice to Proceed. These schedules will be used to verify CONSULTANT performance in relationship to Fees claimed and to allow the COUNTY'S Project Manager to monitor the CONSULTANT'S efforts. The CONSULTANT shall be responsible for any updates to these schedules and for documenting in writing to the COUNTY any major deviations in the actual versus estimated PROJECT time frames.
- F. The CONSULTANT shall respond, in writing, to all review comments made by the COUNTY, and shall incorporate appropriate design adjustments into the PROJECT, in a timely manner, resulting from the review exchange.

## 2.4 GENERAL DESIGN CONDITIONS

2.4.1 The CONSULTANT shall coordinate and solicit appropriate input, with the knowledge of the COUNTY.

2.4.2 All design data, plans, and drawings shall be delivered on 3.5" diskette or CD ROM formatted to .DXF or .DWG utilizing AutoCAD Release 14.0 or later; as well as providing reproducible hard copies of plans and drawings. Final plans shall be prepared in ink on double mat mylar sheets of 4 mil thickness. All specifications and other documents shall be delivered on 3.5" high-density floppy diskettes or a CD ROM, Windows 95 format, as well as the reproducible hard copies.

2.4.3 One (1) original and nine (9) copies of all deliverables are required unless specific submittal requirements are specified elsewhere in this Agreement.

2.4.4 The CONSULTANT shall develop acceptable alternates to any and all design recommendations that may be declared unacceptable.

## 2.5 GOVERNING SPECIFICATIONS REGULATIONS AND PERTINENT DOCUMENTS

The PROJECT shall be designed by the CONSULTANT in accordance with applicable industry standards. The CONSULTANT shall be responsible for utilizing and maintaining current knowledge of any laws, ordinances, codes, rules, regulations, standards, guidelines, special conditions, specifications, or other mandates relevant to the PROJECT or the services to be performed.

### **SECTION 3 SERVICES TO BE FURNISHED BY THE CONSULTANT**

3.1 SEE EXHIBIT A – SCOPE OF SERVICES.

#### 3.2 BIDDING PHASE

The CONSULTANT shall prepare with the COUNTY'S assistance the necessary bidding information, bidding forms, the conditions of the contract, and the form of agreement between the COUNTY and the Contractor. The CONSULTANT also, shall bear the cost of two (2) complete sets of documents (plans and specifications), two (2) of which shall be signed and sealed by the CONSULTANT as original record sets for the PROJECT. Each sheet in the two (2) construction plans print sets shall be signed, sealed and dated. The title sheet only of the two (2) specifications sets shall be signed, sealed, and dated. Additionally, any required addenda shall be signed, sealed, and dated.

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3.2.1 The CONSULTANT, following the COUNTY'S review of the Construction Documents and of the latest Statement of Probable Construction Cost, shall be available to assist the COUNTY in obtaining bids, and in preparing and awarding construction contracts for each bid package. The CONSULTANT shall assist conducting pre-bid conferences, and shall prepare a Bid Tabulation spreadsheet following receipt of bids.

3.2.2 If the Advertisement for bids has not commenced within sixty (60) days after the CONSULTANT submits the approved Construction Documents to the COUNTY, any fixed limit of Construction Cost established as a condition of this Agreement shall be adjusted to reflect any change in the general level of prices which may have occurred during that period of time in construction industry. The adjustment shall reflect changes between the date of submission of the Construction Documents to the COUNTY and the date on which the Advertisement for Bids occurred.

3.2.3 The CONSULTANT shall prepare any required addenda to construction plans and specifications on the PROJECT during the bidding phase affecting the CONSULTANT'S plans and specifications. The CONSULTANT shall also provide any addenda during the Construction Phase in sufficient quantity to distribute to all necessary parties as determined by the COUNTY. Addenda material shall be placed in envelopes by the CONSULTANT for mailing by the COUNTY. The CONSULTANT shall also furnish certified mail receipt material and prepare mailing labels. The COUNTY shall mail all addenda.

