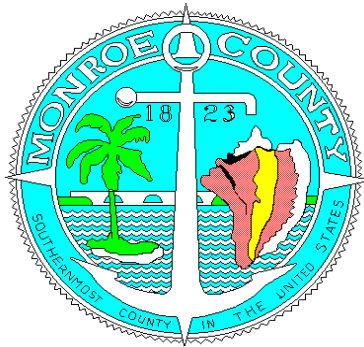


**MONROE COUNTY
BOARD OF COUNTY COMMISSIONERS**

**REQUEST FOR QUALIFICATIONS FOR
ENGINEERING DESIGN AND PERMITTING SERVICES
FOR THE U.S. 1 BAYSIDE SHARED USE PATH**

RFQ-ENG-130-235-2011-PUR/CV

**MONROE COUNTY
FLORIDA**



BOARD OF COUNTY COMMISSIONERS

Mayor, Heather Carruthers, District 3

Mayor Pro tem, David Rice, District 4

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Sylvia Murphy, District 5

COUNTY ADMINISTRATOR

Roman Gastesi, Jr

CLERK OF THE CIRCUIT COURT

Danny L. Kolhage

April 2011

PREPARED BY:

Monroe County Engineering Services Department

NOTICE OF REQUEST FOR QUALIFICATIONS

NOTICE IS HEREBY GIVEN TO INTERESTED PERSONS that on **May 10, 2011 at 3:00 P.M.** at the Monroe County Purchasing Office, the Board of County Commissioners of Monroe County, Florida, will open sealed responses for the following:

ENGINEERING DESIGN AND PERMITTING SERVICES FOR THE U.S. 1 BAYSIDE SHARED USE PATH MONROE COUNTY, FLORIDA RFQ-ENG-130-235-2011-PUR/CV

The Board of County Commissioners of Monroe County, Florida hereby requests, pursuant to Sec. 287.055, Florida Statutes, sealed letters of interest and statements of qualifications from engineering firms or individuals experienced in professional engineering and related services including design, studies, assessments and project administration for miscellaneous County projects.

Requirements for submission and the selection criteria may be requested from DemandStar by Onvia by calling 1-800-711-1712 toll-free or by going to the website www.demandstar.com or www.monroecountybids.com . The Public Record is available at the Purchasing Office located at The Gato Building, 1100 Simonton Street, Room 1-213, Key West, FL 33040. All inquiries or requests should be directed, **in writing**, to Judy Clarke, P.E., Director of Engineering Services, 1100 Simonton Street, Key West, FL 33040 or via facsimile to (305) 295-4321. All answers will be by Addenda.

Interested firms or individuals are requested to indicate their interest by submitting **a total of seven (7), two (2) signed originals and five (5) complete copies**, of their Statement of Qualifications in sealed envelope clearly marked on the outside, with the Respondent's name and "**Statement of Qualifications – Engineering Design and Permitting Services for the U.S. 1 Bayside Shared Used Path, Monroe County, Florida**" addressed to:

**Monroe County Purchasing Office
1100 Simonton Street, Room 1-213
Key West, FL 33040
Phone: (305) 292-4466
Fax: (305) 292-4465**

The areas of consideration for selecting the most qualified firm/individual for the project include but are not limited to:

- Recent experience of individuals and firm on projects of similar scope and size
- Organization
- Schedule and availability
- Past performance record
- Office location
- Monroe County experience

Only those firms or individuals submitting statements of qualifications that meet the specified requirements will be considered regardless of past contracts with Monroe County or other agencies.

All Responses must be received by the County Purchasing Office before 3:00 P.M. on May 10, 2011.

Any Responses received after this date and time will be automatically rejected. Materials may be delivered by Certified Mail, Return Receipt Requested, hand-delivered or couriered. Faxed or e-mailed Responses will be automatically rejected. Hand delivered Responses may request a receipt. If sent by mail or by courier, the above-mentioned envelope shall be enclosed in another envelope addressed to the entity and address stated above. Responders should be aware that certain "express mail" services will not guarantee specific time delivery to Key West, Florida. It is the sole responsibility of each Responder to ensure its proposal is received in a timely fashion.

All submissions must remain valid for a period of ninety (90) days from the date of the deadline for submission stated above. The Board will automatically reject the Response of any person or affiliate who appears on the convicted vendor list prepared by the Department of Management Services, State of Florida, under Sec. 287.133(3)(d), Florida Statutes. Monroe County declares that all or portions of the documents and work papers and other forms of deliverables pursuant to this request shall be subject to reuse by the County.

Interested firms or individuals will be evaluated and selected under the competitive selection procedure of Florida Statute 287.055. In accordance with Florida Statute 287.055(4)(b). Please do not submit proposals for compensation.

A Selection Committee will be developed and will meet in a noticed public meeting to review all qualified Responses received. The Committee will rank the Responses in order of preference and make a recommendation to the County Commission to negotiate a contract with the preferred persons/firms. Should the County Commission so direct, and a mutually satisfactory agreement cannot be reached between staff and the recommended persons/firms, then staff will negotiate with the next preferred person/firm and so forth. When staff has agreed with the person/firm upon a mutually satisfactory contract, the contract will be brought before the County Commission for final approval. No binding contract is created between any person/firm and the County until such time as a contract is approved by the County Commission.

Monroe County's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Board of County Commissioners.

The Board reserves the right to reject any or all Responses, to waive informalities in any or all Responses, to re-advertise the Request for Qualifications (RFQ); and to separately accept or reject any item or items and to award and/or negotiate a contract in the best interest of the County.

Dated at Key West this 31st day of March, 2011.

Monroe County Purchasing Department

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SECTION ONE INSTRUCTION TO RESPONDENTS

1.01 DESCRIPTION

Monroe County is interested in constructing a paved shared use path adjacent to the north side of US 1 from approximately mile markers 106 to approximately 99.5. The local community has expressed interest in the shared use path to connect the local residential neighborhoods to various businesses and commercial areas.

The County requires the services of a firm or individual to develop the design of the shared use path, obtain required permits, perform surveying and prepare construction documents. The engineering design will conform to the Florida Department of Transportation (FDOT) design standards and include, but not be limited to, design of the path, stormwater management plans, inclusion of safety devices, reconfiguring ingress/egress where feasible to minimize crossings, and maintenance to traffic during construction.

1.02 COPIES OF RFQ DOCUMENTS

- A. Only complete sets of RFQ documents will be issued and shall be used in preparing responses. The County does not assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets.
- B. Complete sets of RFQ documents may be obtained in the manner and at the location stated in the Notice of Request for Qualifications.

1.03 DISQUALIFICATION OF RESPONDENT

The following forms shall be submitted along with the response to RFQ, and signatures shall be current and all forms shall be dated within thirty days of the date of submission as described in Section 1.08B herein.

- A. **NON-COLLUSION AFFIDAVIT:** Any person submitting a response to this invitation must execute the enclosed NON-COLLUSION AFFIDAVIT. If it is discovered that collusion exists among the Respondents, the responses of all participants in such collusion shall be rejected, and no participants in such collusion will be considered in future proposals for the same work.
- B. **PUBLIC ENTITY CRIME:** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a response, bid or proposal on a contract to provide any goods or services to a public entity, may not submit a response, bid or proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit responses, bids or proposals on leases or perform work as a contractor, supplier, subcontractor, or consultant under a

contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. Category Two: \$25,000.

- C. DRUG-FREE WORKPLACE FORM: Any person submitting a response, bid or proposal in response to this invitation must execute the enclosed DRUG-FREE WORKPLACE FORM and submit it with his response, bid or proposal. Failure to complete this form in every detail and submit it with your bid or proposal may result in immediate disqualification of your response, bid or proposal.
- D. LOBBYING AND CONFLICT OF INTEREST CLAUSE: Any person submitting a response, bid or proposal in response to this invitation must execute the enclosed LOBBYING AND CONFLICT OF INTEREST CLAUSE and submit it with his response, bid or proposal. Failure to complete this form in every detail and submit it with the response, bid or proposal may result in immediate disqualification of the response, bid or proposal.

1.04 EXAMINATION OF RFQ DOCUMENTS

- A. Each Respondent shall carefully examine the RFQ and other contract documents, and inform himself thoroughly regarding any and all conditions and requirements that may in any manner affect cost, progress, or performance of the work to be performed under the contract. Ignorance on the part of the Respondent will in no way relieve him of the obligations and responsibilities assumed under the contract.
- B. Should a Respondent find discrepancies or ambiguities in, or omissions from, the specifications, or should he be in doubt as to their meaning, he shall at once notify the County.

