BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: April 21, 2004 Division: Public Works

Bulk Item: Yes X No ____ Department: Eng./ConstructionManagement

AGENDA ITEM WORDING: Approval to award a contract with Clemons, Rutherford & Associates, Inc. to provide Professional Services for Plantation Key Courthouse Renovations.

ITEM BACKGROUND: In February, 2003 a request for Professional Services for the Plantation Key Courthouse Renovation was advertised and of the seven responses received Heery International, Inc. was selected. On May 21, 2003 BOCC awarded the contract to Heery International, Inc. Heery International, Inc. requested modifications to the contract that were not approved. On July 15, 2003, the BOCC gave approval to rescind contract with Heery International. In September 2003 another Request for Professional Services was advertised and on October 21, 2003 four firms responded: Clemens, Rutherford & Associates, Inc.; William P. Horn Architect; R. J. Heinsenbottle, Architect; and Borelli/Miller Group. On November 10, 2003 the selection committee held a Public Meeting to select the firm most qualified. The tabulations of the selection committee resulted in the following rankings, 1st R. J. Heinsenbottle, 2nd Clemens, Rutherford & Associates, Inc., 3rd Borelli Miller Group and 4th William P. Horn.
On March 12, 2004, R.J. Heisenbottle declined the commission for the Plantation Key Courthouse Renovations.
Clemons, Rutherford & Associates is the 2nd ranked for selection.

PREVIOUS RELEVANT BOCC ACTION: On 12/18/02 BOCC approved infrastructure monies for the Capital Improvements with bond monies. On 12/17/03 the BOCC tabled discussion until the County Attorney can research the selection process.

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATIONS: Approval as stated above.

TOTAL COST: $109,200.00 (based on 7.8% of $1,400,000.00) **BUDGETED:** Yes X NO ___

COST TO COUNTY: $109,200.00 **SOURCE OF FUNDS:** Bond Funds

REVENUE PRODUCING: YES ___ NO X AMOUNT PER MONTH ____ YEAR ____

APPROVED BY: County Atty. ____ OMB/Purchasing ____ Risk Management ____

Item Prepared By: ____ ____
Stephanie Coffer, Construction Manager, David S. Koppel, P.E., County Engineer

DIVISION DIRECTOR APPROVAL: ____ 4/2/04
Dent Pierce, Division Director

DOCUMENTATION: Included X To follow ____ Not required ____

DISPOSITION: ____ AGENDA ITEM # C26

March 12, 2004

MONROE COUNTY
CONSTRUCTION MANAGEMENT
Hard copy of fax
MAR 16 2004
TIME:
RECEIVED BY:

Ms. Stephanie Coffer
Director of Construction and Planing
Monroe County Construction Management
Public Works Division, Engineering Department
1100 Simonton Street
Key West, Florida 33040

Re: Monroe County Request for Professional Services
Marathon Courthouse Renovation
Plantation Key Courthouse Renovation/Addition

Dear Ms. Coffer:

It is with sincere disappointment that I must advise you that R.J. Heisenbottle Architects, P.A. cannot accept the commission for the Marathon and Plantation Key Courthouses under the terms and conditions of your A/E Agreement.

To proceed with the contract without compensation for Programming and Master Planning, without compensation for weekly construction meetings and without reimbursement for travel expenses, would be a serious financial mistake for my firm. Moreover, the cost of increasing our professional liability insurance coverage from $1 million to $3 million would also be cost prohibited without additional compensation.

The hours and corresponding labor rates associated with weekly construction site observations alone exceed the potential construction administration phase fee allowing no time for project administration, RFI responses, shop drawing and change order review.

Accordingly, rather then begin a project where we cannot provide the quality of service that you desire and need, we must respectfully decline to participate.

Thank you for your courtesy,

Sincerely yours,

R.J. HEISENBOTTLE ARCHITECTS, P.A.

Richard J. Heisenbottle, AIA
President

cc: Mr. Keith Reeves, AIA – Architect s Design Group
Oscar Perez – Ojito & Associates, Inc.
Douglas Wood, P.E. – Douglas Wood & Associates, Inc.
Robert Betancourt – Gartek Engineering Corporation
Mel Garcia – Gartek Engineering Corporation

340
MINORCA
AVENUE
CORAL
GABLES
FLORIDA
33134
305.446.7799

HEISENBOTTLE
ARCHITECTS

A Professional Association
AAC001513

COUNTY of MONROE
KEY WEST FLORIDA 33040
(305) 294-4641

BOARD OF COUNTY COMMISSIONERS
Mayor Murray E. Nelson, District 5
Mayor Pro Tem David P. Rice, District 4
Dixie M. Spehar, District 1
George Neugent, District 2
Charles "Sonny" McCoy, District 3

March 16, 2004

CRA Architects
2027 Thomasville RD
Tallahassee, FL 32308

RE: Plantation Key Courthouse Renovation

Dear Mr. Rutherford:

Your firm responded to Monroe County's Request for Qualifications for the above-stated project.

R. J. Heisenbottle Architects has declined our offer of a contract on this project.

We are anxious to get the project underway and would like the opportunity to enter into a contract with your firm.

Please find the enclosed copy of the contract for your review and feel free to call me with any questions or concerns.

Sincerely,

Stephanie Coffer
Director of Construction & Planning

SC/cai

cc: Dent Pierce
David Koppel

1100 Simonton Street
Key West Fl 33040

Tel: 305-292-4429
Fax: 305-295-4321

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

CONTRACT SUMMARY

Contract with: CRA, Inc

Contract #_____

Effective Date: April 21, 2004

Expiration Date: _____

Contract Purpose/Description:
Professional Services for Plantation Key Courthouse Renovations

Contract Manager: Stephanie Coffer (Name) | 4468 (Ext.) | Construction Management (Department/Stop #)

for BOCC meeting on 04/21/04 Agenda Deadline: 4/06/04

CONTRACT COSTS

Total Dollar Value of Contract: $ $109,200. Current Year Portion: $ _____

Budgeted? Yes ☒ No ☐ Account Codes: 307-24001-560620-CE0302-560620

Grant: $ _____ ____-____-____-____-____

County Match: $ _____ ____-____-____-____-____

____-____-____-____-____

ADDITIONAL COSTS

Estimated Ongoing Costs: $_____/yr (Not included in dollar value above)

For: _____ (eg. maintenance, utilities, janitorial, salaries, etc.)