### 3.3 CONSTRUCTION PHASE

All contact and/or communication from the CONSULTANT to the Contractor shall be coordinated with the knowledge of the COUNTY.

#### A. Construction Consultation Services

1. Processing, review, approval and distribution of shop drawings, product data, samples and other submittals required by the Contract Documents.
2. Maintenance of master file of submittals with duplicate for COUNTY.
3. Construction Field Observation Services consisting of visits to the site as frequent as necessary, but not less than once every week, to become generally familiar with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the Contract Documents and prepare related reports and communications. Provide written report of each visit. This field observation requirement shall include any subconsultants at appropriate construction points.
4. Review for comment or approval any and all proposal requests, supplemental drawings and information and change orders.
5. Review for correctness Contractors pay requests for the COUNTY.
6. Prepare, reproduce and distribute supplemental drawings, specifications and interpretations in response to requests for clarification by the Contractor or the COUNTY as required by construction exigencies. Response to any request must be received by the COUNTY within twenty-four (24) hours of request, or the next available working day when the request is prior to a weekend or holiday.
7. Review, upon notice by the Contractor that work is ready for final inspection and acceptance.
8. Notify the COUNTY of any deficiencies found in follow-up reviews.

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9. Evaluate all testing results and make recommendations to the COUNTY.
10. Assist in the establishment by the COUNTY of programs of operation and maintenance of the physical plant and equipment.
11. Arrange for and coordinate instructions on operations and maintenance of equipment in conjunction with manufacturer's representatives.
12. Prepare an operation and maintenance manual for the COUNTY'S use.
13. The CONSULTANT shall visit the facility at initial occupancy and at three (3) month, six (6) month and one (1) year after issuance of the Certificate of Substantial Completion. On the facility visit the CONSULTANT shall observe, troubleshoot and assist in the operation of building systems. This shall not relieve the CONSULTANT of other needed visits to the facility should specific issues arise.
14. Assistance in the training of the facility operation and maintenance personnel in proper operations, schedules, procedures and maintenance inventory.
15. Prepare as-built record drawings, based on information furnished by the Contractors including significant changes in the work made during construction. The CONSULTANT will provide one (1) set of signed and sealed prints and one (1) CADD disk of the as-built record construction documents.
16. Transmit certified as-built record drawings and general data, appropriately identified, to the COUNTY within thirty (30) days following completion of construction.
17. Consult with, and recommend solutions to, the COUNTY during the duration of warranties in connection with inadequate performance of materials, systems, and equipment under warranty.
18. Review facilities or equipment prior to expiration of warranty period(s) to ascertain adequacy of performance, materials, systems and equipment.
19. Document noted defects or deficiencies and assist the COUNTY in preparing instructions to the Contractor for correction of noted defects.
20. The Contractor shall provide the CONSULTANT with all the required project close out material for CONSULTANT'S use in the warranty period services.
21. The Contractor shall have prime responsibility in the warranty period for all services herein. The CONSULTANT shall assist, consult, observe review and document as noted.

#### 3.4 PROVISIONS RELATED TO ALL PHASES

3.4.1 The CONSULTANT will investigate and confirm in writing to the COUNTY, to the best of the CONSULTANT'S knowledge, conformance with all applicable local public and utility regulations.

3.4.2 The CONSULTANT will coordinate work designed by various disciplines.

3.4.3 The CONSULTANT will furnish check prints for every project phase including five (5) sets at the 50% point of each phase and at every PROJECT phase completion. One (1) set of paper sepia shall be provided to the COUNTY for Owner-provided printing and distribution.

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3.4.4 The CONSULTANT shall submit to the COUNTY design notes and computations to document the design conclusions reached during the development of the construction plans.

a. Five (5) copies of the design notes and computations shall be submitted to the COUNTY with the design development review plans. When the plans are submitted for final review, the design notes and computations corrected for any COUNTY comments shall be resubmitted. At the PROJECT completion, a final set of the design notes and computations, properly endorsed by the CONSULTANT, shall be submitted with the record set of plans and tracings.

b. The design notes and calculations shall include, but not be limited to, the following data:

- 1) Design criteria used for the PROJECT.
- 2) Roadway geometric calculations
- 3) Structural calculations.
- 4) Drainage calculations.
- 5) Traffic design calculations
- 6) Traffic control calculations
- 7) Calculations as required by provisions of the Florida Energy Conservation Manual (Department of General Services), latest revision.
- 8) Calculations showing probable cost comparisons of various alternatives considered.
- 9) Documentation of decisions reached resulting from meetings, telephone conversations or site visits.
- 10) Other PROJECT-related correspondences as appropriate.

