

# BID REGISTRATION

**You MUST register using this form in order to receive notice of any addenda to these documents. Please fax the completed form to the Polk County Purchasing Division as soon as possible. It is the vendor's responsibility to verify if addenda have been issued.**

RFP Number and Title: RFP 10-099 – Utilities Design Services

Description: Professional services for design, permitting and construction phase engineering services for water, wastewater and reclaim water facilities for Polk County Utilities (PCU).

Receiving Period: September 8, 2010, Prior to 2:00 p.m.

Bid Opening: September 8, 2010, 2:00 p.m.

This form is for bid registration. Please scroll down for additional information.

Special Instructions: All firms must have certification data on file with the Polk County Purchasing Division. If the certification requirements are not complete by the announcement of the short-list, the firm will be given no further consideration for selection. The requirements for certification can be found on County's webpage at [www.polk-county.net](http://www.polk-county.net); (click on Purchasing and then on CCNA).

**Note:** Surveys will be conducted in lieu of references. The Survey Form package is attached as Exhibit 1. (Follow specific instruction as provided in Exhibit 1.)

**BIDDER REGISTRATION  
FAX THIS FORM BACK IMMEDIATELY  
FAX: (863) 534-0055**

Carefully complete this form and mail or fax it to the Purchasing Division. You must submit one form for each bid that you are registering for.

Company Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

# POLK COUNTY BOARD OF COUNTY COMMISSIONERS

Purchasing Division  
Audry Aroney Reeves  
Purchasing Director

## REQUEST FOR PROPOSAL #10-099 UTILITIES DESIGN SERVICES

Sealed proposals will be received in the Purchasing Division, **September 8, 2010, prior to 2:00 p.m.**

Attached are important instructions and specifications regarding responses to this Request for Proposal. Failure to follow these instructions could result in Proposer disqualification.

Questions regarding this proposal must be in writing and must be sent to Michele Sims, Contract Specialist, email: [michelesims@polk-county.net](mailto:michelesims@polk-county.net); fax (863) 534-0055. All questions must be received by August 25, 2010.

*Prospective proposers shall not contact, communicate with or discuss any matter relating in any way to the Request for Proposal with the Board of County Commissioners, any employee of Polk County, other than the Purchasing Director or as directed in the cover page of the Request for Proposal. Such communications initiated by a proposer shall be grounds for disqualifying the offending proposer from consideration for award of the proposal and/or any future proposal.*

Proposals may be mailed, express mailed or hand delivered to:

Purchasing Division  
2470 Clower Lane  
Bartow, Florida 33830

## STATEMENT OF NO PROPOSAL

If you do not intend to submit a proposal, please complete the information below and return this form to the above fax number.

- |                                                                  |                                                        |
|------------------------------------------------------------------|--------------------------------------------------------|
| <input type="checkbox"/> Insufficient time to respond            | <input type="checkbox"/> Unable to meet specifications |
| <input type="checkbox"/> Schedule would not permit us to perform | <input type="checkbox"/> Do not offer this product     |
| <input type="checkbox"/> Specifications unclear                  | <input type="checkbox"/> Other (please specify below)  |

Company Name: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

## INTRODUCTION

Polk County, a political subdivision of the State of Florida, seeks the submittal of proposals from qualified firms who are interested in providing professional services for design, permitting and construction phase engineering services for water, wastewater and reclaim water facilities for Polk County Utilities (PCU) Division.

Work will be done in conjunction with the Utilities' Community Investment Program which includes Renewal and Replacement; and Operations and Expansion. In addition, the work may be performed for other Utility Division Sections including, Operations and Maintenance and Customer Service.

This RFP is for professional engineering services in conjunction with water, wastewater and reclaim water systems. Types of services include but are not limited to water, wastewater and reclaim facilities; pipeline design; construction observation; utility relocation; GIS; utility infrastructure security measures; hydraulic and water quality modeling; permitting of new or existing water, wastewater, reclaim water facilities for operation; assistance with information requests by regulatory agencies; water, wastewater and groundwater monitoring well field sampling; hydrogeologic and surface water modeling and evaluation of technical and water quality data as required by federal, state or local regulations; preparation of appropriate document, reports or maps as related to design, permitting or regulatory information requests; survey and geotechnical services, well construction and abandonment related engineering services; well head protection, water quality and environmental assessments; technical assistance for preparation of public information; water conservation education; feasibility studies for developing, improving and maintaining water, wastewater or reclaim water systems; implementation of compliance projects or preparation of reports, systems master planning, information systems development & implementation, review of development water, wastewater, and reclaim submissions for system capacity and hydraulic compatibility with master plans and other utility related professional engineering and consulting services.

Polk County's Selection Process for consultants' services is in accordance with Section 287.055, Florida Statutes, the Consultants' Competitive Negotiations Act. The Professional Services Selection Committee will review the qualifications of all submitting firms. The County reserves the right to determine, at its sole discretion, whether the statement of qualifications satisfactorily meets the criteria established in this RFP, and the right to seek clarification from any firm(s) submitting qualifications. Only those judged to be qualified proposals would be further evaluated for possible short-listing. Those firms short-listed may be requested to make presentations to the Professional Services Selection Committee. During the review process, and until the final selection has been made by the Board of County Commissioners, proposers are prohibited from meeting with or discussing a submittal with any member of the Professional Services Selection Committee or the Board of County Commissioners.

All firms must have certification data on file with the Polk County Purchasing Division. If the certification requirements are not complete by the announcement of the short-list, the firm will be given no further consideration for selection for the project. The requirements for certification can be found on the County's webpage at [www.polk-county.net](http://www.polk-county.net); (click on Purchasing and then on CCNA).

All interested parties must submit the requested information within the time frame provided herein. Proposals shall be prepared with the utmost attention to fair, ethical evaluation standards.

It is the intent of the County to select and negotiate Master Consulting Agreements with one (1) or more firms. The County may employ several different consultants to perform the work described. No consultant shall be employed as the exclusive consultant. Consultants will be chosen based upon the expertise and experience listed as it pertains to the work described. Selection of a qualified firm under this RFP is not a guarantee of work.

The Master Consulting Agreement will be for five (5) years. The initial term shall be for three (3) years. The County shall have the option of extending the Agreement for two (2) one (1) year terms at the same terms and conditions by giving the Consultant written notice not less than thirty (30) days prior to the expiration of the initial term.

During contract negotiations, the County will negotiate fee schedules in accordance with the County's Purchasing Procedures, with the goal of establishing standardized rates. The fee schedule may be adjusted after mutual written agreement usually beginning one year from the effective date of the agreement.

Once under contract, the firms will be evaluated at intervals in accordance with policies and procedures established in the County's Purchasing Procedures Manual, "Contracting for Professional Services Covered by the Consultants' Competitive Negotiation Act". This manual, which contains procedures for selection of consulting firms, is incorporated by reference and its contents govern solicitation.

## **SCOPE OF SERVICES**

All work must be performed in accordance with applicable Federal, State and Local regulations.

The County requires the support of consultants for design, permitting and construction phase engineering services for water, wastewater and reclaim water facilities for improvements of existing systems or new systems within Polk County Florida. Work will be done in conjunction with the Utilities' Community Investment Program which includes Renewal and Replacement / Operations and Expansion. In addition the work may be performed for other Utility Sections including Operations and Maintenance and Customer Service.

