

Board of County Commissioners Agenda Request

Date of Meeting: November 15, 2016

Date Submitted: November 1, 2016

To: Honorable Chairperson and Members of the Board

From: Robert M. Presnell, County Administrator

Subject: Approval of Professional Services Agreements for Engineering Consulting Services for Gadsden County

Statement of Issue:

This agenda item seeks Board approval of professional services agreements for Engineering Consulting Services and authorization for the Chairperson to execute the contracts.

Background:

Staff competitively solicited an RFP and on July 14, 2016, the four member evaluation committee conducted interviews of all seven firms that submitted proposals. The committee scored the firms and recommended to contract with the two top firms. On October 4, 2016, the Board approved the top two engineering firms to represent the County.

Analysis:

The two engineering firms selected were Preble-Rish and DPB + Associates. The County Administrator was authorized to negotiate contracts with the two firms. Staff has negotiated contracts and the contracts are presented to the Board for approval.

Fiscal Impact:

The cost for such services will depend upon individual task orders approved for specific projects based upon negotiated hourly rates.

Options:

1. Approve the Professional Services Agreements and authorize the Chairperson to execute the contracts.
2. Do not approve the Professional Services Agreements.
3. Board Direction.

County Administrator's Recommendation:

Option 1

Attachments

1. Professional Services Agreements for Preble Rish and DPB + Associates.

AGREEMENT FOR CONTINUING CONTRACT ENGINEERING SERVICES

THIS AGREEMENT, effective as of the 1st day of October, 2016 (the "Effective Date"), by and between GADSDEN COUNTY, FLORIDA, a political subdivision of the State of Florida (the "County") and Dewberry/Preble-Rish, Inc., a Florida corporation authorized to transact business in Florida (the "Contractor").

WHEREAS, the County has determined that it would be in the best interests of the citizens of Gadsden County, Florida, that the County be able to utilize the services of private persons when such services cannot be reasonably provided by the County; and

WHEREAS, the County has a need for continuing contract engineering services; and

WHEREAS, the County has determined that it would be in the best interests of the citizens of Gadsden County, Florida to contract for these services rather than hiring the necessary personnel to satisfy the needs of the County; and

WHEREAS, in order to secure the most qualified contractor, lowest cost and best value for these services, the County has solicited a request for qualifications to perform the services; and

WHEREAS, the Contractor submitted a response to the solicitation; and

WHEREAS, the County has determined that it is in the best interests of the Citizens of Gadsden County, Florida to contract with the Contractor to provide such services.

NOW, THEREFORE, for and in consideration of the foregoing recitals and the mutual covenants, promises, and obligations set forth herein, the receipt and sufficiency of which are conclusively acknowledged, the parties agree as follows:

1. SERVICES TO BE PROVIDED

The Contractor agrees to provide the following services to the County:

Continuing Contract Engineering Services pursuant to and in accordance with Exhibit A, attached hereto and made a part hereof.

The Contractor shall not incur any Costs without the express prior written approval of the County, which approval shall be in the form of a written task order. Any costs incurred in excess of those authorized by the County in a written task order shall not be paid by the County.

2. WORK; SUBJECT TO FUNDING

The performance of Gadsden County of any of its obligations under this Agreement shall be subject to and contingent upon the availability of funds lawfully expendable for the purposes of this Agreement for the current and any future periods provided for within the proposal requirements, and the County shall not be liable for any amounts which are not so available. Nothing herein will prevent the County from entering into the Agreement prior to the adoption of a budget for any fiscal year or for a term exceeding one year, but the Agreement

shall be executory only for any amounts which are not available for lawful expenditure. The County's disbursement of funds which were not budgeted or otherwise available for lawful expenditure shall not constitute a waiver of the County's rights hereunder and shall not make the County liable for any further payment.

3. TERM

The agreement shall be for a period of two (2) years, effective October 1, 2016 through September 30, 2018. After the initial two (2) year period, at the sole option of the County, the Agreement may be extended for no more than one (1) additional one (1) year period by a writing signed by both parties.

4. CONTRACT SUM/PAYMENT SCHEDULE

The Contractor agrees that for the performance of the services described in Exhibit A, it shall be remunerated by the County as follows:

Pursuant to and in accordance with Exhibit A, attached hereto and made a part hereof.

The Contractor shall not be entitled to any payments scheduled to be made following notice of termination of the Agreement in accordance with the terms of this Agreement.