3.4.5 Each set of plans for the PROJECT shall be accurate, legible, complete in design, suitable for bidding purposes and drawn to scales acceptable to the COUNTY. The completed plans shall be furnished on reproducible material and in a format, which is acceptable to the COUNTY.

3.4.6 The CONSULTANT shall make such reviews, visits, attend such meetings and conferences and make such contacts as are necessary for the proper preparation of plans and specifications for the PROJECT.

3.4.7 The COUNTY in no way obligates itself to check the CONSULTANT'S work and further is not responsible for maintaining project schedules.

3.4.8 Other CONSULTANT responsibilities shall be as listed below:

- a. Provide necessary sealed drawings to obtain building permits or any utility permit.
- b. Assist the COUNTY in Contractor claims and/or litigation.
- c. Review the Adequacy and completeness of documents submitted by the Contractor to protect the COUNTY against claims by suppliers or third parties.

3.4.9 The CONSULTANT must be familiar with the intent, thoroughness, safety factors and design assumptions of all structural calculations.

3.4.10 All work prepared and/or submitted shall be reviewed and checked by a CONSULTANT (Architect/Engineer) registered in Florida. All plans shall be signed and sealed by the Professional CONSULTANT in responsible charge.

### 3.5 PERMIT APPLICATIONS AND APPROVALS

3.5.1 The CONSULTANT shall prepare all permit applications, data and drawings required for submittal BY THE COUNTY for approval of local, state and federal agencies.

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3.5.2 The CONSULTANT shall, at no additional cost to the COUNTY, make all reasonable and necessary construction plans revisions required to obtain the necessary permit approvals for construction of the PROJECT.

3.5.3 For the purpose of ensuring the timely approval of all permits necessary for the construction of the PROJECT, the CONSULTANT shall schedule the necessary contacts and liaison with all agencies having permit jurisdiction over the PROJECT, and shall furnish, on a timely basis, such plans, data and information as may be necessary to secure approval of the required permits.

### 3.6 COORDINATION WITH UTILITY SERVICES AND AFFECTED PUBLIC AGENCIES

3.6.1 The requirements of the various utility services shall be recognized and properly coordinated with the PROJECT design.

3.6.2 Drainage investigations and drainage design shall be coordinated with any city or drainage district that may be affected by or have an effect on the PROJECT.

## **SECTION 4 SERVICES TO BE FURNISHED BY THE COUNTY**

4.1 The COUNTY shall provide the following for the CONSULTANT'S use and guidance:

- A. Copies of existing maps, existing aerial photographs, as-built construction plans and data pertinent to the PROJECT design, which the COUNTY may have in its possession.
- B. Reproduces of the COUNTY Engineering Department Standard Drawings applicable to the PROJECT.
- C. Sample copies of the COUNTY standard contract documents and specifications.
- D. Preparation of legal (front-end) section of the specifications.

## **SECTION 5 PRESENTATIONS, PUBLIC MEETINGS AND TECHNICAL LIAISON**

The following services shall be provided at no additional cost to the COUNTY:

5.1 Prior to the commencement of design activities, the COUNTY will conduct with the CONSULTANT a pre-design conference for the purpose of discussing issues relative to the PROJECT, plans preparation and submittal procedures and to convey to the CONSULTANT such items provided for under Section 4 as may be required and available at that time.

5.2 The CONSULTANT shall make presentations to the COUNTY'S Director of Environment and Infrastructure (DEI) or designee as often as reasonably requested and at any point in the PROJECT development should issues arise which make additional presentations other than those listed elsewhere in this Agreement, in the COUNTY'S best interest.