1.05 INTERPRETATIONS, CLARIFICATIONS, AND ADDENDA

No oral interpretations will be made to any Respondent as to the meaning of the RFQ documents. Any written inquiry or request for interpretation received ten or more calendar days prior to the date fixed for opening of responses will be given consideration. All such changes or interpretation will be made in writing in the form of an addendum and, if issued, will be furnished to all known prospective Respondents prior to the established proposal opening date on the website www.demandstar.com or www.monroecountybids.com. Each Respondent shall acknowledge receipt of such addenda in the space provided therefore in the RFQ form. In case any Respondent fails to acknowledge receipt of such addenda or addendum, his response will nevertheless be construed as though it had been received and acknowledged and the submission of his response will constitute acknowledgment of the receipt of same. All addenda are a part of the contract documents and each Respondent will be bound by such addenda, whether

or not received by him. It is the responsibility of each Respondent to verify that he has received all addenda issued before responses are opened.

1.06 GOVERNING LAWS AND REGULATIONS

The Respondent is required to be familiar with and shall be responsible for complying with all federal, state, and local laws, ordinances, rules, and regulations that in any manner affect the work. Knowledge of occupational license requirements and obtaining such licenses for Monroe County and municipalities within Monroe County are the responsibility of the Respondent. Respondent will not be compensated under the contract for changes necessitated by noncompliance with all federal, state, and local laws, ordinances, rules, and regulations that in any manner affect the work.

1.07 PREPARATION OF RESPONSES

Signature of the Respondent: The Respondent must sign the response forms in the space provided for the signature, signatures shall be current and all forms shall be dated within thirty (30) days of the date of submission as described in Section 1.08B herein. If the Respondent is an individual, the words “doing business as _____”, or “Sole Owner” must appear beneath such signature. In the case of a partnership, the signature of at least one of the partners must follow the firm name and the words “Member of the Firm” should be written beneath such signature. If the Respondent is a corporation, the title of the officer signing the Response on behalf of the corporation must be stated along with the Corporation Seal Stamp and evidence of his authority to sign the Response must be submitted. The Respondent shall state in the response the name and address of each person having an interest in the submitting entity.

1.08 SUBMISSION OF RESPONSES

- A. Two signed originals and five copies of each response shall be submitted.
- B. The response shall be submitted in a sealed envelope clearly marked on the outside, with the Respondents name and “**Statement of Qualifications – Engineering Design and Permitting for U.S. 1 Bayside Shared Use Path**” addressed to the entity and address stated in the Notice of Request for Qualifications, on or before 3:00 P.M. local time on **May 10, 2011**. If forwarded by mail or courier, the above-mentioned envelope shall be enclosed in another envelope addressed to the entity and address stated in the Notice of Request for Qualifications. Faxed or emailed statements of qualifications shall be automatically rejected. Responses will be received until the date and hour stated in the Notice of Request for Qualifications.
- C. Each Respondent shall submit with his Response the required evidence of his qualifications and experience.

1.09 CONTENT OF SUBMISSION

The proposal submitted in response to this RFQ shall be typed on 8-1/2" x 11" white paper and unbound; shall be clear and concise and provide the information requested herein. Statements submitted without the required information will not be considered. Responses shall be organized and sections tabbed. The Respondent should not withhold any information from the written response in anticipation of presenting the information orally or in a demonstration, since oral presentations or demonstrations may not be solicited. Each Respondent must submit adequate documentation to certify the Respondent's compliance with the County's requirements. Respondent should focus specifically on the information requested. Additional information, unless specifically relevant, may distract rather than add to the Respondent's overall evaluation.

The following information, **at a minimum**, shall be included in the Submittal:

A. Cover Page

A cover page that states "**Statement of Qualifications for Engineering Design and Permitting Services for the U.S. 1 Bayside Shared Use Path.**" The cover page should contain Respondent's name, address, telephone number and the name of the Respondent's contact person.

B. Tabbed Sections

Tab 1. Executive Summary

The Respondent shall provide a history of the firm or organization, and particularly include projects that are similar in nature to the services requested in the RFQ.

Tab 2. Relevant Experience

The Respondent shall provide a project history of the firm or organization demonstrating experience with projects that are similar in scope and size to the proposed Project, including projects in Monroe County and projects with FDOT.

Tab 3. References and Past Performance on Similar Projects

Each Respondent shall provide a list of past projects and at least two written references of a Florida local government or other governmental entities for which the Respondent has provided the same or similar services during the past three years. Each reference shall include, at a minimum:

- Name and full address of referenced project and organization
- Name and telephone number of Contact person for contract
- Telephone number(s)
- Date of initiation and completion of contract for referenced project

Brief summary of the project and services including a comparison to services sought by this RFQ.

Tab 4. Staffing for this Project & Qualifications of Key Personnel

The Respondent shall describe the composition and structure of the firm (sole proprietorship, corporation, partnership, joint venture) and include names of persons with an interest in the firm.

The Respondent shall include a list of the proposed staff that will perform the work required if awarded this contract. An organizational chart and management plan should be included in this section. The Respondent shall also include a resume for each member of the project team identifying his/her role on the team and any qualifications relevant to the assigned position. Include in this section the location of the main office and the location of the office proposed to work on this project.

The Respondent shall include a statement confirming whether or not he/she is claiming local preference based on having local business status. *Local business* means the Respondent has a valid receipt of the business tax paid as issued by Monroe County tax collector at least one year prior to the notice of request for bids or proposals for the business to provide the goods, services or construction to be purchased, and a physical business address located within Monroe County from which the Respondent operates or performs business on a day-to-day basis that is a substantial component of the goods or services being offered to Monroe County. Post Office Boxes are not verifiable and shall not be used for the purpose of establishing a physical address. Respondents shall submit a copy of their receipt of the business tax paid and also affirm in writing their compliance with the foregoing at the time of submitting their bid or proposal to be eligible for consideration as a “local business” under this section.

Tab 5. Current and Projected Workload

Respondents should show a workload that will allow for timeliness of submittals for this project.

Tab 6. Financial Information and Litigation

The Respondent will provide the following information:

1. A list of the firm’s shareholders with five percent or more of the stock, or if a general partnership, a list of the general partners; or, if a limited liability company, a list of its members;
2. A list of the officers and directors of the firm;

3. The number of years the Respondent has been operating and, if different, the number of years it has been providing the services, goods, or construction services called for in the RFQ;
4. The number of years the Respondent has operated under its present name and any prior names;
5. The following, including answers to the questions regarding claims and suits:
 - a. Has the Respondent ever failed to complete work or provide the goods for which it has contracted?
 - b. Are there any judgments, claims, arbitration proceeding or suits pending or outstanding against the Respondent, or its officers or general partners? If yes, provide details;
 - c. Has the Respondent, within the last five years, been a party to any lawsuit or arbitration with regard to a contract for services, goods or construction services similar to those requested in the specifications? If yes, provide details;
 - d. Has the Respondent ever initiated litigation against the county or been sued by the county in connection with a contract to provide services, goods or construction services? If yes, provide details;
 - e. Whether, within the last five years, an officer, general partner, controlling shareholder or major creditor of the Respondent was an officer, general partner, controlling shareholder or major creditor of any other entity that failed to perform services or furnish goods similar to those sought in the request for bids; and
 - f. Credit references.

Tab 7. County Forms

Respondent shall complete and execute the forms specified below and found at the designated pages in this RFQ, signatures shall be current on all forms, dated within thirty days of the date of submission as described in Section 1.08B herein, and Respondent shall include them in the section tabbed 7:

<u>Form</u>	<u>Page</u>
Response Form	33
Lobbying and Conflict of Interest Clause	34
Non-Collusion Affidavit	35
Drug Free Workplace Form	36
Respondent's Insurance and Indemnification Statement	37
Insurance Agent's Statement	38
Local Preference Form	39

Respondent shall produce evidence of proper licensing to perform the services described herein. Copies of all professional and occupational licenses shall be included in this section.