Qualified firms must have in-house, multi-disciplinary capabilities in at least one of these fields but more capabilities identified will enhance the scores:

- Civil engineering
- Utility master planning and hydraulic modeling
- Utility rate generation and evaluation
- Water quality engineering, modeling and evaluation
- Water engineering, treatment and evaluation
- Wastewater engineering, treatment and evaluation
- Biosolids management

- Regulatory permitting for water and wastewater facilities
- Utility environmental affairs
- Surveying
- Hydrogeology and surface and groundwater modeling
- Geotechnical engineering
- Utility acquisition and evaluation
- Right-of-way services
- Structural engineering as related to water, wastewater and reclaim water facilities
- Electrical engineering as related to water, wastewater and reclaim water facilities
- Mechanical engineering related to water, wastewater and reclaim water facilities
- Constructability plan review/value engineering
- Instrumentation and controls; including SCADA
- Construction inspection related engineering services for water, wastewater and reclaim water facilities
- Water, wastewater and reclaim water facilities operational experience
- Public involvement services
- Subsurface utility location
- Architectural services
- GIS & CADD design capability
- Database & Information system development related to utility systems and management

The County shall request the services on an as-needed basis. There is no guarantee that any or all of the services described in this agreement will be assigned during the term of this agreement. Further, the Consultant is providing these services on a nonexclusive basis. The County, at its option, may elect to have any of the services set forth herein performed by other consultants or County staff.

## **POLK COUNTY UTILITIES EXPECTATIONS OF SELECTED FIRMS**

The consultant shall be responsible for the accuracy of the work and shall promptly correct its errors and omissions without additional compensation. Acceptance of the work by PCU will not relieve the consultant of the responsibility for subsequent correction of any errors and the clarification of any ambiguities.

At any time during the construction of the improvements provided for by the plans or during any phase of work performed by others based on data secured by the consultant under the Agreement, the consultant shall confer with the County for the purpose of interpreting the information obtained and to correct any errors or omissions made by it. The consultant shall prepare any plans or data required by PCU, to correct its errors and omissions. The above consultations, clarifications, or corrections shall be made without additional compensation to the consultant. The consultant shall give immediate attention to these changes so there will be minimum delay to others.

The consultant shall endorse and provide in electronic format as requested all reports, calculations, contract plans and survey data. Such endorsements shall be made by a person duly registered in the appropriate category by the Florida State Board of Registration for Professional Engineers, Land Surveyors, or other professionals as required being in the full employment of the consultant and responsible for the work prescribed.

When a scope of work is requested for the formulation of a Consultant Services Authorization (CSA) under a Master Consulting Agreement, the consultant will submit the proposed scope of work within 10 working days from the request. The proposal will include tasks to be completed with associated costs and an overall schedule with sufficient detail to define major milestones. Once the CSA is approved by the Board of County Commissioners, a notice to proceed will be issued by PCU. The consultant will be responsible for the preparation of a project design schedule, utilizing a commercial off the shelf software, such as Microsoft Project, which shows a breakdown of all tasks to be performed, and their relationship in achieving the completion of each phase of work. The schedule will include a Gant Chart identifying the critical path, progress of the work and milestones. If both parties agree on the proposed schedule, a final schedule will be submitted within 10 working days of the notice to proceed on all assignments. The schedules will be used to verify consultant's performance in relationship to the fees claimed and to allow PCU's Project Manager to monitor the consultant's efforts. The billing of services will include a progress update report, a revised schedule showing current percent complete by task and a detailed invoice showing billings per Task outlined in the approved scope of work or assignment. If a change of scope is requested by PCU staff then the consultant shall notify the PCU project manager within 10 working days of the effects and cost for the proposed change. The consultant will not proceed with work on the change until receiving approval from the Utilities or CIP Director provided there is a provision for additional services incorporated into the CSA. If there is not, a modification detailing the change must be approved by the Board of County Commissioners prior to any commencement of work. In addition to the progress updates to be submitted with the invoice, each consultant will meet with PCU staff on a quarterly basis as requested by PCU to provide a briefing and progress report of all work assignments in a presentation style update. The presentation shall be electronically transmitted to PCU.

In performing the work, the consultant shall follow the PCU CADD and design guidelines for submittals. The consultant shall also follow the PCU technical design standards including any newly developed standards. The consultant will routinely check with PCU staff to ensure they are following the latest standards available. Deliverables prepared by the consultant will be defined in each assignment. Full and half size drawings will be required on all assignments along with electronic versions.

## **SUBMITTAL**

Submittals should not contain information in excess of that requested, must be concise, and must specifically address the issues of this RFP. A page can be either single or double sided. It is requested that the responses be in the same order as the selection and evaluation procedures. The submittals should include the following:

1. Brief overview of the firm's history and organization that includes the name of the firm's contact person, address, telephone, fax number and email address. **(Limit response to one page)**
2. Provide documentation supporting the specialized qualifications of staff in the field of water and wastewater systems. Qualifications should highlight experience with regulatory agencies, permitting and governing regulations and their locations. The proposal shall list key individuals who will be used on the contract. Provide the Florida registration numbers of professional personnel. Show an organizational chart of the team highlighting the key individuals who will work on this contract. Provide a matrix showing the capabilities listed above versus each proposed team member indicating their personal experience. **(Limit response to one page for the organizational chart and one page for the capabilities matrix)**
3. The key staff presented in the consultant's response shall be the staff utilized on this project. The consultant will demonstrate each key staff's availability and location to respond to the needs of the project. Also identify additional staff members and locations that can be utilized to expedite a deliverable if required. **(Limit response to one page per person)**
4. Experience on Similar Contracts: The proposal shall indicate firm, proposed team and individuals experience on contracts of similar size and scope within the past five (5) years. List a maximum of ten (10) recent projects. Similar size and scope is defined as experience with general engineering contracts for water, wastewater or reclaim water systems. Specifics should be given to demonstrate successful performance on those contracts and the firm's, or team's, understanding of the requirements and timely completion of the project. If subconsultants or a joint venture is proposed, past working relationships on similar projects must be indicated. Indicate if the proposed team for this contract has successfully worked together on the listed projects. Provide references for the past experience cited above including contact person, title, telephone number, email address, project location, services provided and contract amount. **(Limit response to one page per project)**
5. Provide a short narrative project approach outlining how you propose to manage projects in order to meet schedule and budget requirements. Describe the firm's ability to work with PCU staff, familiarity with PCU programs and local regulatory agencies. Demonstrate the firm's knowledge in County's GIS system, the state plane coordinate system in Polk County, hydraulic modeling specifically in Water and Sewer GEMS, County's permitting process, as well as local regulatory agencies.  
  
Relative to the scope of services for the project, describe the specific ability of the firm, Include any innovative approaches to providing the services. Briefly describe firm's quality assurance/quality control program. **(Limit response to four pages maximum)**
6. Provide identification and address of any subconsultants that will be involved, including a description of qualifications and their specific duties on the projects with PCU. **(Limit response to one page maximum per subconsultant)**

7. Provide documentation of the firm's certified W/MBE status, if applicable; identify minority firm participation as subconsultants; and submit the subconsultant's certification, explain how the firm will encourage minority participation in the projects. **(Limit response to one page maximum)**
8. Completed Surveys (See Exhibit 1)

## **SELECTION AND EVALUATION PROCEDURES**

A Professional Services Selection Committee will review the proposals received. The evaluation criteria listed below will be utilized to rank the firms and to short-list the consultants. Interviews with the firms short-listed may then be scheduled with the Professional Services Selection Committee (PSSC) for final ranking and selection. The County shall be the sole judge of its own best interests, the proposals and the resulting negotiated agreement. The County's decisions will be final.