5.3 The CONSULTANT shall participate in Monthly PROJECT Conferences with COUNTY staff personnel. The meetings will be scheduled by the COUNTY at a location provided by the COUNTY.



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5.4 The CONSULTANT shall attend, as technical advisor to the COUNTY all meetings or hearings conducted by permitting agencies or public bodies in connection with any permit required for the construction of the PROJECT, and shall prepare all presentation aids, documents and data required in connection with such meetings or hearings, and at the discretion of the COUNTY, shall either plead the COUNTY'S case or provide engineering and technical assistance to the COUNTY in its pleading of the case.

5.5 The CONSULTANT shall keep accurate minutes of all meetings and distribute copies to all attending. These meetings shall be set up through the COUNTY and appropriate COUNTY staff shall attend.

## **SECTION 6 PAYMENT GUIDELINES AND CATEGORY OF SERVICES**

### **6.1 BASIC SERVICES**

The services described and provided for under Sections 2, 3 and Exhibit A shall constitute the Basic Services to be performed by the CONSULTANT under this Agreement.

### **6.2 OPTIONAL SERVICES**

Services noted in Exhibit A of this Agreement as "Optional" shall constitute the Optional Services to be performed by the CONSULTANT under this Agreement. Optional Services shall be rendered by the CONSULTANT only upon written authorization by the COUNTY'S Executive Director of the Department of Environment and Infrastructure, or designee.

### **6.3 CONTINGENCY SERVICES**

When authorized in writing by the COUNTY'S Director of Environment and Infrastructure (DEI) or designee, the CONSULTANT shall furnish services resulting from unforeseen circumstances not anticipated under Basic Services due to minor changes in the PROJECT scope.

Compensation for any Contingency Services assignments shall be negotiated between the COUNTY and the CONSULTANT at the time the need for services becomes known.

### **6.4 ADDITIONAL SERVICES**

When executed by the County Administrator or Board of County Commissioners as an amendment to this Agreement, the CONSULTANT shall provide such additional services as may become necessary because of changes in the Scope of PROJECT. Additional Services shall be classified as any change beyond the Contingency Services upset limit for compensation.

### **6.5 INVOICING**

The CONSULTANT may submit invoices for fees earned on a monthly basis. Such invoicing shall be supported by a Progress Report showing the actual tasks performed and their relationship to the percentage of fee claimed for each phase. Billings within each phase of work shall be for the percentage of work effort completed to date for that phase. The COUNTY shall make payments to the CONSULTANT for work performed in accordance with the Local Government Prompt Payment Act, Section 218.70 et. seq., F.S.

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The following services shall be considered reimbursable services and may be filled in full upon their completion and acceptance. The CONSULTANT shall provide copies of supporting receipts/invoices/billing documentation. Self-performed reimbursable work shall be reimbursed at the firm's standard hourly rates for all related services. A breakdown of man hours and billing rates shall be provided with each invoice. An hourly rate sheet is attached (Exhibit B).

- A. Soil Analysis/Geotechnical Investigations.
- B. Contamination Assessments/Hazardous Material Analysis (if required).
- C. Aerial Photography (if required).
- D. Payment of Permit Fees (if required).
- E. Payment of the Public Information Meeting Advertisements, if required.
- F. Payment of the Court Reporter for public meetings, if required.
- G. Printing and Binding Services.

Should an invoiced amount for fees earned appear to exceed the work effort believed to be completed, the COUNTY may, prior to processing of the invoice for payment, require the CONSULTANT to submit satisfactory evidence to support the invoice.

All progress reports shall be mailed to the attention of the designated Project Manager, Department of Environment & Infrastructure, 14 S. Ft. Harrison Ave, Clearwater, FL 33756.