CONTRACT REVIEW

	Date In	Changes Needed	Reviewer	Date Out
Division Director	4/14/04	Yes ☐ No ☐	[signature]	4/14/04
Risk Management	4/12/04	Yes ☐ No ☑	[signature]	4/12/04
O.M.B./Purchasing	____	Yes ☐ No ☑	Sheila A Barker	4-14 04
County Attorney	4/7/04	Yes ☑ No ☐	[signature]	4/13/04

Comments: SKR NOTE FOR CHANGE - Changes were typographical errors and have been corrected. [initials]

OMB Form Revised 2/27/01 MCP #2

CONTRACT FOR

PROFESSIONAL SERVICES

BETWEEN OWNER AND ARCHITECT/ENGINEER

2003 EDITION

These contract documents should be used only after consultation with counsel. The documents are not intended as legal advice appropriate to any specific situation, nor do they purport to address all issues which may arise between the contracting parties. The documents should be amended or supplemented where appropriate.

THIS CONTRACT FOR PROFESSIONAL SERVICES BETWEEN OWNER AND ARCHITECT/ENGINEER (the "Contract") is made and entered into by MONROE COUNTY, BOARD OF COUNTY COMMISSIONERS (the "Owner") and CRA Architects. This contract is executed under seal and shall be effective on the date executed by the last party to execute it.

The professional services required by this Contract are to be rendered for the Plantation Key Courthouse Renovation, identified as the Project, described as follows:

These services shall include, but not be limited to: Preparation and completion of the design program for space requirements and relationships, schematic design, design development, preparation of contract documents for bids, preparation and advertisement for Request for Bids, tabulation and review of bids, recommendation of contract awards, cost estimating during design and document preparation, administration of contract documents, consultation and on-site inspections during construction, review and recommend approval of contractor invoices, preparation and submittal of permit applications, zoning applications, public presentations and presentations to the County Commission.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements stated herein, and for other good and valuable consideration, the sufficiency of which hereby acknowledged, the Owner and the Architect/Engineer agree:

FORM OF AGREEMENT

ARTICLE 1

1.1 REPRESENTATIONS AND WARRANTIES

By executing this Contract, the Architect/Engineer makes the following express representations and warranties to the Owner:

1.1.1 The Architect/Engineer is a professional qualified to act as the Architect/Engineer for the Project and is licensed to practice Architecture/Engineering by all public entities having jurisdiction over the Architect/Engineer and the Project;

1.1.2 The Architect/Engineer shall maintain all necessary licenses, permits or other authorizations necessary to act as Architect/Engineer for the Project until the Architect/Engineer's duties thereunder have been fully satisfied;

1.1.3 The Architect/Engineer has become familiar with the Project site and the local conditions under which the Project is to be designed, constructed, and operated;

1.1.4 The Architect/Engineer shall prepare all documents required by this Contract 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 Architect/Engineer 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;

1.1.5 The Architect/Engineer assumes full responsibility to the extent allowed by law with regards to his performance and those directly under his employ as Architect/Engineer of Record.

1.1.6 The Architect/Engineer's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Work. The Architect/Engineer shall submit, for the Owner's and Construction Manager's information, a schedule for the performance of the Architect/Engineer's services which may be adjusted as the Project proceeds if approved by the Owner, and shall include allowances for periods of time required for the Owner's and Construction Management's review, and for approval of submission by authorities having jurisdiction over the Project. Time limits established by this schedule and approved by the Owner may not be exceeded by the Architect/Engineer except for delay caused by events not within the control of the Architect/Engineer or foreseeable by him. In the event the Architect/Engineer does not conform to the schedule, then the Architect/Engineer

may be assessed a charge up to one percent (1%) of the fee per week until the work product is produced in an acceptable manner. The penalty shall apply only to the completion of documents required for bidding, said date being met with the delivery of one final set to the Owner. The Owner shall assess the charge only after it is determined that the work is solely the fault of the Architect/Engineer and his subconsultants and is not the fault of the owner or other parties not under the control of the Architect/Engineer.

ARTICLE II

SCOPE OF ARCHITECT/ENGINEER'S BASIC SERVICE

2.1 DEFINITION

2.1.1 Architect/Engineer's Basic Services consist of those described in Paragraphs 2.2 through 2.8, and other services identified as part of Basic Services, and include normal, civil, structural, mechanical, and electrical engineering services.

2.1.2 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 Owner. The Architect/Engineer shall be responsible for designing the Project in accordance with the analyses and recommendations of the geotechnical information furnished per Article 4.4.

2.2 SCHEMATIC DESIGN PHASE

2.2.1 The Architect/Engineer shall review the program, schedule and construction budget furnished by the Owner to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with the Owner.

2.2.2 The Architect/Engineer shall review with the Owner and Construction Manager: proposed site use and improvements, required permits, zoning, selection of materials, building systems and equipment; and method of Project delivery.

2.2.3 The Architect/Engineer shall review with the Owner and Construction Manager alternative approaches to design and construction of the Project.

2.2.4 Based on the mutually agreed-upon program, schedule and construction budget requirements, the Architect/Engineer shall prepare, for approval by the Owner, Schematic Design Documents consisting of drawings and other documents illustrating the scale and relationship of Project components.

2.2.5 At levels of completion of 25%, 50% and 75% of the Schematic Design Phase, the Architect/Engineer shall provide schematic design studies for the Owner's review and the Construction Manager's information.

2.2.6 Upon completion of the Schematic Design Phase, the Architect/Engineer shall provide drawings, outline specifications, estimate of anticipated cost in accordance with the schematic designs, and other documents for the Owner's approval and the Construction Manager's information.

2.2.7 The Schematic Design must be approved in writing, by the Owner prior to Architect/Engineer continuing to the Design Development Phase.

