



(239) 533-8881

John E. Manning
District One

September 8, 2016

Cecil L. Pendergrass
District Two

Larry Kiker
District Three

Brian Hamman
District Four

Frank Mann
District Five

Mr. Michael Dickey
Johnson Engineering, Inc.
2122 Johnson Street
Fort Myers, FL 33901

Roger Desjarlais
County Manager

SUBJECT: RFP160126 Miscellaneous Planning Services Contract

Richard Wm. Wesch
County Attorney

ENCLOSURE (1): Executed Copy of Professional Services Agreement
ENCLOSURE (2): Professional Services Invoice Statement

Donna Marie Collins
Hearing Examiner

Dear Mr. Dickey:

Enclosed is your executed copy of the Professional Services Agreement for the project known as "Miscellaneous Planning Services".

The Contract No. is 7505 and must be on all invoices.

If you should have any questions, please contact our office at the above number.

Sincerely,
PROCUREMENT MANAGEMENT

Kathy Ciccarelli

Kathy Ciccarelli, CPPB
Procurement Analyst

C: Financeonbase@leeclerk.org
Project File

LEE COUNTY
 PROFESSIONAL SERVICE AGREEMENT/SERVICE PROVIDER AGREEMENT
 INVOICE STATEMENT

Date: _____

CN No.: _____ Contract No.: _____

Project No.: _____

Payment No.: _____ (W.I.P.P. Final) for Period _____ to _____

Project Name: _____

Attachments Yes No

PAYEE: Consultants Name: _____

INSTRUCTIONS

Mailing Address: _____

Warrant will be mailed to Consultant's mailing address given, unless special instructions are provided to the immediate left of these instructions.

City & State _____ ZIP CODE _____

Deliver Warrant: Special Instructions - If Other than Mail

CONTRACTUAL FINANCIAL DATA

ORIGINAL PSA/SPA Amount _____ \$

PLUS: Change Order # _____	dated _____	_____ \$
Change Order # _____	dated _____	_____ \$
Change Order # _____	dated _____	_____ \$
S.T.A. # _____	dated _____	_____ \$
S.T.A. # _____	dated _____	_____ \$
S.T.A. # _____	dated _____	_____ \$

Total Change Orders/S.T.A. ADDING to cost of Agreement \$

LESS: Change Order # _____	dated _____	_____ \$
Change Order # _____	dated _____	_____ \$
Change Order # _____	dated _____	_____ \$
S.T.A.# _____	dated _____	_____ \$
S.T.A. # _____	dated _____	_____ \$
S.T.A. # _____	dated _____	_____ \$

Total Change Orders/S.T.A. SUBTRACTING from cost of Agreement. \$

Total Amount of Current PSA/SPA. \$

Total Amount Completed to Date. \$

Less Amounts Previously Invoiced \$

Amount of this Invoice. \$

Total Amount Paid to DBE's from above \$

Name of DBE(s): _____

Signed Project Manager: _____ Date: _____

Approved Dept/Div Director: _____ Date: _____

Approved Fiscal Person: _____ Date: _____

CONTRACT REVIEW CHECKLIST

CONTRACT TYPE: Professional Services

SUBJECT: Project known as: RFP160126 Miscellaneous Planning Services
Between Lee County and Johnson Engineering, Inc.

Reference: Department Director approval: N/A
County Administrator approval: N/A

Reference: Board action approving contract/agreement
Board Date: 6/21/2016
Agenda Item No.: Item No. 27
2 Originals

The subject contract is forwarded herewith for review and/or endorsements:

(1) **By the Director of:** Routed by Procurement *Project Sponsoring Department*

Recommendation to execute
 Not recommending execution for the following reason(s):

Date received: _____ Date returned/forwarded: _____
Signed: _____

(2) **By Procurement Management:**

Recommending execution
 Not recommending execution for the following reason(s):

Date received: _____ Date returned/forwarded: _____
Signed: _____

(3) **By the Risk Management**

Recommending execution
 Not recommending execution for the following reason(s)

Date received: Aug 18, 2016 Date returned/forwarded: Aug 17, 2016
Signed: _____

(4) **By the County Attorney:**

Recommending execution
 Not recommending execution for the following reason(s)

Date received: 8-17-16 Date returned/forwarded: 8-18-16
Signed: _____

- (5) Board
- (6) Clerk's Office, Minutes Department 08-19-16
- (7) Procurement Management Kathy Ciccarelli

RECEIVED BY
LEE COUNTY ATTORNEY
2016 AUG 17 PM 3:17
2016 AUG 19 PM 1:54
RECEIVED
MINUTES OFFICE

Blue Sheet No. 20160344	Lee County Board Of County Commissioners Agenda Item Report Meeting Date: 6/21/2016	Item No. 27
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TITLE:
Approve the selection of firms for Request for Proposal RFP160126 Miscellaneous Planning Services

ACTION REQUESTED:
A) Approve the selection of consultants by the Proposal Evaluation Committee for Request for Proposals No. RFP160126, Miscellaneous Planning Services, as follows: Johnson Engineering, Inc.; Stantec Consulting Services Inc.; Hole Montes, Inc., Kimley-Horn and Associates, Inc.; Waldrop Engineering, PA; EnSite, Inc.; and RWA, Inc.
B) Authorize staff to negotiate Professional Services Agreements with the selected firms to provide consulting services for miscellaneous planning projects on an as-needed basis.
C) Authorize the Chair to execute contracts on behalf of the Board of County Commissioners upon receipt.

FUNDING:
Funds will be available within specific project budgets.

WHAT ACTION ACCOMPLISHES:
Approval provides Lee County with 7 firms capable of providing professional consulting services for miscellaneous planning projects. Staff will negotiate services with these firms on an as-needed, project-by-project basis.

MANAGEMENT RECOMMENDATION:
Approve.

Requirement/Purpose: (specify)	Request Initiated
<input type="checkbox"/> Statute <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Admin Code AC-4-4 <input type="checkbox"/> Other	Commissioner: Department: PROCUREMENT MANAGEMENT Division: No Divisions By: Mary Tucker

Background:
Approval will establish a pre-qualified list of on-call consultants to work singularly or in combination to develop project scopes, schedules, and deliverables for specific tasks and to perform those tasks if and when they are needed.

Proposals were accepted on February 16, 2016 for Request for Proposals No. RFP160126 Miscellaneous Planning Services. A total of nine vendors submitted proposals which were considered at the first evaluation meeting held on May 4, 2016. After reviewing the submitted proposals, the committee determined that eight firms met the minimum requirements as set forth by the solicitation documents. The committee then decided to do telephone interviews. As a result of these interviews, the committee is recommending award to the following vendors: Johnson Engineering, Inc.; Stantec Consulting Services Inc.; Hole Montes, Inc., Kimley-Horn and Associates, Inc.; Waldrop Engineering, PA; EnSite, Inc.; and RWA, Inc. Pending Board approval, the list of vendors will remain in effect for two years.

1. Sample Contract

Required Review:					
Mary Tucker	Mary Tucker	Thelma Davis	Corris L. McIntosh Jr.	Peter Winton	Christine Brady
PROCUREMENT MANAGEMENT	Purchasing	Budget Analyst	County Attorney	Budget Services	County Manager

2. Minutes from May 4, 2016 Evaluation Meeting

**FLORIDA DEPARTMENT OF STATE
DIVISION OF CORPORATIONS****Detail by Entity Name****Florida Profit Corporation**

JOHNSON ENGINEERING, INC.

Filing Information

Document Number	322710
FEI/EIN Number	59-1173834
Date Filed	11/03/1967
State	FL
Status	ACTIVE
Last Event	AMENDED AND RESTATED ARTICLES
Event Date Filed	09/11/2002
Event Effective Date	NONE

Principal Address2122 JOHNSON STREET
FORT MYERS, FL 33901

Changed: 03/17/2008

Mailing AddressPO BOX 1550
FORT MYERS, FL 33902

Changed: 03/11/2009

Registered Agent Name & AddressHOWARD, LONNIE V
2122 JOHNSON ST
FT MYERS, FL 33901

Name Changed: 03/08/2012

Address Changed: 03/17/2008

Officer/Director Detail**Name & Address**

Title President, Director

HOWARD, LONNIE V
1092 PARK DRIVE
LABELLE, FL 33935

Title Secretary, Treasurer, Director

MORRISON, STEVEN K
1231 WALDEN DRIVE
FORT MYERS, FL 33901

Title VP, Director

MATTHEW, HOWARD M
375 Pollywog Point
LABELLE, FL 33935

Title VP, Director

DICKEY, MICHAEL S
6701 Matt Pledger Court
NORTH FORT MYERS, FL 33917

Title Chairman

WINTER, KEVIN M
7270 SWAN LAKE DRIVE
FORT MYERS, FL 33919

Title VP

Nagle, Jeffrey D
21536 Taft Court Unit 201
Estero, FL 34219

Title Director

HERRERO, LAURA B
1441 BARCELONA AVENUE
FORT MYERS, FL 33901

Title Director

TILTON, ANDREW D
18810 Serenoa Court
Alva, FL 33920

Annual Reports

Report Year	Filed Date
2013	01/17/2013
2014	03/10/2014
2015	03/11/2015

Document Images

03/11/2015 -- ANNUAL REPORT
03/10/2014 -- ANNUAL REPORT

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03/18/2013 -- AMENDED ANNUAL REPORT	View image in PDF format
01/17/2013 -- ANNUAL REPORT	View image in PDF format
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09/11/2002 -- Amended and Restated Articles	View image in PDF format
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CERTIFICATE OF LIABILITY INSURANCE

JOHNS-1

OP ID: LV

DATE (MM/DD/YYYY)

02/16/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER JCJ Insurance Agency 2208 Hillcrest Street Orlando, FL 32803 Mark E. Jackson	CONTACT NAME: Kristin McIntosh PHONE (A/C, No., Ext): 321-445-1117 E-MAIL ADDRESS: certs@jcj-insurance.com	FAX (A/C, No.): 321-445-1076	
	INSURER(S) AFFORDING COVERAGE INSURER A: Berkley Insurance Company		NAIC # 32603
INSURED Johnson Engineering, Inc. 2122 Johnson St. Fort Myers, FL 33901	INSURER B:		
	INSURER C:		
	INSURER D:		
	INSURER E:		
	INSURER F:		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

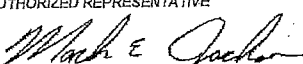
INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Llab Claims-Made Form			AEC-9006341-00	09/15/2015	09/15/2016	Per Claim 2,000,000 Aggregate 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Lee County - Miscellaneous Planning Services, RFP160126

CERTIFICATE HOLDER

CANCELLATION

LEEC398 Lee County Board of County Commissioners P.O. Box 398 Fort Myers, FL 33902	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
---	---

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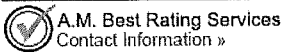
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Transportation Insurance Company (7)

A.M. Best #: 002131 NAIC #: 20494 FEIN #: 361877247

Domiciliary Address
333 South Wabash Avenue
Chicago, IL 60604
[United States](#)

Web: www.cna.com
Phone: 312-822-5000

Assigned to insurance companies that have, in our opinion, an excellent ability to meet their ongoing insurance obligations.

Based on A.M. Best's analysis, [058705 - CNA Financial Corporation](#) is the AMB Ultimate Parent and identifies the topmost entity of the corporate structure. View a list of [operating insurance entities](#) in this structure.

Best's Credit Ratings

Financial Strength Rating View Definition	
Rating:	A (Excellent)
Affiliation Code:	g (Group)
Financial Size Category:	XV (\$2 Billion or greater)
Outlook:	Stable
Action:	Affirmed
Effective Date:	February 23, 2016
Initial Rating Date:	June 30, 1941

Best's Credit Rating Analyst
Rating Issued by: A.M. Best Rating Services, Inc.
Senior Financial Analyst: Michael W. Russo
Assistant Vice President: Jennifer Marshall, CPCU, ARM

Long-Term Issuer Credit Rating View Definition	
Long-Term:	a
Outlook:	Stable
Action:	Affirmed
Effective Date:	February 23, 2016
Initial Rating Date:	June 21, 2005

Disclosure Information

[View A.M. Best's Rating Disclosure Form](#)

[A.M. Best Affirms Ratings of CNA Financial Corporation and Its Subsidiaries; Assigns Rating to New Senior Notes February 23, 2016](#)

u Denotes [Under Review Best's Rating](#)

Rating History

A.M. Best has provided ratings & analysis on this company since 1941.

Financial Strength		Long-Term Issuer Credit	
Effective Date	Rating	Effective Date	Rating
2/23/2016	A	2/23/2016	a
12/16/2014	A	12/16/2014	a
12/18/2013	A	12/18/2013	a
1/11/2013	A	1/11/2013	a
4/5/2012	A	4/5/2012	a
3/2/2011	A	3/2/2011	a

AMB Credit Reports

- AMB Credit Report** - includes Best's Financial Strength Rating and rationale along with comprehensive analytical commentary, detailed business overview and key financial data.
Report Revision Date: 3/11/2016 (represents the latest significant change).
- Historical Reports are available in [AMB Credit Report Archive](#).

View additional [news, reports and products](#) for this company.

Press Releases

Date	Title
Feb 23, 2016	A.M. Best Affirms Ratings of CNA Financial Corporation and Its Subsidiaries; Assigns Rating to New Senior Notes
Dec 16, 2014	A.M. Best Affirms Ratings of CNA Financial Corporation and Its Subsidiaries
Dec 18, 2013	A.M. Best Affirms Ratings of CNA Financial Corporation and Its Subsidiaries
Jan 11, 2013	A.M. Best Affirms Ratings of CNA Financial Corporation and Its Subsidiaries
Apr 05, 2012	A.M. Best Affirms Ratings of CNA Financial Corporation and Its Subsidiaries
Mar 02, 2011	A.M. Best Affirms Ratings of CNA Financial Corporation and Its Subsidiaries
Feb 08, 2010	A.M. Best Revises Outlook to Stable From Negative For Ratings of CNA Financial Corporation and Its Subsidiaries
Feb 13, 2009	A.M. Best Revises Outlook to Negative and Affirms Ratings of CNA Financial Corporation and Its Subsidiaries
Dec 16, 2008	A.M. Best Affirms Ratings of CNA Financial Corporation and Its Subsidiaries

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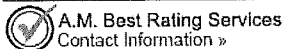
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Continental Casualty Company (2)

A.M. Best #: 002128 NAIC #: 20443 FEIN #: 362114545

Domiciliary Address
333 South Wabash Avenue
Chicago, IL 60604
[United States](#)

Web: www.cna.com
Phone: 312-822-5000

Assigned to insurance companies that have, in our opinion, an excellent ability to meet their ongoing insurance obligations.