SUPPLIER shall submit invoices for payment due as provided herein with such documentation as required by Pinellas County and all payments shall be made in accordance with the requirements of Section 218.70 *et. seq*, Florida Statutes, "The Local Government Prompt Payment Act." Invoices shall be submitted to the address below unless instructed otherwise on the purchase order, or if no purchase order, by the ordering department:

Finance Division Accounts Payable  
Pinellas County Board of County Commissioners  
P. O. Box 2438  
Clearwater, FL 33757

Each invoice shall include, at a minimum, the Supplier's name, contact information and the standard purchase order number. The County may dispute any payments invoiced by SUPPLIER in accordance with the County's Dispute Resolution Process for Invoiced Payments, established in accordance with Section 218.76, Florida Statutes, and any such disputes shall be resolved in accordance with the County's Dispute Resolution Process.

Fees for contingent or additional services authorized shall be invoiced separately, and shall be due and payable in full upon the presentation of satisfactory evidence that the corresponding services have been performed.

## **SECTION 7 COMPENSATION TO THE CONSULTANT**

7.1 For the BASIC SERVICES provided for in this Agreement, as defined in Section 3.10, the COUNTY agrees to pay the CONSULTANT as follows:

A Lump Sum Fee of: for the Task 1 – General Task Phase of the PROJECT.

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A Lump Sum Fee of: for the Task 2 - Phase of the PROJECT.

A Lump Sum Fee of: for the Task 3 –Phase of the PROJECT.

A Lump Sum Fee of: for the Task 4 –Phase of the PROJECT.

A Lump Sum Fee of: for the Task 5 –Phase of the PROJECT

A Lump Sum Fee of: for the Task 6 –Phase of the PROJECT

A Lump Sum Fee of: for the Task 7 –Phase of the PROJECT

The above fees shall constitute the total not to exceed amount of **(\$)** to the CONSULTANT for the performance of Basic Services. All man hours are billed per the established and agreed hourly rates. The hourly rates are fully loaded and include all labor, overhead, expenses and profit of any nature including travel within the Tampa Bay Metropolitan Statistical area. Travel outside of that area will be reimbursed in accordance with Section 112.061 F.S.

7.2 For the OPTIONAL SERVICES provided for in the Agreement, as defined in Exhibit A, the COUNTY agrees to pay the CONSULTANT as follows:

A Lump Sum Fee of: **(\$)** for the Task 8a of the PROJECT

7.3 For any CONTINGENCY SERVICES performed, the COUNTY agrees to pay the CONSULTANT, a negotiated fee based on the assignment, up to a maximum amount not to exceed **(\$)** for all assignments performed.

7.4 Total agreement amount **(\$)**.

7.5 For any ADDITIONAL SERVICES, the COUNTY agrees to pay the CONSULTANT a negotiated total fee based on the work to be performed as detailed by a written amendment to this Agreement.

7.6 In the event that this Agreement is terminated under the provisions of this contract the total and complete compensation due the CONSULTANT shall be as established by the COUNTY based on the COUNTY'S determination of the percentage of work effort completed to date of termination.

## **SECTION 8 PERFORMANCE SCHEDULE**

Time is of the essence in this Agreement. The CONSULTANT shall plan and execute the performance of all services provided for in this Agreement in such manner as to ensure their proper and timely completion in accordance with the following schedule:

8.1 The services to be rendered by the CONSULTANT shall be commenced upon receipt from the COUNTY of written "NOTICE TO PROCEED."

8.2 All project phases shall be completed on or before the milestone dates provided in the COUNTY of written "NOTICE TO PROCEED."

8.3 The CONSULTANT shall not be held responsible for delays in the completion of the PROJECT design when the COUNTY causes such delays. The COUNTY reviews related to the above submittals shall not exceed twenty-one (21) days.

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**SECTION 9  
AUTHORIZATION FOR CONTINGENT OR ADDITIONAL SERVICES**

9.1 The CONTINGENCY services provided for under this Agreement shall be performed only upon prior written authorization from the Director of Environment and Infrastructure (DEI) or designee.

9.2 The ADDITIONAL services provided for under this Agreement shall be performed only upon approval of the County Administrator or Board of County Commissioners.

9.3 The CONSULTANT shall perform no services contemplated to merit compensation beyond that provided for in this Agreement unless such services, and compensation therefore, shall be provided for by appropriate written authorization or amendment(s) to this Agreement.

