

Agenda Item Summary

**1. Action Requested/Purpose:** Approve and authorize the Chairman to sign Change Order No. 1 to the Professional Service Agreement with Burns and Roe Enterprises, Inc. (Lee Contract No. 2821) amending the amount allowed for the 'pass-through' cost for Professional Liability Insurance as provided for in the original agreement to \$300,756.00.

**2. What Action Accomplishes:** Allows Burns and Roe to pass on to Lee County the actual cost for liability insurance in accordance with the agreement. Note: The final cost of liability insurance was not known upon execution of the agreement and an allowance of \$100,000.00 was initially estimated.

**3. MANAGEMENT RECOMMENDATION:** Staff recommends approval of Action Requested.

4. Departmental Category: *C8C*

5. Meeting Date: *04-12-2005*

6. Agenda:  
 Consent  
 Administrative  
 Appeals  
 Public  
 Walk-On

7. Requirement/Purpose: (specify)  
 Statute  
 Ordinance  
 Admin. Code  
 Other

8. Request Initiated:  
 Commissioner \_\_\_\_\_  
 Department Public Works  
 Division Solid Waste  
 By: Lindsey J. Sampson  
*Lindsey J. Sampson*

9. Background:

The Professional Service Agreement with Burns and Roe Enterprises included for insurance coverage requirements with the associated cost for premiums to be 'passed-through' to the County. The original estimate for the premiums was established at \$100,000.00. Upon execution of the Agreement, the best insurance premium cost that was made available to B&R was \$335,756.00. B&R has agreed to pay \$35,000.00, or approximately 10% of this premium because of the large discrepancy as compared to the original estimate. This results in a remaining sum of \$300,756.00 for the premium. Therefore the net change required for the Agreement is \$200,756.00.

Funds are available in Account: 20092340102.506510, Solid Waste Processing Equip. – SW Mgmt – Professional Services

Attachments: 1) Invoice from B&R Insurance Company; 2) Relevant section of B&R Agreement; 3) Change Order No. 1

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
<i>J. J. Jumper 3/30/05</i>	<i>[Signature]</i>	<i>N.A.</i>	<i>[Signature] 3/30/05</i>	<i>[Signature]</i>	<i>[Signature] 3/31/05</i>	<i>[Signature] 3/31/05</i>	<i>[Signature] 3/31/05</i>	<i>[Signature] 3/31/05</i>	<i>J. J. Jumper 3/30/05</i>

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

Rec. by CoAtty  
 Date: *3/31/05*  
 Time: *10:10*  
 Forwarded To:  
*[Signature]*  
*3/31/05*

RECEIVED BY  
 COUNTY ADMIN: *[Signature]*  
*3/31/05*  
*11:25 am*  
 COUNTY ADMIN  
 FORWARDED TO: *[Signature]*  
*3/31/05*  
*4:30 pm*

# MARSH

ATTACHMENT 1

Marsh USA Inc.  
Morristown, NJ - 224  
(973) 401-5000

Invoice No.
232595

## ORIGINAL INVOICE

Date: 10/01/04

Mr. Mike Marcopoto  
BURNS AND ROE ENTERPRISES, INC.  
800 Kinderkamack Road  
Oradell, NJ 07649

Effective Date	Expiration Date	Client No.
10/01/04	3/01/07	J06970

Policyholder: BURNS AND ROE

ORIGINAL

Billing Effective Date: 10/01/04

Insurer	Policy No.	Type of Coverage / Item	Amount
LEXINGTON INS	3758415	GEN LIABILITY PREMIUM	335,756.00
		REMIT IN: UNITED STATES DOLLARS	
	ARCHITECTS & ENGINEERS PROFESSIONAL LIABILITY - LEE COUNTY		
		BRE CONTRIBUTION	<del>35,000.00</del>
			<u>300,756.00</u>
Please Indicate Invoice # 232595 on your remittance to:			
Marsh USA Inc. P.O. Box 19643 Newark, NJ 07195-0643			
TOTAL:			335,756.00

Invoice Is Payable In Full Upon Receipt

Marsh is compensated for the services it provides to insureds in the form of transaction fees and/or commissions. In addition to such compensation and to any wholesale brokerage commissions, Marsh has market services agreements ("MSAs") with most of its principal insurance markets through which it is paid for services provided to the markets. Payments under MSA agreements are based upon such factors as the overall volume, growth, and in limited cases profitability, of the total business placed by Marsh with a given insurer during the relevant period. Clients who wish additional information should contact their client executive.