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Best's Credit Ratings

Financial Strength Rating	View Definition
Rating:	A (Excellent)
Financial Size Category:	XV (\$2 Billion or greater)
Outlook:	Stable
Action:	Affirmed
Effective Date:	February 23, 2016
Initial Rating Date:	June 30, 1922

Best's Credit Rating Analyst
Rating Issued by: A.M. Best Rating Services, Inc.
Senior Financial Analyst: Michael W. Russo
Assistant Vice President: Jennifer Marshall, CPCU, ARM

Long-Term Issuer Credit Rating	View Definition
Long-Term:	a
Outlook:	Stable
Action:	Affirmed
Effective Date:	February 23, 2016
Initial Rating Date:	June 21, 2005

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Rating History

A.M. Best has provided ratings & analysis on this company since 1922.

Financial Strength		Long-Term Issuer Credit	
Effective Date	Rating	Effective Date	Rating
2/23/2016	A	2/23/2016	a
12/16/2014	A	12/16/2014	a
12/18/2013	A	12/18/2013	a
1/11/2013	A	1/11/2013	a
4/5/2012	A	4/5/2012	a
3/2/2011	A	3/2/2011	a

Related Financial and Analytical Data

The following links provide access to related data records that A.M. Best utilizes to provide financial and analytical data on a consolidated or branch basis.

AMB #	Company Name	Company Description
086431	Continental Casualty Company CAB	Represents the Property/ Casualty financials for the Canada Branch of this legal entity.

AMB Credit Reports

AMB Credit Report - includes Best's Financial Strength Rating and rationale along with comprehensive analytical commentary, detailed business overview and key financial data.
Report Revision Date: 7/8/2016 (represents the latest significant change).

Historical Reports are available in [AMB Credit Report Archive](#).

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Date	Title
Feb 23, 2016	A.M. Best Affirms Ratings of CNA Financial Corporation and Its Subsidiaries: Assigns Rating to New Senior Notes
Dec 16, 2014	A.M. Best Affirms Ratings of CNA Financial Corporation and Its Subsidiaries
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Jan 11, 2013	A.M. Best Affirms Ratings of CNA Financial Corporation and Its Subsidiaries
Apr 05, 2012	A.M. Best Affirms Ratings of CNA Financial Corporation and Its Subsidiaries

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- » [National Scale Rating Guide](#)
- » [Country Risk Information](#)
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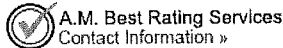
Data Submission Center

Regulatory Information

Find a Best's Credit Rating

Enter a Company Name

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American Casualty Company of Reading, Pennsylvania (2)

A.M. Best #: 002127 NAIC #: 20427 FEIN #: 230342560

Administrative Office
333 South Wabash Avenue
Chicago, IL 60604
[United States](#)

[View Additional Address Information](#)

Web: www.cna.com
Phone: 312-822-5000
Fax: 312-822-6419

Assigned to insurance companies that have, in our opinion, an excellent ability to meet their ongoing insurance obligations.



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Financial Strength Rating View Definition	
Rating:	A (Excellent)
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Outlook:	Stable
Action:	Affirmed
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u Denotes [Under Review Best's Rating](#)

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12/16/2014	A	12/16/2014	a
12/18/2013	A	12/18/2013	a
1/11/2013	A	1/11/2013	a
4/5/2012	A	4/5/2012	a
3/2/2011	A	3/2/2011	a

AMB Credit Reports

- AMB Credit Report** - includes Best's Financial Strength Rating and rationale along with comprehensive analytical commentary, detailed business overview and key financial data.
Report Revision Date: 4/7/2016 (represents the latest significant change).
- Historical Reports are available in [AMB Credit Report Archive](#).

View additional [news](#), [reports](#) and [products](#) for this company.

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Feb 13, 2009	A.M. Best Revises Outlook to Negative and Affirms Ratings of CNA Financial Corporation and Its Subsidiaries
Dec 16, 2008	A.M. Best Affirms Ratings of CNA Financial Corporation and Its Subsidiaries

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- » [Financial Strength Rating Guide](#)
- » [Issuer Credit Rating Guide](#)
- » [Issue Rating Guide](#)
- » [National Scale Rating Guide](#)
- » [Country Risk Information](#)
- » [Market Segment Outlook](#)

Rating Methodology

Industry Research

Industry & Market Centers

Contact an Analyst

Conferences & Events

Awards & Recognitions

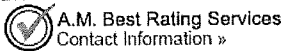
Data Submission Center

Regulatory Information

Find a Best's Credit Rating

Enter a Company Name

» [Advanced Search](#)



Berkley Insurance Company (2)

A.M. Best #: 003630 NAIC #: 32603 FEIN #: 470574325

Administrative Office
475 Steamboat Road
Greenwich, CT 06830
[United States](#)

[View Additional Address Information](#)

Phone: 203-542-3800
Fax: 203-542-3839

Assigned to insurance companies that have, in our opinion, a superior ability to meet their ongoing insurance obligations.

Based on A.M. Best's analysis, [058496 - W. R. Berkley Corporation](#) is the AMB Ultimate Parent and identifies the topmost entity of the corporate structure. View a list of [operating insurance entities](#) in this structure.

Best's Credit Ratings

Financial Strength Rating View Definition	
Rating:	A+ (Superior)
Financial Size Category:	XV (\$2 Billion or greater)
Outlook:	Stable
Action:	Affirmed
Effective Date:	February 26, 2016
Initial Rating Date:	June 30, 1976

Best's Credit Rating Analyst	
Rating Issued by:	A.M. Best Rating Services, Inc.
Assistant Vice President:	Jennifer Marshall, CPCU, ARM
Vice President:	Michael J. Lagomarsino, CFA, FRM

Long-Term Issuer Credit Rating View Definition	
Long-Term:	aa-
Outlook:	Stable
Action:	Affirmed
Effective Date:	February 26, 2016
Initial Rating Date:	June 22, 2005

Disclosure Information

[View A.M. Best's Rating Disclosure Form](#)

[A.M. Best Affirms Ratings of W.R. Berkley Corporation and Its Subsidiaries: Assigns Rating to Subordinated Debentures](#)
February 26, 2016

u Denotes Under Review Best's Rating

Rating History

A.M. Best has provided ratings & analysis on this company since 1976.

Financial Strength		Long-Term Issuer Credit	
Effective Date	Rating	Effective Date	Rating
2/26/2016	A+	2/26/2016	aa-
1/22/2015	A+	1/22/2015	aa-
12/13/2013	A+	12/13/2013	aa-
5/9/2013	A+	5/9/2013	aa-
12/14/2012	A+	12/14/2012	aa-
10/25/2011	A+	10/25/2011	aa-
4/11/2011	A+	4/11/2011	aa-

Related Financial and Analytical Data

The following links provide access to related data records that A.M. Best utilizes to provide financial and analytical data on a consolidated or branch basis.

AMB #	Company Name	Company Description
066525	Berkley Insurance Company CAB	Represents the Property/ Casualty financials for the Canada Branch of this legal entity.
093155	Berkley Insurance Co (Singapore Branch)	Represents the Property/ Casualty financials for the Singapore Branch of this legal entity.
018252	W. R. Berkley Insurance Group (G) Rating Unit	Represents the A.M. Best Consolidated financials for the Property/ Casualty business of this legal entity.
019781	W. R. Berkley Insurance Group (CS)	Represents Property/ Casualty business of this legal entity.

AMB Credit Reports

- AMB Credit Report** - includes Best's Financial Strength Rating and rationale along with comprehensive analytical commentary, detailed business overview and key financial data.
Report Revision Date: 8/1/2016 (represents the latest significant change).
- Historical Reports are available in [AMB Credit Report Archive](#).

View additional [news](#), [reports](#) and [products](#) for this company.

Press Releases	
Date	Title
Feb 26, 2016	A.M. Best Revises Issuer Credit Rating Outlook to Negative for W. R. Berkley Insurance (Europe), Limited
Feb 26, 2016	

Standard Insurance Requirements

Minimum Insurance Requirements: *Risk Management in no way represents that the insurance required is sufficient or adequate to protect the vendors' interest or liabilities. The following are the required minimums the vendor must maintain throughout the duration of this contract. The County reserves the right to request additional documentation regarding insurance provided*

- a. **Commercial General Liability** - Coverage shall apply to premises and/or operations, products and completed operations, independent contractors, contractual liability exposures with minimum limits of:

\$500,000 per occurrence
\$1,000,000 general aggregate
\$500,000 products and completed operations
\$500,000 personal and advertising injury

- b. **Business Auto Liability** - The following Automobile Liability will be required and coverage shall apply to all owned, hired and non-owned vehicles use with minimum limits of:

\$500,000 combined single limit (CSL)
\$300,000 bodily injury per person
\$500,000 bodily injury per accident
\$300,000 property damage per accident

- c. **Workers' Compensation** - Statutory benefits as defined by FS 440 encompassing all operations contemplated by this contract or agreement to apply to all owners, officers, and employees regardless of the number of employees. Workers Compensation exemptions may be accepted with written proof of the State of Florida's approval of such exemption. Employers' liability will have minimum limits of:

\$100,000 per accident
\$100,000 disease limit
\$500,000 disease – policy limit

**The required minimum limit of liability shown in a; b; c; may be provided in the form of "Excess Insurance" or "Commercial Umbrella Policies." In which case, a "Following Form Endorsement" will be required on the "Excess Insurance Policy" or "Commercial Umbrella Policy."*



LEE COUNTY
SOUTHWEST FLORIDA

Verification of Coverage:

1. Coverage shall be in place prior to the commencement of any work and throughout the duration of the contract. A certificate of insurance will be provided to the Risk Manager for review and approval. The certificate shall provide for the following:

- a. **The certificate holder shall read as follows:**

Lee County Board of County Commissioners
P.O. Box 398
Fort Myers, Florida 33902

- b. *“Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees, and public officials”* will be named as an **"Additional Insured"** on the General Liability policy, including Products and Completed Operations coverage.

Special Requirements:

1. An appropriate **"Indemnification"** clause shall be made a provision of the contract.
2. It is the responsibility of the general contractor to insure that all subcontractors comply with all insurance requirements.

PROFESSIONAL SERVICES AGREEMENT

This PROFESSIONAL SERVICES AGREEMENT is made and entered into this **28th** day of **July, 2016**, between the Board of County Commissioners of LEE COUNTY, a political subdivision of the STATE OF FLORIDA hereinafter referred to as the "COUNTY", and Johnson Engineering, Inc., hereinafter referred to as the "CONSULTANT".

WITNESSETH

WHEREAS, the COUNTY desires to obtain the professional services of said CONSULTANT to provide and perform professional services as further described hereinafter concerning the Project to be referred to and identified as: **RFP160126 Miscellaneous Planning Services**; and

WHEREAS, the CONSULTANT hereby certifies that CONSULTANT has been granted and possesses valid, current licenses to do business in the State of Florida and in Lee County, Florida, issued by the respective State Boards and Government Agencies responsible for regulating and licensing the professional services to be provided and performed by the CONSULTANT pursuant to this Agreement; and

WHEREAS, the CONSULTANT has reviewed the professional services required pursuant to this Agreement and is qualified, willing and able to provide and perform all such services in accordance with the provisions, conditions and terms hereinafter set forth; and

WHEREAS, the selection and engagement of the CONSULTANT has been made by the COUNTY in accordance with the provisions of the Consultants' Competitive Negotiation Act, Chapter 287.055, Florida Statutes, and in accordance with applicable Lee County Administrative Codes.

NOW, THEREFORE, in consideration of the mutual covenants, terms and provisions contained herein, the parties agree as follows:

ARTICLE 1.00 - SCOPE OF PROFESSIONAL SERVICES

CONSULTANT hereby agrees to provide and perform the professional services required and necessary to complete the services and work as set forth in attached EXHIBIT "A", entitled "SCOPE OF PROFESSIONAL SERVICES".

ARTICLE 2.00 - DEFINITIONS

The following definition of terms associated with this Agreement is provided to establish a common understanding between both parties to this Agreement as to the intended usage, application, and interpretation of such terms pertaining to this Agreement.

2.01 COUNTY

The term COUNTY refers to the Board of County Commissioners of Lee County, a charter County and political subdivision of the State of Florida, and any official or employee duly authorized to act on the COUNTY'S behalf relative to this Agreement.

2.02 CONSULTANT

The term CONSULTANT refers to the individual or firm offering professional services that, by execution of this Agreement, is legally obligated, responsible, and liable for providing and performing any

Date: 10/25/13

and all of the services, work and materials, including services and/or work of sub-consultants and subcontractors, required under the covenants, terms and provisions contained in this Agreement.

2.03 PROFESSIONAL SERVICES

The term PROFESSIONAL SERVICES refers to all of the services, work, materials and related professional, technical and administrative activities to be provided and performed by the CONSULTANT and its employees, including all sub-consultants and subcontractors engaged by the CONSULTANT, to complete the services required pursuant to the covenants, terms and provisions of this Agreement.

2.04 SUB-CONSULTANT

The term SUB-CONSULTANT refers to any individual or firm offering professional services that is engaged by the CONSULTANT to assist in providing and performing the professional services, work and materials for which the CONSULTANT is contractually obligated, responsible and liable to provide and perform under this Agreement. The COUNTY may not be deemed a party to, responsible or liable for, or assume any obligation whatsoever with respect to any Agreement between the CONSULTANT and any SUB-CONSULTANT.