**SECTION 10  
FIRMS AND INDIVIDUALS PROVIDING SUBCONSULTING SERVICES**

The COUNTY reserves the right to review the qualifications of any and all subconsultants, and to reject any subconsultant in a proper and timely manner, deemed not qualified to perform the services for which it shall have been engaged. Any subconsultant not listed as part of the prime consultants team at time of award must be approved by the Director of Purchasing prior to performing any service.

**SECTION 11  
SATISFACTORY PERFORMANCE**

All services to be provided by the CONSULTANT under the provisions of this Agreement, including services to be provided by subcontractors, shall be performed to the reasonable satisfaction of the COUNTY'S Director of Environment and Infrastructure (DEI) or designee.

**SECTION 12  
RESOLUTION OF DISAGREEMENTS**

12.1 The COUNTY shall reasonably decide all questions and disputes, of any nature whatsoever, that may arise in the execution and fulfillment of the services provided for under this Agreement.

12.2 The decision of the COUNTY upon all claims, questions, disputes and conflicts shall be final and conclusive, and shall be binding upon all parties to this Agreement, subject to judicial review.

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### **SECTION 13 CONSULTANT'S ACCOUNTING RECORDS**

13.1 Records of expenses pertaining to all services performed shall be kept in accordance with generally accepted accounting principles and procedures.

13.2 The CONSULTANT'S records shall be open to inspection and subject to examination, audit, and/or reproduction during normal working hours by the COUNTY'S agent or authorized representative to the extent necessary to adequately permit evaluation and verification of any invoices, payments or claims submitted by the CONSULTANT or any of his payees pursuant to the execution of the Agreement. These records shall include, but not be limited to, accounting records, written policies and procedures, subcontractor files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including documentation covering negotiated settlements), and any other supporting evidence necessary to substantiate charges related to this Agreement. They shall also include, but not be limited to, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. The COUNTY shall not audit payroll and expense records on task assignments paid by lump sum fee.

13.3 For the purpose of such audits, inspections, examinations and evaluations, the COUNTY'S agent or authorized representative shall have access to said records from the effective date of the Agreement, for the duration of work, and until three (3) years after the date of final payment by the COUNTY to the CONSULTANT pursuant to this Agreement.

13.4 The COUNTY'S agent or authorized representative shall have access to the CONSULTANT'S facilities and all necessary records in order to conduct audits in compliance with this Section. The COUNTY'S agent or authorized representative shall give the CONSULTANT reasonable advance notice of intended inspections, examinations, and/or audits.

### **SECTION 14 OWNERSHIP OF PROJECT DOCUMENTS**

Upon completion or termination of this Agreement, all records, documents, tracings, plans, specifications, maps, evaluations, reports and other technical data, other than working papers, prepared or developed by the CONSULTANT under this Agreement shall be delivered to and become the property of the COUNTY. The CONSULTANT, at its own expense, may retain copies for its files and internal use. The COUNTY shall not reuse any design plans or specifications to construct another project at the same or a different location without the CONSULTANT'S specific written verification, adaptation or approval.

### **SECTION 15 INSURANCE COVERAGE AND INDEMNIFICATION**

15.1 The Contractor must maintain insurance in at least the amounts required in the Request for Proposal throughout the term of this contract. The contractor must provide a Certificate of Insurance in accordance with Insurance Requirements of the Request for Proposal, evidencing such coverage prior to issuance of a purchase order or commencement of any work under this Contract. See Section C Insurance Requirements – Attached

PLEASE NOTE THERE ARE SOME TERMS ASSOCIATED WITH LAP PROJECTS IN THIS AGREEMENT THAT MAY NOT BE APPLICABLE. THEY WILL BE REMOVED WITH FINAL AGREEMENT

15.2 Unless specifically prohibited by Florida, the CONSULTANT shall defend, indemnify and hold harmless the COUNTY, its officers and employees from any and all liabilities, claims, damages, penalties, demands, judgments, actions, proceedings, losses or costs, including, but not limited to, reasonable attorneys' fees and paralegals' fees, or by, or on account of, any claim or amounts recovered under the "Workers' Compensation Law" or of any other laws, by-laws, ordinance, order or decree, except only such injury or damage as shall have been occasioned by the sole negligence of the COUNTY, whether resulting from any claimed breach of this Agreement by the CONSULTANT or from personal injury, property damage, direct or consequential damages, or economic loss, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the CONSULTANT or anyone employed or utilized by the CONSULTANT in the performance of this Agreement.