Consultants will be evaluated using a number of factors including, but not limited to, the following:

1. Experience and expertise of the consulting firm and its key personnel in projects similar to those in the Request for Proposal (25 points) Corresponds to submittal No. 1, No. 2 , and No. 3.
2. Client surveys on the consulting firm (Maximum 10 surveys) (10 points). Corresponds to submittal No. 8.
3. Approach to the project, management and ability to work with PCU staff and local regulatory agencies (20 points) Corresponds to submittal No. 5. Ability to create innovative approaches (5 points) Corresponds to submittal No. 5. Ability to complete projects in a timely manner (5 points) Corresponds to submittal No. 5.
4. Appropriate team member and experience (5 points) Corresponds to submittal No. 3.
5. Certified minority firm or extent of certified minority firm participation as subconsultants (5 points) (see sample grading format for certified minorities) Corresponds to submittal No. 7
6. County evaluation rating for past projects with the County. (Consultant has worked for the County and has evaluations on file – maximum 10 points) (Consultant has worked for the County and there are no evaluations on file or Consultant has not worked for the County – 4 points [average rating]) (10 points)
7. Location of key personnel – Firms located in Polk County (10 points)  
Firms with corporate headquarters in Polk County(5 points)  
All other firms (2 points)  
(See sample grading format for local participation)

## **RESPONSE**

Interested parties are invited to submit one (1) original marked "ORIGINAL" and nine (9) copies marked "COPY" of their proposal in a sealed envelope to the Purchasing Division. The original submittal and each copy must be in a separate three (3) ring binder. The envelope should be labeled "**RFP #10-099, Utilities Design Services**" and marked with the respondent's name and address. Proposals may be mailed or delivered to:

**Polk County Purchasing Division  
2470 Clower Lane  
Bartow, Florida 33830.**

The submittal shall be received by the County only at the above address prior to **2:00 p.m., September 8, 2010.**

The delivery of the submittal on the above date and prior to the specified time is solely the responsibility of the proposer.

The submittal may be withdrawn either by written notice to the Purchasing Director or in person, if properly identified, at any time prior to the above submittal deadline.

# ENGINEERING GRADING FORMAT SAMPLE

Sample method of allocating points for certified minorities and local participation

|                                                                      |       |                 |   |     | Total Score |
|----------------------------------------------------------------------|-------|-----------------|---|-----|-------------|
| Certified minority firm (ownership of firm is at least 51% minority) |       |                 |   |     | +5          |
| <u>Sub-consultants</u>                                               |       |                 |   |     |             |
| Sub-consultant A                                                     | Civil | (non-minority)  | - | -   |             |
| Sub-consultant B                                                     | N/A   |                 | - | -   |             |
| Sub-consultant C                                                     | N/A   |                 | - | -   |             |
| Sub-consultant D                                                     | N/A   |                 | - | -   |             |
| Sub-consultant E                                                     | N/A   |                 | - | -   |             |
|                                                                      |       |                 |   |     | +4.5        |
| Non-minority firm                                                    |       |                 |   |     | 0           |
| <u>Sub-consultants</u>                                               |       |                 |   |     |             |
| Sub-consultant A                                                     | Civil | (minority)      | + | 0.5 |             |
| Sub-consultant B                                                     | N/A   |                 | - | -   |             |
| Sub-consultant C                                                     | N/A   |                 | - | -   |             |
| Sub-consultant D                                                     | N/A   |                 | - | -   |             |
| Sub-consultant E                                                     | N/A   |                 | - | -   |             |
|                                                                      |       |                 |   |     | .5          |
| Local Firm                                                           |       |                 |   |     | +10         |
| <u>Sub-consultants</u>                                               |       |                 |   |     |             |
| Sub-consultant A                                                     | Civil | (out of county) | - | 0.5 |             |
| Sub-consultant B                                                     | N/A   |                 | 0 | 0   |             |
| Sub-consultant C                                                     | N/A   |                 | 0 | 0   |             |
| Sub-consultant D                                                     | N/A   |                 | 0 | 0   |             |
| Sub-consultant E                                                     | N/A   |                 | 0 | 0   |             |
|                                                                      |       |                 |   |     | +9.5        |
| Out of County Firm                                                   |       |                 |   |     | +2          |
| <u>Sub-consultants</u>                                               |       |                 |   |     |             |
| Sub-consultant A                                                     | Civil | (local)         | + | 0.5 |             |
| Sub-consultant B                                                     | N/A   |                 | 0 | 0   |             |
| Sub-consultant C                                                     | N/A   |                 | 0 | 0   |             |
| Sub-consultant D                                                     | N/A   |                 | 0 | 0   |             |
| Sub-consultant E                                                     | N/A   |                 | 0 | 0   |             |
|                                                                      |       |                 |   |     | +2.5        |
| Local Firm with Headquarters in Polk County                          |       |                 |   |     | +15         |
| <u>Sub-consultants</u>                                               |       |                 |   |     |             |
| Civil Engineer                                                       |       | (out of County) | - | 0.5 |             |
| Structural Engineer                                                  |       | (out of County) | - | 0.5 |             |
| Mechanical Engineer                                                  |       | (local)         | 0 | 0   |             |
|                                                                      |       |                 |   |     | +14         |

## GENERAL CONDITIONS

### CONTACT

After the issuance of any Request for Proposal, prospective proposers shall not contact, communicate with or discuss any matter relating in any way to the Request for Proposal with the Board of County Commissioners, and any employee of Polk County, other than the Purchasing Director or as directed in the cover page of the Request for Proposal. This prohibition begins with the issuance of any Request for Proposal and ends upon execution of the final contract. Such communications initiated by a proposer **shall** be grounds for disqualifying the offending proposer from consideration for award of the proposal and/or any future proposal.

### INSURANCE REQUIREMENTS

The selected firm, if any, shall maintain, at all times, the following minimum levels of insurance and; shall, without in any way altering their liability, obtain, pay for and maintain insurance for the coverages and amounts of coverage not less than those set forth below. Provide to the County original Certificates of Insurance satisfactory to the County to evidence such coverage before any work commences. Polk County, a political subdivision of the State of Florida, shall be an additional named insured on all policies related to the project; excluding workers' compensation and professional liability. The Workers' Compensation and General Liability policies shall contain a waiver of subrogation in favor of Polk County. All insurance coverage shall be written with a company having an A.M. Best Rating of at least the "A" category and size category of VIII. The firm's self-insured retention or deductible per line of coverage shall not exceed \$25,000 without the permission of the County. The County requires thirty (30) days written notice of cancellation and ten (10) days written notice of non-payment. In the event of any failure by the firm to comply with the provisions; the County may, at its option, on notice to the firm suspend the project for cause until there is full compliance. Alternatively, the County may purchase such insurance at the firm's expense, provided that the County shall have no obligation to do so and if the County shall do so, the firm shall not be relieved of or excused from the obligation to obtain and maintain such insurance amounts and coverages.

Worker's Compensation and Employer's Liability Insurance providing statutory benefits, including those that may be required by any applicable federal statute:

|                        |           |
|------------------------|-----------|
| Admitted in Florida    | Yes       |
| Employer's Liability   | \$100,000 |
| All States Endorsement | Statutory |
| Voluntary Compensation | Statutory |

Commercial General Liability Insurance. \$1,000,000 combined single limit of liability for bodily injuries, death, and property damage, and personal injury resulting from any one occurrence, including the following coverages:

Premises and Operations and Products/Completed Operations;

Broad Form Commercial General Liability Endorsement to include blanket contractual liability (specifically covering, but not limited to, the contractual obligations assumed by the Firm); Personal Injury (with employment and contractual exclusions deleted) and Broad Form Property Damage coverages;

Independent Contractors; Delete Exclusion relative to Collapse, Explosion and Underground Property Damage Hazards; Policy must include Separation of Insureds Clause.

Comprehensive Automobile Liability Insurance. \$1,000,000 combined single limit of liability for bodily injuries, death, and property damage, and personal injury resulting from any one occurrence, including all owned, hired and non-owned vehicles.

Professional Liability Insurance. \$1,000,000 for design errors and omissions, exclusive of defense costs. Selected firm shall be required to provide continuing Professional Liability Insurance to cover the project for a period of two (2) years after the projects are completed.