2.05 SUBCONTRACTOR

The term SUBCONTRACTOR refers to any individual, company or firm providing services other than professional services that is engaged by the CONSULTANT to assist in providing and performing services, work and materials for which the CONSULTANT is contractually obligated, responsible, and liable to provide and perform under this Agreement. The COUNTY may not be deemed a party to, responsible or liable for, or assume any obligation whatsoever for any Agreement between the CONSULTANT and any SUBCONTRACTOR.

2.06 PROJECT

The term PROJECT refers to such facility, system, program or item as described in the summary statement set forth in the Preamble on Page One of this Agreement.

2.07 BASIC SERVICES

The term BASIC SERVICES refers to the professional services set forth and required pursuant to this Agreement as described in further detail in the attached EXHIBIT "A".

2.08 ADDITIONAL SERVICES

The term ADDITIONAL SERVICES refers to such professional services the COUNTY may request and authorize, in writing, for the CONSULTANT to provide and perform relative to this Agreement that are not included in the BASIC SERVICES. Additional services must be authorized by both parties through execution of a Change Order to this Agreement.

2.09 CHANGE ORDER

The term CHANGE ORDER refers to a written document, CHANGE ORDER AGREEMENT, executed by both parties to this Agreement setting forth and authorizing changes to the agreed upon Scope of Professional Services and Tasks, Compensation and Method of Payment, Time and Schedule of Performance, or Project Guidelines and Criteria as such were set forth and agreed to in the initial AGREEMENT, SUPPLEMENTAL TASK AUTHORIZATIONS, or previous CHANGE ORDERS issued thereto. The CHANGE ORDER document, which must be executed on a Lee County standard form, will set forth the authorized changes to the: scope of professional services, tasks, work or materials to be performed

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or provided by the CONSULTANT; the compensation and method of payment; the schedule or time period for performance and completion; and the guidelines, criteria and requirements pertaining thereto.

CHANGE ORDERS will be identified as follows: (1) Owner changes: These will be additional services. (2) Changes due to design errors or omissions: Design services for these will be at no cost to the County. Change orders resulting from gross negligence on the part of the CONSULTANT team may be required to be paid for by CONSULTANT in full, including equipment. (3) Changes due to differing site conditions: These will be additional services. The CONSULTANT will review all contract requests for change orders and make recommendations to the County. The CONSULTANT will periodically meet to review Change Orders to determine the nature of the change orders and the proper disposition thereof. The CONSULTANT will not be held liable for costs of that portion of any CHANGE ORDER that the County would have borne in the absence of any error or omission or otherwise results in the "betterment" of the project.

The amount of the change in contract compensation and time set forth in any and all Change Orders executed and issued under this Agreement shall be understood and agreed by both Parties to this Agreement to be fair, equitable, adequate and complete. The changed compensation shall be understood and agreed to be the total of all costs associated with or impacted by the Change Order including, but not limited to any and all direct costs, indirect costs and associated costs that may result from or be caused by the Change Order, and shall be understood and agreed to include a fair, equitable and adequate adjustment to cover the CONSULTANT'S general administrative and overhead costs and profit.

In the event the County decides to delete all, or portions, of the Scope of Services, Tasks, or Requirements set forth in the initial Agreement, Supplemental Task Authorization or previously authorized Change Order, the COUNTY may do so by the unilateral issuance of a written Change Order to the CONSULTANT. Such a unilaterally issued Change Order shall set forth, if appropriate: (1) an agreement by both the COUNTY and the CONSULTANT establishing changes in the amount of compensation to be paid the CONSULTANT as a result of the deletion or decrease in services required; or, (2) in the absence of such an agreement concerning compensation, the unilaterally issued Change Order shall set forth the basis to be used in subsequently considering, and reaching agreement on change(s) in the compensation to be paid the CONSULTANT. The failure on the part of the CONSULTANT to execute a Change Order issued unilaterally by the COUNTY to effect a deletion or decrease in the services required shall have no effect on or otherwise prevent the COUNTY from exercising its rights to direct the stated deletion or decrease in the services to be provided or performed by the CONSULTANT.

Should errors, omissions or conflicts in the drawings, specification or other Contract Documents prepared by or through the CONSULTANT be discovered, the CONSULTANT will prepare and submit to the County, within five working days unless otherwise authorized by the County, such amendments or supplementary documents to address the errors, omissions or conflicts, and provide consultation as may be required, for which the CONSULTANT will make no additional charges to the County.

2.10 SUPPLEMENTAL TASK AUTHORIZATION

The term Supplemental Task Authorization as used refers to a written document executed by both parties to an existing Professional Services Agreement, or Service Provider Agreement, setting forth and authorizing a limited number of Professional Services, tasks, or work. Such Supplemental Task Authorizations are consistent with and have previously been included within the scope of services in the initial Professional Services Agreement, or Service Provider Agreement, for which authorization has not been previously given or budgeted.

2.11 DEPARTMENT DIRECTOR

The term DEPARTMENT DIRECTOR refers to the Director of the Department requesting the service, employed by the Lee County Board of County Commissioners to serve and act on the COUNTY'S
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behalf, as it relates to this Project. The Chairman of the Board of County Commissioners, or designated representative, shall act on behalf of the COUNTY to execute any and all CHANGE ORDERS or SUPPLEMENTAL TASK AUTHORIZATIONS approved by the COUNTY and issued to the CONSULTANT pursuant to this Agreement. The DEPARTMENT DIRECTOR, within the authority conferred by the Board of County Commissioners, acting as the COUNTY'S designated representative, shall issue written notification to the CONSULTANT of any and all changes approved by the COUNTY in the CONSULTANT'S: (1) compensation; (2) time and/or schedule of service delivery; (3) scope of services; or, (4) other changes relative to BASIC SERVICES and ADDITIONAL SERVICES pursuant to this Agreement, including CHANGE ORDERS or SUPPLEMENTAL TASK AUTHORIZATIONS pertaining thereto. The DEPARTMENT DIRECTOR is responsible for acting on the COUNTY'S behalf to administer, coordinate, interpret and otherwise manage the contractual provisions and requirements set forth in this Agreement, including approved CHANGE ORDERS or SUPPLEMENTAL TASK AUTHORIZATIONS.

2.12 PROJECT MANAGER

The term PROJECT MANAGER refers to the person employed or retained by the COUNTY and designated, in writing, to serve and act on the COUNTY'S behalf to provide direct contact and communication between the COUNTY and CONSULTANT with respect to providing information, assistance, guidance, coordination, review, approval and acceptance of the professional services, work and materials to be provided and performed by the CONSULTANT pursuant to this Agreement and duly approved SUPPLEMENTAL TASK AUTHORIZATIONS and CHANGE ORDERS. The PROJECT MANAGER is not authorized to and may not issue any verbal, or written, request or instruction to the CONSULTANT that would have the effect, or be interpreted to have the effect, of modifying or changing in any way whatsoever the: (1) Scope of Services to be provided and performed by the CONSULTANT; (2) The time the CONSULTANT is obligated to commence and complete all such services; or, (3) The amount of compensation the COUNTY is obligated or committed to pay the CONSULTANT. The PROJECT MANAGER will review and make appropriate recommendations on all requests submitted by the CONSULTANT for payment for services and work provided and performed, and reimbursable costs and expenses, as provided for in this Agreement, CHANGE ORDERS or SUPPLEMENTAL TASK AUTHORIZATIONS.

2.13 LUMP SUM FEES

Lump Sum Fees, hereinafter identified as L.S., are understood and agreed to include all direct and indirect labor costs, personnel related costs, overhead and administrative costs, costs of sub-consultants and/or subcontractors, out-of-pocket expenses and costs, professional service fees and any other costs or expenses which may pertain to the services and/or work to be performed, provided and/or furnished by the Consultant as may be required and/or necessary to complete each and every task set forth in the Scope of Professional Services, Exhibit "A", or as may be set in subsequent Supplemental Task Authorizations, and/or Change Orders agreed to in writing by both parties to this Agreement.

2.14 NOT-TO-EXCEED FEES

When all, or any portion, of the CONSULTANT'S compensation to provide and perform the services and work necessary and required pursuant to the Tasks set forth in Agreement Exhibit "A", and any Change Orders, Supplemental Task Authorizations, and Work Orders authorized thereto, is established to be made on a NOT-TO-EXCEED (N.T.E.) amount basis, it is mutually understood and agreed that such compensation for each completed Task will be made on the following basis:

For the actual hours necessary, required and expended by the CONSULTANT'S professional and technical personnel, multiplied by the applicable hourly rates for each classification or position as set forth in Attachment No. 1 to Exhibit "B", as attached, and any approved Change Orders or

Supplemental Task Authorizations; and

For the actual necessary, required and expended non-personnel reimbursable expenses and costs, multiplied by the applicable "Basis of Charges" for each item as set forth in Attachment No. 2 to Exhibit "B", as attached, and any approved Change Orders or Supplemental Task Authorizations; and

For the actual, necessary and required hours, and non-personnel expenses and costs, expended by Sub-Consultants and SubContractors engaged by the CONSULTANT, multiplied by such hourly rates and unit costs as are agreed to by the COUNTY and the CONSULTANT and as are set forth as a part of this Agreement and any approved Change Orders or Supplemental Task Authorizations; and

With the understanding and agreement that the COUNTY will pay the CONSULTANT for all such costs and expenses within the established Not-to-Exceed amount for each Task or Sub-Task subject to the CONSULTANT presenting an itemized and detailed invoice with appropriate supporting documentation attached thereto to show evidence satisfactory to the COUNTY covering all such costs and expenses; and

With the understanding and agreement that the CONSULTANT'S invoices and all payments to be made for all Not-to-Exceed amounts will be subject to the review, acceptance and approval of the COUNTY; and with the understanding and agreement that when the CONSULTANT'S compensation is established on a Not-to-Exceed basis for a specific Task or Sub-Task the total amount of compensation to be paid the CONSULTANT to cover all personnel costs, non-personnel reimbursable expenses and costs, and Sub-Consultant and SubContractor costs for any such specific Tasks or Sub-Tasks shall not exceed the amount of the total Not-to-Exceed compensation established and agreed to for each specific Task or Sub-Task. In the event the amount of compensation for any Task or Sub-Task to which the CONSULTANT is entitled on the Not-to-Exceed basis set forth above is determined to be necessary, required and actually expended and is determined to be actually less than the Not-to-Exceed amount established for the specific Task or Sub-Task, it is understood and agreed that any unexpended amount under a specific Task or Sub-Task may not be used, applied, transferred, invoiced or paid for services or work provided or performed on any other Task or Sub-Task.

ARTICLE 3.00 - OBLIGATIONS OF THE CONSULTANT

The obligations of the CONSULTANT with respect to all the BASIC SERVICES and ADDITIONAL SERVICES authorized pursuant to this Agreement include, but are not limited to, the following:

3.01 LICENSES

The CONSULTANT agrees to obtain and maintain throughout the period this Agreement is in effect all such licenses as are required to do business in the State of Florida and in Lee County, Florida, including, but not limited to, licenses required by the respective State Boards and other governmental agencies responsible for regulating and licensing the professional services provided and performed by the CONSULTANT pursuant to this Agreement.

3.02 PERSONNEL

(1) QUALIFIED PERSONNEL

The CONSULTANT agrees when the services to be provided and performed relate to a professional service that, under Florida Statutes, requires a license, certificate of authorization or other form of legal entitlement to practice such services, to employ and/or retain only qualified personnel to be in responsible charge of all BASIC SERVICES and ADDITIONAL SERVICES to be provided pursuant to this Agreement.

(2) CONSULTANT'S PROJECT DIRECTOR

The CONSULTANT agrees to employ and designate, in writing, a qualified and, if required by law, a licensed professional to serve as the CONSULTANT'S Project Director. The CONSULTANT'S Project Director shall be authorized and responsible to act on behalf of the CONSULTANT with respect to directing, coordinating and administering all aspects of the services to be provided and performed under this Agreement thereto. The CONSULTANT'S Project Director shall have full authority to bind and obligate the CONSULTANT on any matter arising under this Agreement unless substitute arrangements have been furnished to the COUNTY in writing. The CONSULTANT agrees that the Project Director shall devote whatever time is required to satisfactorily direct, supervise and manage the services provided and performed by the CONSULTANT throughout the entire period this Agreement is in effect. The person selected by the CONSULTANT to serve as the CONSULTANT'S Project Director shall be subject to the prior approval and acceptance of the COUNTY.

(3) REMOVAL OF PERSONNEL

The CONSULTANT agrees, within thirty (30) calendar days of receipt of a written request from the COUNTY, to promptly remove and replace the CONSULTANT'S Project Director, or any other personnel employed or retained by the CONSULTANT, or personnel of the sub-consultants or subcontractors engaged by the CONSULTANT to provide and/or perform services and/or work pursuant to the requirements of this Agreement, who the COUNTY shall request, in writing, be removed, which request may be made by the COUNTY with or without cause.

3.03 TIMELY ACCOMPLISHMENT OF SERVICES

The timely performance and completion of the required services, work and materials is vitally important to the interests of the COUNTY. Time is of the essence for all of the duties and obligations contained in this Agreement thereto. The COUNTY may suffer damages in the event that the CONSULTANT does not accomplish and complete the required services in a timely manner. The CONSULTANT agrees to employ, engage, retain and/or assign an adequate number of personnel throughout the period of this Agreement so that all BASIC SERVICES and ADDITIONAL SERVICES will be provided, performed and completed in a timely and diligent manner throughout.

3.04 STANDARDS OF PROFESSIONAL SERVICE

The work and/or services to be provided and/or performed by the CONSULTANT and by any Sub-Consultants and/or SubContractors engaged by the CONSULTANT as set forth in the Scope of

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Professional Services, Exhibit "A", shall be done in accordance with the generally accepted standards of professional practice and in accordance with the laws, rules, regulations, ordinances, codes, policies, standards or other guidelines issued by those governmental agencies which have jurisdiction over all or a portion of this project and which are in effect at the time the COUNTY approves this Agreement, or which may subsequently be changed or revised. Any subsequent change or revision to such laws, rules, regulations, ordinances, codes, policies, standards or other guidelines which requires the CONSULTANT to provide and/or perform work and/or services which are significantly different from that set forth in the Scope of Professional Services, Exhibit "A", shall serve as a basis for the COUNTY to consider the development and issuance of a Change Order to provide for a change to, or Additional Services to the services set forth in the Agreement.