5. PAYMENTS

The County will make such payments within thirty (30) days of submission and approval of an invoice for services.

6. STATUS

The Contractor at all times relevant to this Agreement shall be an independent contractor and in no event shall the Contractor nor any employees or sub-contractors under it be considered to be employees of Gadsden County. Nothing in this agreement shall be deemed to create a partnership or joint venture between the Contractor and the County, or between the County and any other party, or cause the County to be liable or responsible in any way for the actions, omissions, liabilities, debts, or obligations of the Contractor or any other person or entity.

This Agreement is solely for the benefit of the County and the Contractor, and no right or cause of action shall accrue upon or by reason hereof, or for the benefit of any third party. Nothing in this Agreement, either express or implied, is intended or shall be construed to confer upon or give any person or entity, other than the parties hereto, any right, remedy, or claim under or by reason of this Agreement or any of the provisions or conditions hereof.

7. INSURANCE

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the Contractor's bid.

A. Minimum Limits of Insurance. Contractor shall maintain limits no less than:

1. General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage (Non-owned, Hired Car).
3. Workers' Compensation and Employers Liability: Insurance covering all employees meeting Statutory Limits in compliance with the applicable state and federal laws and Employer's Liability with a limit of \$500,000 per accident, \$500,000 disease policy limit, \$500,000 disease each employee. Waiver of Subrogation in lieu of Additional Insured is required.
4. Professional Liability: All types necessary to protect the County from any professional liability arising under this agreement with a minimum \$1,000,000 liability unit. The deductible shall not exceed \$25,000 and if greater than \$1,000 must be guaranteed by the Contractor for the difference between the deductible and \$1,000. The professional liability insurance coverage for the services provided under this Agreement shall be maintained in force from the effective date of the contract through at least one year following the actual completion of the provision of any services under the terms of this Agreement.

The Contractor shall provide evidence of the insurance and the evidence shall provide for thirty (30) days' notice in writing to the County prior to cancellation, expiration, or non-renewal.

B. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the County. At the option of the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

C. Other Insurance Provisions: The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverages (County is to be named as Additional Insured).
 - a. The County, its officers, officials, employees and volunteers are to be covered as insureds as respects; liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products and completed operations of the

Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protections afforded the County, its officers, officials, employees or volunteers.

- b. The Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance of self-insurance maintained by the County, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees or volunteers.
- d. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. All Coverages

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the County.

- D. Acceptability of Insurers. Insurance is to be placed with insurers with a Best's rating of no less than A:VII.
- E. Verification of Coverage. Contractor shall furnish the County with certificates of insurance and with original endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by the County before work commences. The County reserves the right to require complete, certified copies of all required insurance policies at any time.
- F. Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

8. LICENSES; PERMITS

The Contractor shall be responsible for obtaining and maintaining its city or county occupational license and any licenses required pursuant to the laws of Gadsden County or the State of Florida or the United States of America. Should the Contractor, by reason of revocation, failure to renew, or any other reason, fail to maintain his license to operate, the contractor shall be in default as of the date such license is lost.

The Contractor shall be responsible for obtaining and maintaining all permits required pursuant to the laws of Gadsden County or the State of Florida or the United States of America.

9. ASSIGNMENTS

This Agreement shall not be assigned or sublet as a whole or in part without the written consent of the County nor shall the contractor assign any monies due or to become due to him hereunder without the previous written consent of the County.

10. INDEMNIFICATION; HOLD HARMLESS

The Contractor agrees to indemnify, defend and hold harmless the County, its officers, employees, attorneys, and agents from and against all claims, damages, liabilities, or suits of any nature whatsoever arising out of, because of, or due to the breach of this agreement by the Contractor, its delegates, agents or employees, or due to any act or occurrence of omission or commission of the Contractor, including but not limited to costs and reasonable attorneys' fees, whether or not there is litigation and including those incurred on appeal. The County may, at its sole option, defend itself or allow the Contractor to provide the defense. Whether it elects to defend itself or allow the Contractor to provide the defense, the County shall have the right to select the counsel of its choice to provide the defense and the Contractor shall be responsible for all costs and reasonable attorneys' fees incurred in the defense, whether or not there is litigation and including those incurred on appeal. The indemnity obligations of the Contractor under this Agreement shall continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement. By entering into this Agreement, the County does not intend and in no way waives any sovereign immunity rights that it possesses.