## **INDEMNIFICATION**

Consultant shall, in addition to any other obligation to indemnify the County and to the fullest extent permitted by law, protect, defend (by counsel reasonably acceptable to County), indemnify and hold harmless the County, their agents, elected officials and employees from and against, including, but not limited to, all claims, actions, liability, losses, costs (including attorney's fees) arising out of any actual or alleged bodily injury, sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting therefrom, or any other damage or loss arising out of or resulting from or claims to have resulted in whole or in part from any actual or alleged act or omission of the consultant, any subcontractor, anyone direct or indirectly employed by any of them, or anyone for whose acts any of them may be liable in the performance of the work; or violation of law, statute, ordinance, governmental administration order, rule, regulation or infringement of patent rights by consultant in the performance of the work; or liens, claims or actions made by the consultant or any subcontractor or other party performing the work.

## **PUBLIC ENTITY CRIMES STATEMENT**

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 bid or proposal on a contract to provide any goods or services to a public entity, may not submit a 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 bids on leases of real property to a 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, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. By submitting this proposal, the proposer hereby certifies that they have complied with said statute.

## **EQUAL OPPORTUNITY/AFFIRMATIVE ACTION**

The County is an equal opportunity/affirmative action employer. The County is committed to equal opportunity employment effort; and expects firms that do business with the County to have a vigorous affirmative action program.

## **WOMEN/MINORITY BUSINESS ENTERPRISE OUTREACH**

The County hereby notifies all Proposers that W/MBE's are to be afforded a full opportunity to participate in any request for proposal by the County and will not be subject to discrimination on the basis of race, color, sex or national origin.

## **DEVELOPMENT COSTS**

Neither the County nor its representative(s) shall be liable for any expenses incurred in connection with preparation of a response to the RFP. Proposers should prepare their proposals simply and economically, providing a straightforward and concise description of the proposer's ability to meet the requirements of the RFP.

## **APPLICABLE LAWS AND COURTS**

This RFP and any resulting agreements shall be governed in all respects by the laws of the State of Florida and any litigation with respect thereto shall be brought only in the courts of Polk County, Florida or the United States District Court, Middle District of Florida, located in Hillsborough County, Florida. The proposer shall comply with all applicable federal, state and local laws and regulations.

## **CONTRACTUAL MATTERS**

A copy of the Master Consulting Agreement to be entered into with the successful proposer(s) is included with this RFP as Attachment A.

All contracts are subject to final approval of the Polk County Board of County Commissioners. Persons or firms who incur expenses or change position in anticipation of a contract prior to the Board's approval do so at their own risk.

## **PROPRIETARY INFORMATION**

In accordance with Chapter 119 of the Florida Statutes (Public Records Law), and except as may be provided by other applicable State and Federal Law, all proposers should be aware that Request for Proposals and the responses thereto are in the public domain. However, the proposers are required to **identify specifically** any information contained in their proposals which they consider confidential and/or proprietary and which they believe to be exempt from disclosure.

All proposals received from proposers in response to this Request for Proposal will become the property of the County and will not be returned to the proposers. In the event of contract

award, all documentation produced as part of the contract will become the exclusive property of the County.

**UNAUTHORIZED ALIEN(S)** The Consultant agrees that unauthorized aliens shall not be employed nor utilized in the performance of the requirements of this solicitation. The County shall consider the employment or utilization of unauthorized aliens a violation of Section 274A(e) of the Immigration and Naturalization Act (8 U.S.C. 1324a). Such violation shall be cause for unilateral termination of this Agreement by the County. As part of the response to this solicitation, the successful consultant will complete and submit the form "AFFIDAVIT CERTIFICATION IMMIGRATION LAWS."

Employers may avail themselves of a program by the U.S. Immigration and Customs Enforcement called E-Verify. E-Verify is an Internet-based system operated by U.S. Citizenship and Immigration Services (USCIS), part of the Department of Homeland Security (DHS), in partnership with the Social Security Administration (SSA). E-Verify is currently free to employers. E-Verify provides an automated link to Federal databases to help employers determine employment eligibility of new hires and the validity of their Social Security numbers.

If your company wishes to avail themselves of this program, you can register online for E-Verify at <https://www.vis-dhs.com/EmployerRegistration>, which provides instructions for completing the registration process. At the end of the registration process, you will be required to sign a Memorandum of Understanding (MOU) that provides the terms of agreement between you as the employer, the SSA, and DHS. An employee who has signatory authority for the employer can sign the MOU. Employers can use their discretion in identifying the best method by which to sign up their locations for E-Verify. To find out more about E-Verify, please visit [www.dhs.gov](http://www.dhs.gov) /e-verify or contact USCIS at **1-888-464-4218**.

## **LIMITATIONS**

This request does not commit Polk County to award a contract. Proposers will assume all costs incurred in the preparation of their response to this RFP. The County reserves the right to: 1) accept or reject qualifications and/or proposals in part or in whole; 2) request additional qualification information; 3) limit and determine the actual contract services to be included in a contract; 4) obtain information for use in evaluating submittals from any source and 5) reject all submittals.

**EXHIBIT 1**  
**DETAILED INSTRUCTIONS ON HOW TO PREPARE AND**  
**SEND PERFORMANCE SURVEYS**

**Overview**

The objective of this process is to identify the past performance of the firm submitting a proposal package for RFP 10-099, Utilities Design Services. This is accomplished by sending survey forms to past customers. The customers will return the forms directly to the Consultant. The Consultant is to include all surveys in their proposal package.

**Sending the Survey**

The surveys shall be sent to customers for whom the Consultant has performed Utilities design services within the past ten (10) years with an emphasis on similar size and scope as defined in the scope of services.

The Consultant shall provide a minimum of three (3) and a maximum of ten (10) surveys for past projects.

1. The Consultant shall complete the following information for each customer that a survey will be sent

|                 |                                                                                                                                    |
|-----------------|------------------------------------------------------------------------------------------------------------------------------------|
| CODE            | A unique (different) number assigned to each project                                                                               |
| CLIENT NAME     | Name of the company or institution that the work was performed for (i.e. Cactus School District, Rock Industries, City of Austin). |
| FIRST NAME      | First name of the person who will answer customer satisfaction questions.                                                          |
| LAST NAME       | Last name of the person who will answer customer satisfaction questions.                                                           |
| PHONE NUMBER    | Current phone number for the reference (including area code).                                                                      |
| FAX NUMBER      | Current fax number for the reference (including area code).                                                                        |
| EMAIL ADDRESS   | Current email address for the reference.                                                                                           |
| PROJECT NAME    | Name of the project (Bird High School A-Wing, Warehouse B, etc.).                                                                  |
| COST OF PROJECT | Awarded cost of project (\$50,000)                                                                                                 |
| DATE INSTALLED  | Date when the project was completed. (i.e. 5/31/1995)                                                                              |

2. The Consultant is responsible for verifying that their information is accurate prior to submission for references.
3. The survey must contain different projects. You cannot have multiple people evaluating the same job. However, one person may evaluate several different jobs.
4. The past projects can be either completed or on-going.
5. The past client/owner must evaluate and complete the survey.

## Reference List

Consultant shall list all references to which a survey was submitted and return the list to Michele Sims, Polk County Purchasing via fax at (863) 534-0055 or email to [michelesims@polk-county.net](mailto:michelesims@polk-county.net) no later than Tuesday, September 7 2010.

|                               |  |
|-------------------------------|--|
| Code                          |  |
| Client name                   |  |
| Reference name (first & last) |  |
| Phone number                  |  |
| Fax number                    |  |
| Email address                 |  |
| Project name                  |  |
| Cost of project               |  |
| Date installed                |  |

|                               |  |
|-------------------------------|--|
| Code                          |  |
| Client name                   |  |
| Reference name (first & last) |  |
| Phone number                  |  |
| Fax number                    |  |
| Email address                 |  |
| Project name                  |  |
| Cost of project               |  |
| Date installed                |  |

## **Preparing the Surveys**

1. The firm is responsible for sending out a performance survey to a minimum of three (3) and a maximum of ten (10) clients. The survey is attached.
2. The firm should enter the Survey ID (Code), past clients' contact information, and project information on each survey form for each reference. The team member should also enter the name of the Consultant being surveyed. The Survey ID is a unique number that the Consultant assigns. No two surveys for the Contractor should have the same number.
3. All the information on the survey form must match the reference information provided to Polk County Purchasing.
4. The firm is responsible for making sure that their past clients receive the survey, complete the survey, and return the survey to the Consultant.
5. As stated before, Polk County Purchasing may contact the reference for additional information or to clarify survey data. If the reference cannot be contacted, there will be no credit given for that reference.