2.3 SCHEMATIC DESIGN PHASE REQUIREMENTS

2.3.1 The Schematic Design Phase services shall respond to program requirements and consist of preparation of: conceptual site and building plans, preliminary sections and elevations, development of approximate dimensions, areas and volumes, concept sketches as required to explain the design intent to the owner. Perspective renderings and models, if required by the Owner, will be billed as an additional service as billed as a reimbursable expense if that service is performed by additional consultants after the Owner's written approval.

The Architect/Engineer shall perform the following design phase tasks:

a. Structural Design/Documentation services during the Schematic Design Phase consisting of recommendations regarding basic structural materials and systems, analyses, and development of conceptual design solutions for: a predetermined structural system and alternate structural systems.

b. Mechanical Design/Documentation services during the Schematic Design Phase consisting of consideration of alternate materials, systems and equipment, and development of conceptual design solutions for: energy source (s), energy conservation, heating and ventilating, air conditioning, plumbing, fire protection; special mechanical systems, process systems, and general space requirements.

c. Electrical Design/Documentation services during the Schematic Design Phase consisting of consideration of alternate systems, recommendations regarding basic electrical materials, systems and

equipment, analyses, and development of conceptual design solutions for: power service and distribution, lighting, telephones, fire detection and alarms, security systems, electronic communications, special electrical systems, and general space requirements.

d. Civil Design/Documentation services during the Schematic Design Phase consisting of consideration of alternate materials and systems and development of conceptual design solutions for: on-site utility systems, off-site utilities work, fire protection systems, drainage systems, sewage treatment, and paving.

2.4 DESIGN DEVELOPMENT/DOCUMENT PHASE

2.4.1 Based on the approved Schematic Design Documents and any adjustments authorized by the Owner in the program, schedule or construction budget, the Architect/Engineer shall prepare Design Development Documents for the Construction Manager's review and the Owner's approval. The Design Development Documents shall consist of drawings and other documents that establish and describe the size and character of the Project as to architectural/engineering, structural, mechanical and electrical systems, materials and such other elements as may be appropriate.

2.4.2 At intervals mutually agreeable to the Owner, Construction Manager and Architect/Engineer, the Architect/Engineer shall provide drawings and other documents which depict the current status of design development for the Owner's review and the Construction Manager's information. The Architect/Engineer shall provide an estimate of anticipated cost in accordance with the design development phase.

2.4.3 Upon completion of the Design Development Phase, the Architect/Engineer shall provide drawings, outline specifications and other documents for the Owner's approval and the Construction Manager's information. The Architect/Engineer shall provide an estimate of anticipated costs in accordance with the design development phase.

2.4.4 The Design Development Documents must be approved in writing, by the Owner prior to Architect/Engineer continuing to the Construction Documents Phase.

2.5 DESIGN DEVELOPMENT PHASE REQUIREMENTS

To satisfactorily perform the design development phase requirement, the Architect/Engineer must complete the tasks set forth in paragraphs 2.5.1 - 2.5.13.

2.5.1 Floor Plans - This consists of general plans, overall coordinating plans, and plan enlargements for important and special areas.

Data required:

a. Building perimeter (footprint) and exterior wall type, thickness and composition fixed
b. Structural grid or system
c. Major mechanical/electrical systems determined and their requirements reflected and indicated on plans
d. Indicate buildings core - elevators, stairs, etc.
e. All internal partitions of appropriate thickness indicated
f. Floor, slab, and level elevations
g. Typical door types
h. Typical partition types
i. Built-in furniture items - special furniture and equipment (early clarification of what is "NIC" and "by owner")
j. Larger scale (e.g., ¼"). Key areas, lobby, entries, public plaza, major corridors,special spaces, etc. Required: All surfaces (floor, wall, and ceiling treatments), furniture indication, and layout.
k. Evacuation routes identified (to include locating necessary posting of evacuation route plans).

2.5.2 General Elevations

a. Total full-height facades including roof structures
b. All fenestration
c. Overall vertical building and floor heights
d. Indicate cross-reference points with sections
e. Indicate setbacks, building profiles, expansion joints, etc.
f. Indicate treatment of visible mechanical equipment
g. System impact (precast concrete, stone, panel systems, metal/glass curtain wall, etc.) properly selected by adequate technical investigation.

2.5.3 Sections

Overall Sections - Overall building longitudinal and transverse "building explanation" type.

Detail Wall Sections - Largest scale (e.g., ¾"). Dominate full-height sections conveying basic building configuration, to indicate:

a. Foundation and perimeter treatment
b. Typical wall construction
c. Back-up structure, abutting floor systems
d. Window location and insulation methods

e. Flashing, masonry coursings
f. Mechanical penetrations impact (furring, etc.)
g. Parapet design

2.5.4 Details - Large scale (1-1/2", 3") as required. Indicate key conditions.

a. Window types: divisions, pattern, mullion profiles, vent detail, glazing type, jamb/head, plan section
b. Hollow metal (typical only; keyed to plans and schedules)
c. Frame types (typical only; for compatibility and profile)
d. Stair types - egress, public, exterior (including railing design) Metal and glass walls, borrowed lights, etc.; for division, profile, and glazing
f. Interior partition types (typical only; keyed to plans and schedules)
g. Built-in furniture items, receptions, desks, work tops, counters, cabinet types, display cases, recesses, wardrobes, millwork, etc.

2.5.5 Interior Elevations - Typical and special spaces, interfaced with, and cross-referenced to, floor and reflected ceiling plans. Indicate:

a. Breaks
b. Level changes
c. Pertinent vertical dimensions.

2.5.6 Reflected Ceiling Plans - Typical and special space. Integrated plans reflecting structural, mechanical, and electrical impacts. Plans to indicate:

a. Lighting layouts
b. Soffits, coves, furrings
c. Skylight locations
d. Ceiling materials
e. Acoustic treatments
f. Heating and ventilating register, diffuser locations
g. Sprinklers
h. Access panels

2.5.7 Schedules - Schedules to be nonrepetitive and comprehensive, with specific keying to floor plans and elevations.

a. Interior finishes
b. Doors and frames
c. Preliminary hardware
d. Windows/glazing

2.5.8 Specifications - Comprehensive, abbreviated methods, materials and systems descriptions in tune with drawings. Use CSI format with

applicable section numbers. Include all consultant portions as well as those special supplementary conditions specific to the project.