1.10 MODIFICATION OF RESPONSES

Written modification will be accepted from Respondents if addressed to the entity and address indicated in the Notice of Request for Proposals and received prior to Proposal due date and time. Modifications must be submitted in a sealed envelope clearly marked on the outside, with the Respondents name and **“Modification to Statement of Qualifications – Engineering Design and Permitting Services for the U.S. 1 Bayside Shared Use Path”**. If sent by mail or by courier, the above-mentioned envelope shall be enclosed in another envelope addressed to the entity and address stated in the Notice of Request for Qualifications. Faxed or emailed modifications shall be automatically rejected.

1.11 RESPONSIBILITY FOR RESPONSE

The Respondent is solely responsible for all costs of preparing and submitting the response, regardless of whether a contract award is made by the County.

1.12 RECEIPT AND OPENING OF RESPONSES

Responses will be received until the designated time and will be publicly opened and read aloud at the appointed time and place stated in the Notice of Request for Qualifications. Monroe County’s representative authorized to open the responses will decide when the specified time has arrived and no responses received thereafter will be considered. No responsibility will be attached to anyone for the premature opening of a response not properly addressed and identified. Respondent or their authorized agents are invited to be present.

1.13 DETERMINATION OF SUCCESSFUL RESPONDENT

The County reserves the right to reject any and all responses and to waive technical errors and irregularities as may be deemed best for the interests of the County. Responses which contain modifications are incomplete, unbalanced, conditional, obscure, or which contain additions not requested or irregularities of any kind, or which do not comply in every respect with the Instructions to Respondent and the contract documents, may be rejected at the option of the County.

A. Areas of consideration for selecting the most qualified firm or individual include but are not limited to:

- Recent experience on similar projects
- Organization
- Schedule and availability
- Past Performance record
- Office location
- Monroe County experience

- B. Each TAB section will be given points used to score and evaluate firms and individuals. Should a Respondent meet the requirements of Local Preference in Tab 4 he/she will be awarded 5 additional points in that Tab. The point structure is as follows:

<u>CRITERIA</u>	<u>MAXIMUM POINTS</u>
TAB 1	10
TAB 2	25
TAB 3	20
TAB 4	25 (30 if Local Preference requirements are met)
TAB 5	10
TAB 6	10
TAB 7	0
TOTAL	100 (105 if Local Preference requirements are met)

- C. Following the receipt of responses, a committee will meet in a noticed public meeting to review the responses. The committee will rank the submittals in order of preference and make a recommendation to the County Commission to negotiate contracts with the preferred respondents. If a mutually satisfactory agreement cannot be reached with a particular respondent, staff will negotiate with the next preferred respondent and so forth, as directed by the BOCC. The County anticipates awarding continuing services contracts to a minimum of three qualified firms or individuals. No binding contract is created between any respondent and the County until a contract is approved by the County Commission.

1.14 AWARD OF CONTRACT

- A. The County reserves the right to award separate contracts and to waive any informality in any response, or to re-advertise for all or part of the work contemplated. If responses are found to be acceptable by the County, written notice will be given to the selected Respondent(s) of the award of the contract(s).
- B. If the award of a contract is annulled, the County may award the contract to another Respondent or the work may be re-advertised or may be performed by other qualified personnel as the COUNTY decides.
- C. A contract will be awarded to the Respondents deemed to provide the services which are in the best interest of the County.

- D. The County also reserves the right to reject the response of a Respondent who has previously failed to perform properly or to complete contracts of a similar nature on time.

1.15 EXECUTION OF CONTRACT

The Respondents to whom a contract is awarded will be required to return to the County four executed counterparts of the prescribed contract together with the required certificates of insurance.

1.16 CERTIFICATE OF INSURANCE AND INSURANCE REQUIREMENTS

The Respondent shall be responsible for all necessary insurance coverage as indicated below. The Respondent shall be responsible for ensuring that all coverages remain in effect for the duration of the contract. Certificates of Insurance must be provided to Monroe County fifteen days prior to the submission of the contract to the Board of County Commissioners for the award of contract, with the Monroe County Board of County Commissioners listed as additional insured as indicated. No contract shall be awarded until Monroe County has received proof of insurance and that Monroe County Board of County Commissioners is listed as the additional insured. If the proper insurance forms are not received within the fifteen day period, the contract may be awarded to the next selected Respondent. Policies shall be written by companies licensed to do business in the State of Florida and having an agent for service of process in the State of Florida. Companies shall have an A.M. Best rating of VI or better.

Worker's Compensation	Statutory Limits
Employers' Liability Insurance	\$1,000,000 Accident
	\$1,000,000 Disease, policy limits
	\$1,000,000 Disease each employee
General Liability, including	\$1,000,000 Combined Single Limit
Premises Operation	
Products and Completed Operations	
Blanket Contractual Liability	
Personal Injury Liability	
Expanded Definition of Property Damage	
Vehicle Liability	\$1,000,000 per Occurrence
(Owned, non-owned and hired vehicles)	\$1,000,000 Combined Single Limit
Professional Liability	\$1,000,000 per Occurrence
	\$2,000,000 Aggregate

Monroe County shall be named as an Additional Insured on the General Liability and Vehicle Liability policies.

1.17 INDEMNIFICATION

The Consultant covenants and agrees to indemnify, hold harmless and defend Monroe County, its commissioners, officers, employees, agents and servants from any and all claims for bodily injury, including death, personal injury, and property damage, including damage to property owned by Monroe County, and any other losses, damages, and expenses of any kind, including attorney's fees, court costs and expenses, which arise out of, in connection with, or by reason of services provided by the Consultant or any of its Subconsultant(s) in any tier, occasioned by the negligence, errors, or other wrongful act or omission of the Consultant, its Subconsultant(s) in any tier, their officers, employees, servants or agents.

In the event that the completion of the project (to include the work of others) is delayed or suspended as a result of the Consultant's failure to purchase or maintain the required insurance, the Consultant shall indemnify the County from any and all increased expenses resulting from such delay. Should any claims be asserted against the County by virtue of any deficiency or ambiguity in the plans and specifications provided by the Consultant, the Consultant agrees and warrants that the Consultant shall hold the County harmless and shall indemnify it from all losses occurring thereby and shall further defend any claim or action on the County's behalf.

The first ten dollars (\$10.00) of remuneration paid to the Consultant is consideration for the indemnification provided for above.

The extent of liability is in no way limited to, reduced, or lessened by the insurance requirements contained elsewhere within this agreement.

This indemnification shall survive the expiration or earlier termination of the contract.

**SECTION TWO
DRAFT CONTRACT**

Contract for Engineering Design and Permitting Services for U.S. 1 Bayside Shared Use Path.

THIS Contract (The AGREEMENT) made and entered into this _____ day of _____ 20__ by and between Monroe County, a political subdivision of the State of Florida, whose address is 1100 Simonton Street, Key West Florida, 33040, its successors and assigns hereinafter referred to as the “COUNTY,” through the Monroe County Board of County Commissioners (BOCC), the Owner

And

_____ a _____ of the State of _____, whose address is _____ its successors and assigns, hereinafter referred to as “CONSULTANT”,

WITNESSETH:

NOW, THEREFORE, in consideration of mutual promises, covenants and agreements stated herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, COUNTY and CONSULTANT agree as follows:

FORM OF AGREEMENT

ARTICLE I
REPRESENTATIONS AND WARRANTIES

By executing this Agreement, the CONSULTANT makes the following express representations and warranties to the COUNTY:

- 1.1.1** The CONSULTANT shall maintain all necessary licenses, permits or other authorizations necessary to act as CONSULTANT for the Project until the CONSULTANT’S duties hereunder have been satisfied;
- 1.1.2** The CONSULTANT has become familiar with the Project site and the local conditions under which the Project is to be designed, constructed, and operated;
- 1.1.3** The CONSULTANT shall prepare all documents required by this Agreement including, but not limited to, all contract plans and specifications, in such a manner that they shall be in conformity and comply with all applicable law, codes and regulations. The CONSULTANT warrants that the documents prepared as a part of this Contract will be adequate and sufficient to accomplish the purposes of the Project, therefore, eliminating any additional construction cost due to missing or incorrect design elements in the contract documents;

- 1.1.4** The CONSULTANT assumes full responsibility to the extent allowed by law with regards to his performance and those directly under his employ.
- 1.1.5** The CONSULTANT'S services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. In providing all services pursuant to this agreement, the CONSULTANT shall abide by all statutes, ordinances, rules and regulations pertaining to, or regulating such services, including those now in effect and hereinafter adopted. Any violation of said statutes, ordinances, rules and regulations shall constitute a material breach of this agreement and shall entitle the COUNTY to terminate this agreement immediately upon delivery of written notice of termination to the CONSULTANT.
- 1.1.6** At all times and for purposes under this agreement the CONSULTANT is an independent contractor and not an employee of the Board of County Commissioners for Monroe County. No statement contained in this agreement shall be construed so as to find the CONSULTANT or any other of his/her employees, contractors, servants, or agents to be employees of the Board of County Commissioners for Monroe County.
- 1.1.7** The CONSULTANT shall not discriminate against any person based on race, creed, color, national origin, sex, age or any other characteristic or aspect which is not related, in its recruiting, hiring, promoting, terminating, or other area affecting employment under this agreement or with the provision of services or goods under this agreement.