11. AUDITS, RECORDS, AND RECORDS RETENTION

For the services performed under this Agreement, the Contractor shall maintain books, records, documents, and other evidence according to generally accepted governmental accounting principles, procedures, and practices which sufficiently and properly reflect all costs and expenditures of any nature, incurred by the Contractor in connection with the services performed under this Agreement.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE GADSDEN COUNTY CLERK OF COURTS, 10 E. JEFFERSON ST., QUINCY, FL 32351, (850) 875-8612, clerkofcourt@gadsdenclerk.com.

The Contractor must comply with the public records laws, Chapter 119, F.S.; specifically the Contractor shall:

- a. Keep and maintain public records required by the County to perform the service.

- b. Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in chapter 119 Florida Statutes or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the County.
- d. Upon completion of the contract, transfer, at no cost, to the County all public records in possession of the Contractor or keep and maintain public records required by the County to perform the service. If the Contractor transfers all public records to the County upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining the public records. All records stored electronically must be provided to the County, upon the request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

The County shall have the right from time to time at its sole expense to audit the compliance by the City with the terms, conditions, obligations, limitations, restrictions and requirements of this Agreement and such right shall extend for a period of five (5) years after termination of this Agreement, or if an audit has been initiated and audit findings have not been resolved at the end of five (5) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of this Agreement.. However, notwithstanding the above, no books, records, documents, or other evidence reflecting all costs and expenditures incurred under this Agreement shall be destroyed until proper authorization for the disposal has been received pursuant to Florida law.

13. MONITORING

Contractor agrees to permit persons duly authorized by the County to inspect any records, papers, documents, facilities, goods, and services of the provider which are relevant to this Agreement, and interview any clients and employees of the provider to assure the County of satisfactory performance of the terms and conditions of this Agreement. Following such evaluation, the County will deliver to the provider a written report of its findings and will include written recommendations with regard to the provider's performance of the terms and conditions of this agreement. The provider will correct all noted deficiencies identified by the County within the specified period of time set forth in the recommendations. The provider's failure to correct noted deficiencies may, at the sole and exclusive discretion of the County, result in any one or any combination of the following: (1) the provider being deemed in breach or default of this agreement; (2) the withholding of payments to the provider by the County; and (3) the termination of this Agreement for cause.

14. TERMINATION

Gadsden County may terminate this Agreement without cause, by giving the Contractor thirty (30) days written notice of termination. Either party may terminate this Agreement for cause by giving the other party thirty (30) days written notice of termination. The

County shall not be required to give Contractor such thirty (30) day written notice if, in the opinion of the County, the Contractor is unable to perform its obligations hereunder, or if in the County's opinion, the services being provided are not satisfactory. In such case, the County may immediately terminate the Agreement by mailing a notice of termination to the Contractor.

15. PUBLIC ENTITY CRIMES STATEMENT

In accordance with Section 287.133, Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies 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 a public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two for a period of 36 months following the date of being placed on the convicted vendor list. Any person must notify the Department of Management Services and the County within 30 days after conviction of a public entity crime applicable to that person or to an affiliate of that person. Contractor hereby certifies that it has not been placed on the convicted vendor list for a period of at least 36 months prior to submission of its response to the solicitation that resulted in this Agreement, and that it shall notify the Department of Management Services and the County within 30 days after conviction of a public entity crime applicable to Contractor or to an affiliate of Contractor.

16. NON-WAIVER

Failure by the County to enforce or insist upon compliance with any of the terms or conditions of this Agreement or failure to give notice or declare this Agreement terminated shall not constitute a general waiver or relinquishment of the same, or of any other terms, conditions or acts; but the same shall be and remain at all times in full force and effect.

17. AMENDMENTS

In any case where, in fulfilling the requirements of this agreement or of any guarantee, embraced in or required thereby it is necessary for the Contractor to deviate from the requirements of the bid, Contractor shall obtain the prior written consent of the County.

18. VENUE

Venue for all actions arising under this agreement shall lie in Gadsden County, Florida.

19. CONSTRUCTION

The validity, construction, and effect of this Agreement shall be governed by the laws of the State of Florida.

20. DISPUTES

Any and all disputes, including but not limited to those concerning billing and payment, shall be resolved by the County Administrator. All decisions of the County Administrator shall be final.

21. SEVERABILITY

If any provision of this Agreement shall be held or deemed to be illegal, inoperative or unenforceable for any reason, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatsoever.