3.05 CORRECTION OF ERRORS, OMISSIONS OR OTHER DEFICIENCIES

(1) RESPONSIBILITY TO CORRECT

The CONSULTANT agrees to be responsible for the professional quality, technical adequacy and accuracy, timely completion, and the coordination of all data, studies, surveys, designs, specifications, calculations, estimates, plans, drawings, construction documents, photographs, reports, memoranda, other documents and instruments, and other services, work and materials performed, provided, and/or furnished by CONSULTANT or by any sub-consultants and/or subcontractors retained or engaged by the CONSULTANT pursuant to this Agreement. The CONSULTANT shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in such data, studies, surveys, designs, specifications, calculations, estimates, plans, drawings, construction documents and instruments, and other services, work and materials resulting from the negligent act, errors or omissions or intentional misconduct of CONSULTANT or any sub-consultants or subcontractors engaged by the CONSULTANT.

(2) COUNTY'S APPROVAL SHALL NOT RELIEVE CONSULTANT OF RESPONSIBILITY

Neither review, approval, or acceptance by the COUNTY of data, studies, surveys, designs, specifications, calculations, estimates, plans, drawings, construction documents, photographs, reports, memoranda, other documents and instruments, and incidental professional services, work and materials furnished hereunder by the CONSULTANT, or any sub-consultants or subcontractors engaged by the CONSULTANT, shall in any way relieve CONSULTANT of responsibility for the adequacy, completeness and accuracy of its services, work and materials and the services, work and materials of any and all sub-consultants and/or subcontractors engaged by the CONSULTANT to provide and perform services in connection with this Agreement. Neither the COUNTY'S review, approval or acceptance of, nor payment for, any of the CONSULTANT'S services, work and materials shall be construed to operate as a waiver of any of the COUNTY'S rights under this Agreement, or any cause of action it may have arising out of the performance of this Agreement.

3.06 LIABILITY

(1) CONSULTANT TO HOLD COUNTY HARMLESS

Consistent with the provisions of FS s. 725.08, CONSULTANT agrees to indemnify and hold harmless the COUNTY, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence,

recklessness, or intentionally wrongful conduct of the CONSULTANT and other persons employed or utilized by the CONSULTANT, including, but not limited to sub-consultants, sub-contractors and material-men, in the performance of this contract, including any Change Orders or Supplemental Task Authorizations. CONSULTANT and COUNTY agree that the monetary limitation on the indemnification provided under this contract is limited to the full amount of the contract award (i.e. Compensation to be paid Consultant as set forth in the attached Exhibit B), including any sums added or subtracted from the contract award through Change Orders or Supplemental Task Authorizations. Consistent with FS s. 768.28, COUNTY agrees that CONSULTANT will not be liable for damages arising out of the negligence of the COUNTY, its officers or employees.

3.07 NOT TO DIVULGE CERTAIN INFORMATION

CONSULTANT agrees, during the term of this Agreement, not to divulge, furnish or make available to any third person, firm, or organization, without COUNTY'S prior written consent, or unless incident to the proper performance of CONSULTANT'S obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the services to be rendered by CONSULTANT or any sub-consultants or subcontractors pursuant to this Agreement. CONSULTANT shall require all of its employees, sub-consultants and subcontractors to comply with the provisions of this paragraph.

3.08 CONSULTANT TO REPAIR PROPERTY DAMAGE CAUSED BY THE CONSULTANT

CONSULTANT agrees to promptly repair and/or replace, or cause to have repaired and/or replaced, at its sole cost and expense and in a manner acceptable to and approved by the COUNTY, any property damage arising out of, or caused by, the willful or negligent acts of the CONSULTANT, or of its sub-consultants and/or subcontractors. This CONSULTANT'S obligation under this sub-article does not apply to property damage caused by any other Consultant or Contractor engaged directly by the COUNTY.

The COUNTY reserves the right, should the CONSULTANT fail to make such repairs and/or replacement within a reasonable period of time, to cause such repairs and/or replacement to be made by others and for all costs and expenses associated with having such repairs and/or replacement done to be paid for by the CONSULTANT, or by the CONSULTANT reimbursing the COUNTY for all such costs and expenses.

3.09 RESPONSIBILITY FOR ESTIMATES

(1) In the event the services required pursuant to this Agreement include the CONSULTANT preparing and submitting to the COUNTY, cost estimates, the CONSULTANT, by exercise of his experience, effort, knowledge and judgment, shall develop such cost estimates as are set forth in, or as may be required under the Agreement and shall be held accountable, responsible and liable for the accuracy, completeness, and correctness of any and all such cost estimates. For purposes of the Liability Provisions of this Article only, the CONSULTANT'S estimates shall be considered valid and effective for a period of six (6) months from the date of the COUNTY'S acceptance of the estimates.

(2) The cost estimates of CONSULTANTS or SUB-CONSULTANTS engaged by CONSULTANTS, for the appraisal or valuation of property or easements, or the estimate of damages or costs associated with the acquisition of property or easements are exempted from the provisions of Article 3.09.

(3) Cost Estimates

(A) ORDER OF MAGNITUDE ESTIMATE

This is an approximate estimate made without detailed architect/engineering data. Examples include, but are not limited to, an estimate from cost-capacity curves, an estimate using scale-up or scale-down factors, and an approximate ratio estimate. This type of estimate shall be accurate within plus fifty percent (50.0%). If the bids, as described above, fail to meet this prescribed accuracy, the cost associated with the preparation and development of the ORDER OF MAGNITUDE ESTIMATE shall be recoverable by the COUNTY.

(B) BUDGET ESTIMATE

Budget in this case applies to the COUNTY'S budget and not to the budget as a project controlled document. A budget is prepared with the use of flowsheets, layouts, and equipment details. This type of estimate shall be accurate within plus twenty-five percent (25.0%). If the bids, as described above, fail to meet this prescribed accuracy, the cost associated with the preparation and development of the BUDGET ESTIMATE shall be recoverable by the COUNTY.

(C) CONSTRUCTION COST ESTIMATE.

A construction cost estimate for purposes of this Agreement is an estimate prepared on the basis of well defined engineering/architectural data and on detailed information set forth in specifications, designs or drawings which are to be used as a basis for obtaining bids or price proposals for constructing the project. This type of estimate shall be accurate within plus or minus ten percent (10%) of the cost of the construction of the project. The accuracy and reliability of a CONSTRUCTION COST ESTIMATE is vital to the COUNTY'S interests because it may be used for such purposes as, but not limited to the following; budgeting, obtaining, allocating or obligating funds for the project; evaluating and determining the reasonableness and acceptableness of bids or price proposals for construction projects; or establishing the assessment amounts for Municipal Service Benefit Units (M.S.B.U.).

In the event the COUNTY solicits and receives bids or price proposals from contractors on a construction project based on specifications, design, drawings and a CONSTRUCTION COST ESTIMATE prepared by the CONSULTANT, and the lowest bid or price proposal, submitted by a responsive and responsible bidder or proposer, which bid or price proposal exceeds the amount of the CONSULTANT'S CONSTRUCTION COST ESTIMATE by more than the percent accuracy set forth hereinabove, the CONSULTANT shall, upon notification by the COUNTY, assume responsibility for and proceed to provide and perform the following service without additional compensation:

The CONSULTANT will, subject to the review and approval of the COUNTY, modify at its expense the specifications, design, drawings and related bidding and contract documents to the extent necessary to reduce the anticipated construction costs so that the re-solicitation of bids or price proposals will realize bids or price proposals being received that are within the range of accuracy established for the CONSTRUCTION COST ESTIMATE prepared by the

CONSULTANT. Any such modifications made by the CONSULTANT shall not conflict with the functional or operational requirements established by the COUNTY for the project and set forth in the Agreement or Change Order(s) or Supplemental Task Authorization(s) issued thereto, nor shall any such modifications conflict with established rules, regulations, requirements or professional standards pertaining to the design, specifications or drawings prepared by the CONSULTANT, nor shall such modifications adversely affect the safe use or operation of the constructed project.

In the event (1) the CONSULTANT'S modification of the design, specifications, drawings and related bidding and contract documents; and, (2) the re-solicitation of bids or price proposals do not result in bids or price proposals being received from a responsive and responsible bidder or proposer that are within the established percent accuracy of the CONSULTANT'S CONSTRUCTION COST ESTIMATE, the costs associated with the CONSULTANT'S preparation and development of the CONSTRUCTION COST ESTIMATE shall be recoverable by the COUNTY by an appropriate reduction in the CONSULTANT'S invoice requesting payment for services rendered.

For determination of compliance with the accuracy requirement established for the CONSTRUCTION COST ESTIMATE prepared by the CONSULTANT, the amount of the CONSTRUCTION COST ESTIMATE submitted by the CONSULTANT shall be adjusted from the date the CONSTRUCTION COST ESTIMATE was received by the COUNTY until the date bids or price proposals are received by the COUNTY, by applying the percent change in the "20 Cities Cost Index" as published in the ENR (formerly ENGINEERING NEWS-RECORD) a McGraw-Hill, Inc. publication.

If, in response to its solicitation, the COUNTY receives less than three bids or priced proposals for a project, there is the potential that such bids or priced proposals may not be a realistic representation of the costs expected to be associated with the project. If under such circumstances, and if in the professional judgment of the CONSULTANT, the low bid or the low priced proposal received from a responsive bidder or proposer does not realistically represent the costs associated with the project, the CONSULTANT may deem it appropriate to recommend the COUNTY reject any such bids or priced proposals. If under such circumstances the COUNTY concurs with the CONSULTANT'S recommendation and rejects the bids or priced proposals, the COUNTY will not hold the CONSULTANT responsible to, nor will the COUNTY require the CONSULTANT to, modify the specifications, design, drawings and related bidding and contract documents as set forth hereinbefore.

3.10 PERMITS

The CONSULTANT will be responsible for preparing and submitting all required applications and other supportive information necessary to assist the COUNTY in obtaining all reviews, approvals and permits, with respect to the CONSULTANT'S design, drawings and specifications required by any governmental body having authority over the project. Any fees required for such reviews, approvals or permits will be covered by a check issued by the COUNTY and made payable to the respective governmental body upon the CONSULTANT furnishing the COUNTY satisfactory documentation of such fees. The CONSULTANT will be similarly responsible for preparing and submitting all required applications and other supportive information necessary to assist the COUNTY in obtaining any renewals and/or extensions of reviews, approvals or permits that may be required while this Agreement is in effect. The COUNTY shall, at the CONSULTANT'S request, assist in obtaining required signatures and provide the

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CONSULTANT with all information known to be available to the COUNTY so as to assist the CONSULTANT in the preparation and submittal of any original, renewal or extension of required reviews, approvals or permits.

3.11 ADDITIONAL SERVICES

Should the COUNTY request the CONSULTANT to provide and perform professional services for this project which are not set forth in EXHIBIT "A", the CONSULTANT agrees to provide and perform such ADDITIONAL SERVICES as may be agreed to in writing by both parties to this Agreement. Such ADDITIONAL SERVICES shall constitute a continuation of the professional services covered under this Agreement and shall be provided and performed in accordance with the covenants, terms, and provisions set forth in this Agreement thereto.

ADDITIONAL SERVICES shall be administered and authorized as "SUPPLEMENTAL TASK AUTHORIZATIONS" or "CHANGE ORDERS" under the Agreement. The CONSULTANT shall not provide or perform, nor shall the COUNTY incur or accept any obligation to compensate the CONSULTANT for any ADDITIONAL SERVICES unless and until a written "SUPPLEMENTAL TASK AUTHORIZATIONS" or "CHANGE ORDER" shall have been agreed to and executed by both parties.

Each such "SUPPLEMENTAL TASK AUTHORIZATION" or "CHANGE ORDER" shall set forth a comprehensive, detailed description of: (1) the Scope of the ADDITIONAL SERVICES requested; (2) the basis of compensation; and, (3) the period of time and/or schedule for performing and completing said ADDITIONAL SERVICES.

3.12 TRUTH-IN-NEGOTIATIONS CERTIFICATE

The COUNTY may request the CONSULTANT to execute a Truth-in-Negotiations Certificate ("Certificate"), in a form attached as EXHIBIT "F". The Certificate shall state that wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time this Agreement is executed. The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the COUNTY determines the contract price was increased due to inaccurate, incomplete or non-current wage rates or other factual unit costs.

3.13 COMPLETION OF TASKS

Unless otherwise set forth in the Agreement the CONSULTANT shall be responsible for providing and performing whatever services, work, equipment, material, personnel, supplies, facilities, transportation and administrative support that are necessary and required to complete all of the tasks set forth in Agreement Exhibit "A" entitled "Scope of Professional Services" and Change Orders, and Supplemental Task Authorizations authorized. The compensation to be paid the CONSULTANT as set forth in Agreement Exhibit "B" entitled "Compensation and Method of Payment" and Change Orders, and Supplemental Task Authorizations authorized thereto shall be understood and agreed to adequately and completely compensate the CONSULTANT for providing and performing whatever services, work, equipment, material, personnel, supplies, facilities, transportation and administrative support that are necessary and required to complete the tasks set forth in Agreement Exhibit "A" and Change Orders, Supplemental Task Authorizations, and Work Orders authorized thereto as stated above."

3.14 AFFIRMATIVE ACTION BY CONSULTANT WHEN ENGAGING SUB-CONSULTANTS

The Florida Legislature advocates expenditures with minority business enterprises and encourages agencies to establish procedures and opportunity for 25% of the annual fiscal funds spent for professional services to be used for contracts with certified Minority Business Enterprises. Accordingly, the CONSULTANT is encouraged, when selecting or engaging the services of sub-consultants or subcontractors pursuant to this Agreement, to spend 25% of the amount of awarded compensation established in this Agreement, and in subsequent CHANGE ORDERS and SUPPLEMENTAL TASK AUTHORIZATIONS authorized thereto, for the engagement of the services of certified Minority Business Enterprise sub-consultants or subcontractors.