Attachment 2.

- (B) Such additional requirements as are set forth in Articles 14.1 and 14.2 hereinabove.
- (C) ENGINEER will secure Project specific Professional Liability (Errors and Omissions) policy for the full term of this Agreement with "tail coverage" for a period of twenty-four (24) months following completion of ENGINEER's Services. The policy shall maintain a maximum deductible of one hundred thousand dollars (\$100,000.00). The cost for such policy may be included in the ENGINEER's fees pursuant to Exhibit B. In addition, ENGINEER shall provide the following certification:

On December 31 of each year through the Warranty period, the Chief Financial Officer of the ENGINEER shall provide a certification that (1) sufficient funds are currently available and (2) sufficient funds are forecast to be available over the next twelve (12) months under the ENGINEER's line of credit to fully fund the deductible of one hundred thousand dollars (\$100,000.00) under the Project specific Professional Liability insurance program.

- (D) The Professional Liability Insurance Policy issued pursuant to the above requirements and limits shall be primary ENGINEER shall provide the COUNTY with a Certificate of Insurance evidencing coverage for the duration of the Agreement and the "tail coverage." If an extension of coverage becomes necessary, ENGINEER shall provide evidence of such extension.

14.4 Builder's All Risk Insurance

The COUNTY shall require its GENERAL CONTRACTOR to secure a Builder's All Risk ("BAR") insurance policy providing coverage for all risks of loss and physical damage to equipment and material sustained during installation, construction, testing, transit, and while stored off-site, including loss or damage arising from faulty materials, workmanship, or design, until commercial operation (Acceptance). Said policy shall be written with replacement cost limits. ENGINEER shall be liable for payment of the BAR deductible if loss or damage to property results solely from ENGINEER's errors, omissions, or negligence. The BAR deductible shall not exceed two hundred fifty thousand dollars (\$250,000.00).

ARTICLE 15.00 - DUTIES AND OBLIGATIONS IMPOSED ON THE ENGINEER

The duties and obligations imposed upon the ENGINEER by this Agreement and the rights and remedies available hereunder shall be in addition to, and not a limitation of, any otherwise imposed or available by Applicable Law.

LEE COUNTY PROFESSIONAL SERVICE/SERVICE PROVIDER AGREEMENT  
CHANGE ORDER/SUPPLEMENTAL TASK AUTHORIZATION

*Attachment 3*

NO.: 1

- Change Order
- Supplemental Task Authorization

(A Change Order or Supplemental Task Authorization Requires Approval by the Department Director for Expenditures Under \$25,000 or Approval by the County Manager for Expenditures Between \$25,000 and \$50,000 or Approval by the Board of County Commissioners for Expenditures over \$50,000)

CONTRACT/PROJECT NAME: Design, Engineering & Procurement Services for the WTE Expansion Project

CONSULTANT: Burns & Roe Enterprises, Inc.

PROJECT NO.: 200923

SOLICIT NO.: CN 04-02

CONTRACT NO.: 2821

REQUESTED BY: Lee County

DATE OF REQUEST: June 22, 2004

Upon the completion and execution of this Change Order or Supplemental Task Authorization by both parties the Consultant/Provider is authorized to and shall proceed with the following:

- EXHIBIT "CO/STA-A: SCOPE OF PROFESSIONAL SERVICE: DATED: No Change
- EXHIBIT "CO/STA-B: COMPENSATION & METHOD OF PAYMENT: DATED: 3/15/05
- EXHIBIT "CO/STA-C: TIME AND SCHEDULE OF PERFORMANCE: DATED: No Change
- EXHIBIT "CO/STA-D: CONSULTANT'S/PROVIDERS ASSOCIATED  
SUB-CONSULTANT(S)/SUB-CONTRACTORS: DATED: 3/15/05
- EXHIBIT "CO/STA-E: PROJECT GUIDELINES AND CRITERIA: DATED: No Change

It is understood and agreed that the acceptance of this modification by the CONSULTANT/PROVIDER constitutes an accord and satisfaction.