## Survey Questionnaire – Polk County (Professional Services)

---

Survey ID \_\_\_\_\_

To: \_\_\_\_\_  
(Name of person completing survey)

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Subject: Past Performance Survey of: \_\_\_\_\_  
(Name of Company)

\_\_\_\_\_

\_\_\_\_\_

(Name of Individuals)

---

**Rate each of the criteria on a scale of 1 to 10, with 10 representing that you were very satisfied (and would hire the firm/individual again) and 1 representing that you were very unsatisfied (and would never hire the firm/individual again). Please rate each of the criteria to the best of your knowledge. If you do not have sufficient knowledge of past performance in a particular area, leave it blank.**

Client Name: \_\_\_\_\_ Date Completed \_\_\_\_\_

Project Name: \_\_\_\_\_

| NO | CRITERIA                                                                          | UNIT   |  |
|----|-----------------------------------------------------------------------------------|--------|--|
| 1  | Ability to manage cost control                                                    | (1-10) |  |
| 2  | Ability to maintain project schedule (complete on-time or early)                  | (1-10) |  |
| 3  | Quality of workmanship                                                            | (1-10) |  |
| 4  | Professionalism and ability to manage                                             | (1-10) |  |
| 5  | Close out process                                                                 | (1-10) |  |
| 6  | Ability to communicate with County staff                                          | (1-10) |  |
| 7  | Ability to resolve issues promptly                                                | (1-10) |  |
| 8  | Ability to follow protocol                                                        | (1-10) |  |
| 9  | Ability to maintain proper documentation                                          | (1-10) |  |
| 10 | Ability to provide construction management                                        | (1-10) |  |
| 11 | Overall customer satisfaction and comfort level in hiring vendor/individual again | (1-10) |  |

\_\_\_\_\_  
Printed Name (of Evaluator)      Signature (of Evaluator)

Thank you for your time and effort in assisting Polk County in this important endeavor.

Please fax the completed survey to: \_\_\_\_\_  
(Consultants fax number)

## MASTER CONSULTING AGREEMENT

THIS AGREEMENT entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010, between POLK COUNTY, a political subdivision of the State of Florida, by and through its Board of County Commissioners, situated at 330 W. Church Street, Bartow, Florida 33830, hereinafter referred to as COUNTY, and \_\_\_\_\_ a \_\_\_\_\_ corporation, headquartered at \_\_\_\_\_ hereinafter referred to as CONSULTANT, and whose Federal Employer Identification Number is \_\_\_\_\_:

WHEREAS, COUNTY owns and operates a variety of public facilities and improvements; and,  
WHEREAS, COUNTY requires certain professional services in connection with the planning, construction and operation of these facilities; and

WHEREAS, COUNTY has solicited these services in RFP #10-099, included by reference as to the scope of services contained herein; and

WHEREAS, CONSULTANT represents it is capable and prepared to provide such Services;

NOW, THEREFORE, in consideration of the promises contained herein, the parties hereto agree as follows:

### 1.0 **Term**

1.1 This Agreement shall take effect on the date of its execution by the Chairman, Board of County Commissioners.

1.2 The term of this Agreement shall be for a three (3) year period, commencing upon the effective date, unless otherwise terminated as provided herein.

1.3 The COUNTY shall have the option of extending the Agreement for two (2) one (1) year terms, as approved by the COUNTY, at the same terms and conditions by giving the CONSULTANT written notice not less than thirty (30) days prior to the expiration of the initial term.

1.4 The County Manager will approve and execute each extension or terminate the agreement at the end of any given term.

### 2.0 **Services to Be Performed by CONSULTANT**

2.1 CONSULTANT shall perform the services as generally described in the Scope of Work Exhibit "A" and as may be further specifically designated and authorized by the COUNTY, in writing. Such authorization will be referred to as a Consultant Services Authorization (CSA) and all provisions of this Agreement apply to the CSA with full force and effect as if appearing in full within each CSA. Each

CSA will set forth a specific Scope of Services, maximum limit of compensation, schedule, liquidated damages and completion date, and shall become effective upon the due execution.

2.2 The CONSULTANT is not authorized to undertake any project without a duly executed CSA, which shall specify the work to be performed and the time to be completed. CONSULTANT recognizes that the COUNTY may employ several different consultants to perform the work described and that the CONSULTANT has not been employed as the exclusive agent to perform any such services.

2.3 When the CONSULTANT and the COUNTY enter into a Consultant Authorization Agreement (CSA) where the term of the CSA expires on a date that is later than the date that the Master Consulting Agreement (MCA) expires, the CONSULTANT and the COUNTY agree that the terms of the MCA and any amendments, attachments or provisions thereof are automatically extended until the expiration or full completion of the requirements of the CSA have been performed. Cancellation by the COUNTY of any remaining work prior to the full completion of the requirements of the CSA shall cause the terms of the MCA to terminate at the same time. This provision only applies when the expiration of the CSA extends beyond the expiration of the MCA. It does not apply when a CSA expires or is cancelled prior to the expiration of the MCA.

### 3.0 Compensation

#### 3.1 General

3.1.1 COUNTY shall pay CONSULTANT in accordance with Exhibit "B", "Fee Schedule", which is attached hereto and incorporated by reference as part of this Agreement. The fee schedule identifies all job classifications, which will perform billable services pursuant to this Agreement and the fee for each job classification. Performance of work by personnel in job classifications not listed on the fee schedule will result in nonpayment for such services.

3.1.2 The Fee Schedule, as set out in Exhibit "B" may be adjusted by an Amendment to the Master Consulting Agreement, after mutual written agreement of the parties, annually beginning one year from the effective date of the agreement. The County Manager will approve and execute any fee schedule amendment. Such amendment shall operate prospectively only and shall not alter fee schedules for CSA's in effect at the time of the amendment.

3.1.3 Compensation may be negotiated as a not to exceed price on a per-project basis, on each individual CSA.

3.1.4 Invoices must reference the applicable Consultant Services Authorization number, using an invoice form approved by the County Auditor.

3.1.5 Each individual invoice shall be due and payable forty-five (45) days after receipt by the COUNTY of correct, fully documented, invoice, in form and substance satisfactory to the COUNTY with all appropriate cost substantiations attached. All invoices shall be delivered to:

Polk County \_\_\_\_\_ Division  
P.O. Box 9005, Bartow, FL 33830  
Attention: Director

3.1.6 In order for both parties herein to close their books and records, the CONSULTANT will clearly state "Final Invoice" on the CONSULTANT's final/last billing to the COUNTY. This certifies that all services have been properly performed and all charges and costs have been invoiced to the COUNTY. Since this account will thereupon be closed, any and other further charges if not properly included on this final invoice are waived by the CONSULTANT.

3.1.7 Payment of the final invoice shall not constitute evidence of the COUNTY's acceptance of the work

3.1.8 Invoices shall be accompanied by time and task records for all billable hours appearing on the invoice. Additional documents may be requested by COUNTY and, if so requested, shall be furnished by CONSULTANT to County Auditor's satisfaction.

3.1.9 Project manager or designated payroll officer shall, by affidavit, attest to the correctness and accuracy of time charges and requested reimbursements.