2.5.9 **Preliminary Estimate of Construction Cost** - Adjustment of the preliminary estimate of construction cost prepared at the end of schematic design.

2.5.10 Structural Design Development Set

a. Floor plans at the same scale as the architectural/engineering drawings
b. Typical floor framing plans, including sizing of beam drops, slab openings, thicknesses, and depressions
c. Framing indication and governing sizing at: roof structures, penthouse, bulkheads, other
d. Nontypical framing scheme where required: lobby, floors at grade, and other
e. All column points established
f. Final column schedule
g. Preliminary details and sections to adequately indicate structural system
h. Preliminary details of major unique conditions that impact on scheme (as determined by the Architect/Engineer)
i. Details indicating accommodation with mechanical/electrical at areas of major interface
j. Design development specifications
k. Any necessary recommended adjustments to the preliminary estimate of construction cost.

2.5.11 Mechanical/Electrical Design Development Set

a. Typical floor plans. Systems representation in diagrammatic (nondetailed) style, major items of equipment indicated, their space requirements and interface requirements with other systems. Indicate: major shafts (sizes), chases, mechanical rooms and electric closets, and convector/fan coil locations, etc.
b. Required punctures: wall, slab, and beam
c. Terminal plans (lobby, cellar, roof) with items of heavy equipment shown in diagrammatic style, with their space requirements indicated: (1) Boiler/heater spaces (include clear height requirements), (2) Transformer vaults (approved obtained from local utility company), (3) Switchgear, emergency generator, water storage tanks, fire pumps, etc., (4) Roof cooling towers, major air-conditioning and air-handling equipment, packaged units, etc.
d. Locations of major roof-air handling equipment: cooling towers, exhaust fans, etc.

e. Preliminary details of major and unique conditions that impact on scheme (as determined by the Architect/Engineer)

f. Data to be developed in conjunction and in coordination with the project team:

   1. Intergrated diagrammatic lighting plans indicating all overhead mechanical and electrical equipment for typical floor and special spaces
   2. Cuts and explanatory information for interior visual items such as: louvers, registers, heating/cooling units, and cabinets.
   3. Exterior louver requirements and proposed locations.

2.5.12 Site Design Development Set

a. Building location plan--building tied down dimensionally with pertinent adjacencies, street lines and grades, property lines, required setbacks, easements, rights of way, manholes, sewers, hydrants, light standards, etc., interfaced with survey.
b. Main entry level datum elevation with key exterior grades at building perimeter.
c. Site development grading and landscaping plans
d. Overall preliminary site grading and defined design of external elements, properly coordinated and interfaced with mechanical/electrical for utility entry points
e. Indicate areaways, vaults, access to subgrade spaces
f. Preliminary site and exterior building lighting scheme with identification of fixture types
g. Parking area defined with preliminary plotting
h. Indication of paths, stairs, ramps, berms, terraces, etc.
i. Plant materials (indication and preliminary schedule)
j. Design development details: railings, stairs, ramps, paving types and patterns, kiosks, benches, light standards, others
k. Design development specifications
l. Any necessary adjustments to the preliminary estate of construction cost.

2.5.13 Other Consultants' Design Development Sets

As appropriate to the Project.

2.5.14 Limitations - The above list of drawings represents, in general, the requirements of the Project.

2.6 CONSTRUCTION DOCUMENTS PHASE

2.6.1 Based on the approved Design Development Documents and any further adjustments authorized by the Owner in the scope or quality of the Project of in the construction budget, the Architect/Engineer shall prepare, for approval by the Owner and Construction Manager, Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the project.

2.6.2 The Architect/Engineer shall provide Drawings and Specifications for the Owner's and the Construction Manager's review.

2.6.3 Upon completion of the Construction Documents Phase, the Architect/Engineer shall provide Construction Documents for the Owner's and Construction Manager's approval. Once approved the Architect/Engineer shall provide the Owner two (2) complete signed and sealed sets of construction drawings and the technical specifications saved electronically in Microsoft Office/Word format. The Architect/Engineer shall provide an estimate of anticipated costs in accordance with the construction development phase.

2.6.4 The Architect/Engineer shall assist the Owner and Construction Manager in the preparation of the necessary bidding information, bidding forms, the Conditions of Contracts, and the forms of Agreement between the Owner and the Contractors.

2.6.5 The Architect/Engineer's construction documents (plans, specifications, etc.) will conform to all written 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 receive all permits when applied for. If permits are denied, then the Architect/Engineer will conform the construction documents in such manner to receive permits upon such plans. Work required by the Architect/Engineer to conform the 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 Owner.

2.7 BIDDING OR NEGOTIATION PHASE

2.7.1 The Architect/Engineer, following the Owner's approval of the Construction Documents and the Architect/Engineer's latest estimate of Construction Cost, shall assist the Construction Manager is obtaining bids or negotiated proposals and assist in preparing contracts for construction.

2.7.2 The Architect/Engineer shall assist the Construction Manager in issuing bidding documents to bidders and conducting pre-bid conferences with prospective bidders. The Architect/Engineer, with the assistance of the

Construction Manager, shall respond to questions from bidders, and shall issue addenda.

2.7.3 The Architect/Engineer shall, on behalf of the Owner, file all necessary documents required to secure building permit. Assistance with securing a development approval will be in the form of providing schematic drawings.

2.8 CONSTRUCTION PHASE - ADMINISTRATION OF THE CONSTRUCTION CONTRACT

2.8.1. The Architect/Engineer's responsibility to provide Basic Services for the Construction Phase under this Agreement commences with the award of the Contract for construction and terminates with the issuance to the Owner of the final Project Certificate for Payment including the submission of all project close out documents by the Architect/Engineer and Contractor. The Architect/Engineer will administer the Owner/Contractor contract as provided for in that document. The Architect/Engineer agrees to perform a project check prior to the end of the warranty period as a part of the contract. The check shall not exceed one working day unless additional time is approved by the Owner.