RECOMMENDED:  
By: \_\_\_\_\_  
Department Director      Date

ACCEPTED:  
By: \_\_\_\_\_  
Consultant/Provider  
(Print Name) \_\_\_\_\_

COUNTY APPROVAL:  
By: \_\_\_\_\_  
Department Director  
(Print Name)  
(Under \$25,000)

By: \_\_\_\_\_  
Contracts Mgmt      Date

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

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

Corporate Seal

APPROVED:

By: \_\_\_\_\_  
\*County Attorney's Office Date

By: \_\_\_\_\_  
County Manager (Between  
(\$25,000 and under \$50,000)  
Date Approved: \_\_\_\_\_

\*County Attorney signature needed  
for over Board level expenditures only.

By: \_\_\_\_\_  
Chairman  
Board of County Commissioners  
Date Approved: \_\_\_\_\_

CHANGE ORDER AGREEMENT No. 1  
or  
 SUPPLEMENTAL TASK AUTHORIZATION No. \_\_\_\_\_

EXHIBIT "CO/STA-B"

Date: 3/15/05

COMPENSATION AND METHOD OF PAYMENT

for \_\_\_\_\_

SECTION 1.00 CHANGE(S) IN COMPENSATION

The compensation the CONSULTANT, or SERVICE PROVIDER, shall be entitled to receive for providing and performing the supplemented, changed or authorized services, tasks, or work as set forth and enumerated in the Scope of Services set forth in this CHANGE ORDER OR SUPPLEMENTAL TASK AUTHORIZATION AGREEMENT, Exhibit "CO/STA-A", attached hereto shall be as follows:

NOTE: A Lump Sum (L.S.) or Not-to-Exceed (N.T.E.) amount of compensation to be paid the CONSULTANT should be established and set forth below for each task or sub-task described and authorized in Exhibit "S/COA-A". In accordance with Professional Services Agreement Article 5.03(2) "Method of Payment", tasks to be paid on a Work-in-Progress payment basis should be identified (WIPP).

Task Number	Task Title	Amount of Compensation	Indicate Basis of Compensation LS or NTE	If Applicable Indicate (W.I.P.P.)
6	Allowance for purchase of specific insurance requirements (i.e. reduction of deductible for E&O insurance from \$500,000 to \$100,000) as set forth in Section 14.3.4 (Change allowance from \$100,000 to \$300,756 Total)	\$200,756.00	NTE	WIPP
TOTAL		\$200,756.00	NTE	

(Unless list is continued on next page)

CHANGE ORDER AGREEMENT No. 1  
or  
 SUPPLEMENTAL TASK AUTHORIZATION No. \_\_\_\_\_

**SECTION 2.00 SUMMARY OF CHANGE(S) IN COMPENSATION**

Pursuant to and in consideration of the change(s) in the Scope of Professional Services set forth in the CHANGE ORDER or AGREEMENT, Exhibit "CO/STA-A", the compensation the COUNTY has previously agreed to pay to the CONSULTANT, or SERVICE PROVIDER, as set forth in Exhibit "B" of the Professional Services Agreement, or Service Provider Agreement, shall be changed to be as follows:

Section/Task Number	Section/Task Name	Compensation In the Basic Agreement	Adjustment(s) by Previous CO or STA Nos. _____	Adjustment(s) Due to this CO or STA	Summary of Changed Compensation
6	Insurance Pass-through Cost	\$100,000.00	N.A.	\$200,756.00	\$300,756.00
TOTAL		\$100,000.00		\$200,756.00	\$300,756.00

CHANGE ORDER AGREEMENT No. 1

SUPPLEMENTAL TASK AUTHORIZATION No. \_\_\_\_\_

EXHIBIT "CO/STA-D"

Date: 3/15/05

CONSULTANT'S, OR SERVICE PROVIDER'S, ASSOCIATED SUB-CONSULTANT(S) AND SUBCONTRACTOR(S)

for Design, Engineering, and Procurement Services for the WTE Expansion Project

CONSULTANT, or SERVICE PROVIDER, intends to engage the following sub-consultant(s) and/or sub-contractor(s) to assist the CONSULTANT, or SERVICE PROVIDER, in providing and performing the services, tasks, or work required under this CHANGE ORDER, or SUPPLEMENTAL TASK AUTHORIZATION AGREEMENT.

(If none, enter the word "none" in the space below.)

Service and/or Work to be Provided or Performed	Name and Address of Individual or Firm	Disadvantaged, Minority or Women Business Enterprise, (If Yes, Indicate Type)			Sub-Consultant Services are Exempted from Prime Consultant's Insurance Coverage	
		Yes	No	Type	Yes	No
Engineering Services	Ash Engineering Tampa, Florida	X		W	X	