In furtherance of this statutory goal the COUNTY expects the CONSULTANT, when the services of sub-consultants and subcontractors are necessary, to identify those services that may be provided by a certified Minority Business entity and take affirmative action to obtain their services. For purposes of this Agreement, "affirmative action" means a good faith effort by the CONSULTANT to achieve the stated goal of engaging certified Minority Business Enterprise sub-consultants or subcontractors to provide or perform services and/or work pursuant to the SCOPE OF SERVICES required under this Agreement. The CONSULTANT is required to document efforts taken to engage the services of minority business enterprises and submit this information to the County upon request. Appropriate documentation includes detailed written records regarding the services the CONSULTANT deemed appropriate for subcontract to minority business enterprises, as well as successful and unsuccessful attempts to engage a certified Minority Business Enterprise for these services.

The CONSULTANT, upon receipt of a written request by the COUNTY, shall within ten (10) calendar days thereafter submit to the COUNTY copies of records and supporting documentation to show evidence of its affirmative action efforts to achieve the above stated goal.

The CONSULTANT is encouraged to contact the Lee County Department of Equal Opportunity for information and assistance regarding the COUNTY'S Minority Business Enterprise certification program and listing of certified Minority Business Enterprises.

ARTICLE 4.00 - OBLIGATIONS OF THE COUNTY

4.01 DESIGNATION OF PROJECT MANAGER

The COUNTY agrees after the execution of this Agreement to promptly advise the CONSULTANT, in writing, of the person designated to serve and act as the COUNTY'S PROJECT MANAGER pursuant to the provisions of Article 2.13 of this Agreement. Such notification shall be provided to the CONSULTANT by the COUNTY'S DEPARTMENT DIRECTOR.

4.02 AVAILABILITY OF COUNTY INFORMATION

(1) PROJECT GUIDELINES AND CRITERIA

Guidelines to the CONSULTANT regarding requirements the COUNTY has established or suggests relative to the Project including, but not limited to such items as: goals, objectives, constraints, and any special financial, budgeting, space, site, operational, equipment, technical, construction, time and scheduling criteria are set forth in attached EXHIBIT "E", entitled "PROJECT GUIDELINES AND CRITERIA".

(2) COUNTY TO PROVIDE PERTINENT REFERENCE MATERIAL

At the CONSULTANT'S request, the COUNTY agrees to provide to the CONSULTANT, at no cost to the CONSULTANT, all pertinent information known to be available to the COUNTY to assist the CONSULTANT in providing and performing the required professional services. Such information may include, but not be limited to: previous reports; plans, drawings and specifications; maps; property, boundary, easement, right-of-way, topographic, reference monuments, control points, plats and related survey data; data prepared or services furnished by others to the COUNTY such as sub-surface investigations, laboratory tests, inspections of natural and man-made materials, property appraisals, studies, designs and reports.

4.03 AVAILABILITY OF COUNTY'S DESIGNATED REPRESENTATIVES

The COUNTY agrees that the DEPARTMENT DIRECTOR and the PROJECT MANAGER shall be available within a reasonable period of time, with reasonable prior notice given by the CONSULTANT, to meet and/or consult with the CONSULTANT on matters pertaining to the services to be provided and performed by the CONSULTANT. The COUNTY further agrees to respond within a reasonable period of time to written requests submitted by the CONSULTANT.

4.04 ACCESS TO COUNTY PROPERTY

The COUNTY agrees, with reasonable prior written notice given by the CONSULTANT, to provide the CONSULTANT with access within a reasonable period of time to COUNTY property, facilities, buildings and structures to enable the CONSULTANT to provide and perform the required professional services and work pursuant to this Agreement. Such rights of access shall not be exercised in such a manner or to such an extent as to impede or interfere with COUNTY operations, or the operations carried on by others under a lease, or other contractual arrangement with the COUNTY, or in such a manner as to adversely affect the public health and safety. Such access may, or may not be, within the CONSULTANT'S normal office and/or field work days and/or work hours.

ARTICLE 5.00 - COMPENSATION AND METHOD OF PAYMENT

5.01 BASIC SERVICES

The COUNTY will pay the CONSULTANT for all requested and authorized BASIC SERVICES rendered hereunder by the CONSULTANT and completed in accordance with the requirements, provisions, and/or terms of this Agreement and accepted by the COUNTY in accordance with the provisions for compensation and payment of said BASIC SERVICES as set forth and prescribed in attached EXHIBIT "B", or on the basis of such changes to the established compensation as may be mutually agreed to by both parties to this Agreement and evidenced by a written and duly approved Change Order.

5.02 ADDITIONAL SERVICES

The COUNTY will pay the CONSULTANT for all ADDITIONAL SERVICES that have been requested and authorized by the COUNTY and agreed to, in writing, by both parties to this Agreement and which have been rendered as ADDITIONAL SERVICES by the CONSULTANT and completed in accordance with the requirements, provisions, and/or terms of this Agreement and accepted by the COUNTY in accordance with the provisions for compensation and payment of said ADDITIONAL SERVICES as set forth and prescribed in attached EXHIBIT "B" or on the basis of such changes to the established compensation as may be mutually agreed to by both parties to this Agreement as evidenced by a written Change Order or Supplemental Task Authorization executed by both parties.

5.03 METHOD OF PAYMENT

(1) MONTHLY STATEMENTS

The CONSULTANT is entitled to submit no more than one invoice statement to the COUNTY each calendar month covering services rendered during the preceding calendar month. The CONSULTANT'S invoice statements must be itemized to correspond to the basis of compensation as set forth in the Agreement, CHANGE ORDERS, or SUPPLEMENTAL TASK AUTHORIZATIONS. The CONSULTANT'S invoice statements must contain a breakdown of charges, description of services and work provided and/or performed, and where appropriate, supportive documentation of charges consistent with the basis of compensation set forth in the Agreement, CHANGE ORDERS, and/or SUPPLEMENTAL TASK AUTHORIZATIONS.

(2) PAYMENT FOR SERVICES PERFORMED

The COUNTY shall pay the CONSULTANT for services performed using either of the following methods, or using a combination thereof:

- (A) The COUNTY shall pay the CONSULTANT on the basis of services completed for tasks set forth in Exhibits "A" and "B", as evidenced by work products such as reports, drawings, specifications, etc., submitted by the CONSULTANT and accepted by the COUNTY. No payments shall be made for CONSULTANT'S Work-in-Progress until service items for which payment amounts have been established and set forth in this Agreement have been completed by the CONSULTANT and accepted by the COUNTY. Whenever an invoice statement covers services for which no work product is required to be furnished by the CONSULTANT to the COUNTY, the COUNTY reserves the right to retain ten percent (10%) of the amount invoiced until such service requirements are fully completed.
- (B) The COUNTY shall pay the CONSULTANT for services performed for tasks set forth in Exhibits "A" and "B" on the basis of an invoice statement covering CONSULTANT'S Work-in-Progress expressed as a percentage of the total cost of the service and/or work required for each task invoiced in this manner. All such Work-in-Progress percentages are subject to the review and approval of the COUNTY. The decision of the COUNTY shall be final as to the Work-in-Progress percentages paid. Payment by the COUNTY for tasks on a Work-in-Progress percentage basis shall not be deemed or interpreted in any way to constitute an approval or acceptance by the COUNTY of any such service or Work-in-Progress. The CONSULTANT shall be responsible for correcting, re-doing, modifying or otherwise completing the services and work required for each task before receiving final, full payment whether or not previous Work-in-Progress payments have been made. All tasks to be paid for on a Work-in-Progress percentage basis shall be agreed to by both parties to the Agreement and each task to be paid in this manner shall be identified in Exhibit "B" with the notation (WIPP). Only tasks so identified will be paid on a Work-in-Progress percentage basis. The COUNTY reserves the right to retain ten percent (10%) of the amount invoiced until such service requirements are fully completed.

(3) PAYMENT SCHEDULE

The COUNTY shall issue payment to the CONSULTANT within thirty (30) calendar days after receipt of an invoice statement from the CONSULTANT in an acceptable form and containing the requested breakdown and detailed description and documentation of charges. Should the COUNTY object or take exception to the amount of any CONSULTANT'S invoice statement, the COUNTY shall notify the CONSULTANT of such objection or exception within the thirty (30) calendar day payment period set forth hereinbefore. If such objection or exception remains unresolved at the end of said thirty (30) calendar day period, the COUNTY shall withhold the disputed amount and make payment to the CONSULTANT of the amount not in dispute. Payment of any disputed amount, or adjustments thereto, shall be made within thirty (30) calendar days of the date such disputed amount is resolved by mutual agreement of the parties to this Agreement.

5.04 PAYMENT WHEN SERVICES ARE TERMINATED AT THE CONVENIENCE OF THE COUNTY

In the event of termination of this Agreement at the convenience of the COUNTY, not at the fault of the CONSULTANT, the COUNTY shall compensate the CONSULTANT only for: (1) all services performed prior to the effective date of termination; (2) reimbursable expenses then due; and, (3) reasonable expenses incurred by the CONSULTANT in affecting the termination of services and work, and incurred by the submittal to the COUNTY of project drawings, plans, data, and other project documents.

5.05 PAYMENT WHEN SERVICES ARE SUSPENDED

In the event the COUNTY suspends the CONSULTANT'S services and work on all or part of the services required to be provided and performed by the CONSULTANT pursuant to this Agreement, the COUNTY shall compensate the CONSULTANT only for the services performed prior to the effective date of suspension and reimbursable expenses then due and any reasonable expenses incurred or associated with, or as a result of such suspension.

5.06 NON-ENTITLEMENT TO ANTICIPATED FEES IN THE EVENT OF SERVICE TERMINATION, SUSPENSION, ELIMINATION, CANCELLATION AND/OR DECREASE

In the event the services required pursuant to this Agreement are terminated, eliminated, cancelled, or decreased due to: (1) termination; (2) suspension in whole or in part; and, (3) and/or are modified by the subsequent issuance of SUPPLEMENTAL TASK AUTHORIZATIONS and/or CHANGE ORDERS, other than receiving the compensation set forth in Sub-Articles 5.04 and 5.05, the CONSULTANT shall not be entitled to receive compensation for anticipated professional fees, profit, general and administrative overhead expenses or for any other anticipated income or expense which may be associated with the services which are terminated, suspended, eliminated, cancelled or decreased.

ARTICLE 6.00 - TIME AND SCHEDULE OF PERFORMANCE

6.01 NOTICE TO PROCEED

Following the execution of this Agreement by both parties, and after the CONSULTANT has complied with the insurance requirements set forth hereinafter, the COUNTY shall issue the CONSULTANT a WRITTEN NOTICE TO PROCEED. Following the issuance of such NOTICE TO PROCEED the CONSULTANT shall be authorized to commence work and the CONSULTANT thereafter

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shall commence work promptly and shall carry on all such services and work as may be required in a timely and diligent manner to completion.

6.02 TIME OF PERFORMANCE

The CONSULTANT agrees to complete the services required pursuant to this Agreement within the time periods for completion of the various phases and/or tasks of the project services set forth and described in this Agreement, as set forth in attached EXHIBIT "C", entitled "SCHEDULE OF PERFORMANCE.

Should the CONSULTANT be obstructed or delayed in the prosecution or completion of its obligations under this Agreement as a result of causes beyond the control of the CONSULTANT, or its sub-consultants and/or subcontractors, and not due to their fault or neglect, the CONSULTANT shall notify the COUNTY, in writing, within five (5) calendar days after the commencement of such delay, stating the cause thereof and requesting an extension of the CONSULTANT'S time of performance. Upon receipt of the CONSULTANT'S request for an extension of time, the COUNTY shall grant the extension if the COUNTY determines the delay encountered by the CONSULTANT, or its sub-consultants and/or subcontractors, is due to unforeseen causes and not attributable to their fault or neglect.

6.03 CONSULTANT WORK SCHEDULE

The CONSULTANT is required to prepare and submit to the COUNTY, on a monthly basis commencing with the issuance of the NOTICE TO PROCEED, a CONSULTANT'S WORK SCHEDULE. The WORK SCHEDULE must set forth the time and manpower scheduled for all of the various phases and/or tasks required to provide, perform and complete all of the services and work required for completion of the various phases and/or tasks of the project services as set forth in EXHIBIT "C" in such a manner that the CONSULTANT'S planned and actual work progress can be readily determined. The CONSULTANT'S WORK SCHEDULE of planned and actual work progress must be updated and submitted by the CONSULTANT to the COUNTY on a monthly basis.

6.04 FAILURE TO PERFORM IN A TIMELY MANNER

Should the CONSULTANT fail to commence, provide, perform and/or complete any of the services and work required pursuant to this Agreement in a timely and diligent manner, the COUNTY may consider such failure as justifiable cause to terminate this Agreement. As an alternative to termination, the COUNTY at its option, may, upon written notice to the CONSULTANT, withhold any or all payments due and owing to the CONSULTANT, not to exceed the amount of the compensation for the work in dispute, until such time as the CONSULTANT resumes performance of his obligations in such a manner as to get back on schedule in accordance with the time and schedule of performance requirements set forth in this Agreement, or any CHANGE ORDERS or SUPPLEMENTAL TASK AUTHORIZATIONS issued thereto.

ARTICLE 7.00 - SECURING AGREEMENT

The CONSULTANT warrants that the CONSULTANT has not employed or retained any company or person other than a bona fide, regular, full time employee working for the CONSULTANT to solicit or secure this Agreement and that the CONSULTANT has not paid or agreed to pay any person, company, corporation 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.

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ARTICLE 8.00 - CONFLICT OF INTEREST

The CONSULTANT represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder. The CONSULTANT further agrees that no person having any such interest shall be employed or engaged by the CONSULTANT for said performance.