2.8.2 The Architect/Engineer shall at all times have access to the Work whenever it is in preparation or progress.

2.8.3 The Architect/Engineer shall, as contemplated herein and in the Construction Contract, but not otherwise, act on behalf, and be the agent, of the Owner throughout construction of the Project. Instructions, directions, and other appropriate communications from the Owner to the Contractor shall be given to the Contractor by the Architect/Engineer or Construction Manager.

2.8.4 Upon receipt, the Architect/Engineer shall carefully review and examine the Contractor's Schedule of Values, together with any supporting documentation or data which the Owner or the Architect/Engineer may require from the Contractor. The purpose of such review and examination shall be to protect the Owner from an unbalanced Schedule of Values which allocates greater value to certain elements of the Work than is indicated by such supporting documentation or data, or than is reasonable under the circumstances. If the Schedule of Values was not found to be appropriate, or if the supporting documentation or data is deemed to be inadequate, and unless the Owner directs the Architect/Engineer to the contrary in writing, the Schedule of Values shall be returned to the Contractor for revision of supporting documentation or data. After making such examination, if the Schedule of Values is found to be appropriate as submitted, or if necessary, as revised, the Architect/Engineer shall sign the Schedule of Values thereby indicating its informed belief that the Schedule of Values constitutes a reasonable, balanced basis for payment of the Contract Price to the Contractor. The Architect/Engineer shall not approve such Schedule

of Values in the absence of such belief unless directed to do so, in writing, by the Owner.

2.8.5 The Architect/Engineer shall carefully inspect the work of the Contractor and shall, at a minimum, inspect work at the Project site once every week. The purpose of such inspections shall be to determine the quality and quantity of the work in comparison with the requirements of the Construction Contract. In making such inspections, the Architect/Engineer shall protect the Owner from continuing deficient or defective work, from continuing unexcused delays in the schedule and from overpayment to the Contractor. Following each inspection, the Architect/Engineer shall submit a written report of such inspection, together with any appropriate comments or recommendations to the Owner.

2.8.6 The Architect/Engineer shall initially approve periodic and final payments owed to the Contractor under the Construction Contract predicated upon inspections of the work and evaluations of the Contractor's rate of progress in light of the remaining contract time and shall issue to the Owner Approvals of Payment in such amounts. By issuing an Approval of Payment to the Owner, the Architect/Engineer reliably informs the Owner that the Architect/Engineer has made the inspection of the work required, and that the work for which payment is approved has reached the quantities or percentages of completion shown, or both, that the quality of the Contractor's work meets or exceeds the requirements of the Construction Contract, and that under the terms and conditions of the Construction Contract, the Owner is obligated to make payment to the Contractor of the amount approved.

2.8.7 The issuance of a Certificate for Payment shall not be a representation that the Architect/Engineer has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work. (2) reviewed construction means, methods, techniques, sequences or procedures. (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

2.8.8 The Architect/Engineer shall have authority, after notification to the Construction Manager, to reject Work, which does not conform to the Contract Documents. Whenever the Architect/Engineer considers it necessary or advisable for implementation of the intent of the Contract Documents the Architect/Engineer will have authority, upon written authorization from the Owner, to require additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed.

2.8.9 The Architect/Engineer shall review and approve or take other appropriate action upon Contractor's submittals such as Shop Drawings, Product Data and

Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect/Engineer's action shall be taken with such reasonable promptness as to cause no delay in the Contractor's Work or in construction by the Owner's own forces, while allowing sufficient time in the Architect/Engineer's professional judgment to permit adequate review. 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 Architect/Engineer's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect/Engineer, of construction means, methods, techniques, sequences, or procedures. The Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component. When professional certification of performance characteristic of materials, systems or equipment is required by the Contract Documents, the Architect/Engineer shall be entitled to rely upon such certification to establish that the materials, systems or equipment will meet the performance criteria required by the Contract Documents. Architect/Engineer shall take appropriate action on submittals within 14 calendar days. The Architect/Engineer shall maintain a tracking log for the submittals which shall include but not be limited to; the submittal as named in the specification, all dates as required for tracking and the status of approval. A copy of the tracking log will be made available to Owner when requested.

2.8.10 The Architect/Engineer shall review and sign or take other appropriate action on Change Orders and Construction Change Directives prepared by the Construction Manager for the Owner's approval and execution in accordance with the Contract Documents. Architect/Engineer to take appropriate action within 7 calendar days.

2.8.11 The Architect/Engineer shall promptly provide appropriate interpretations as necessary for the proper execution of the work as long as there is no change in Contract price.

2.8.12 The Architect/Engineer shall require inspection or reinspection and testing or retesting of the work, to include architectural/engineering, structural, mechanical and electrical engineering portions of the work, in accordance with the provisions of the Construction Contract whenever appropriate.

2.8.13 The Architect/Engineer, assisted by the Construction Manager, shall conduct inspections to determine the dates of Substantial Completion and the date of Final Completion. The Architect/Engineer shall submit to the Owner a list comprised of incomplete and/or unacceptable items required by the Contract Documents to include architectural/engineering, structural, mechanical and

electrical engineering portions of the work. The Architect/Engineer shall forward to the Construction Manager warranties and similar submittals required by the Contract Documents which have been received from the Contractor. The Architect/Engineer shall issue a final Project Certificate for Payment upon compliance with the requirements of the Contract Documents.

2.8.14 The Architect/Engineer shall interpret and decide matters concerning performance of the Contractor under the requirements of the Contract Documents upon written request. The Architect/Engineer's response to such requests shall be made with promptness and within seven (7) days of receipt of request.

2.8.15 Interpretations and decisions of the Architect/Engineers shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings and submitted on proper Construction Change Directives.

2.8.16 The Architect/Engineer shall render written decisions within a reasonable time on all claims, disputes or other matters in question between Owner and Contractors relating to the execution or progress of the Work as provided in the Contract Documents.