#### 3.2 Reimbursable

3.2.1 All requests for payment of "out-of-pocket" expenses eligible for reimbursement under the terms of this Agreement shall be reimbursed per the County's Reimbursable Schedule, Exhibit "C", and include copies of paid receipts, invoices or other documentation acceptable to the COUNTY's Auditor. Such documentation shall be sufficient to establish that the expense was actually incurred and necessary in the performance of the Scope of Work described in this Agreement or CSA.

3.2.2 Reimbursable Expenses are the actual, pre-approved, expenses incurred directly in connection with the applicable Consultant Services Authorization, and include:

Overnight Deliveries  
Reproduction

Sub-Consultant

Long Distance Telephone Calls (excluding Florida cities located outside the boundaries of Polk County)

3.2.3 Mileage shall be reimbursed in accordance with F.S. 112.061 and COUNTY policy for pre-approved out-of-county travel (excluding travel from home offices located outside of Polk County to the Polk County line).

3.2.4 Reimbursable Expenses, including subconsultants, shall be reimbursed at cost.

3.2.5 Pre-approved travel costs shall be reimbursed in accordance with F.S. 112.061.

3.2.6 All assets, i.e. durable goods, purchased as reimbursable expenses become the property of the COUNTY upon completion of the work for which the asset was utilized. All such assets must be surrendered by delivery to the Polk County Utilities Division offices upon demand, termination of the Agreement, or the conclusion of the project, whichever occurs first.

3.2.7 CONSULTANT shall maintain a current inventory of all such assets.

#### 4.0 Insurance

##### 4.1 General Provisions

4.1.1 CONSULTANT shall maintain, at all times, the following minimum levels of insurance and shall, without in any way altering their liability, obtain, pay for and maintain insurance for the coverages and amounts of coverage not less than those set forth below and provide the COUNTY with a Certificate of Insurance and an opportunity to inspect a certified copy of each policy applicable to this Agreement followed thereafter by an annual Certificate of Insurance satisfactory to the COUNTY to evidence such coverage before any work commences. Such certificates will provide that there shall be no termination, non-renewal, modification or expiration of such coverage without thirty (30) days prior written notice to the COUNTY.

4.1.2 The COUNTY shall be named as an additional insured on all CONSULTANT policies related to the project, excluding professional liability and worker's compensation. The policies shall contain a waiver of subrogation in favor of Polk County. All insurance coverage shall be written with an insurer having an A.M. Best Rating of at least the "A" category and size category of VIII.

4.1.3 The CONSULTANT's self-insured retention or deductible per line of coverage shall not exceed \$25,000.00 without the permission of the COUNTY.

4.1.4 If there is any failure by the CONSULTANT to comply with the provisions of this section, the COUNTY may, at its option, on notice to the CONSULTANT, suspend the work for cause until there is full compliance.

4.1.5 COUNTY may, at its sole discretion, purchase such insurance at CONSULTANT's expense provided that the COUNTY shall have no obligation to do so and if the COUNTY shall do so, it shall not relieve CONSULTANT of its obligation to obtain insurance.

4.1.6 The CONSULTANT shall not be relieved of or excused from the obligation to obtain and maintain such insurance amount and coverages.

4.1.7 All CONSULTANT's sub-contractors shall be required to include COUNTY and CONSULTANT as additional insured on their General Liability Insurance policies.

4.1.8 In the event that subconsultants used by the CONSULTANT do not have insurance, or do not meet the insurance limits, CONSULTANT shall indemnify and hold harmless the COUNTY for any claim in excess of the subconsultants' insurance coverage.

4.1.9 The CONSULTANT shall not commence work under this Agreement until all insurance required as stated herein has been obtained and such insurance has been approved by the COUNTY.

4.2 Comprehensive Automobile Liability Insurance. \$1,000,000.00 combined single limit of liability for bodily injuries, death and property damage resulting from any one occurrence, including all owned, hired, and non-owned vehicles.

4.3 Commercial General Liability. \$1,000,000.00 combined single limit of liability for bodily injuries, death and property damage, and personal injury resulting from any one occurrence, including the following coverages:

4.3.1 Premises and Operations:

Broad Form Commercial General Liability Endorsement to include Blanket Contractual liability (specifically covering, but not limited to, the contractual obligations assumed by the Firm); Personal Injury (with employment and contractual exclusions deleted); and Broad Form Property Damage coverage.

4.3.2 Independent Contractors:

Delete Exclusion relative to collapse, explosion and underground; Property Damage Hazards; Cross Liability Endorsement; and Contractual liability (specifically covering, but not limited to, the contractual obligations assumed by the Firm)

4.4 Umbrella (Excess) Liability Insurance. Umbrella Liability with limits of not less than \$1,000,000.00, exclusive of defense costs, to be in excess of all other coverages. Such coverage shall be at least as broad as the primary coverages above, with any excess umbrella layers written on a strict following form basis over the primary coverage. All such policies shall be endorsed to provide defense coverage obligations.

4.5 Professional Liability Insurance. \$2,000,000.00 for design errors and omissions, inclusive of defense costs. CONSULTANT shall be required to provide continuing Professional Liability Insurance to cover each project for a period of two (2) years after the project is completed. Insurance requirements may vary depending on projects as determined by the County Director of Risk Management and Insurance. The COUNTY may require the CONSULTANT to provide a higher level of coverage for a specific project and time frame.

4.6 Performance, Payment and Other Bonds. CONSULTANT shall furnish Performance and Payment Bonds specific to each project if required and agreed to under the Consultant Service Agreement for the project.

4.7 Worker's Compensation. The CONSULTANT shall provide, pay for, and maintain worker's compensation insurance on all employees, its agents or subcontractors as required by Florida Statutes.

5.0 Standard of Care

5.1 CONSULTANT has represented to the COUNTY that it has the personnel and experience necessary to perform the work in a professional and workmanlike manner.

5.2 CONSULTANT shall exercise the same degree of care, skill, and diligence in the performance of the Services as is provided by a professional of like experience, knowledge and resources, under similar circumstances.

5.3 CONSULTANT shall, at no additional cost to COUNTY, re-perform services which fail to satisfy the foregoing standard of care or otherwise fail to meet the requirement of this Agreement.

5.4 The CONSULTANT warrants that all services shall be performed by skilled and competent personnel to the professional standards in the field.

#### 6.0 **Indemnification**

6.1 **General.** Having considered the risks and potential liabilities that may exist during the performance of the Services and in consideration of the promises included herein, COUNTY and CONSULTANT agree to allocate such liabilities in accordance with this Section.

#### 6.2 **Indemnification.**

6.2.1 CONSULTANT, to the extent permitted by law, shall indemnify, defend (by counsel reasonably acceptable to COUNTY) protect and hold COUNTY, and its officers, employees and agents, free and harmless from and against any and all, including, but not limited to, any claims, actions, causes of action, liabilities, penalties, forfeitures, damages, losses and expenses (including, without limitation, attorney's fees and costs during negotiation, through litigation and all appeals therefrom), or death of or injury to any person or damage to any property whatsoever, arising out of or resulting from (i) the failure of CONSULTANT to comply with applicable non-conflicting laws, rules or regulations, (ii) the breach by CONSULTANT of its obligations under this Agreement, (iii) any claim for trademark, patent or copyright infringement arising out of the scope of CONSULTANT's performance of this Agreement, or (iv) the negligent act, errors or omissions, or intentional or willful misconduct, of CONSULTANT, its sub-consultants, agents, employees and invitees; provided, however, that CONSULTANT shall not be obligated to defend or indemnify the COUNTY with respect to any such claims or damages arising out of the COUNTY's negligence.

6.2.2 COUNTY review, comment and observation of the CONSULTANT's work and performance of this Agreement shall in no manner constitute a waiver of the indemnification provisions of this Agreement.