If CONSULTANT, for itself and on behalf of its subconsultants, is about to engage in representing another client, which it in good faith believes could result in a conflict of interest with the work being performed by CONSULTANT or such sub-consultant under this Agreement, then it will promptly bring such potential conflict of interest to the COUNTY'S attention, in writing. The COUNTY will advise the CONSULTANT, in writing, within ten (10) calendar days as to the period of time required by the COUNTY to determine if such a conflict of interest exists. If the COUNTY determines that there is a conflict of interest, CONSULTANT or such sub-consultant shall decline the representation upon written notice by the COUNTY.

If the COUNTY determines that there is not such conflict of interest, then the COUNTY shall give its written consent to such representation. If CONSULTANT or sub-consultant accepts such a representation without obtaining the COUNTY'S prior written consent, and if the COUNTY subsequently determines that there is a conflict of interest between such representation and the work being performed by CONSULTANT or such sub-consultant under this Agreement, then the CONSULTANT or such sub-consultant agrees to promptly terminate such representation. CONSULTANT shall require each of such sub-consultants to comply with the provisions of this Section.

Should the CONSULTANT fail to advise or notify the COUNTY as provided hereinabove of representation which could, or does, result in a conflict of interest, or should the CONSULTANT fail to discontinue such representation, the COUNTY may consider such failure as justifiable cause to terminate this Agreement.

ARTICLE 9.00 - ASSIGNMENT, TRANSFER AND SUBCONTRACTS

The CONSULTANT shall not assign or transfer any of its rights, benefits or obligations hereunder, except for transfers that result from: (1) the merger or consolidation of CONSULTANT with a third party; or (2) the disestablishment of the CONSULTANT'S professional practice and the establishment of a successor consultant, or consulting organization. Nor shall the CONSULTANT subcontract any of its service obligations hereunder to third parties, except as otherwise authorized in this Agreement thereto, without prior written approval of the COUNTY. The CONSULTANT shall have the right, subject to the COUNTY'S prior written approval, to employ other persons and/or firms to serve as sub-consultants and/or subcontractors to CONSULTANT in connection with CONSULTANT providing and performing services and work pursuant to the requirements of this Agreement. The COUNTY shall have the right and be entitled to withhold such approval. Such approval shall not be unreasonably withheld.

In providing and performing the services and work required pursuant to this Agreement, CONSULTANT intends to engage the assistance of the sub-consultants and/or subcontractors set forth in attached EXHIBIT "D", entitled "CONSULTANT'S ASSOCIATED SUB-CONSULTANTS AND SUBCONTRACTORS".

ARTICLE 10.00 - APPLICABLE LAW

Unless otherwise specified, this Agreement shall be governed by the laws, rules, and regulations of the State of Florida, or the laws, rules, and regulations of the United States when providing services funded by the United States government.

ARTICLE 11.00 - COVENANTS AGAINST DISCRIMINATION

11.01 FOR PROJECTS WITH FUNDS APPROPRIATED FROM GENERAL LEE COUNTY REVENUES

The CONSULTANT for itself, its successors in interest, and assigns as part of the consideration thereof, does hereby covenant and agree that in the furnishing of services to COUNTY hereunder, no person on the grounds of race, color, national origin, handicap, or sex shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination. The CONSULTANT shall comply with Lee County's Affirmative Action Plan or state laws in the hiring of sub-consultants. CONSULTANTS who are uncertain of their obligation must obtain a copy of all relevant guidelines concerning Lee County's Affirmative Action Plan from the Lee County Department of Equal Opportunity.

11.02 FOR PROJECTS WITH FUNDS APPROPRIATED EITHER IN PART OR WHOLLY FROM FEDERAL OR STATE SOURCES

The CONSULTANT for itself, its successors in interest, and assigns as part of the consideration thereof, does hereby covenant and agree that in the furnishing of services to COUNTY hereunder, no person on the grounds of race, color, national origin, handicap, or sex shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination. The CONSULTANT shall make every effort to comply with any Disadvantaged Business Enterprise goals which have been established for this project. CONSULTANTS who are uncertain of their obligations regarding Disadvantaged Business Enterprises for this project must obtain a copy of all relevant federal or state guidelines from the Lee County Department of Equal Opportunity. The failure of the CONSULTANT to adhere to relevant guidelines shall subject the CONSULTANT to any sanctions which may be imposed upon the COUNTY.

ARTICLE 12.00 - WAIVER OF BREACH

Waiver by either party of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Agreement.

ARTICLE 13.00 - INSURANCE

13.01 INSURANCE COVERAGE TO BE OBTAINED

- (1) The CONSULTANT shall obtain and maintain such insurance as will protect him from: (1) claims under workers' compensation laws, disability benefit laws, or other similar employee benefit laws; (2) claims for damages because of bodily injury, occupational sickness or disease or death of his employees including claims insured by usual personal injury liability coverage; (3) claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees including claims insured by usual personal injury liability coverage; and, (4) from claims

for injury to or destruction of tangible property including loss or use resulting therefrom; any or all of which claims may arise out of, or result from, the services, work and operations carried out pursuant to and under the requirements of this Agreement, whether such services, work and operations be by the CONSULTANT, its employees, or by any sub-consultants, subcontractors, or anyone employed by or under the supervision of any of them, or for whose acts any of them may be legally liable.

- (2) The insurance protection set forth hereinabove shall be obtained and written for not less than the limits of liability specified hereinafter, or as required by law, whichever is greater.
- (3) The CONSULTANT, throughout the time this Agreement is in effect, shall require and ensure that any and all of its Sub-Consultants and/or SubContractors obtain, have, and maintain the insurance coverage's required by law to be provided.
- (4) The CONSULTANT shall obtain, have and maintain during the entire period of this Agreement all such insurance policies as are set forth and required herein.
- (5) In the event that the CONSULTANT engages Sub-Consultants or Sub-Contractors to assist the CONSULTANT in providing or performing services or work pursuant to the requirements of this Agreement, the insurance coverage's required under Article 13.03 to be provided by the CONSULTANT shall cover all of the services or work to be provided or performed by all of the Sub-Consultants or SubContractors engaged by the CONSULTANT. However, in the event the services or work of Sub-Consultants or Sub-Contractors engaged by the CONSULTANT is not covered by the CONSULTANT'S INSURANCE POLICY(s), it shall be the responsibility of the CONSULTANT to ensure that all Sub-Consultants or Sub-Contractors have fully complied with the COUNTY insurance requirements for: (1) Worker's Compensation; (2) Commercial General Liability; (3) Commercial Automobile Liability; or, (4) Professional Liability as required and set forth in Agreement Article 13.00.

The services or work to be provided or performed by the following Sub-Consultants or Sub-Contractors identified in Agreement Exhibit "D" are exempted and excluded from the Professional Liability insurance coverage requirements set forth in this Agreement:

<u>Service and/or work to be Provided and/or Performed</u>	<u>Indicate Name of Individual or Firm</u>
--	--

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

None

- (6) The insurance coverage to be obtained by the CONSULTANT or by Sub-Consultants or Sub-Contractors engaged by the CONSULTANT, as set forth in Agreement Article 13.03 for: (1) Workers' Compensation; (2) Comprehensive General Liability; (3) Comprehensive Automobile Liability; or (4) Professional Liability is understood and agreed to cover any and all of the services or work set forth in Agreement Exhibit "A" and all subsequent Change Orders or Supplemental Task Authorizations. In the event the COUNTY shall execute and issue a written Change Order or Supplemental Task Authorization authorizing the CONSULTANT to provide or perform services or work in addition to those set forth in Agreement Exhibit "A", it is agreed that the COUNTY has the right to change the amount of insurance coverage's required to cover the additional services or work. If the additional insurance coverage's established exceeds the amount of insurance coverage carried by the CONSULTANT, the compensation established for the Change Order or Supplemental Task Authorization shall include consideration of any increased premium cost incurred by the CONSULTANT to obtain same.

13.02 CONSULTANT REQUIRED TO FILE INSURANCE CERTIFICATE(S)

- (1) The CONSULTANT shall submit to the COUNTY'S RISK MANAGEMENT DIVISION all insurance certificates which are required under this Agreement for review and approval with respect to compliance with the insurance requirements. After approval by the RISK MANAGEMENT DIVISION, the COUNTY will execute this Agreement and issue a written Notice to Proceed. The CONSULTANT may then commence with any service or work pursuant to the requirements of this Agreement.
- (2) All such insurance certificates shall be in a form and underwritten by an insurance company(s) acceptable to the COUNTY and licensed in the State of Florida.
- (3) Each Certificate of Insurance submitted to the COUNTY shall be an original and shall be executed by an authorized representative of the insurance company affording coverage.
- (4) Each Certificate of Insurance shall be addressed to the Lee County Board of County Commissioners, Attention: Lee County Procurement Management, P O Box 398, Fort Myers, Florida 33902-0398.
- (5) Each Certificate of Insurance shall specifically include all of the following:
- (A) The name and type of policy and coverage's provided; and
 - (B) The amount or limit applicable to each coverage provided and the deductible amount, if any, applicable to each type of insurance coverage being provided; and
 - (C) The date of expiration of coverage; and
 - (D) The designation of the Lee County Board of County Commissioners both as an additional insured and as a certificate holder. (This requirement is excepted for Professional Liability Insurance and for Workers' Compensation Insurance); and
 - (E) A specific reference to this Agreement and the Project to which it pertains. (This requirement may be excepted for Professional Liability Insurance); or

In the event the CONSULTANT has, or expects to enter into an agreement for professional services other than those provided for in this Agreement, the CONSULTANT may elect to submit a certificate of insurance containing the following statement:

"This policy covers the services or work provided or performed by the Named Insured for any and all projects undertaken for Lee County pursuant to one or more written Professional Services Agreements, or written Supplemental Task Authorizations, or Change Orders thereto, and the limits of liability shown shall not be intended or construed as applying to only one project."

Upon receipt and approval of such a certificate of insurance the COUNTY will administer the insurance required for all such agreements utilizing the single "multi-project" certificate of insurance and a separate certificate of insurance will not be required for each separate agreement.

- (F) A statement indicating any services or work included in or required under Agreement Exhibit "A" Scope of Professional Services that is specifically excluded or exempted from coverage under the provisions, terms, conditions or endorsements of the CONSULTANT'S insurance policy. A statement which indicates any and all deductible amounts applicable to each type of insurance coverage required. In the absence of any such statements, the COUNTY will proceed with the understanding, stipulation and condition that there are no deductible amounts, or exclusions or exemptions to the insurance coverage provided.
- (6) Each Certificate of Insurance shall be issued by an insurance agent and/or agency duly authorized to do so by and on behalf of the insurance company affording the insurance coverage indicated on each Certificate of Insurance.
- (7) If the initial or any subsequently issued Certificate of Insurance expires prior to the completion of the work or termination of this Agreement, the CONSULTANT shall furnish to the COUNTY renewal or replacement Certificate of Insurance, or Certified Binder, not later than fifteen (15) calendar days after the date of their expiration. Failure of the CONSULTANT to provide the COUNTY with such renewal certificates shall be considered justification for the COUNTY to terminate this Agreement.
- (8) If any of the insurance coverages required by this Agreement shall reach the date of expiration indicated on the approved Certificates of Insurance without the COUNTY having received satisfactory evidence of renewal or replacement, the CONSULTANT shall automatically and without further notice stop performing all previously authorized services and work. During any time period that the CONSULTANT'S services or work is suspended for failure to comply with the insurance requirements set forth in the Agreement, the CONSULTANT shall not be entitled to any additional compensation or time to provide and perform the required services or work and the COUNTY shall not be required to make payment on any invoices submitted by the CONSULTANT. Upon receipt and approval of renewal or replacement Certificates of Insurance, payment for any such invoices shall be made promptly by the COUNTY.

13.03 - INSURANCE COVERAGES REQUIRED

The CONSULTANT shall obtain and maintain the following insurance coverages as provided hereinbefore, and in the type, amounts and in conformance with the following minimum requirements:

Date: 10/25/13

(1) WORKERS' COMPENSATION

Statutory benefits as defined by FS 440 encompassing all operations contemplated by this contract or agreement to apply to all owners, officers, and employees regardless of the number of employees. Workers Compensation exemptions may be accepted with written proof of the State of Florida's approval of such exemption. Employers' liability will have minimum limits of:

\$100,000 per accident
\$100,000 disease limit
\$500,000 disease – policy limit

(2) COMMERCIAL GENERAL LIABILITY

Coverage must be afforded on a form no more restrictive than the last edition of the Commercial General Liability Policy filed by the Insurance Services Office. Coverage shall apply to premises and/or operations, products and completed operations, independent contractors, contractual liability exposures with minimum limits of:

\$500,000 per occurrence
\$1,000,000 general aggregate
\$500,000 products and completed operations
\$500,000 personal and advertising injury

Coverage must include the following:

- (A) Contractual coverage applicable to this specific Agreement including any hold harmless and/or such indemnification agreement.
- (B) Such additional requirements as are set forth in Article 13.01 and 13.02 hereinabove.

(3) BUSINESS AUTOMOBILE LIABILITY

Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy filed by the Insurance Services Office and must include the following:

- (A) Minimum limits of \$ 500,000.00 combined single limit (CSL).
- (B) Coverage shall include owned vehicles, hired and leased, or non-owned vehicles.
- (C) Such additional requirements as are set forth in Articles 13.01

(4) ERRORS AND OMISSIONS

Coverage shall include professional liability insurance, to cover claims arising out of negligent acts, errors or omissions of professional advice or other professional services.

Coverage must include the following:

- (A) \$1,000,000 combined single limit (CSL) of BI and PD
- (B) Such additional requirements as are set forth in Articles 13.01 and 13.02 hereinabove.
- (C) Should the Professional Liability Insurance Policy issued pursuant to the above requirements and limits be written so as to provide an applicable deductible amount, or other exclusion or limitation as to the amount of coverage to be provided within the minimum coverage limits set forth above, the COUNTY shall hold the CONSULTANT responsible and liable for any such difference in the amount of coverage provided by the insurance policy. In the event of any such deductible amount, exclusion or limitation, the CONSULTANT shall be required to provide written documentation that is acceptable to the COUNTY establishing that the CONSULTANT has the financial resources readily available to cover damages, injuries and/or losses which are not covered by the policy's deductible amounts, exclusions and/or limitations as stated above.