2.8.17 Duties, responsibilities and limitations of authority of the Architect/Engineer shall not be restricted, modified or extended without written agreement of the Owner and Architect/Engineer.

2.8.18 The Architect/Engineer shall be a representative of and shall advise and consult with the Owner (1) during construction until final payment to the Contractor is due and (2) as a Basic Service at the Owner's direction from time to time during the correction period described in the Contract for Construction. This advice and consultation shall be limited to verbal comment on actions of the Owner and shall not necessitate filing of records, forms, or revisions to drawings, without additional compensation.

2.8.19 The Architect/Engineer shall transmit to the Owner all manuals, operating instructions, as-built plans, warranties, guarantees and other documents and things required by the Construction Contract and submitted by the Contractor.

2.8.20 The Architect/Engineer shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility under the Contract for Construction. The Architect/Engineer shall not be responsible for the Contractor's schedules or failure to carry out the work in accordance with the contract documents. The Architect/Engineer shall not have control over or

charge of acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the work.

2.8.21 The Architect/Engineer shall testify in any judicial proceeding concerning the design and construction of the project when requested in writing by the Owner, and the Architect/Engineer shall make available to the Owner any personnel or consultants employed or retained by the Architect/Engineer for the purpose of reviewing, studying, analyzing or investigating any claims, contentions, allegations, or legal actions relating to, or arising out of, the design or construction of the project. Testimony will be provided as part of the basic services when in defense of claims for actions of the Architect/Engineer, unless otherwise prevented by counsel of the Architect/Engineer at which time he would be subject to subpoena. For other claims against the Owner, the Architect/Engineer will do this under an expert witness with compensation.

2.8.22 The Architect/Engineer shall review any as-built drawings furnished by the Contractor and shall certify to the Owner that same are adequate and complete.

2.8.23 The Architect/Engineer shall, without additional compensation, promptly correct any errors, omissions, deficiencies, or conflicts in the work product of the Architect/Engineer or its consultants, or both.

2.8.24 The Architect/Engineer must reimburse the Owner for any added costs paid by the Owner during construction that were incurred as the result of any omission, deficiency, or conflict in the work product of the Architect/Engineer, its consultants, or both. This added expense is defined as the difference in cost from that which the Owner would have paid if the work was included in the bid, and the actual cost presented by the Contractor.

ARTICLE III

3.1 GENERAL

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

3.2 PROJECT REPRESENTATION BEYOND BASIC SERVICES

3.2.1 If more extensive representation at the site than is described in subparagraph 2.8.5 is required, the Architect/Engineer shall provide one or more project representatives to assist in carrying out such additional on-site responsibilities.

3.4 OPTIONAL ADDITIONAL SERVICES

3.4.1 Providing detailed quantity surveys or inventories of material and equipment.

3.4.2 Providing analyses of owning and operating costs.

3.4.3 Providing interior design and other similar services required for or in connection with the selection, procurement or installation of furniture, furnishings and related equipment.

3.4.4 Providing assistance in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance, and consultation during operation.

3.4.5 Providing planning surveys, site evaluations or comparative studies of prospective sites.

3.4.6 Providing special surveys or environmental studies required for approvals of governmental authorities or others having jurisdiction over the project.

3.4.7 Providing service relative to future facilities, systems and equipment.

3.4.8 Providing detailed estimates of the construction cost (an item by item enumeration and analysis of all the costs that go to make up the Architect/Engineer's final estimate described in paragraph 5.1).

3.4.9 Making investigations, inventories of materials or equipment, or valuations and detailed appraisals of existing facilities.

3.4.10 Providing services of consultants for other than architectural/engineering, civil, structural, mechanical and electrical engineering portions of the Project provided as a part of Basic Services.

3.4.11 Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted architectural/engineering practice.

3.4.12 Providing assistance with public agencies requiring formal review of project and preparation of documents, reports, studies, renderings, models, payment of fees, applications and other material necessary to seek such approval.

3.4.13 Providing representation before public bodies in conjunction with approval of project, upon approval by owner.

3.5 CONTINGENT ADDITIONAL SERVICES

3.5.1 Making revisions in Drawings, Specifications or other documents when such revisions are:

a. Inconsistent with approvals or instructions previously given by the Owner, including revisions made necessary by adjustments in the Owner's program or Project budget;

b. Required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents and not reasonably anticipated; or

c. Due to changes required as a result of the Owner's failure to render decisions in a timely manner.

3.5.2 Providing services required because of significant changes in the Project including, but not limited to, size, quality, complexity, the Owner's schedule, or the method of bidding or negotiating and contracting for construction.

3.5.3 Providing consultation concerning replacement of work damaged by fire or other cause during construction, and furnishing services required in connection with the replacement of such work.

3.5.4 Providing services in connection with public hearings.

ARTICLE IV
OWNER'S RESPONSIBILITIES

4.1 The Owner shall establish and update an overall budget for the Project based on consultation with the Construction Manager and the Architect/Engineer, which shall include the Construction Cost, the Owner's other costs and reasonable contingencies related to all of these costs.

4.2 The Owner shall designate the Construction Manager to act on the Owner's behalf with respects to the Project. The Owner or Construction Manager shall render decisions in a timely manner pertaining to documents submitted by the Architect/Engineer in order to avoid unreasonable delay in the orderly and sequential progress of the Architect/Engineer's services.

4.3 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements, and adjoining property and structures; adjacent drainage; rights-of-way; restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site;

locations, dimensions and necessary data pertaining to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

4.4 The Owner shall furnish the geotechnical tests when requested by the Architect/Engineer. Such tests may include, but not limited to, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, and ground corrosion and resistively tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate professional recommendations.

4.5 The Owner shall furnish all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including auditing services the Owner may require to verify the Contractor's Application for Payment or to ascertain how or for what purposes the Contractor has used the money paid by or on behalf of the owner.

4.6 The services, information, surveys and reports shall be furnished at the Owner's expense, and the Architect/Engineer shall be entitled to rely upon the accuracy and completeness thereof.