22. EXECUTION

This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which together shall constitute one in the same instrument.

23. COPYRIGHT; PROPERTY OF COUNTY

All works commenced for use in connection with any task authorized by the County, including but not limited to, all intellectual property, writings, drawings, graphics, and computer files, as well as all data collected and summaries and charts derived therefrom (collectively, "Works"), shall be works made for hire and shall become the property of the County in their native and executable format immediately upon commencement without restriction or limitation on their use and will be made available to the County at any time during the performance of the task and upon completion or termination of this Agreement. Upon delivery to the County, the County will become the custodian of the Works. The County shall have the ability to copyright or trademark any Works, and Contractor shall not copyright or trademark any Works in favor of Contractor.

**[THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK –
SIGNATURES APPEAR ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of, though not necessarily executed on, the Effective date.

Signed, sealed, and delivered
in the presence of:

_____, a Florida _____
authorized to transact business in Florida

(1st Witness Signature)

(1st Witness – Printed Name)

By: _____

Its: _____

(2nd Witness Signature)

(2nd Witness – Printed Name)

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by _____, as _____ of _____, a Florida _____ authorized to do business in Florida, on behalf of said company. Such person: () is personally known to me; () produced a current driver's license as identification; or () produced _____ as identification.

(Notarial Seal)

(Signature of Notary Public)

(Typed or Printed Name of Notary Public)

ATTEST: GADSDEN COUNTY CLERK
OF COURT

**GADSDEN COUNTY, FLORIDA, a political
subdivision of the State of Florida**

NICHOLAS THOMAS

BRENDA HOLT
Chairperson, Gadsden County Board of County
Commissioners

APPROVED AS TO FORM FOR
RELIANCE BY GADSDEN COUNTY
ONLY: GADSDEN COUNTY
ATTORNEY

DAVID J. WEISS

EXHIBIT "A"

I. PROVISION OF SERVICES

A. Specific to this Agreement, CONTRACTOR shall provide professional services for GADSDEN COUNTY as described under Projects and Compensation below.

B. In the performance of professional services, CONTRACTOR will use that degree of care and skill ordinarily exercised by other similar professionals in the field under similar conditions in similar localities. CONTRACTOR shall use due care in performing in an engineering capacity and will have due regard for acceptable standards of engineering principles.

C. Before undertaking or making any additions or deletions to the work described in the Agreement, and before undertaking any changes or revisions to such work, the parties will negotiate the cost of such work and any necessary cost changes due to any additions, deletions, changes, or revisions, and will enter into a separate Task Order covering such work and compensation. Reference herein to the Agreement will be considered to include any Task Order.

D. All services will be performed by CONTRACTOR to the satisfaction of the County Administrator or his assign, who will decide all questions, difficulties and disputes of any nature whatsoever, on behalf of GADSDEN COUNTY, that may arise under or by reason of the Agreement, the prosecution and fulfillment of the services hereunder and the character, quality, amount and value thereof.

E. Adjustments of compensation and contract time because of any major changes in the work that may become necessary or desirable as the work progresses will be subject to mutual agreement of the parties, and Task Order(s) of such a nature as required will be entered into by the parties in accordance herewith. In the event that CONTRACTOR and GADSDEN COUNTY are not able to reach an agreement as to the amount of compensation to be paid to CONTRACTOR for work desired by GADSDEN COUNTY, CONTRACTOR will be obligated to proceed with the work in a timely manner for the amount determined by GADSDEN COUNTY to be reasonable. In such event, CONTRACTOR will have the right to file a claim with GADSDEN COUNTY for such additional amounts as CONTRACTOR deems reasonable; however, in no event will the filing of the claim or the resolution or litigation thereof through administrative procedures or the courts relieve CONTRACTOR from the obligation to timely perform the work.

F. All design work performed by CONTRACTOR for projects where anticipated construction cost is one million dollars (\$1,000,000) or more may be subject to Value Engineering. GADSDEN COUNTY further reserves the right to subject projects of lesser construction cost to Value Engineering should GADSDEN COUNTY deem circumstances are present that warrant such a decision. Value Engineering may be performed at any stage of the design process. Unless specifically identified in the Agreement, CONTRACTOR will not be required to perform the Value Engineering

analysis.

G. CONTRACTOR will not be liable for use by GADSDEN COUNTY of works for any purpose other than intended by the terms of this Professional Services Agreement.