*The required minimum limit of liability shown in (2) Commercial General Liability and (3) Business Automobile Liability, may be provided in the form of "Excess Insurance" or "Commercial Umbrella Policies." In which case, a "Following Form Endorsement" will be required on the "Excess Insurance Policy" or "Commercial Umbrella Policy."

ARTICLE 14.00 - DUTIES AND OBLIGATIONS IMPOSED ON THE CONSULTANT

The duties and obligations imposed upon the CONSULTANT 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 law or statute.

ARTICLE 15.00 - REPRESENTATION OF THE COUNTY

The CONSULTANT in providing and performing the services and work required pursuant to this Agreement thereto shall only represent the COUNTY in the manner and to the extent specifically set forth in writing in this Agreement, and as provided in any written SUPPLEMENTAL TASK AUTHORIZATION or CHANGE ORDER issued hereunder.

In the event the CONSULTANT'S services or work involves construction contract administrative support services, the CONSULTANT is not authorized to act on the COUNTY'S behalf, and shall not act on the COUNTY'S behalf, in such a manner as to result in changes to: (1) the cost or compensation to be paid the construction contractor; or, (2) the time for completing the work as required and agreed to in the construction contract; or, (3) the scope of the work set forth in the construction contract documents, unless such representation is specifically provided for, set forth and authorized in this Agreement or thereto.

The COUNTY will neither assume nor accept any obligation, commitment, responsibility or liability which may result from representation by the CONSULTANT not specifically provided for and authorized as stated hereinabove.

ARTICLE 16.00 - OWNERSHIP OF DOCUMENTS

All documents such as drawings, tracings, notes, computer files, photographs, plans, specifications, maps, evaluations, reports and other records and data relating to this project, other than working papers, specifically prepared or developed by the CONSULTANT under this Agreement shall be property of the

Date: 10/25/13

CONSULTANT until the CONSULTANT has been paid for providing and performing the services and work required to produce such documents.

Upon completion or termination of this Agreement, or upon the issuance by the COUNTY of a written Change Order deleting all or portions of the scope of services or task(s) to be provided or performed by the CONSULTANT, all of the above documents, to the extent requested in writing by the COUNTY, shall be delivered by the CONSULTANT to the COUNTY within seven (7) calendar days of the COUNTY making such a request. In the event the COUNTY gives the CONSULTANT a written Notice of Termination of all or part of the services or work required, or upon the issuance to the CONSULTANT by the COUNTY of a written Change Order deleting all or part of the services or work required, the CONSULTANT shall deliver to the COUNTY the requested documents as set forth hereinabove, with the mutual understanding and commitment by the COUNTY that compensation earned or owing to the CONSULTANT for services or work provided or performed by the CONSULTANT prior to the effective date of any such termination or deletion will be paid to the CONSULTANT within thirty (30) calendar days of the date of issuance of the Notice of Termination or Change Order.

The CONSULTANT, at its expense, may make and retain copies of all documents delivered to the COUNTY for reference and internal use. The CONSULTANT shall not, and agrees not to; use any of these documents, and data and information contained therein on any other project or for any other client without the prior expressed written permission of the COUNTY.

Any use by the COUNTY of said documents, and data and information contained therein, obtained by the COUNTY under the provisions of this Agreement for any purpose not within the scope of this Agreement shall be at the risk of the COUNTY, and without liability to the CONSULTANT. The COUNTY shall be liable and agrees to be liable for and shall indemnify, defend and hold the CONSULTANT harmless for any and all claims, suits, judgments or damages, losses and expenses including court costs, expert witness and professional consultation services, and attorneys' fees arising out of the COUNTY'S use of such documents in a manner contrary to the provisions set forth hereinabove. The COUNTY hereby acknowledges receipt of \$10.00 (ten and no hundreds dollars) and other good and valuable consideration from the CONSULTANT which has been paid as specific consideration for the indemnification provided herein.

ARTICLE 17.00 - MAINTENANCE OF RECORDS

The CONSULTANT will keep and maintain adequate records and supporting documentation applicable to all of the services, work, information, expense, costs, invoices and materials provided and performed pursuant to the requirements of this Agreement. Said records and documentation will be retained by the CONSULTANT for a minimum of five (5) years from the date of termination of this Agreement.

The COUNTY and its authorized agents shall, with reasonable prior notice, have the right to audit, inspect and copy all such records and documentation as often as the COUNTY deems necessary during the period of this Agreement, and during the period five (5) years thereafter; provided, however, such activity shall be conducted only during normal business hours and at the expense of the COUNTY, and provided further that to the extent provided by law the COUNTY shall retain all such records confidential.

ARTICLE 18.00 - HEADINGS

The HEADINGS of the Articles, Sections, Exhibits, Attachments, Phases or Tasks as contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit or change the provisions contained in such Articles, Sections, Exhibits, Attachments, Phases or Tasks.

Date: 10/25/13

ARTICLE 19.00 - ENTIRE AGREEMENT

This Agreement, including referenced Exhibits and Attachments hereto, constitutes the entire Agreement between the parties hereto and shall supercede, replace and nullify any and all prior agreements or understandings, written or oral, relating to the matters set forth herein, and any such prior agreements or understandings shall have no force or effect whatever on this Agreement.

The following listed documents, which are referred to hereinbefore, are attached to and are acknowledged, understood and agreed to be an integral part of this Agreement:

- (1) EXHIBIT "A" entitled "Scope of Professional Services".
- (2) EXHIBIT "B" entitled "Compensation and Method of Payment".
- (3) EXHIBIT "C" entitled "Time and Schedule of Performance".
- (4) EXHIBIT "D" entitled "Consultant's Associated Sub-Consultants and SubContractors".
- (5) EXHIBIT "E" entitled "Project Guidelines and Criteria".
- (6) EXHIBIT "F" entitled "Truth in Negotiation Certificate".
- (7) EXHIBIT "G" entitled "Insurance". (Containing copies of applicable Certificates of Insurance)
- (8) EXHIBIT "H" entitled "Amendment to Articles".

ARTICLE 20.00 - NOTICES AND ADDRESS OF RECORD

20.01 NOTICES BY CONSULTANT TO COUNTY

All notices required and/or made pursuant to this Agreement to be given by the CONSULTANT to the COUNTY shall be in writing and shall be given by the United States Postal Service Department first class mail service, postage prepaid, addressed to the following COUNTY address of record and sent to the attention of the County's Project Manager:

Lee County Board of County Commissioners
Post Office Box 398
Fort Myers, Florida 33902-0398
Department: Procurement Management

20.02 NOTICES BY COUNTY TO CONSULTANT

All notices required and/or made pursuant to this Agreement to be given by the COUNTY to the CONSULTANT shall be made in writing and shall be given by the United States Postal Service Department first class mail service, postage prepaid, addressed to the following CONSULTANT'S address of record:

Johnson Engineering, Inc.
2122 Johnson St.
Fort Myers, Florida 33901
Phone and Fax No: 239-334-0046/239-334-3661
ATTENTION: Michael S. Dickey
Email: MDickey@johnsoneng.com

20.03 CHANGE OF ADDRESS OF RECORD

Either party may change its address of record by written notice to the other party given in accordance with the requirements of this Article.

ARTICLE 21.00 - TERMINATION

This Agreement may be terminated by the COUNTY at its convenience, or due to the fault of the CONSULTANT, by the COUNTY giving thirty (30) day written notice to the CONSULTANT.

If the CONSULTANT is adjudged bankrupt or insolvent; if it makes a general assignment for the benefit of its creditors; if a trustee or receiver is appointed for the CONSULTANT or for any of its property; if it files a petition to take advantage of any debtor's act or to reorganize under the bankruptcy or similar laws; if it disregards the authority of the COUNTY'S designated representatives; if it otherwise violates any provisions of this Agreement; or for any other just cause, the COUNTY may, without prejudice to any other right or remedy, and after giving the CONSULTANT a thirty (30) calendar day written notice, terminate this Agreement.

In addition to the COUNTY'S contractual right to terminate this Agreement in its entirety as set forth above, the COUNTY may also, at its convenience, stop, suspend, supplement or otherwise change all, or any part of, the Scope of Professional Services as set forth in Exhibit "A", or the Project Guidelines and Criteria as set forth in Exhibit "E", or as such may be established by a Supplemental Task Authorization or Change Order Agreement. The COUNTY shall provide written notice to the CONSULTANT in order to implement a stoppage, suspension, supplement or change.

The CONSULTANT may request that this Agreement be terminated by submitting a written notice to the COUNTY dated not less than thirty (30) calendar days prior to the requested termination date and stating the reason(s) for such a request. However, the COUNTY reserves the right to accept or not accept the termination request submitted by the CONSULTANT, and no such termination request submitted by the CONSULTANT shall become effective unless and until CONSULTANT is notified, in writing, by the COUNTY of its acceptance.

21.01 CONSULTANT TO DELIVER MATERIAL

Upon termination, the CONSULTANT shall deliver to the COUNTY all papers, drawings, models, and other material in which the COUNTY has exclusive rights by virtue hereof or of any business done, or services or work performed or provided by the CONSULTANT on behalf of the COUNTY.

ARTICLE 22.00 - AMENDMENTS

The covenants, terms and provisions set forth and contained in all of the Articles to this Agreement may be amended upon the mutual acceptance thereof, in writing, by both parties to this Agreement, as evidenced by Exhibit H for amending articles. In the event of any conflicts between the requirements, provisions and/or terms of the Agreement and any written Amendment (Exhibit H), the requirements, provisions and/or terms of the Amendment shall take precedence.

ARTICLE 23.00 - MODIFICATIONS

Modifications to covenants, terms and provisions of this Agreement shall only be valid when issued in writing as a properly executed CHANGE ORDERS or SUPPLEMENTAL TASK AUTHORIZATIONS. In the event of any conflicts between the requirements, provisions, and/or terms of this Agreement and any written CHANGE ORDERS and/or SUPPLEMENTAL TASK AUTHORIZATIONS, the latest executed CHANGE ORDER and/or SUPPLEMENTAL TASK AUTHORIZATION shall take precedence.

In the event the COUNTY issues a purchase order, memorandum, letter, or other instruments covering the professional services, work and materials to be provided and performed pursuant to this Agreement, it is hereby specifically agreed and understood that such purchase order, memorandum, letter or other instruments are for the COUNTY'S internal control purposes only, and any and all terms, provisions and conditions contained therein, whether printed or written, shall in no way modify the covenants, terms and provisions of this Agreement and shall have no force or effect thereon.

No modification, waiver, or termination of the Agreement or of any terms thereof shall impair the rights of either party.

ARTICLE 24.00 - SEVERABILITY

If any word, phrase, sentence, part, subsection, or other portion of this Agreement, or any application thereof, to any person, or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, subsection, other portion, or the proscribed application thereof, shall be severable, and the remaining portions of this Agreement, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force, and effect.

ARTICLE 25.00 - VENUE

Venue for any administrative and/or legal action arising under this Agreement shall be in Lee County, Florida.

ARTICLE 26.00 - NO THIRD PARTY BENEFICIARIES

Both parties explicitly agree, and this Agreement states that no third party beneficiary status or interest is conferred to, or inferred to, any other person or entity.

ARTICLE 27.00 - ACCEPTANCE

Acceptance of this Agreement shall be indicated by the signature of the duly authorized representative of the hereinabove named parties in the space provided hereinafter and being attested and witnessed as indicated.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Agreement effective the day and year first written above.

ATTEST:
CLERK OF CIRCUIT COURT
Linda Doggett, Clerk

BY: Joyce Townsend

COUNTY: LEE COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS

BY: [Signature]
Chair

DATE: 8-19-16



APPROVED as to Form for the Reliance of Lee County Only

BY: [Signature]
County Attorney's Office

ATTEST:

JOHNSON ENGINEERING, INC.
Firm

BY: [Signature]
Authorized Signature

[Signature]
(Witness)

Michael S. Dickey
Authorized Signature Printed Name

[Signature]
(Witness)

Vice President
Authorized Signature Title

DATE: August 11, 2016

CORPORATE SEAL:



SCOPE OF SERVICES

For RFP160126 Miscellaneous Planning Services

BASIC SERVICES

Section 1. GENERAL SCOPE STATEMENT

The CONSULTANT shall provide and perform the following services, which shall constitute the GENERAL SCOPE of the BASIC SERVICES under the covenants, terms, and provisions of this SERVICE PROVIDER AGREEMENT.

Lee County Board of County Commissioners anticipates seeking professional consultants to work singularly or in combination to develop project scopes, schedules and deliverables for specific tasks and to perform those tasks if and when they are needed. These may include but not limited to: amendments to the Lee County Comprehensive Plan; updating community plans; implementing community plans through land develop code amendments; implementing a variety of planning objectives mandated by changes to the Florida Statutes made by the Florida Legislature; conducting general land use planning, preparing special studies or reports, utilizing and refining form-based codes and possible urban design projects for Lee County.

COMPENSATION AND METHOD OF PAYMENT

For RFP160126 Miscellaneous Planning Services

Section 1. BASIC SERVICES/TASK(S)

The COUNTY shall compensate the CONSULTANT for providing and performing the Task(s) set forth and enumerated in EXHIBIT "A", entitled "SCOPE OF PROFESSIONAL SERVICES", 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 "A". In accordance with Agreement Article 5.02(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.)
	To be negotiated through each Supplemental Task Authorization issued.			
TOTAL				

(Unless list is continued on next page)

Section 2. ADDITIONAL SERVICES

The COUNTY shall compensate the CONSULTANT for such ADDITIONAL SERVICES as are requested and authorized in writing for such amounts or on such a basis as may be mutually agreed to in writing by both parties to this Agreement. The basis and/or amount of compensation to be paid the CONSULTANT for ADDITIONAL SERVICES requested and authorized in writing by the COUNTY shall be as set forth in Article 3.11 of this Agreement.