4.7 Prompt written notice shall be given by the Owner and Construction Manager to the Architect/Engineer if they become aware of any fault or defect in the Project or non-conformance with the Contract Documents.

4.8 The proposed language of certificate or certificates requested of the Architect/Engineer or Architect/Engineer's consultants shall be submitted to the Owner for review and approval at least 14 days prior to execution. The Owner shall not request certifications that would require knowledge or services beyond the scope of this Agreement.

4.9 The Owner shall furnish the required information and services and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Architect/Engineer's services and work of the contractors.

4.10 The Owner shall furnish the Architect/Engineer copies of written communications.

4.11 The Owner's review of any documents prepared by the Architect/Engineer or its consultants shall be solely for the purpose of determining whether such documents are generally consistent with the Owner's criteria, as and if, modified. No review of such documents shall relieve the Architect/Engineer of responsibility for the accuracy, adequacy, fitness, suitability or coordination of its work product.

4.12 The Owner shall furnish structural, mechanical, chemical, air and water pollution tests, tests for hazardous materials, and other laboratory and environmental tests, inspections and reports required by law or the Contract Documents.

ARTICLE V
CONSTRUCTION COST

5.1 Contemporaneously with the submission of the Design of Construction, the Architect/Engineer shall submit to the Owner in writing its final estimate of the contractor's anticipated price for constructing the Project. Once submitted, the final anticipated price estimate shall be adjusted by the Architect/Engineer to reflect any increase or decrease in anticipated price resulting from the change in Design for Construction.

5.2 The Construction Cost shall be the total estimated cost to the Owner of all elements of the project designed or specified by the Architect/Engineer.

5.3 The Construction Cost shall include the cost at current market rates of labor and materials furnished by the Owner and equipment designed, specified, selected or specially provided for by the Architect/Engineer, plus a reasonable allowance for the Contractor's overhead and profit.

5.4 Construction cost does not include the compensation of the Architect/Engineer and the Architect/Engineer's consultants, the costs of land, rights-of-way, financing or other costs which are the responsibility of the Owner.

5.5 The Architect/Engineer agrees that, should the bid for construction of the project exceed it's estimate by ten percent (10%) or more, it will redesign, redraw and/or rebid, at no additional or expense to the Owner, until the bids are within the stated limits.

ARTICLE VI

6.1 INDEMNIFICATION AND HOLD HARMLESS

6.1.1 The Architect/Engineer convenants and agrees to indemnify and hold harmless 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) which arise out of, in connection with, or by reason of services provided by the Architect/Engineer in any tier, occasioned by the negligence, errors, or other wrongful act or omission of the Architect/Engineer in any tier, their employees, or agents. The first ten dollars ($10.00) of remuneration paid to the Architect/Engineer 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 Owner by virtue of any deficiency or ambiguity in the plans and specifications provided by the Architect/Engineer, the Architect/Engineer agrees and warrants that he shall hold the Owner harmless and shall indemnify him from all losses occurring thereby and shall further defend any claim or action on the Owner's behalf.

ARTICLE VII

7.1 PERSONNEL

7.1.1 The Architect/Engineer shall assign only qualified personnel to perform any service concerning the project. At the time of execution of this contract, 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 Architect/Engineer, they shall perform the functions indicated next to their names.

ARTICLE VIII

8.1 PAYMENTS

8.1.1 For its assumption and performances of the duties, obligations and responsibilities set forth herein, the Architect/Engineer shall be paid monthly, in accordance with the following schedule:

(A) The Architectural/Engineering fee shall be based on the following criteria:

1.	Schematic Design	15 percent
2.	Design Development Phase	30 percent
3.	Construction Documents Phase	30 percent
4.	Bidding or Negotiation Phase:	5 percent
5.	Construction Phase	20 percent

An estimated construction cost of $1,400,000.00 and a fee percentage of 7.8% shall be initially used to calculate the architectural/engineering fee. When the actual construction cost is known, the fee will be adjusted in accordance with the

State of Florida, Department of Management Services, Division of Building Construction Fee Schedule for Architectural and Engineering Services.

A final adjustment will be made when construction is complete.

(B) 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 Owner, the Architect/Engineer shall be paid hourly at the rates identified in Exhibit B, or as negotiated.

(C) If the Architect/Engineer's duties, obligations and responsibilities are materially changed through no fault of the Architect/Engineer after execution of this contract, compensation due to the Architect/Engineer shall be equitably adjusted, either upward or downward;

(D) As a condition precedent for any payment due under this contract, the Architect/Engineer shall submit monthly, unless otherwise agreed in writing by the Owner, an invoice to the Owner requesting payment for services properly rendered and reimbursable expenses due hereunder. The Architect/Engineer's invoice shall describe with reasonable particularity the service rendered. The Architect/Engineer's invoice shall be accompanied by such documentation or data in support of expenses for which payment is sought as the Owner may require.

8.2 REIMBURSABLE EXPENSES

8.2.1 Reimbursable expenses include expenses incurred by the Architect/Engineer in the interest of the project:

a. Expense of transportation submitted by Architect/Engineer, in writing, and living expenses in connection with out-of-county travel authorized by the Owner, in writing, but only to the extent and in the amounts authorized by Section 112.061, Florida Statutes;
b. Fees paid for securing approval of authorities having jurisdiction over the project;
c. Reproductions as requested only by the Owner (beyond 8 signed and sealed full size sets, plus one full size reproducible set, and one 11 x 17 reproducible set);
d. Postage and handling of Drawings and Specifications;
e. Renderings and Models requested by the Owner.

ARTICLE IX

9.1 APPLICABLE LAW

9.1.1 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 X

10.1 OWNERSHIP OF THE PRELIMINARY DESIGN AND THE DESIGN FOR CONSTRUCTION

10.1 The Drawings, Specifications and other documents prepared by the Architect/Engineer for this project are instruments of the Architect/Engineer's service for use solely with respect to this project, and the Architect/Engineer shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including reproducible copies, of the Architect/Engineer's Drawings, Specifications and other documents shall not be used by the Owner or others on other projects, or for completion of this project by others, unless the Architect/Engineer is adjudged to be in default under this Agreement, except by agreement in writing and with appropriate compensation to the Architect/Engineer.