ARTICLE II

SCOPE OF BASIC SERVICES

- 2.1.1** The CONSULTANT will perform for the COUNTY services as described in **Attachment A, Scope of Basic Services.**
- 2.2 CORRECTIONS OF ERRORS, OMISSIONS, DEFICIENCIES**
- 2.2.1** The CONSULTANT shall, without additional compensation, promptly correct errors, omissions, deficiencies, or conflicts in the work product of the CONSULTANT or its subconsultants, or both.
- 2.3 NOTICE REQUIREMENTS**
- 2.3.1** All written correspondence to the COUNTY shall be dated and signed by an authorized representative of the CONSULTANT. Any notice required or permitted under this agreement shall be in writing and hand delivered or mailed, postage prepaid, to the COUNTY by certified mail, return receipt requested, to the following:

Ms. Judith Clarke, P.E.
Monroe County Engineering Services
1100 Simonton St. Rm 2-216
Key West, FL 33040

And:

Mr. Roman Gastesi, Jr.
County Administrator
1100 Simonton Street
Key West, FL 33040

For the Consultant

ARTICLE III **ADDITIONAL SERVICES**

3.1 The services described in this Article III are not included in Basic Services. They shall be paid for by the COUNTY as provided in this agreement as an addition to the compensation paid for the Basic Services but only if approved by the COUNTY before commencement, and as follows:

- A. Providing services of CONSULTANT for other than the previously listed consulting scope of Project provided as a part of Basic Services.
- B. Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted consulting practice.
- C. Providing representation before public bodies in connection with the Project, upon approval by the COUNTY.

3.2 If Additional Services are required, such as those listed above, the COUNTY shall issue a letter requesting and describing the requested services to the CONSULTANT. The CONSULTANT shall respond with fee proposal to perform the requested services. Only after receiving an amendment to the Agreement and a notice to proceed from the COUNTY, shall the CONSULTANT proceed with the Additional Services.

ARTICLE IV
COUNTY'S RESPONSIBILITIES

4.1 The COUNTY shall provide full information regarding requirements for the project including physical location of work, county maintained roads and maps.

4.2 The COUNTY shall designate Monroe County Engineering Services Department to act on the COUNTY'S behalf with respects to the Project. The COUNTY or Monroe County Engineering Services Department shall render decisions in a timely manner pertaining to documents submitted by the CONSULTANT in order to avoid unreasonable delay in the orderly and sequential progress of the CONSULTANTS services.

4.3 Prompt written notice shall be given by the COUNTY and its representative to the CONSULTANT if they become aware of any fault or defect in the Project or nonconformance with the Agreement Documents. Written notice shall be deemed to have been duly served if sent pursuant to paragraph 2.3.

4.4 The COUNTY shall furnish the required information and services and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Consultants services and work of the contractors.

4.5 The COUNTY'S review of any documents prepared by the CONSULTANT or its subconsultants shall be solely for the purpose of determining whether such documents are generally consistent with the COUNTY'S criteria, as, and if, modified. No review of such documents shall relieve the CONSULTANT of responsibility for the accuracy, adequacy, fitness, suitability or coordination of its work product.

4.6 The COUNTY shall provide copies of necessary documents required to complete the work.

4.7 Any information that may be of assistance to the CONSULTANT that the COUNTY has immediate access to will be provided as requested.

ARTICLE V
INDEMNIFICATION AND HOLD HARMLESS

5.1.1 The CONSULTANT covenants and agrees to indemnify and hold harmless COUNTY/Monroe County and Monroe County Board of County Commissioners from any and all claims for bodily injury, including death, personal injury, and property damage, including property owned by Monroe County, and any other losses, damages, and expenses, including attorney's fees, court costs and expenses, which arise out of, in connection with, or by reason of services provided by the CONSULTANT or Subcontractor(s) in any tier, occasioned by the negligence, errors, or other wrongful act or omission of the CONSULTANT in any tier, their employees, or agents.

- 5.1.2** The first ten dollars (\$10.00) of remuneration paid to the CONSULTANT is for the indemnification provided for above. The extent of liability is in no way limited to, reduced, or lessened by the insurance requirements contained elsewhere within this agreement. Should any claims be asserted against the COUNTY by virtue of any deficiency or ambiguity in the plans and specifications provided by the CONSULTANT, the CONSULTANT agrees and warrants that he shall hold the COUNTY harmless and shall indemnify him from all losses occurring thereby and shall further defend any claim or action on the COUNTY'S behalf.
- 5.1.3** In the event the completion of the project (to include the work of others) is delayed or suspended as a result of the CONSULTANT'S failure to purchase or maintain the required insurance, the CONSULTANT shall indemnify COUNTY from any and all increased expenses resulting from such delays. Should any claims be asserted against COUNTY by virtue of any deficiencies or ambiguity in the plans and specifications provide by the CONSULTANT the CONSULTANT agrees and warrants that CONSULTANT hold the COUNTY harmless and shall indemnify it from all losses occurring thereby and shall further defend any claims or action on the COUNTY'S behalf.
- 5.1.4** The extent of liability is in no way limited to, reduced or lessened by the insurance requirements contained elsewhere within the Agreement.
- 5.1.5** This indemnification shall survive the expiration or early termination of the Agreement.

ARTICLE VI
PERSONNEL

6.1 PERSONNEL

The CONSULTANT shall assign only qualified personnel to perform any service concerning the project. At the time of execution of this Agreement, the parties anticipate that the following named individuals will perform those functions as indicated:

NAME	FUNCTION
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

So long as the individuals named above remain actively employed or retained by the CONSULTANT, they shall perform the functions indicated next to their names. If they are replaced the CONSULTANT shall notify the COUNTY of the change immediately.

ARTICLE VII
PAYMENTS

7.1 PAYMENT SUM

7.1.1 The COUNTY shall pay the CONSULTANT in current funds for the CONSULTANT'S performance of this Agreement the Total Not to Exceed Lump Sum Amount of _____ ().

7.2 PAYMENTS

7.2.1 For its assumption and performances of the duties, obligations and responsibilities set forth herein, the CONSULTANT shall be paid monthly.

- (A) If the CONSULTANT'S duties, obligations and responsibilities are materially changed by amendment to this agreement after execution of this Agreement, compensation due to the CONSULTANT shall be equitably adjusted, either upward or downward;
- (B) As a condition precedent for any payment due under this Agreement, the CONSULTANT shall submit monthly, unless otherwise agreed in writing by the COUNTY, an invoice to the COUNTY requesting payment for services properly rendered and reimbursable expenses due hereunder. The CONSULTANT'S invoice shall describe with reasonable particularity the service rendered. The CONSULTANT'S invoice shall be accompanied by such documentation or data in support of expenses for which payment is sought that the COUNTY may require.
- (C) For the performance of the optional additional services and contingent additional services described in Article III of this contract, provided same are first authorized in writing by the COUNTY, the CONSULTANT shall be paid hourly at the rates identified in Exhibit B, or as negotiated.

7.3 REIMBURSABLE EXPENSES

7.3.1 Reimbursable expenses include expenses incurred by the CONSULTANT in the interest of the Project:

- a. Expenses of transportation submitted by CONSULTANT, in writing, and living expenses in connection with travel authorized by the COUNTY, in writing, but only to the extent and in the amounts authorized by Section 112.061, Florida Statutes;
- b. Cost of reproducing maps or drawings or other materials used in performing the scope of services;

- c. Postage and handling of reports;

7.4 BUDGET

7.4.1 The CONSULTANT may not be entitled to receive, and the COUNTY is not obligated to pay, any fees or expenses in excess of the amount budgeted for this Agreement in each fiscal year (October 1- September 30) by COUNTY'S Board of County Commissioners. The budgeted amount may only be modified by an affirmative act of the COUNTY'S Board of County Commissioners.