The duty to defend under this Article is independent and separate from the duty to indemnify, and the duty to defend exists regardless of any ultimate liability of the CONSULTANT, the COUNTY and any indemnified party. The duty to defend arises immediately upon presentation of a claim by any party and written notice of such claim being provided to the CONSULTANT. The CONSULTANT'S obligation to indemnify and defend under this Article will survive the expiration or earlier termination of this Agreement until it is determined by final judgment that an action against the COUNTY or an indemnified party for the matter indemnified hereunder is fully and finally barred by the applicable statute of limitations.

**SECTION 16  
EQUAL EMPLOYMENT OPPORTUNITY CLAUSE  
FOR CONTRACTS NOT SUBJECT TO EXECUTIVE ORDER 11246**

In carrying out the contract, the CONSULTANT shall not discriminate against employee or applicant for employment because of race, color, religion, sex or national origin.

**SECTION 17  
INDEPENDENT CONTRACTOR STATUS AND COMPLIANCE WITH THE  
IMMIGRATION REFORM AND CONTROL ACT OF 1986**

CONSULTANT acknowledges that it is functioning as an independent contractor in performing under the terms of this Agreement, and it is not acting as an employee of COUNTY. CONSULTANT acknowledges that it is responsible for complying with the provisions of the Immigration Reform and Control Act of 1986, located at 8 U.S.C. Section 1324, et seq., and regulations relating thereto. Failure to comply with the above provisions of this contract shall be considered a material breach and shall be grounds for immediate termination of the contract.

**SECTION 18  
PROHIBITION AGAINST CONTINGENT FEE**

The CONSULTANT warrants 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 Agreement, 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 Agreement.

**SECTION 19  
TRUTH IN NEGOTIATIONS**

By execution of this Agreement, the CONSULTANT certifies to truth-in-negotiations and that wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting. Further, the original contract amount and any additions thereto shall be adjusted to

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exclude any significant sums where the COUNTY determines the contract price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. Such adjustments must be made within one (1) year following the end of the contract.

## **SECTION 20 SUCCESSORS AND ASSIGNS**

The CONSULTANT shall not assign, sublet, or transfer his interest in this Agreement without the written consent of the COUNTY.

## **SECTION 21 INTEREST ON JUDGMENTS**

In the event of any disputes between the parties to this Agreement, including without limitation thereto, their assignees and/or assigns, arising out of or relating in any way to this Agreement, which results in litigation and a subsequent judgment, award or decree against either party, it is agreed that any entitlement to post judgment interest, to either party and/or their attorneys, shall be fixed by the proper court at the rate of five percent (5%), per annum, simple interest. Under no circumstances shall either party be entitled to pre-judgment interest. The parties expressly acknowledge and, to the extent allowed by law, hereby opt out of any provision of federal or state statute not in agreement with this paragraph.

## **SECTION 22 TERMINATION OF AGREEMENT**

22.1 The COUNTY reserves the right to cancel this Agreement, without cause, by giving thirty (30) days prior written notice to the CONSULTANT of the intention to cancel. Failure of the CONSULTANT to fulfill or abide by any of the terms or conditions specified shall be considered a material breach of contract and shall be cause for immediate termination of the contract at the discretion of COUNTY. Alternatively, at the COUNTY'S discretion, the COUNTY may provide to CONSULTANT thirty (30) days to cure the breach. Where notice of breach and opportunity to cure is given, and CONSULTANT fails to cure the breach within the time provided for cure, COUNTY reserves the right to treat the notice of breach as notice of intent to cancel the Agreement for convenience.