10.1.2 Submission or distribution of documents to meet official regulatory requirements or for similar purposes in connection with the project is not to be construed as publication in derogation of the Architect/Engineer's reserved rights.

10.1.3 The As-Built drawings and specifications may be furnished by the contractor to the Owner in electronic format in addition to the original As-Built documents .

10.1.4 The Owner may utilize the construction documents, As-Built documents, etc. as required for reference on any necessary future work on the site.

ARTICLE XI

11.1 SUCCESSORS AND ASSIGNS

11.1.1 The Architect/Engineer 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 Owner. Subject to the provisions of the immediately preceding representatives to the other and to the successors, assigns and legal representatives of such other party.

ARTICLE XII

12.1 NO THIRD PARTY BENEFICIARIES

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

ARTICLE XIII

13.1 INSURANCE

13.1.1 The Architect/Engineer shall obtain insurance as specified in the attached Exhibit A and maintain the required insurance at all times this contract is in effect. Errors and Omissions Insurance shall also be maintained for a period of two years after final completion of the project. In the event the completion of the project (to include the work of others) is delayed or suspended as a result of the Architect/Engineer's failure to purchase or maintain the required insurance, the Architect/Engineer shall indemnify the County from any and all increased expenses resulting from such delay.

13.1.2 The coverage provided herein shall contain an endorsement providing sixty (60) days notice to the Owner prior to any cancellation of said coverage. Said coverage shall be written by an insurer acceptable to the Owner and shall be in a form acceptable to the Owner.

ARTICLE XIV
TERMINATION

14.1 Either party hereto may terminate this contract upon giving seven (7) days written notice to the other in the event that such other party substantially fails to perform its material obligations set forth herein. Termination expenses shall include all expenses till date of termination and any additional services required in order to stop performance of services, subject to audit for verification.

14.1.1 Monroe County's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Board of County Commissioners and the approval of the Board members at the time of contract initiation and its duration.

ARTICLE XV
ENTIRE AGREEMENT

15.1 This contract constitutes the form of agreement (Articles I-XV), the exhibits that are attached and made a part of the contract, and the documents referred to in the form of agreement as a part of this contract. In the event of a conflict

between any of those contract documents, the one imposing the greater burden on the Architect/Engineer will control.

15.2 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 contract 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 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 of the Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

ARTICLE XVI
Added Requirements

16.1 The following items are part of this contract:

a) Architect/Engineer shall maintain all books, records, and documents directly pertinent to performance under this Agreement in accordance with generally accepted accounting principles consistently applied. 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 Architect/Engineer pursuant to this Agreement were spent for purposes not authorized by this Agreement, the Architect/Engineer shall repay the monies together with interest calculated pursuant to Sec. 55.03, FS, running from the date the monies were paid to Owner.

b) Governing Law, Venue, Interpretation, Costs, 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, the County and Architect/Engineer agree that venue will lie in the appropriate court or before the appropriate administrative body in Monroe County, Florida. The Parties waive their rights to a trial by jury. The County and Architect/Engineer 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.

c) 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 Architect/Engineer 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.

d) Attorney's Fees and Costs. The County and Architect/Engineer 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, court costs, investigative, and out-of-pocket expenses, as an award against the non-prevailing party, and shall include attorney's fees, courts costs, investigative, and out-of-pocket expenses in appellate proceedings. 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.

e) Binding Effect. The terms, covenants, conditions, and provisions of this Agreement shall bind and inure to the benefit of the County and Architect/Engineer and their respective legal representatives, successors, and assigns.

f) 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.

g) Claims for Federal or State Aid. Architect/Engineer 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.

h) Adjudication of Disputes or Disagreements. County and Architect/Engineer 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.

i) 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 Owner 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 Owner specifically agree that no party to this Agreement shall be required to enter into any arbitration proceedings related to this Agreement.

j) Nondiscrimination. Architect/Engineer and Owner 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. Architect/Engineer or Owner 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 patent 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.

k) Covenant of No Interest. Architect/Engineer and Owner 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.

l) 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.

m) No Solicitation/Payment. The Architect/Engineer and Owner 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 Architect/Engineer 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.

n) Public Access. The Architect/Engineer and Owner 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 Architect/Engineer and Owner in conjunction with

this Agreement; and the Architect/Engineer shall have the right to unilaterally cancel this Agreement upon violation of this provision by Owner.

o) Non-Waiver of Immunity. Notwithstanding the provisions of Sec. 286.28, Florida Statutes, the participation of the Architect/Engineer and the Owner 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.

p) Privileges and Immunities. 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.

q) 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.

r) 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 Architect/Engineer and the Owner agree that neither the Architect/Engineer nor the Owner 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.

s) Attestations. Architect/Engineer agrees to execute such documents as the Owner may reasonably require, to include a Public Entity Crime Statement, an Ethics Statement, and a Drug-Free Workplace Statement.

t) 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.

u) 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 singing any such counterpart.

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

SWORN STATEMENT UNDER ORDINANCE NO. 10-1990

MONROE COUNTY, FLORIDA

ETHICS CLAUSE

_____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. 10-1990 or any County officer or employee in violation of Section 3 of Ordinance No. 10-1990. For beach or violation of this provision the County may, in its discretion, deduct from the contract 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.

My commission expires: _____

NOTARY PUBLIC

IN WITNESS WHEREOF, each party has caused this Agreement to be executed by its duly authorized representative this _____day of _____, _____.

(SEAL)
Attest: DANNY L. KOLHAGE, Clerk

By:_____
Deputy Clerk
Date:_____

BOARD OF COUNTY COMMISSIONERS' OF MONROE COUNTY, FLORIDA

By::_____
Mayor/Chairman

(Seal)
Attest:

BY:_____
Title:_____

ARCHITECT/ENGINEER

By:_____
Title:_____

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY _____
ATTORNEY'S OFFICE
DATE 4/13/04