



BOARD OF COUNTY COMMISSIONERS

DATE: July 12, 2011
AGENDA ITEM NO. 21.

Consent Agenda

Regular Agenda

Public Hearing

County Administrator's Signature:

A handwritten signature in black ink, appearing to be "L. Jones", written over a horizontal line.

Subject:

Approval of Final Agreements - Professional Environmental and Engineering Services- Brownfield Program
Contract No. 101-0144-CN (AM)

Department:

Community Development / Purchasing

Staff Member Responsible:

Anthony Jones / Joe Lauro

Recommended Action:

I RECOMMEND THE BOARD OF COUNTY COMMISSIONERS (BOARD) APPROVE THE FINAL NEGOTIATED AGREEMENTS WITH EACH OF THE TWO (2) TOP RANKED FIRMS FOR PROFESSIONAL ENVIRONMENTAL AND ENGINEERING SERVICES ON A CONTINUING BASIS AS OUTLINED IN THE REQUEST FOR PROPOSAL.

IT IS FURTHER RECOMMENDED THAT AFTER PROPER EXECUTION OF THE AGREEMENTS BY THE FIRMS, THE CHAIRMAN SIGN THE AGREEMENTS AND THE CLERK ATTEST PERTAINING TO THE FOLLOWING FIRMS:

1. TBE GROUP, INC., D/B/A CARDNO TBE, CLEARWATER, FLORIDA
2. ENVIRONMENTAL CONSULTING & TECHNOLOGY, INC., TAMPA, FLORIDA

Summary Explanation/Background:

On May 24, 2011, the Board, as per Consultant Competitive Negotiation Act (CCNA) requirements, approved the ranking of firms pertaining to a continuing contract for qualified consultants to provide ongoing professional environmental and engineering services for the Pinellas County Brownfield program, and authorized staff to negotiate final contracts with the two (2) highest ranked firms.

A final agreement with each of the two (2) firms has been negotiated by Purchasing staff and is presented to the Board for consideration. Both firms provided fully loaded rates which include all overhead(s), profit and local travel. The new contract offers several advantages over previous contracts in that Consumer Price Index adjustments have been deleted, the pricing is fixed for thirty-six (36) months and the County reserves the right to re-negotiate rates if there is a change in market conditions.

The contract is effective upon execution of the agreements and continues for a period of thirty-six (36) months with options for one (1) twenty-four (24) month term extension.

Staff thought it was more prudent to attach a sample of the agreement along with the firms corresponding negotiated rates as opposed to copying all of the agreements

Fiscal Impact/Cost/Revenue Summary:

The upset limit over the initial thirty-six (36) month term of the contract is \$250,000.00 for each of the two successful firms for a total of \$500,000.00. The County Administrator has delegated authority to increase the upset limits of contract purchase orders pertaining to these agreements pending the negotiated rates remain the same.

Exhibits/Attachments Attached:

Sample Final Agreement
Negotiated Rates of Consultants and Sub-consultants

PROFESSIONAL SERVICES CONTINUING SERVICES AGREEMENT

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**SECTION 1
INTENT OF AGREEMENT**

**AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES FOR
PINELLAS COUNTY**

THIS AGREEMENT, entered into on the ____ day of _____, 2011 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 TBE Group, Inc., d/b/a Cardno TBE with offices in Clearwater, FL, hereinafter referred to as the CONSULTANT.

WITNESSETH, That:

WHEREAS, the COUNTY requires **PROFESSIONAL ENGINEERING SERVICES** associated with Brownfield Redevelopment on an as needed basis, herein referred as PROJECT.

WHEREAS, the COUNTY desires the CONSULTANT provide PROFESSIONAL ENGINEERING SERVICES requisite to the management needs of the COUNTY, and

WHEREAS, the CONSULTANT has expressed the willingness and ability to provide the aforementioned services on an as needed basis.

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

**SECTION 2
GENERAL CONDITIONS AND PROFESSIONAL REQUIREMENTS**

2.1 DESCRIPTION OF OVERALL REQUIRED SERVICES

CONSULTANT will be required to provide environmental site assessment, testing, cleanup monitoring and related services to meet all Florida Department of Environmental Protection and Environmental Protection Agency requirements.