22.2 If COUNTY terminates the Agreement for convenience, other than where the CONSULTANT breaches the Agreement, the CONSULTANT'S recovery against the COUNTY shall be limited to that portion of the CONSULTANT'S compensation earned through date of termination, together with any costs reasonably incurred by the CONSULTANT that are directly attributable to the termination. The CONSULTANT shall not be entitled to any further recovery against the COUNTY, including but not limited to anticipated fees or profit on work not required to be performed.

22.3 Upon termination, the CONSULTANT shall deliver to the COUNTY all original papers, records, documents, drawings, models, and other material set forth and described in this Agreement.

22.4 In the event that conditions arise, such as lack of available funds, which in the COUNTY'S opinion make it advisable and in the public interest to terminate this Agreement, it may do so upon written notice.

## **SECTION 23 AGREEMENT TERM**

This Agreement will become effective on the date of execution first written above and shall remain in effect for one thousand four hundred sixty (1,460) consecutive calendar days from the commencement date on the Notice to Proceed, unless terminated at an earlier date under other provisions of this Agreement, or unless extended for a longer term by amendment.

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#### **SECTION 24 CONFLICT OF INTEREST**

24.1 By accepting award of this Contract, the CONSULTANT, which shall include its directors, officers and employees, represents that it presently has no interest in and shall acquire no interest in any business or activity which would conflict in any manner with the performance of services required hereunder, including as described in the CONSULTANT'S own professional ethical requirements. An interest in a business or activity which shall be deemed a conflict includes but is not limited to direct financial interest in any of the material and equipment manufacturers suppliers, distributors, or contractors who will be eligible to supply material and equipment for the PROJECT for which the CONSULTANT is furnishing its services required hereunder.

24.2 If, in the sole discretion of the County Administrator or designee, a conflict of interest is deemed to exist or arise during the term of the contract, the County Administrator or designee may cancel this contract, effective upon the date so stated in the Written Notice of Cancellation, without penalty to the COUNTY.

#### **SECTION 25 ENTIRE AGREEMENT**

This Agreement represents, together with all Exhibits and Appendices, the entire written Agreement between the COUNTY and the CONSULTANT and may be amended only by written instrument signed by both the COUNTY and the CONSULTANT.

#### **SECTION 26 PUBLIC ENTITY CRIMES**

The CONSULTANT is directed to the Florida Public Entity Crimes Act, Section 287.133, Florida Statutes, specifically section 2(a), and the COUNTY'S requirement that the CONSULTANT comply with it in all respects prior to and during the term of the Contract.

#### **SECTION 27 PUBLIC RECORDS**

Contractor acknowledges that information and data it manages as part of the services may be public records in accordance with Chapter 119, Florida Statutes and Pinellas County public records policies. Contractor agrees that prior to providing services it will implement policies and procedures to maintain, produce, secure, and retain public records in accordance with applicable laws, regulations, and County policies, including but not limited to the Section 119.0701, Florida Statutes. Notwithstanding any other provision of this Agreement relating to compensation, the Contractor agrees to charge the County, and/or any third parties requesting public records only such fees allowed by Section 119.07, Florida Statutes, and County policy for locating and producing public records during the term of this Agreement.



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**SECTION 28  
GOVERNING LAW AND AGREEMENT EXECUTION**

This Agreement shall be governed by the laws of the State of Florida.

IN WITNESS WHEREOF, the parties herein have executed this Agreement as of the day and year first written above.

PINELLAS COUNTY, by and through its  
Board of County Commissioners

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_ Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name \_\_\_\_\_ Date: \_\_\_\_\_  
Chairman

ATTEST:

ATTEST:

Ken Burke, clerk of the Circuit Court

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_ Date: \_\_\_\_\_

By: \_\_\_\_\_  
Deputy Clerk \_\_\_\_\_ Date: \_\_\_\_\_

(CORPORATE SEAL)

APPROVAL AS TO FORM:

By: \_\_\_\_\_  
Office of the County Attorney