6.2.3 CONSULTANT agrees that it bears sole legal responsibility for its work and work product, and the work and work product of subconsultants and their employees, and/or for CONSULTANT's performance of this Agreement and its work product(s).

6.3 Survival. Upon completion of all Services, obligations and duties provided for in this Agreement, or in the event of termination of this Agreement for any reason, the terms and conditions of this Agreement shall survive as if the Agreement were in full force and effect.

7.0 **Independent Contractor**

7.1 CONSULTANT undertakes performance of the Services as an independent contractor and shall be wholly responsible for the methods of performance.

7.2 COUNTY shall have no right to supervise the methods used, but COUNTY shall have the right to observe such performance.

7.3 CONSULTANT shall work closely with COUNTY in performing Services under this Agreement.

7.4 The CONSULTANT shall not pledge the COUNTY's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien or any form of indebtedness and shall have no right to speak for or bind the COUNTY in any manner.

7.5 CONSULTANT further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

8.0 **Authority to Practice**

8.1 The CONSULTANT hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner.

9.0 **Compliance with Laws**

9.1 In performance of the Services, CONSULTANT will comply with applicable regulatory requirements including federal, state, special district, and local laws, rules, regulations, orders, codes, criteria and standards.

10.0 **Subcontracting**

10.1 The COUNTY reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractor.

10.2 If a subcontractor fails to perform or make progress, as required by this Agreement, and it is necessary to replace the subcontractor to complete the work in a timely fashion, the CONSULTANT shall promptly do so, subject to acceptance of the new subcontractor by the COUNTY. Failure of a Subcontractor to timely or properly perform its obligations shall not relieve CONSULTANT of its obligations hereunder.

11.0 **Federal and State Taxes**

11.1 The COUNTY is exempt from Federal Tax and State Sales and Use Taxes. Upon request, the COUNTY will provide an exemption certificate to CONSULTANT. The CONSULTANT shall not be exempted from paying sales tax to its suppliers for materials to fulfill contractual obligations with the COUNTY, nor shall the CONSULTANT be authorized to use the COUNTY's Tax Exemption Number in securing such materials.

12.0 **Public Entity Crimes**

12.1 The CONSULTANT understands and acknowledges that this Agreement with the COUNTY will be void, in the event the conditions under Section 287.133, Florida Statutes applies to the CONSULTANT, relating to conviction for a public entity crime.

13.0 **COUNTY's Responsibilities**

13.1 COUNTY shall be responsible for providing access to all COUNTY project sites, and providing information in the COUNTY's possession that may reasonably be required by CONSULTANT, including; existing reports, studies, financial information, and other required data that are available in the files of the COUNTY.

**14.0 Termination of Agreement**

14.1 This Agreement may be terminated by the CONSULTANT upon thirty (30) days prior written notice to the COUNTY in the event of substantial failure by the COUNTY to perform in accordance with the terms of the Agreement through no fault of the CONSULTANT.

14.2 This Agreement may be terminated by the COUNTY with or without cause immediately upon written notice to the CONSULTANT.

14.3 Unless the CONSULTANT is in breach of this Agreement, the CONSULTANT shall be paid for services rendered to the COUNTY's satisfaction through the date of termination.

14.4 After receipt of a Termination Notice and except as otherwise directed by the COUNTY, the CONSULTANT shall:

14.4.1 Stop work on the date and to the extent specified.

14.4.2 Terminate and settle all orders and subcontracts relating to the performance of the terminated work.

14.4.3 Transfer all work in process, completed work, and other material related to the terminated work to the COUNTY.

14.4.4 Continue and complete all parts of the work that have not been terminated.

14.5 The CONSULTANT shall be paid for services actually rendered to the date of termination.

**15.0 Uncontrollable Forces (Force Majeure)**

15.1 Neither the COUNTY nor CONSULTANT shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to fire, flood, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, and governmental actions.

15.2 Neither party shall, however, be excused from performance if nonperformance is due to forces which are preventable, removable, or remediable and which the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed or remedied with reasonable dispatch. 15.3 The nonperforming party shall, within a reasonable time of being prevented or delayed from performance by an Uncontrollable Force, give written notice to the other party describing the circumstances and Uncontrollable Forces preventing continued performance of the obligations of this Agreement.

**16.0 Governing Law and Venue**

16.1 This Agreement shall be governed in all respects by the laws of the State of Florida and any litigation with respect thereto shall be brought only in the courts of Polk County, Florida or the United States District Court, Middle District of Florida located in Hillsborough County, Florida.

**17.0 Non-Discrimination**

17.1 The CONSULTANT warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, gender, age or national origin.

18.0 **Waiver**

18.1 A waiver by either COUNTY or CONSULTANT of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach. The making or acceptance of a payment by either party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any subsequent default or breach.

19.0 **Severability**

19.1 The invalidity, illegality, or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way affect the validity or enforceability of any other portion or provision of the Agreement.

19.2 Any void provision shall be deemed severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void.

19.3 The parties further 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.

19.4 The provisions of this section shall not prevent the entire Agreement from being void should a provision which is of the essence of the Agreement be determined to be void.

20.0 **Entirety of Agreement**

20.1 The COUNTY and the CONSULTANT agree that this Agreement sets forth the entire Agreement between the parties, and that there are no promises or understandings other than those stated herein.

20.2 This Agreement supersedes all prior agreements, contracts, proposals, representations, negotiations, letters or other communications between the COUNTY and CONSULTANT pertaining to the Services, whether written or oral.

20.3 None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered except by written instrument executed by the parties hereto.

21.0 **Modification**

21.1 The Agreement may not be modified unless such modifications are evidenced in writing signed by both COUNTY and CONSULTANT. Such modifications shall be in the form of a written Amendment executed by both parties.

22.0 **Successors and Assigns**

22.1 COUNTY and CONSULTANT each binds itself and its partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, executors, administrators, assigns, and legal representatives.

22.2 CONSULTANT shall not assign this Agreement without the express written approval of the COUNTY by executed amendment.

22.3 In the event of a merger, the surviving corporation shall be substituted for the contracting party to this agreement and such substitution shall be affirmed by the Polk County Board of County Commissioners by executed amendment.

23.0 **Contingent Fees**

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

24.0 **Truth-In-Negotiation Certificate**

24.1 Execution of this Agreement by the CONSULTANT shall act as the execution of a Truth-in-Negotiation certificate certifying that the wage rates and costs used to determine the compensation provided for in this Agreement are accurate, complete, and current as of the date of the Agreement.

24.2 The said rates and costs shall be adjusted to exclude any significant sums should the COUNTY determine that the rates and costs were increased due to inaccurate, incomplete or noncurrent wage rates or due to inaccurate representations of fees paid to outside consultants. The COUNTY shall exercise its rights under this "Certificate" within one (1) year following payment.

25.0 **Ownership of Documents**

25.1 CONSULTANT shall be required to cooperate with other consultants relative to providing information requested in a timely manner and in the specified form. Any and all documents, records, disks, original drawings, or other information shall become the property of the COUNTY for its use and/or distribution as may be deemed appropriate by the COUNTY. CONSULTANT is not liable for any damages, injury or costs associated with the COUNTY use or distribution of these documents for purposes other than those originally intended by CONSULTANT.

26.0 **Access and Audits**

26.1 CONSULTANT shall maintain adequate records to justify all charges and costs incurred in performing the work for at least three (3) years after completion of this Agreement. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours at the CONSULTANT's place of business.

26.2 Misrepresentations of billable time or reimbursable expenses as determined by the Auditor to the Polk County Board of County Commissioners shall result in the recovery of any resulting overpayments. The COUNTY's cost of recovery shall be the sole expense of the CONSULTANT, including accounting and legal fees, court costs and administrative expenses.

26.3 Intentional misrepresentations of billable hours and reimbursable expenses will be criminally prosecuted to the fullest extent of the law.