The following services are anticipated:

- Phase I Environmental Assessments
- Asbestos and Lead-Based Paint Surveys
- Development of Quality Assurance Project Plans
- Phase II Environmental Site Assessments
- Limited Environmental Site Assessments
- Geotechnical Investigations
- Community Outreach/Stakeholder Involvement

2.2 ASSIGNMENT OF WORK

Work to be performed by the CONSULTANT shall be on an assignment-by-assignment basis. Work assignments shall be made by the COUNTY's designated Director or Designee. Prior to any work assignments being made, based on mutual discussions between the COUNTY and the CONSULTANT, the CONSULTANT shall prepare a detailed scope of work for the assignment which shall include a not to exceed budget amount for the assignment. All work assignment authorizations by the COUNTY shall be in writing. The CONSULTANT shall perform no work under this Agreement without written authorization. The CONSULTANT hereby agrees to waive any claim for compensation for any work performed without written authorization.

2.3 CONSULTING RESPONSIBILITIES

- A. It is the intention of the COUNTY that the CONSULTANT is held accountable for its work, including checking and plans review, 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 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 herein 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 of services performed or checked shall be signed and sealed by the CONSULTANT'S Florida registered engineer.
- 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, within ten (10) days of their receipt, and shall incorporate appropriate design adjustments resulting from the review exchange into the project, in the next scheduled submittal.

2.4 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.

2.5 KEY PERSONNEL

The individual(s) who are to be assigned to work under this Agreement are necessary for the successful performance of this Agreement. The CONSULTANT agrees that whenever, for any reason, one more of the aforementioned individuals are unavailable for performance under this Agreement, the CONSULTANT shall replace such individual(s) with an individual(s) of substantially equal abilities and qualifications.

The CONSULTANT shall submit to the COUNTY a resume giving the full name, title, qualifications, and experience, for all successors and/or new persons prior to assignment of such personnel to perform work under this Agreement. Should the COUNTY decide the successor personnel does not meet the qualifications of the replaced personnel, or in the case of new personnel, the COUNTY determines they are not qualified to perform the work assigned, the COUNTY will advise the CONSULTANT accordingly. The CONSULTANT shall then submit name(s) and qualifications of an individual(s) to the COUNTY until a determination is made by the COUNTY that the replacement meets equivalent or required qualifications.

SECTION 3 SERVICES TO BE FURNISHED BY THE CONSULTANT

3.1 SERVICES

- 3.1.1 The CONSULTANT shall furnish all services, equipment and manpower necessary for the WORK Assignment in accordance with the intent of the AGREEMENT.
- 3.1.2 If required, design activities shall be supported by design calculations properly identified as to subject and topic. Design references and any assumptions shall be noted. Calculations, if required, shall be in conformance with standard engineering practices. Design notes and computations shall be bound in suitable booklet form, and booklet shall be properly indexed as to content. All documents shall receive Quality Control Checks and Reviews.
- 3.1.3 If require, the CONSULTANT shall provide a file of the proposed design in AutoCAD latest version supported by Pinellas County, complete with all objects depicted according to software requirements.
- 3.1.4 The CONSULTANT shall provide the following, if requested:
 - A. Support to COUNTY staff in development of a scope of services.

- B. Reviews of plan submittals, engineering calculations, schedules and other technical documents.
 - C. Quality control and constructability reviews of plans
 - D. Project Implementation Services for design such as: Infrastructure studies and investigations, project scope preparation, project design, conduct/assist in Public Information Meetings, Utility Coordination, Land Surveying Services, Geotechnical Services, Access Connection and Environmental Permitting Services, Cost Estimating, Railroad Coordination, Construction Engineering and Inspection.
 - E. Project Management support and preparation of independent cost estimates.
 - F. Status meetings at a minimum of one each month.
 - G. Any other miscellaneous engineering services requirement by the COUNTY as directed by COUNTY's designated Director or Designee who is a COUNTY Employee.
- 3.1.5 Design Phase (Services to be defined with each specific WORK assignment)
 - 3.1.6 Bidding Phase (Services to be defined with each specific WORK assignment)
 - 3.1.7 Other Engineering Services. (Services to be defined with each specific WORK assignment)
 - a. Survey Work – Assist the COUNTY in conducting surveys of construction projects proposed for landfill operation and permitting. All surveys shall be certified by a Professional Land Surveyor (PLS).
 - b. Copy and Reproduction Support – Assist the COUNTY in production support of major documents such as permit applications, feasibility studies, design modifications and closure plans.
 - c. Miscellaneous Figures, As-built Drawings, Maps – Prepare figures, design drawings, maps, specifications, as-builts, etc., for the COUNTY when requested. All design support shall be performed on Auto-Cadd, latest version.