ARTICLE VIII **INSURANCE**

8.1.1 The CONSULTANT shall obtain insurance as specified and maintain the required insurance at all times that this Agreement is in effect. In the event the completion of the project (to include the work of others) is delayed or suspended as a result of the CONSULTANT'S failure to purchase or maintain the required insurance, the CONSULTANT shall indemnify the COUNTY from any and all increased expenses resulting from such delay.

8.1.2 The coverage provided herein shall be provided by an insurer with an A.M. Best Rating of VI or better, that is licensed to do business in the State of Florida and that has an agent for service of process within the State of Florida. The insurance certificate shall contain an endorsement providing sixty (60) days notice to the COUNTY prior to any cancellation of said coverage. Said coverage shall be written by an insurer acceptable to the COUNTY and shall be in a form acceptable to the COUNTY.

8.1.3 CONSULTANT shall obtain and maintain the following policies:

- A. Workers' Compensation insurance as required by the State of Florida, sufficient to respond to Chapter 440 Florida Statutes.
- B. Employers Liability Insurance with limits of \$1,000,000 per Accident, \$1,000,000 Disease, policy limits, \$1,000,000 Disease each employee.
- C. Comprehensive business automobile and vehicle liability insurance covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, and owned, hired or non-owned vehicles, with One Million Dollars (\$1,000,000.00) combined single limit and One Million Dollars (\$1,000,000.00) annual aggregate.
- D. Commercial general liability, including Personal Injury Liability insurance covering claims for injuries to members of the public or damage to property of others arising out of any covered act or omission of the CONSULTANT or any of its employees, agents or subcontractors or subconsultants, including

Premises and/or Operations, Products and Completed Operations, Independent Contractors; Broad Form Property Damage and a Contractual Liability Endorsement with One Million Dollars (\$1,000,000) per occurrence and annual aggregate.

An Occurrence Form policy is preferred. If coverage is changed to or provided on a Claims Made policy, its provisions should include coverage for claims filed on or after the effective date of this Agreement. In addition, the period for which they may be reported must extend for a minimum of 48 months following the termination or expiration of this Agreement.

- E. Professional liability insurance of One Million Dollars (\$1,000,000.00) per claim and Two Million Dollars (\$2,000,000.00) annual aggregate. If the policy is a “claims made” policy, CONSULTANT shall maintain coverage or purchase a “tail” to cover claims made after completion of the project to cover the statutory time limits in Chapter 95 of the Florida Statutes.
- F. COUNTY shall be named as an additional insured with respect to CONSULTANTS liabilities hereunder in insurance coverage identified in Paragraphs C and D.
- G. CONSULTANT shall require its subconsultants to be adequately insured at least to the limits prescribed above, and to any increased limits of CONSULTANT if so required by COUNTY during the term of this Agreement. COUNTY will not pay for increased limits of insurance for subconsultants.
- H. CONSULTANT shall provide to the COUNTY certificates of insurance or a copy of all insurance policies including those naming the COUNTY as an additional insured by including any subsection hereunder. The COUNTY reserves the right to require a certified copy of such policies upon request.
- I. If the CONSULTANT participates in a self-insurance fund, a Certificate of Insurance will be required. In addition, the CONSULTANT may be required to submit updated financial statements from the fund upon request from the COUNTY.

8.2 APPLICABLE LAW

This contract is governed by the laws of the State of Florida. Venue for any litigation arising under this contract must be in Monroe County, Florida.

ARTICLE IX
MISCELLANEOUS

9.1 SECTION HEADINGS

Section headings have been inserted in this Agreement as a matter of convenience of reference only, and that it is agreed that such section headings are not a part of this Agreement and will not be used in the interpretation of any provisions of this Agreement.

9.2 OWNERSHIP OF THE PROJECT DOCUMENTS

The documents prepared by the CONSULTANT for this Project belong to the COUNTY and may be reproduced and copied without acknowledgement or permission of the CONSULTANT.

9.3 SUCCESSORS AND ASSIGNS

The CONSULTANT shall not assign or subcontract its obligations under this Agreement except in writing and with the prior written approval of the Board of County Commissioners for Monroe County and the CONSULTANT, which approval shall be subject to such conditions and provisions as the Board may deem necessary. This paragraph shall be incorporated by reference into any assignment or subcontract and any assignee or subcontractor shall comply with all of the provisions of this Agreement. Subject to the provisions of the immediately preceding sentence, each party hereto binds itself, its successors, assignees and legal representatives to the other and to the successors, assigns and legal representatives of such other party. The CONSULTANT shall not assign its right hereunder, excepting its right to payment, nor shall it delegate any of its duties hereunder without the written consent of the COUNTY.

9.4 NO THIRD PARTY BENEFICIARIES

Nothing contained herein shall create any relationship, contractual or otherwise, with or any rights in favor of, any third party.

9.5 TERMINATION

A. In the event the CONSULTANT shall be found to be negligent in any aspect of service, the COUNTY shall have the right to terminate this Agreement after five days written notification to the CONSULTANT.

B. The County may terminate this Agreement without cause by giving the other party sixty (60) days written notice of its intention to do so.

9.6 CONTRACT DOCUMENTS

The contract documents consist of the Request for Qualifications (RFQ), any addenda, the Form of Agreement (Articles I-XV), the CONSULTANTS response to the RFQ, the documents referred to in the Form of Agreement as a part of this Agreement, and the attachments _____ and modifications made after execution by written amendment. In the event any conflict between any of those Agreement documents, the one imposing the greater burden on the CONSULTANT will control.

9.7 PUBLIC ENTITIES CRIMES

A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid on contracts to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 of the Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

By signing this Agreement, CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes), Violation of this section shall result in termination of this Agreement and recovery of all moneys paid hereto, and may result in debarment from COUNTY'S competitive procurement activities.

In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit that it or any subconsultant has committed an act defined by Section 287.133, as "public entity crime", and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

CONSULTANT will promptly notify the COUNTY if it or any subcontractor or subconsultant is formally charged with an act defined as a "public entity crime" or has been placed on the convicted vendor list.

9.8 MAINTENANCE OF RECORDS

CONSULTANT shall maintain all books, records, and documents directly pertinent to performance under this Agreement in accordance with generally accepted accounting principles consistently applied. Records shall be retained for a period of five years from the termination of this Agreement. Each party to this Agreement or their authorized representatives shall have reasonable and timely access to such records of each other party to this Agreement for public records purposes during the term of the Agreement and

for four years following the termination of this Agreement. If an auditor employed by the County or Clerk determines that monies paid to CONSULTANT pursuant to this Agreement were spent for purposes not authorized by this Agreement, the CONSULTANT shall repay the monies together with interest calculated pursuant to Sec. 55.03, FS, running from the date the monies were paid to County.

9.9 GOVERNING LAW, VENUE, INTERPERTATION, COST AND FEES

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida applicable to contracts made and to be performed entirely in the State. In the event that any cause of action or administrative proceeding is instituted for the enforcement or interpretation of this Agreement, COUNTY and CONSULTANT agree that venue will lie in the 16TH Judicial Circuit, Monroe County, Florida, in the appropriate court or before the appropriate administrative body in Monroe County, Florida. This Agreement shall not be subject to arbitration. The County and CONSULTANT agree that, in the event of conflicting interpretations of the terms or a term of this Agreement by or between any of them the issue shall be submitted to mediation prior to the institution of any other administrative or legal proceeding.

9.10 SEVERABILITY

If any term, covenant, condition or provision of this Agreement (or the application thereof to any circumstance or person) shall be declared invalid or unenforceable to any extent by a court of competent jurisdiction, the remaining terms, covenants, conditions and provisions of this Agreement, shall not be affected thereby; and each remaining term, covenant, condition and provision of this Agreement shall be valid and shall be enforceable to the fullest extent permitted by law unless the enforcement of the remaining terms, covenants, conditions and provisions of this Agreement would prevent the accomplishment of the original intent of this Agreement. The County and CONSULTANT agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

9.11 ATTORNEY'S FEES AND COSTS

The COUNTY and CONSULTANT agree that in the event any cause of action or administrative proceeding is initiated or defended by any party relative to the enforcement or interpretation of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs expenses, as an award against the non-prevailing party, and shall include attorney's fees and courts costs expenses in appellate proceedings, as an award against the non-prevailing party. Mediation proceedings initiated and conducted pursuant to this Agreement shall be in accordance with the Florida Rules of Civil Procedure and usual and customary procedures required by the circuit court of Monroe County.