26.4 All invoices submitted are subject to audit and demand for refund of overpayment up to three (3) years following completion of all services related to this Agreement.

27.0 **Notice**

27.1 Any notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person or sent by Federal-Express or by Certified Mail, postage prepaid as follows:

**As to County:**                    **Polk County Utilities Division**  
P.O. Box 9005  
Bartow, FL 33830  
**Attention: Director**

As to Consultant:

27.2 Notices shall be effective when received at the addresses as specified above. Changes in the respective addresses to which such notice is to be directed may be made from time to time by either party by written notice to the other party. Facsimile transmission is acceptable notice effective when received, however, facsimile transmissions received (i.e.; printed) after 5:00 p.m., or on weekends or holidays, will be deemed received on the next business day. The original of the notice must additionally be mailed as required herein.

27.3 Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of CONSULTANT and COUNTY.

28.0 **Service of Process**

As to County:                    County Attorney  
County Administration Building  
330 W. Church Street, 4th Floor  
Bartow, Florida 33830

As to Consultant:

29.0 **Contract Administration**

29.1 Services of CONSULTANT shall be under the general direction of the Utilities Division Director, or their successor, who shall act as the COUNTY's representative during the term of the Agreement.

30.0 **Key Personnel**

30.1 CONSULTANT shall notify COUNTY in the event of key personnel changes, which might affect this Agreement. To the extent possible, notification shall be made within ten (10) days prior to changes. CONSULTANT at COUNTY's request shall remove without consequence to the COUNTY any Subcontractor or employee of the CONSULTANT and replace him/her with another employee having the required skill and experience.

COUNTY has the right to reject proposed changes in key personnel. The following personnel shall be considered key personnel:

Name:

Name:

**31.0. Annual Appropriations**

31.1 CONSULTANT acknowledges that the COUNTY, during any fiscal year, shall not expend money, incur any liability, or enter into any agreement which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any agreement, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such agreement. Nothing herein contained shall prevent the making of agreements for a period exceeding one year, but any agreement so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years. Accordingly, the COUNTY's performance and obligation to pay under this agreement is contingent upon annual appropriation.

**32.0 Liquidated Damages**

32.1 The parties hereto agree that liquidated damages will be assessed against the CONSULTANT for CONSULTANT's failure to meet the final deliverable date in the Performance Schedule in the Scope of Work, but only to the extent and in proportion to CONSULTANT's fault in causing the delay as compared to other causes, and to the extent the CONSULTANT is not delayed by reasons beyond CONSULTANT's reasonable control.

**33.0 Unauthorized Alien(s)**

33.1 The CONSULTANT agrees that unauthorized aliens shall not be employed nor utilized in the performance of the requirements of this Agreement. The County shall consider the employment or utilization of unauthorized aliens a violation of Section 274A(e) of the Immigration and Naturalization Act (8 U.S.C. 1324a). Such violation shall be cause for unilateral termination of this Agreement by the County. The form "AFFIDAVIT CERTIFICATION IMMIGRATION LAWS" will be signed by the CONSULTANT and submitted as part of the Agreement.

33.2 Employers may avail themselves of a program by the U.S. Immigration and Customs Enforcement called E-Verify. E-Verify is an Internet-based system operated by U.S. Citizenship and Immigration Services (USCIS), part of the Department of Homeland Security (DHS), in partnership with the Social Security Administration (SSA). E-Verify is currently free to employers. E-Verify provides an automated link to Federal databases to help employers determine employment eligibility of new hires and the validity of their Social Security numbers.

33.3 If your company wishes to avail themselves of this program, you can register online for E-Verify at <https://www.vis-dhs.com/EmployerRegistration>, which provides instructions for completing the registration process. At the end of the registration process, you will be required to sign a Memorandum of Understanding (MOU) that provides the terms of agreement between you as the employer, the SSA, and DHS. An employee who has signatory authority for the employer can sign the MOU. Employers can use their discretion in identifying the best method by which to sign up their locations for E-Verify. To find out more about E-Verify, please visit [www.dhs.gov](http://www.dhs.gov) /e-verify or contact USCIS at 1-888-464-4218.

**34.0 Limitation of Liability.**

34.1 In no event, shall the COUNTY be liable to the VENDOR for indirect, incidental, consequential, special, exemplary, or punitive damages of any kind or nature, including loss of profit, whether foreseeable or not, arising out of or resulting from the nonperformance or breach of this contract by the COUNTY whether based in contract, common law, warranty, tort, strict liability, contribution, indemnity or otherwise.

(THE REMAINDER OF THE PAGE LEFT INTENTIONALLY BLANK)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

**Attest:**  
**RICHARD WEISS**  
Clerk of the Board

**POLK COUNTY, a political subdivision  
of the State of Florida**

**By:** \_\_\_\_\_  
Deputy Clerk

**By:** \_\_\_\_\_  
Chairman, Board of County Commissioners

**Date Approved by Board:** \_\_\_\_\_

**Review as to form and legal sufficiency**

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

**Attest:**

**(COMPANY NAME)**  
a \_\_\_\_\_ Corporation

**By:** \_\_\_\_\_  
Corporate Secretary

**By:** \_\_\_\_\_

\_\_\_\_\_  
[Print Name]

\_\_\_\_\_  
[Print Name]

**DATE:** \_\_\_\_\_

\_\_\_\_\_  
[Title]

**SEAL**

**DATE:** \_\_\_\_\_

ACKNOWLEDGEMENT OF FIRM, IF A CORPORATION

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

The foregoing instruments was acknowledged before me this

\_\_\_\_\_ By \_\_\_\_\_

(Date)

(Name of officer or agent, title of officer or agent)

on behalf of the corporation, pursuant to the powers conferred upon said officer or agent by the corporation. He/she personally appeared before me at the time of notarization, and is personally known to me or has produced

\_\_\_\_\_ as identification and did certify to have knowledge of the matters stated (Type of Identification)

in the foregoing instrument and certified the same to be true in all respects. Subscribed and sworn to (or affirmed) before me this \_\_\_\_\_

(Date)

\_\_\_\_\_ Commission Number \_\_\_\_\_

(Official Notary Signature and Notary Seal)

\_\_\_\_\_ Commission Expiration Date \_\_\_\_\_

(Name of Notary typed, printed or stamped)

ACKNOWLEDGEMENT OF FIRM, IF A PARTNERSHIP

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_ The foregoing instrument was

acknowledged before me this \_\_\_\_\_ By \_\_\_\_\_

(Date)

(Name of acknowledging partner or agent)

on behalf of \_\_\_\_\_ a partnership. He/She personally appeared before me at the time of notarization, and is personally known to me or has produced \_\_\_\_\_ as identification and did certify to have knowledge of

the matters (Type of Identification)

in the foregoing instrument and certified the same to be true in all respects.

Subscribed and sworn to (or affirmed) before me this \_\_\_\_\_

(Date)

\_\_\_\_\_ Commission Number \_\_\_\_\_

(Official Notary Signature and Notary Seal)

\_\_\_\_\_ Commission Expiration Date \_\_\_\_\_

(Name of Notary typed, printed or stamped)

ACKNOWLEDGEMENT OF FIRM, IF AN INDIVIDUAL

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this

\_\_\_\_\_ By \_\_\_\_\_

(Date)

(Name of acknowledging)

who personally appeared before me at the time of notarization, and is personally known to me or has produced \_\_\_\_\_ as identification and did certify to have knowledge of

the matters (Type of Identification) in the foregoing instrument and certified the same to be true in all respects. Subscribed and sworn to (or affirmed) before me this \_\_\_\_\_

(Date)

\_\_\_\_\_ Commission Number \_\_\_\_\_

(Official Notary Signature and Notary Seal)

\_\_\_\_\_ Commission Expiration Date \_\_\_\_\_

(Name of Notary typed, printed or stamped)