3.2 GENERAL SERVICES/SUPPORT TO COUNTY AS NEEDED

The CONSULTANT shall also provide miscellaneous services not otherwise described, but required by the COUNTY during the course of this Agreement. Examples could include presentations to local government, citizen groups and regulatory agencies, or any other tasks associated with the COUNTY's operations.

SECTION 4 PERFORMANCE SCHEDULES

The CONSULTANT shall plan and execute the performance of all services provided for under this Agreement in such a manner as to insure their proper and timely completion in accordance with the following:

- A. The Work Assignments to be performed by the CONSULTANT shall commence upon receipt, from the COUNTY, of a written Notice to Proceed from the COUNTY's designate Director or Designee who is a COUNTY employee.

- B. The CONSULTANT'S Performance Schedule for any authorized Work Assignments shall be established upon the COUNTY's acceptance and approval of a detailed schedule to be submitted, by the CONSULTANT, prior to each assignment.

SECTION 5 INFORMATION AND SERVICES TO BE FURNISHED BY THE COUNTY

- 5.1 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 work assignments, which the COUNTY may have in its possession.
 - B. Sample copies of the COUNTY standard contract documents and specifications, if required.

SECTION 6 PAYMENT SCHEDULE/INVOICING REQUIREMENTS

- 6.1 The COUNTY shall make payments to the CONSULTANT for work performed in accordance with the Local Government Prompt Payment Act, F.S. section 218.70 et. seq.
- 6.2 Should an invoiced amount for fees earned appear to exceed the work effort believed to be completed, or not to exceed amount approved, the COUNTY may, prior to processing of the invoice for payment, require the CONSULTANT to submit satisfactory evidence to support the invoice. All invoices requesting payment for reimbursable or expense items (as defined in Section 7) must have copies of actual billings, invoices, or receipts attached which support the amount invoiced.
- 6.3 The CONSULTANT shall provide a progress report with each invoice in a format to be provided by the COUNTY. The progress report shall include a written narrative describing the work performed that period, and the work planned to be completed the following period. All progress reports and invoices shall be mailed to the attention of the designated Project Manager.
- 6.4 Invoices not properly prepared (mathematical errors, billing not reflecting actual work done, no signature, etc.) shall be returned to the CONSULTANT for correction.
- 6.5 Any and all disputes regarding invoices shall be resolved by the Dispute Resolution for Pinellas County Commissioners in Matters of Invoice Payments.

SECTION 7 COMPENSATION TO THE CONSULTANT

- 7.1 The COUNTY shall compensate the CONSULTANT for authorized Work Assignments using the following methods of compensation. The method of compensation shall be determined by the COUNTY based on the Work Assignment to be performed.
- A. For Work Assignments where the scope can be reasonably defined, and have a specific time frame, compensation shall be a lump sum fee negotiated and agreed upon prior to the assignment's authorization. This fee shall be the total and complete amount payable to the CONSULTANT for performance of the Work Assignment and shall include the cost of all labor, overhead, profit, and expenses of any nature.
 - B. For indeterminate Work Assignments, compensation shall be on a hourly rate basis, Compensation shall be for the actual work performed in accordance with the schedule of rate value attached to this AGREEMENT and incorporated herein as Exhibit A.

7.2 The upset limit for all compensation to be paid under the maximum **three (3)** year term of this Agreement is an amount not to exceed **two hundred and fifty thousand dollars (\$250,000.00)**. Total payments to the CONSULTANT may not exceed this amount without Board of County

Commissioners or County Administrator's approval to raise this upset limit. This AGREEMENT contains one (1) additional two (2) year term extension option, based upon performance, beyond the primary AGREEMENT period.

7.3 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 TASK ORDERS

8.1 The COUNTY and the CONSULTANT shall mutually agree on scope of services based on individual task orders as needed throughout the AGREEMENT term; thus Task Orders require approval to form by the **Pinellas County Attorney's office** and authorization by an approved purchase order.