9.12 BINDING EFFECT

The terms, covenants, conditions, and provisions of this Agreement shall bind and inure to the benefit of the COUNTY and CONSULTANT and their respective legal representatives, successors, and assigns.

9.13 AUTHORITY

Each party represents and warrants to the other that the execution, delivery and performance of this Agreement have been duly authorized by all necessary COUNTY and corporate action, as required by law.

9.14 CLAIMS FOR FEDERAL OR STATE AID

CONSULTANT and COUNTY agree that each shall be, and is, empowered to apply for, seek, and obtain federal and state funds to further the purpose of this Agreement; provided that all applications, requests, grant proposals, and funding solicitations shall be approved by each party prior to submission.

9.15 ADJUDICATION OF DISPUTES OR DISAGREEMENTS

COUNTY and CONSULTANT agree that all disputes and disagreements shall be attempted to be resolved by meet and confer sessions between representatives of each of the parties. If no resolution can be agreed upon within 30 days after the first meet and confer session, the issue or issues shall be discussed at a public meeting of the Board of County Commissioners. If the issue or issues are still not resolved to the satisfaction of the parties, then any party shall have the right to seek such relief or remedy as may be provided by this Agreement or by Florida law. This provision does not negate or waive the provisions of paragraph 9.5 concerning termination or cancellation.

9.16 COOPERATION

In the event any administrative or legal proceeding is instituted against either party relating to the formation, execution, performance, or breach of this Agreement, COUNTY and CONSULTANT agree to participate, to the extent required by the other party, in all proceedings, hearings, processes, meetings, and other activities related to the substance of this Agreement or provision of the services under this Agreement. COUNTY and CONSULTANT specifically agree that no party to this Agreement shall be required to enter into any arbitration proceedings related to this Agreement.

9.17 NON DISCRIMINATION

CONSULTANT and COUNTY agree that there will be no discrimination against any person, and it is expressly understood that upon a determination by a court of competent jurisdiction that discrimination has occurred, this Agreement automatically terminates without any further action on the part of any party, effective the date of the court order. CONSULTANT and COUNTY agree to comply with all Federal and Florida statutes,

and all local ordinances, as applicable, relating to nondiscrimination. These include but are not limited to: 1) Title VI of the Civil Rights Act of 1964 (PL 88-352) which prohibits discrimination on the basis of race, color or national origin; 2) Title IX of the Education Amendment of 1972, as amended (20 USC ss. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; 3) Section 504 of the Rehabilitation Act of 1973, as amended (20 USC s. 794), which prohibits discrimination on the basis of handicaps; 4) The Age Discrimination Act of 1975, as amended (42 USC ss. 6101-6107) which prohibits discrimination on the basis of age; 5) The Drug Abuse Office and Treatment Act of 1972 (PL 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; 6) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; 7) The Public Health Service Act of 1912, ss. 523 and 527 (42 USC ss. 690dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; 8) Title VIII of the Civil Rights Act of 1968 (42 USC s. et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; 9) The Americans with Disabilities Act of 1990 (42 USC s. 1201 Note), as maybe amended from time to time, relating to nondiscrimination on the basis of disability; 10) Any other nondiscrimination provisions in any Federal or state statutes which may apply to the parties to, or the subject matter of, this Agreement.

9.18 COVENANT OF NO INTEREST

CONSULTANT and COUNTY covenant that neither presently has any interest, and shall not acquire any interest, which would conflict in any manner or degree with its performance under this Agreement, and that only interest of each is to perform and receive benefits as recited in this Agreement.

9.19 CODE OF ETHICS

COUNTY agrees that officers and employees of the COUNTY recognize and will be required to comply with the standards of conduct for public officers and employees as delineated in Section 112.313, Florida Statutes, regarding, but not limited to, solicitation or acceptance of gifts; doing business with one's agency; unauthorized compensation; misuse of public position, conflicting employment or contractual relationship; and disclosure or use of certain information.

9.20 NO SOLICITATION/PAYMENT

The CONSULTANT and COUNTY warrant that, in respect to itself, it has neither employed nor retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for it, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of the provision, the CONSULTANT agrees that the COUNTY shall have

the right to terminate this Agreement without liability and, at its discretion, to offset from monies owed, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

9.21 PUBLIC ACCESS

The CONSULTANT and COUNTY shall allow and permit reasonable access to, and inspection of, all documents, papers, letters or other materials in its possession or under its control subject to the provisions of Chapter 119, Florida Statutes, and made or received by the CONSULTANT and COUNTY in conjunction with this Agreement; and the COUNTY shall have the right to unilaterally cancel this Agreement upon violation of this provision by CONSULTANT.

9.22 NON-WAIVER OF IMMUNITY

Notwithstanding the provisions of Sec. 768.28, Florida Statutes, the participation of the CONSULTANT and the COUNTY in this Agreement and the acquisition of any commercial liability insurance coverage, self-insurance coverage, or local government liability insurance pool coverage shall not be deemed a waiver of immunity to the extent of liability coverage, nor shall any contract entered into by the COUNTY be required to contain any provision for waiver.

9.23 PRIVILEGES AND IMMUNITY

All of the privileges and immunities from liability, exemptions from laws, ordinances, and rules and pensions and relief, disability, workers' compensation, and other benefits which apply to the activity of officers, agents, or employees of any public agents or employees of the COUNTY, when performing their respective functions under this Agreement within the territorial limits of the COUNTY shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, volunteers, or employees outside the territorial limits of the COUNTY.

9.24 LEGAL OBLIGATIONS AND RESPONSIBILITIES

Non-Delegation of Constitutional or Statutory Duties. This Agreement is not intended to, nor shall it be construed as, relieving any participating entity from any obligation or responsibility imposed upon the entity by law except to the extent of actual and timely performance thereof by any participating entity, in which case the performance may be offered in satisfaction of the obligation or responsibility. Further, this Agreement is not intended to, nor shall it be construed as, authorizing the delegation of the constitutional or statutory duties of the COUNTY, except to the extent permitted by the Florida constitution, state statute, and case law.

9.25 NON-RELIANCE BY NON-PARTIES

No person or entity shall be entitled to rely upon the terms, or any of them, of this Agreement to enforce or attempt to enforce any third-party claim or entitlement to or benefit of any service or program contemplated hereunder, and the CONSULTANT and the COUNTY agree that neither the CONSULTANT nor the COUNTY or any agent, officer, or employee of either shall have the authority to inform, counsel, or otherwise indicate that any particular individual or group of individuals, entity or entities, have entitlements or benefits under this Agreement separate and apart, inferior to, or superior to the community in general or for the purposes contemplated in this Agreement.

9.26 ATTESTATIONS AND TRUTH IN NEGOTIATION

CONSULTANT agrees to execute such documents as the COUNTY may reasonably require including a Public Entity Crime Statement, an Ethics Statement, and a Drug-Free Workplace Statement. Signature of this Agreement by CONSULTANT shall act as the execution of a truth in negotiation certificate stating that wage rates and other factual unit costs supporting the compensation pursuant to the Agreement are accurate, complete, and current at the time of contracting. The original contract price and any additions thereto shall be adjusted to exclude significant sums by which the agency determines the contract price was increased due to inaccurate, incomplete, or concurrent wage rates and other factual unit costs. All such adjustments must be made within one year following the end of the Agreement.

9.27 NO PERSONAL LIABILITY

No covenant or agreement contained herein shall be deemed to be a covenant or agreement of any member, officer, agent or employee of Monroe County in his or her individual capacity, and no member, officer, agent or employee of Monroe County shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the execution of this Agreement.

9.28 EXECUTION IN COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart.

IN WITNESS WHEREOF, each party caused this Agreement to be executed by its duly authorized representative on the day and year first above written.