Should it be mutually agreed to base compensation for ADDITIONAL SERVICES on an hourly rate charge basis for each involved professional and technical employee's wage rate classification, the applicable hourly rates to be charged are as set forth and contained in ATTACHMENT NO. 1 entitled "CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE".

Section 3. REIMBURSABLE EXPENSES AND COSTS

When the CONSULTANT'S compensation and method of payment is based on an hourly rate for professional and/or technical personnel, the CONSULTANT shall, in addition to such hourly rates as are set forth in Attachment No. 1 hereto, be entitled to reimbursement of out-of-pocket, non-personnel expenses and costs as set forth in ATTACHMENT NO. 2 entitled "NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS".

JOHNSON ENGINEERING

PROFESSIONAL SERVICES HOURLY RATE SCHEDULE

Effective February 12, 2016

Engineer IX	\$ 190.00	Grant Proposal Manager	\$ 95.00
Engineer VIII	\$ 170.00	Grant Administrator	\$ 90.00
Engineer VII	\$ 160.00	Grant Writer	\$ 75.00
Engineer VI	\$ 150.00		
Engineer V	\$ 135.00	Principal Ecologist	\$ 170.00
Engineer IV	\$ 125.00	Ecologist IV	\$ 150.00
		Ecologist III	\$ 130.00
		Ecologist II	\$ 115.00
Engineer Intern III	\$ 115.00	Ecologist I	\$ 100.00
Engineer Intern II	\$ 105.00		
Engineer Intern I	\$ 95.00		
		Surveyor and Mapper VI	\$ 190.00
Development Project Coordinator	\$ 115.00	Surveyor and Mapper V	\$ 170.00
		Surveyor and Mapper IV	\$ 150.00
Project Director	\$ 145.00	Surveyor and Mapper III	\$ 125.00
		Surveyor and Mapper II	\$ 115.00
Designer IV	\$ 135.00	Surveyor and Mapper I	\$ 100.00
Designer III	\$ 115.00		
Designer II	\$ 90.00	StarVAC w/Water Truck Four-Man Party	\$ 330.00
Designer I	\$ 80.00	StarVAC w/Water Truck Three-Man Party	\$ 280.00
Permit Technician	\$ 100.00	StarVAC w/Four-Man Party	\$ 290.00
Technician IV	\$ 100.00	StarVAC w/Three-Man Party	\$ 265.00
Technician III	\$ 75.00		
Technician II	\$ 65.00	Two-Man Field Party	\$ 135.00
Technician I	\$ 55.00	Three-Man Field Party	\$ 160.00
		Four-Man Field Party	\$ 170.00
Hydrogeologist V	\$ 150.00	Hydrographic Field Party	\$ 225.00
Hydrogeologist IV	\$ 135.00	GPS Mapping Grade: One-Man Party	\$ 90.00
Hydrogeologist III	\$ 125.00	GPS Mapping Grade: Two-Man Party	\$ 130.00
Hydrogeologist II	\$ 100.00	GPS Mapping Grade: Three-Man Party	\$ 170.00
Hydrogeologist I	\$ 90.00	GPS Surveying Grade: One or Two-Man Party	\$ 170.00
		GPS Surveying Grade: Three-Man Party	\$ 180.00
Environmental Scientist VI	\$ 135.00		
Environmental Scientist V	\$ 120.00	Principal GIS Consultant	\$ 170.00
Environmental Scientist IV	\$ 100.00	GIS Consultant IV	\$ 170.00
Environmental Scientist III	\$ 85.00	GIS Consultant III	\$ 135.00
Environmental Scientist II	\$ 65.00	GIS Consultant II	\$ 110.00
Environmental Scientist I	\$ 55.00	GIS Consultant I	\$ 90.00
		GIS Technician III	\$ 80.00
Principal Planner II	\$ 170.00	GIS Technician II	\$ 70.00
Principal Planner I	\$ 150.00	GIS Technician I	\$ 60.00
Senior Planner	\$ 135.00		
Planner IV	\$ 125.00	CONSTRUCTION OBSERVATION SERVICES	
Planner III	\$ 110.00	Senior Project Engineer	\$ 170.00
Planner II	\$ 95.00	Construction Observation Services Manager	\$ 150.00
Planner I	\$ 85.00	Project Administrator	\$ 125.00
		Contract Support Specialist	\$ 110.00
Planning Technician III	\$ 80.00	Senior Construction Observer II	\$ 100.00
Planning Technician II	\$ 70.00	Senior Construction Observer I	\$ 90.00
Planning Technician I	\$ 60.00	Construction Observer III	\$ 75.00
		Construction Observer II	\$ 65.00
Principal Landscape Architect	\$ 170.00	Construction Observer I	\$ 55.00
Managing Landscape Architect	\$ 140.00	Resident Compliance Officer (RSO)	\$ 65.00
Senior Landscape Architect	\$ 130.00		
Landscape Architect	\$ 120.00	Expert Witness	\$ 250.00
Senior Landscape Designer	\$ 105.00		
Project Landscape Designer	\$ 85.00	REIMBURSABLE EXPENSES	
Landscape Designer II	\$ 78.00	Materials	Cost + 10%
Landscape Designer I	\$ 72.00	Sub-Consultant Services	Cost + 10%

CONSULTANT'S ASSOCIATED SUB-CONSULTANT(S) AND SUBCONTRACTOR(S)

For RFP160126 Miscellaneous Planning Services

CONSULTANT has identified the following Sub-Consultant(s) and/or SubContractor(s) which may be engaged to assist the CONSULTANT in providing and performing services and work on this Project:

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

PROJECT GUIDELINES AND CRITERIA

For RFP160126 Miscellaneous Planning Services

The COUNTY has established the following Guidelines, Criteria, Goals, Objectives, Constraints, Schedule, Budget and/or Requirements which shall serve as a guide to the CONSULTANT in performing the professional services and work to be provided pursuant to this Agreement:

Item No. 1

This is a "Master" contract, which is not for any specific project. Work will be negotiated, authorized, scheduled, funded, and accounted for by the issuance of Supplemental Task Authorizations, by the requesting department, division, or government entity.

Item No. 2

Any governmental entity may utilize the provisions of this contract for their specific needs.

Item No. 3

Work may be assigned at anytime during the two-year contract duration. This contract also contains an option to renew for one additional, one-year period, by mutual agreement between both parties.

Item No. 4

No amount of work is guaranteed upon the execution of a Professional Services Agreement.

Item No. 5

Hourly rates and all other negotiated expenses will remain in effect throughout the duration of the contract.

Item No. 6

This contract does not entitle any firm to exclusive rights to County contracts. The County reserves the right to perform any or all work in-house, or by any means it so desires.

Item No. 7

In reference to Attachment No. 2 to Exhibit B of the Professional Service Agreement, vehicle travel mileage is considered incidental to the work and not an extra expense. Also, man-hours spent in travel time to and from work or the job site(s), are not compensable.

Item No. 8

County reserves the right to add or delete, at any time, any or all tasks or services associates with this agreement.

ITEM NO. 9

DRUG FREE WORKPLACE: Whenever two or more proposals, which are equal with respect to price, quality, and service, are received for the procurement of contractual services, a proposal

ITEM NO. 9 (Continued)

received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the evaluation/award process. In order to have a drug-free workplace, a business shall comply with the requirements of Florida Statutes 287.087.

ITEM NO. 10

COOPERATIVE PURCHASING: The Lee County Board of County Commissioners participates in cooperative purchasing agreements; it is hereby made a part of this proposal that the submission of any proposal in response to this request constitutes a proposal made under the same conditions, for the same contract price, to the other governmental entities.

Each governmental agency desiring to accept this proposal, and make an award thereof, shall do so independently of any other governmental agency. Each agency shall be responsible for its own purchases and each shall be liable only for services ordered and received by it, and no agency assumes any liability by virtue of this proposal.

ITEM NO. 11

AUTHORITY TO PIGGYBACK: It is hereby made a condition of this agreement that this agreement constitutes an agreement made under the same conditions, for the same price, and for the same effective period as this agreement, to any other governmental entity.

It is further understood that any governmental entity that electing to piggyback from this agreement with Lee County, will issue its own purchase orders, and will require separate billing

ITEM NO. 12

COST PROPOSAL WORKSHEET: To be used when performing work for Lee County.

ITEM NO. 13

IMMIGRATION LAWS: Lee County will not intentionally award County contracts to any Consultant who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324 a(e), Section 274A(e) of the Immigration and Nationality Act ("INA).

Lee County shall consider the employment by any Consultant of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the recipient of the employment provisions contained in Section 274A(e) of the INA shall be grounds for unilateral cancellation of the contract by Lee County.

TRUTH IN NEGOTIATION CERTIFICATE

This Certificate is executed and given by the undersigned as a condition precedent to entering into a Professional Services Agreement with the Lee County Board of County Commissioners for the project known as:

Before me, the undersigned authority personally appeared, who having personal knowledge as to the facts and statements contained herein after being duly sworn, deposes and states under oath that:

1. This Certificate shall be attached to and constitute an integral part of the above said Professional Services Agreement as provided in Article 3.11.
2. The undersigned hereby certifies that the wage rates and other factual unit costs supporting the compensation on which this Professional Services Agreement is established are accurate, complete, and current on the date set forth here-in-above.
3. The truth of statements made herein may be relied upon by the County and the undersigned is fully advised of the legal effect and obligations imposed upon him by the execution of this instrument under oath.

Executed on behalf of the Party to the Professional Services Agreement referred to as the CONSULTANT, doing business as:

JOHNSON ENGINEERING, INC.

Michael S. Dickey

BY: Michael S. Dickey

TITLE: Vice President

The foregoing instrument was signed and acknowledged before me this 11 day of August, 2016, by Michael S. Dickey, as Vice President, who is personally known to me.

Lisa J. Baughman
Notary Public Signature

LISA J. BAUGHMAN
Printed Name of Notary Public

FF 981204
Notary Commission Number/Expiration



CMO:
00/00/00

AMENDMENT TO ARTICLES

for RFP160126 Miscellaneous Planning Services)

For amending (i.e., changing, deleting from or adding to) the articles.

(NOTE: Each Article to be amended should be set forth and described in such a manner as to clearly indicate what the proposed changes, deletions or additions are with respect to the present Article provisions, and should set forth the wording of the Article resulting from the Amendment. The following identification system should be followed: Indicate additional (new) words or phrases by inserting the words in the text and then underline, (i.e., Months) and indicated words or phrases in the text to be deleted by striking over (i.e. ~~Weeks~~).

THE PROVISIONS HEREBY SUPERCEDE ANY PROVISIONS TO THE CONTRARY CONTAINED ELSEWHERE IN THE ARTICLES OR EXHIBITS.

AMENDMENT NO.

ARTICLE No. ___ is hereby amended as follows:

None.



July 28, 2016
SOLICITATION NO.: RFP160126

John E. Manning
District One

Cecil L. Pendergrass
District Two

Larry Kiker
District Three

Brian Hamman
District Four

Frank Mann
District Five

Roger Desjarlais
County Manager

Richard Wm. Wesch
County Attorney

Donna Marie Collins
Hearing Examiner

Mr. Michael Dickey
Johnson Engineering, Inc.
21221 Johnson St.
Fort Myers, FL 33901

SUBJECT: MISCELLANEOUS PLANNING SERVICES CONTRACT

Dear Mr. Dickey:

As one of the consultants who submitted a Letter of Interest to provide professional services for the subject project, this is to provide you with a report on the status of consultant selection for this project.

The Board of County Commissioners, at its meeting on June 21, 2016, has concurred with and approved the selection of 7 firms that submitted letters of interest to be considered in contract negotiations for the subject project as recommended by the Competitive Negotiations Committee, and further authorized contract negotiations to begin with the selected consultants.

The Professional Services Agreement has been prepared and is attached for your review, insertion of personnel hourly rates, execution and corporate seal. Please complete/review the following:

1. **Complete Page 19**
2. **Complete Page 26**
3. **Sign, seal and date Page 28**
4. Exhibit B, Attachment No. 1 & Attachment No. 2 (**Note: you must also have an attachment #1 and #2 for each sub-consultant that is listed in Exhibit D**)
5. Complete Exhibit D, Consultant Sub-Consultants, list
6. **Sign and notarize Exhibit F**

Please complete and return to me within fourteen (14) working days **two (2) original executed agreements along with a certificate of insurance** issued in strict accordance with the requirements stated under Article 13.00 of this Professional Service Agreement.

Lee County appreciates your interest in being of service. We look forward to developing and negotiating an Agreement that we can present to the Board of County Commissioners for approval at the earliest possible date.

Sincerely,
LEE COUNTY PROCUREMENT MANAGEMENT
Kathy Ciccarelli
Kathy Ciccarelli, CPPB
Procurement Analyst



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

08/10/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER JCJ Insurance Agency 2208 Hillcrest Street Orlando, FL 32803 Mark E. Jackson	CONTACT NAME: Kristin McIntosh		
	PHONE (A/C, No, Ext): 321-445-1117	FAX (A/C, No): 321-445-1076	
E-MAIL ADDRESS: certs@jcj-insurance.com			
INSURER(S) AFFORDING COVERAGE		NAIC #	
INSURED Johnson Engineering, Inc. 2122 Johnson St. Fort Myers, FL 33901	INSURER A: Berkley Insurance Company		32603
	INSURER B:		
	INSURER C:		
	INSURER D:		
	INSURER E:		
	INSURER F:		

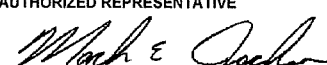
COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A				<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liab Claims-Made Form			AEC-9006341-00	09/15/2015	09/15/2016	Per Claim 2,000,000 Aggregate 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: RFP160126 Miscellaneous Planning Services

CERTIFICATE HOLDER LEEC398 Lee County Board of County Commissioners Attn: Procurement Management P.O. Box 398 Fort Myers, FL 33902	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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