8.2 The CONSULTANT shall perform no services contemplated to merit compensation beyond that provided for in detailed task orders unless such services and compensation therefore, shall be provided for by appropriate written authorization via a change order to the task order. Such change orders will be issued by the Board of County Commissioners' Purchasing Department.

SECTION 9 ASSIGNMENT/SUBCONTRACTING/CORPORATE ACQUISITIONS AND/OR MERGERS

9.1 The CONSULTANT shall perform this contract. No assignment or subcontracting shall be allowed without prior written consent of the COUNTY. If a proposer intends to subcontract a portion of this work, the proposer must disclose that intent to the COUNTY. In the event of a corporate acquisition and/or merger, the CONSULTANT shall provide written notice to the COUNTY within thirty (30) business days of CONSULTANT's notice of such action or upon the occurrence of said action, whichever occurs first. The right to terminate this contract, which shall not be unreasonably exercised by the COUNTY, shall include, but not be limited to, instances in which a corporate acquisition and/or merger represent a conflict of interest or are contrary to any local, state, or federal laws.

9.2 The COUNTY reserves the right to review the qualifications of any and all subconsulting, 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.

SECTION 10 SATISFACTORY PERFORMANCE

All services to be provided by the CONSULTANT under the provisions of this Agreement, including services to be provided by subconsultants, shall be performed to the reasonable satisfaction of the COUNTY'S designated departmental Director or designed.

SECTION 11 RESOLUTION OF DISAGREEMENTS

11.1 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.

11.2 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.

**SECTION 12
CONSULTANTS ACCOUNTING RECORDS**

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

12.2 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, subconsultant 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.

12.3 The COUNTY reserves the privilege of auditing a vendor's records as such records relate to purchases between the COUNTY and said vendor. Such audit privilege is provided for within the text of the Pinellas County Code 2-176(j). Records should be maintained for three years from the date of final payment.

12.4 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 13
OWNERSHIP OF PROJECT DOCUMENTS**

Upon completion or termination of this Agreement,

13.1 Drawings, specifications, designs, models, photographs, reports, surveys, calculations, and other data provided in connection with this Agreement are and shall remain the property of the COUNTY whether the project for which they are made is executed or not. Such finished or unfinished documents, data, calculations, studies, surveys, specifications, drawings, maps, models, photographs and reports prepared by the Consultant shall be delivered by the Consultant to the COUNTY at the conclusion of the project or the termination of the Consultant's services.

13.2 The CONSULTANT at its own expense may retain copies for its files and internal use.

**SECTION 14
INSURANCE COVERAGE**

14.1 The CONSULTANT shall procure, pay for and maintain at least the following insurance coverages and limits. Said insurance shall be evidenced by delivery to the COUNTY of one (1) certificate of insurance executed by the insurers listing coverages and limits, expiration dates and terms of policies and all endorsements whether or not required by the COUNTY, and listing all carriers issuing said policies; and (2) upon request, a certified copy of each policy including all endorsements. The insurance requirements shall remain in effect throughout the term of the Agreement.

14.1.1 Workers' Compensation in at least the Limits as required by law; Employers' Liability Insurance of not less than \$100,000 for each accident.

14.1.2 Comprehensive General Liability Insurance including, but not limited to, Independent Contractor, Contractual, Premises-Operations, and Personal Injury covering the liability assumed under indemnification provisions of this Agreement, with limits of liability for personal injury and/or bodily injury, including death of not less than **\$1,000,000**, each occurrence; and property damage of not less than \$100,000, each occurrence. Coverage shall be on an "occurrence" basis, and the policy shall include Broad Form Property Damage coverage of not less than \$50,000 per occurrence, unless otherwise stated by exception herein.

14.1.3 Professional Liability Insurance (including Errors and Omissions) with minimum limits of **\$2,000,000** per occurrence, if occurrence form is available; or claims made form with "tail coverage" extending three (3) years beyond completion and acceptance of the PROJECT with proof of "tail coverage" to be submitted with the invoice for final payment. In lieu of "tail coverage," CONSULTANT may submit annually to the COUNTY a current Certificate of Insurance proving claims made insurance remains in force throughout the same three (3) year period.