(SEAL)
Attest: DANNY L. KOLHAGE, Clerk

**BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA**

By: _____
Deputy Clerk

By: _____
Mayor/Chairman

Date: _____

(Seal)**CONSULTANT**
Attest:

By: _____

By: _____
WITNESS

Title: _____

By: _____
WITNESS

END OF AGREEMENT

ATTACHMENT A
SCOPE OF BASIC SERVICES

Attachment A

Scope of Basic Services

The scope of services for the US 1 Shared Use Bayside Trail will include completion of design for construction, completion and submission of all required permit applications and support during the bid and construction phases of the project, as described below:

The Design for Construction shall include, but shall not necessarily be limited to, plans and specifications which describe all systems, elements, details, components, materials, equipment, and other information necessary for construction. The Design for Construction shall be accurate, coordinated and in all respects adequate for construction and shall be in conformity, and comply, with all applicable law, codes, permits, and regulations. Products, equipment and materials specified for use shall be readily available unless written authorization to the contrary is given by the County. The design plans must satisfactorily address drainage impacts to swales and ditches, drop off treatments in areas of slope condition, potential encroachments and impacts to wetlands and identify logical termini.

1.0 DESIGN DEVELOPMENT

The Consultant will develop the design of the shared use path for approval by the County. The Consultant will obtain FDOT proposed US 1 southbound resurfacing plans and determine available right of way from mile marker 106 to approximately mile marker 99.5. Where feasible the desired path width is twelve feet. Design Development will include planning and conducting two community workshops to obtain input from local residents to incorporate into the design where feasible. Upon completion of 30% design, which will include layout of the proposed path, the Consultant will submit plans to FDOT for review and comment prior to proceeding.

2.0 CONSTRUCTION DOCUMENTS PHASE

2.1 The Consultant shall prepare, for approval by the County, Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the project. Construction documents shall conform to Florida Department of Transportation standards, and all Federal, State and local laws and guidelines, including but not limited to the standards contained in the following:

1. Florida Department of Transportation Roadway Plans Preparation Manuals
<http://www.dot.state.fl.us/rddesign/PPMManual/PPM.shtm>
2. Florida Department of Transportation Design Standards
<http://www.dot.state.fl.us/rddesign/DesignStandards/Standards.shtm>
3. Florida Department of Transportation Surveying Procedure
<http://www2.dot.state.fl.us/proceduraldocuments/procedures/bin/550030101.pdf>

4. Florida Department of Transportation Drainage Manual
<http://www.dot.state.fl.us/rddesign/dr/files/2008DrainageManual.pdf>
5. Florida Department of Transportation Soils and Foundations Handbook
<http://www.dot.state.fl.us/structures/Manuals/SFH.pdf>
6. Florida Department of Transportation Structures Manual
<http://www.dot.state.fl.us/structures/manlib.shtm>
7. Florida Department of Transportation Structures Manual including Temporary Design Bulletins
<http://www.dot.state.fl.us/structures/manlib.shtm>
8. MUTCD
<http://mutcd.fhwa.dot.gov/>
9. American Disabilities Act
<http://www2.dot.state.fl.us/proceduraldocuments/procedures/bin/625020015.pdf>
10. Florida Department of Transportation Flexible Pavement Design Manual
<http://www.dot.state.fl.us/pavementmanagement/PUBLICATIONS.shtm>
11. Florida Department of Transportation Rigid Pavement Design Manual
<http://www.dot.state.fl.us/pavementmanagement/pcs/RigidPavementManualJanuary12009.pdf>
12. Federal Highway Administration Checklist and Guidelines for Review of Geotechnical Reports and Preliminary Plans and Specifications
<http://www.fhwa.dot.gov/engineering/geotech/pubs/reviewguide/checklist.cfm>
13. Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways
<http://www.dot.state.fl.us/rddesign/FloridaGreenbook/2007/2007FloridaGreenbook.pdf>
14. Florida Statutes
<http://www.leg.state.fl.us/Statutes/index.cfm?Mode=View%20Statutes&Submenu=1&Tab=statutes&CFID=14677574&CFTOKEN=80981948>

Where conditions require deviating from FDOT standards the Consultant will apply for and obtain all required variances prior to proceeding.

2.2. The Consultant shall provide Drawings and applicable Technical Special Provisions for the County's review (the Florida Department of Transportation Standard Specifications will be incorporated by reference).

2.3 Upon completion of the Construction Documents Phase, the Consultant shall provide Construction Documents for the County's approval. Upon approval by the County the Consultant shall provide the County up to 5 sets of Construction Documents that have been signed and sealed by the Engineer. The Consultant shall also provide an electronic version of the construction documents. The Consultant shall provide an

estimate of anticipated construction cost in accordance with the construction development phase.

2.4 The Consultant shall assist the County in the preparation of the necessary bidding information for the production of bidding forms, the Conditions of the Contracts, and the forms of Agreements between the County and the Contractors by providing supporting information as to the projects scope, bid items, estimated quantities and construction duration. The County shall prepare all Bidding Forms, Conditions of the Contract, and Forms of Agreement.

2.5 The Consultant's construction documents (plans, specifications, etc) will conform to all codes and regulations of the federal government, county, state, municipalities, agencies and state departments, in effect at the date of this Agreement, and shall be of such completion as to be acceptable for review and ruling by said agencies when permits are applied for. The Consultant shall use due care in determining permit requirements and shall meet with regulatory agencies as necessary to coordinate specific permit requirements. The Consultant shall document all meetings and conversations with said regulatory agencies. If permits are denied for incompleteness or for lack of following said codes or regulations, or permit requirements, then the Consultant will conform the construction documents in such manner to receive permits upon such plans. Work required by the Consultant to conform documents to federal, state, city, county, or agency specifications to allow them to be approved shall be completed at no charge or cost to the County, unless said requirements are changed during the course of the project.

2.6 The Consultant shall file (through the County) all documents required for the approval of governmental authorities having jurisdiction over the project. The Consultant shall file (through the County) the necessary documents to obtain Florida Department of Transportation (FDOT) Right of Way permit, environmental resources permits, and all other permits required for construction. The County shall be responsible for the timely submittal of all permit application fees.

2.7 At intervals mutually agreeable to the County and Consultant, the Consultant shall provide drawings and other documents which depict the current status of design for the County's and, if required FDOT's review and information. At a minimum the Consultant shall provide drawings for review at the 30% milestone, 75% milestone and 100% milestone. The Consultant shall provide an estimate of anticipated construction costs.

2.8 As needed by the County, the Consultant will provide clarification and answers to questions from prospective bidders during the construction bid process. Answers will be provided in a timely manner in order to facilitate bidding.

3.0 CONSTRUCTION DOCUMENTS PHASE REQUIREMENTS

To satisfactorily perform the Construction Documents phase requirement, the Consultant must complete the tasks set forth in items 3.1 through 3.5.

3.1 Survey – Obtain services of licensed surveyor for preparation of construction plans.

3.2 Construction Plans – This consists of, at a minimum, Key Sheet, Summary of Pay Items and Quantities, Drainage Map, Project Layout, Plan and Profile sheets including locations of existing utilities, Typical Sections, Detail sheets, General Notes, Stormwater Management Plan, Traffic Control Plan. Construction plans shall be in accordance with FDOT Plans Preparation Manual.

3.3 Specifications – For general specifications, FDOT Specifications will be incorporated. Comprehensive, abbreviated methods, materials and systems descriptions in tune with the drawings will be developed as necessary with Technical Special Provisions.

3.4 Schedules – Prepare an estimate of the Construction Time.

3.5 Estimate of Construction Cost – Estimate of anticipated cost in accordance with the Construction Documents.

4.0 CONSTRUCTION PHASE

4.1 The Consultant shall review and approve or take other appropriate action upon Contractor's Shop Drawings submittals for prefabricated elements to be placed permanently in the structure but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Consultant's action shall be taken with such reasonable promptness as to cause no delay in the Contractor's Work or in construction by the County's own forces, while allowing sufficient time in the Consultant's professional judgment to permit adequate review. In general, said review and action shall be completed in 10 working days from receipt of a shop drawing submittal, excluding resubmittals. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the Contractors, all of which remain the responsibility of the Contractors to the extent required by the Contract Documents. The Consultant's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Consultant, of construction means, methods, techniques, sequences, or procedures.

4.2 The Consultant shall, without additional compensation, promptly correct any errors, omissions, deficiencies, or conflicts in the work product of the Consultant or its consultants or both.