14.1.4 Comprehensive Automobile and Truck liability covering owned, hired and non-owned vehicles with minimum limits of \$500,000 each occurrence for bodily injury including death, and property damage of not less than \$100,000, each occurrence. (Combined Single Limits of not less than \$500,000 each occurrence, will be acceptable unless otherwise stated). Coverage shall be on an "occurrence" basis, such insurance to include coverage for loading and unloading hazards.

14.2 Each insurance policy shall include the following conditions by endorsement to the policy:

14.2.1 Each policy shall require that thirty (30) days prior to expiration, cancellation, non-renewal or any material change in coverages or limits, a notice thereof shall be given to COUNTY by certified mail to: Director of Purchasing or designee and the Director of Risk Management at 400 South Ft. Harrison Avenue, Clearwater, FL, 33756. CONSULTANT shall also notify COUNTY, in a like manner, within twenty-four (24) hours after receipt, of any notices of expiration, cancellation, non-renewal or material change in coverage received by said CONSULTANT from its insurer; and nothing contained herein shall absolve CONSULTANT of this requirement to provide notice.

14.2.2 Companies issuing the insurance policy, or policies, shall have no recourse against COUNTY for payment of premiums or assessments for any deductibles which all are at the sole responsibility and risk of CONSULTANT.

14.2.3 The term COUNTY in this Section 14 shall include the Board of County Commissioners, all its members, its officers, and employees while acting on behalf of Pinellas County.

14.2.4 Pinellas County shall be endorsed to the required policy or policies as an additional insured, exclusive of Professional Liability Insurance and Workers' compensation Insurance.

14.2.5 The policy clause "Other Insurance" shall not apply to any insurance coverage currently held by the COUNTY to any such future coverage, or to the COUNTY'S Self-Insured Retentions of whatever nature.

14.3 The CONSULTANT hereby waives subrogation rights for loss or damage against the COUNTY.

**SECTION 15
EQUAL EMPLOYMENT OPPORTUNITY CLAUSE FOR CONTRACTS
NOT SUBJECT TO EXECUTIVE ORDER 11246**

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

**SECTION 16
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 contract, and it is not acting as an employee of Pinellas County. The 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 the contract shall be considered a material breach and shall be grounds for immediate termination of the contract.

**SECTION 17
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 contract and that he has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this contract.

**SECTION 18
TRUTH IN NEGOTIATIONS**

The CONSULTANT certifies to truth-in-negotiation 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 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 19
SUCCESSORS AND ASSIGNS**

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

**SECTION 20
INDEMNIFICATION**

20.1 The first ten dollars (\$10) of compensation received by the CONSULTANT pursuant to this contract represents specific consideration for the following indemnification: CONSULTANT shall indemnify, pay the cost of defense, including attorneys' fees, and hold harmless the COUNTY from all suits, actions or claims of any character brought on account of any injuries or damages received or sustained by any person, persons or property by or from the said CONSULTANT; or by, or in consequence of any neglect in safeguarding the work; or through the use of unacceptable materials in the construction of improvements; or by, or on account of any act or omission, neglect or misconduct of the said CONSULTANT; 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.

20.2 To the extent permissible by law; the successful proposer(s) agrees to indemnify the COUNTY and hold it harmless from and against all claims, liability, loss, damage or expense, including counsel fees, arising from or by reason of any actual or claimed trademark, patent or copyright infringement or litigation based thereon, with respect to the goods or any part thereof covered by this order, and such obligation shall survive acceptance of the goods and payment thereof by the COUNTY.

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 21 INTEREST ON JUDGMENTS

In the event of any disputes between the parties to this Agreement, including without limitations 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 Pinellas County reserves the right to terminate this contract without cause by giving thirty (30) days prior notice to the CONSULTANT in writing of the intention to terminate or with cause if at any time the CONSULTANT fails to fulfill or abide by any of the terms or conditions specified.

22.2 Failure of the CONSULTANT to comply with any of the provisions of this Agreement shall be considered a material breach of Agreement and shall be cause for immediate termination of the Agreement at the discretion of Pinellas County.

22.3 In the event sufficient budgeted funds are not available for a new fiscal period, the COUNTY shall notify the Bidder of such occurrence and Agreement shall terminate on the last day of current fiscal period without penalty or expense to the COUNTY.

22.4 In addition to all other legal remedies available to Pinellas County, Pinellas County reserves the right to terminate and obtain from another source, any items which have not been delivered within the period of time stated in the proposal, or if no such time is stated, within a reasonable period of time from the date of order as determined by Pinellas County.

SECTION 23 AGREEMENT TERM

23.1 This Agreement will become effective on the date of execution first written above and shall remain in effect for 3 years, unless terminated at an earlier date under other provisions of this Agreement, or unless extended for a longer term by amendment. The negotiated rates shall remain fixed for the first 3 year term however, the COUNTY reserves the right to re-negotiate rates based on current market conditions. The hourly rates provided 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 the Tampa Bay Metropolitan Statistical Area will be reimbursed in accordance with Section 112.061 F.S.

23.2 This AGREEMENT may exercise a term extension subject to written notice of agreement from the County Administrator and CONSULTANT, for one (1) additional two (2) year term extension,

beyond the primary AGREEMENT period. This term extension shall be exercised only if all terms and conditions remain the same. Rates will be subject to negotiation based on current market conditions.

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 CONSULTANTS 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 EXTENT OF AGREEMENT

This Agreement represents, together with the RFP, Addenda, the proposer's response, any Exhibits, 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 Crime Act, §287.133, Florida Statutes, and the COUNTY's requirement that the successful proposer comply with it in all respects prior to and during the term of this contract.

**SECTION 27
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.

Firm Name
TBE GROUP, INC., d/b/a CARDNO TBE

PINELLAS COUNTY, by and through its Board of
County Commissioners

By: _____
Print Name: _____
Title: _____ Date: _____

By: _____
Chairman Date: _____

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

EXHIBIT "A"



2011 RATE SCHEDULE

For

Pinellas County - Environmental and Engineering Services – Brownfields Program

Contract No.: 101-0144-CN (AM)

CLASSIFICATION	RATE
BROWNFIELDS SPECIALIST	\$120
CLERICAL	\$70
DESIGNER	\$110
ECONOMIST/DEMOGRAPHER	\$180
ENVIRONMENTAL SCIENTIST/GEOLOGIST	\$90
FIELD TECHNICIAN	\$85
GIS SPECIALIST	\$125
LANDSCAPE ARCHITECT	\$130
PLANNER	\$110
PRINCIPAL	\$240
PROJECT DIRECTOR	\$190
PROJECT ENGINEER / ENGINEER INTERN	\$120
PROJECT MANAGER	\$150
SENIOR ENGINEER/ HYDROGEOLOGIST/ECOLOGIST	\$160
SENIOR ENVIRONMENTAL TECHNICIAN	\$105
SENIOR PLANNER	\$130

For Expert Witness Testimony and related services, a surcharge of 50 percent will apply.

Cardno TBE: 380 Park Place Blvd., Ste. 300, Clearwater, FL 33759



Environmental Consulting & Technology, Inc.

EXHIBIT A

**ENVIRONMENTAL CONSULTING & TECHNOLOGY, INC.
PROFESSIONAL SERVICES FEE SCHEDULE**

<u>Labor Classification</u>	<u>Rate Per Hour</u>
Primary Personnel	
Project Director	\$ 177.00
Project Manager	146.00
Support Personnel	
Senior Principal Scientist/Engineer	\$ 194.00
Principal Scientist/Engineer; Certified Industrial Hygienist	177.00
Senior Scientist/Engineer II	156.00
Senior Scientist/Engineer I	146.00
Staff Scientist/Engineer II	134.00
Staff Scientist/Engineer I	127.00
Senior Associate Scientist/Engineer II	116.00
Senior Associate Scientist/Engineer I; GIS Analyst/Programmer	111.00
Associate Scientist/Engineer II	98.00
Associate Scientist/Engineer I; GIS Specialist	92.00
Senior Technician; GIS Technician	80.00
Technician	69.00
AutoCAD/Graphics Support	74.00
Document Production Specialist	74.00
Administrative Support	57.00

1408 North Westshore
Blvd., Suite 115
Tampa, FL
33607

(813)
289-9338

FAX (813)
289-9388

An Equal Opportunity/Affirmative Action Employer