4.3 The Consultant must reimburse the County for any added costs paid by the County during construction that were incurred as the result of any error, omission, deficiency, or conflict in the work product of the Consultant, its consultants, or both. This added expense is defined as the difference in cost from that which the County would have paid

if the work was included in the bid, and the actual cost presented by the Contractor. The Consultant shall not be held responsible for additional deficiencies found due to a delay in the construction of the project or for those hidden deficiencies that could not reasonably be determined through a review of FDOT Bridge Inspection Reports or physical inspection of a bridge by the Consultant.

5.0 CONSTRUCTION COST

Contemporaneously with the submission of the Design, the Consultant shall submit to the County in writing its final estimate of the contractor's anticipated bid price for constructing the Project. Once submitted, the final anticipated price estimate shall be adjusted by the Consultant to reflect any increase or decrease in anticipated price resulting from a change in Design.

5.1 The Construction Cost shall be the total estimated bid cost to the County of all elements of the Project designed or specified by the Consultant.

5.2 The Construction Cost shall include the cost at current market rates of labor and materials and Equipment designed, specified, selected or specially provided for by the Consultant, plus a reasonable allowance for Contractor's overhead and profit.

5.3 Construction cost does not include the compensation of the Consultant and the Consultant's consultants, the costs of land, rights-of-way, financing or other costs which are the responsibility of the County.

5.4 The Consultant agrees that, should the bid for construction of the project exceed its estimate by ten percent (10%) or more, it will redesign, redraw or rebid, at no additional cost or expense to the County, until the bids are within the stated limits.

SECTION THREE: RESPONSE FORMS

RESPONSE FORM

RESPOND TO: MONROE COUNTY BOARD OF COUNTY COMMISSIONERS
c/o PURCHASING DEPARTMENT
GATO BUILDING, ROOM 1-213
1100 SIMONTON STREET
KEY WEST, FLORIDA 33040

I acknowledge receipt of Addenda No.(s)

I have included:

- ☐ The Submission Response Form _____
- ☐ Lobbying and Conflict of Interest Clause _____
- ☐ Non-Collusion Affidavit _____
- ☐ Drug Free Workplace Form _____
- ☐ Respondent's Insurance and Indemnification Statement _____
- ☐ Insurance Agent's Statement _____
- ☐ Local Preference Form _____

In addition, I have included a current copy of the following professional and occupational licenses:

(Check mark items above, as a reminder that they are included.)

Mailing Address: _____

Telephone: _____

Fax: _____

Date: _____

Signed: _____ Witness: _____

(Seal)

(Name)

(Title)

LOBBYING AND CONFLICT OF INTEREST CLAUSE

**SWORN STATEMENT UNDER ORDINANCE NO. 010-1990
MONROE COUNTY, FLORIDA**

ETHICS CLAUSE

" _____ "
(Company)

"...warrants that he/it has not employed, retained or otherwise had act on his/its behalf any former County officer or employee in violation of Section 2 of Ordinance No. 010-1990 or any County officer or employee in violation of Section 3 of Ordinance No. 010-1990. For breach or violation of this provision the County may, in its discretion, terminate this Agreement without liability and may also, in its discretion, deduct from the Agreement or purchase price, or otherwise recover, the full amount of any fee, commission, percentage, gift, or consideration paid to the former County officer or employee".

(Signature)

Date:_____

STATE OF:_____

COUNTY OF:_____

Subscribed and sworn to (or affirmed) before me on_____

(date) by_____ (name of affiant). He/She is personally

known to me or has produced_____ as

identification. (type of identification)

NOTARY PUBLIC

My commission expires:_____

NON-COLLUSION AFFIDAVIT

I, _____ of the city of _____
according to law on my oath, and under penalty of perjury, depose and say that:

1. I am _____
of the firm of _____

the bidder making the Proposal for the project described in the Request for
Qualifications for:

_____ and that I executed the said proposal with full authority to do so:

2. the prices in this bid have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
3. unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to bid opening, directly or indirectly, to any other bidder or to any competitor; and
4. no attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit, or not to submit, a bid for the purpose of restricting competition;
5. the statements contained in this affidavit are true and correct, and made with full knowledge that Monroe County relies upon the truth of the statements contained in this affidavit in awarding contracts for said project.

(Signature of Respondent)

(Date)

STATE OF: _____

COUNTY OF: _____

PERSONALLY APPEARED BEFORE ME, the undersigned authority, who, after first being sworn by me, (name of individual signing) affixed his/her signature in the space provided above on this _____ day of _____ 20____.

NOTARY PUBLIC

My Commission Expires:

DRUG-FREE WORKPLACE FORM

The undersigned vendor in accordance with Florida Statute 287.087 hereby certifies that:

(Name of Business)

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 (Florida Statutes) or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, or any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

Respondent's Signature

Date

NOTARY PUBLIC

My Commission Expires:

Respondent's Insurance and Indemnification Statement

<u>Insurance Requirement</u>	<u>Required Limits</u>
Worker's Compensation Employer's Liability	Statutory Limits \$1,000,000/\$1,000,000/\$1,000,000
General Liability	\$1,000,000 Combined Single Limit
Vehicle Liability	\$1,000,000 Combined Single Limit per Occurrence
Professional Liability	\$1,000,000 per occurrence \$2,000,000 aggregate

IDEMNIFICATION AND HOLD HARMLESS FOR CONSULTANTS AND SUBCONSULTANTS

The CONSULTANT covenants and agrees to indemnify, hold harmless and defend Monroe County, its commissioners, officers, employees, agents and servants from any and all claims for bodily injury, including death, personal injury, and property damage, including property owned by Monroe County, and any other losses, damages, and expenses of any kind, including attorney's fees, court costs and expenses, which arise out of, in connection with, or by reason of services provided by the CONSULTANT or any of its Subcontractor(s) in any tier, occasioned by the negligence, errors, or other wrongful act or omission of the CONSULTANT, including its Subcontractor(s) in any tier, their officers, employees, servants or agents.

In the event that the completion of the project (to include the work of others) is delayed or suspended as a result of the CONSULTANT's failure to purchase or maintain the required insurance, the CONSULTANT shall indemnify the County from any and all increased expenses resulting from such delay. Should any claims be asserted against the COUNTY by virtue of any deficiency or ambiguity in the plans and specifications provided by the CONSULTANT, the CONSULTANT agrees and warrants that CONSULTANT shall hold the County harmless and shall indemnify it from all losses occurring thereby and shall further defend any claim or action on the County's behalf.

The first ten dollars (\$10.00) of remuneration paid to the CONSULTANT is consideration for the indemnification provided for above.

The extent of liability is in no way limited to, reduced, or lessened by the insurance requirements contained elsewhere within this agreement.

This indemnification shall survive the expiration or earlier termination of the Agreement.

RESPONDENT'S STATEMENT

I understand the insurance that will be mandatory if awarded the contract and will comply in full with all the requirements.

Respondent

Signature

INSURANCE AGENT'S STATEMENT

I have reviewed the above requirements with the bidder named below. The following deductibles apply to the corresponding policy.

POLICY	DEDUCTIBLES

Liability policies are ____ Occurrence

____ Claims Made

Insurance Agency

Signature

Print Name: _____

LOCAL PREFERENCE FORM

A. Vendors claiming a local preference according to Ordinance 023-2009 must complete this form.

Name of Bidder/Responder _____ Date: _____

1. Does the vendor have a valid receipt for the business tax paid to the Monroe County Tax Collector dated at least one year prior to the notice or request for bid or proposal? _____
(Please furnish copy)

2. Does the vendor have a physical business address located within Monroe County from which the vendor operates or performs business on a day to day basis that is a substantial component of the goods or services being offered to Monroe County? _____

List Address: _____

Telephone Number: _____

B. Does the vendor/prime contractor intend to subcontract 50% or more of the goods, services or construction to local businesses meeting the criteria above as to licensing and location? _____

If yes, please provide:

1. Copy of Receipt of the business tax paid to the Monroe County Tax Collector by the subcontractor dated at least one year prior to the notice or request for bid or proposal.

2. Subcontractor Address within Monroe County from which the subcontractor operates:

_____ Tel. Number _____

_____ Print Name: _____

Signature and Title of Authorized Signatory for
Bidder/Responder

STATE OF _____

COUNTY OF _____

On this ____ day of ____, 20____, before me, the undersigned notary public, personally appeared _____, known to me to be the person whose name is subscribed above or who produced _____ as identification, and acknowledged that he/she is the person who executed the above Local Preference Form for the purposes therein contained.

Notary Public

Print Name

My commission expires: _____

Seal