II. PROJECT SCHEDULES

A. Individual Task Orders may be negotiated for any post project schedule services needed by GADSDEN COUNTY after scheduled project services.

B. In the event there are delays caused by GADSDEN COUNTY in approval of any of the plans submitted by CONTRACTOR or if there are delays occasioned by circumstances beyond the control and without fault or negligence of CONTRACTOR which delay the scheduled project completion date, GADSDEN COUNTY may grant an extension of time equal to the aforementioned project schedule delay, as a minimum and not to exceed the Agreement term, by issuance of a Time Extension Letter. This letter will be for time only and does not include any additional compensation.

C. It will be the responsibility of CONTRACTOR to ensure at all times that sufficient time remains in the Project Schedule within which to complete the services on the project. In the event there have been delays which would affect the project completion date, CONTRACTOR will submit a written request to GADSDEN COUNTY which identifies the reason(s) for the delay, the amount of time related to each reason and specific indication as to whether or not the delays were concurrent with one another, GADSDEN COUNTY will review the request and make a determination as to granting all or part of the requested extension.

D. In the event time for performance of the scheduled project services expires and CONTRACTOR has not requested, or if GADSDEN COUNTY has denied, an extension of the Project Schedule completion date; partial progress payments will be stopped on the date time expires. No payment shall be made for work performed after the Project Schedule completion date until a time extension is granted or all work has been completed and accepted by GADSDEN COUNTY if the Agreement term has not expired.

III. PROJECTS AND COMPENSATION

A. CONTRACTOR shall provide the following engineering services to GADSDEN COUNTY:

1. Roadway and bridge' design.
2. Stormwater and flood plain management.
3. Project planning and management.
4. Survey services.
5. Environmental engineering to include water, sewer, and solid waste.
6. Site planning and design.
7. Traffic planning.

8. Permitting (local, state, and federal).
9. Planning and development review services.
10. Architectural services.
11. Other services requested by *staff* or the Board as requested.

GADSDEN COUNTY must approve a Task Order for the desired work in writing before CONTRACTOR provides any compensable service on that Task Order.

B. This Agreement provides for three ways for GADSDEN COUNTY and CONTRACTOR to accomplish payment for services rendered. These include:

1. **LUMP SUM PAYMENT** - If the scope of the work of a specific task can be determined with reasonable certainty, GADSDEN COUNTY and CONTRACTOR may negotiate a fixed, lump sum fee. The scope of the work and the negotiated fee shall be reduced to writing and signed by both parties.
2. **HOURLY FEES** - Work may be accomplished using the hourly rates listed below applied to the actual hours that are required to accomplish the assigned task, plus direct expenses. CONTRACTOR shall provide a "not to exceed" amount to GADSDEN COUNTY prior to performing work by hourly rates with the exception of emergency situations.

**Schedule of Hourly Rates
Continuing Engineering Services
Gadsden County, Florida**

9-4-14

Employee Classification	Range of Rates	
Principal	\$133.20	\$192.40
Project Director	\$133.20	\$192.40
Project Manager	\$118.40	\$162.80
Registered Engineer	\$88.80	\$162.80
Unregistered Engineer	\$59.20	\$103.60
Architect	\$88.80	\$192.40
Landscape Architect	\$74.00	\$162.80
Planner	\$59.20	\$162.80
Environmental Scientist	\$88.80	\$177.60
Designer	\$59.20	\$88.80

Technician	\$50.32	\$74.00
CADD Supervisor	\$74.00	\$148.00
CADD Operator	\$44.40	\$88.80
GIS Specialist	\$59.20	\$162.80
Draftsman (non-CADD)	\$44.40	\$88.80
Graphic Artist	\$44.40	\$74.00
Construction Site Observer	\$59.20	\$133.20
Rate Analyst	\$74.00	\$177.60
Registered Land Surveyor	\$74.00	\$133.20
2-Person Survey Party	\$162.80	\$192.40
Property Acquisition Specialist	\$74.00	\$133.20
Clerical - Administrative	\$44.40	\$74.00
Grant Specialist	\$74.00	\$133.20
Public Information Specialist	\$74.00	\$133.20

3. OTHER - Any other method that is mutually agreeable.

C. If a task is assigned to CONTRACTOR by competent authority of GADSDEN COUNTY, and no method is specified or otherwise agreed to, the Hourly Fees method above shall be used.

D. The Schedule of Hourly Fees may be modified from time to time but only with the express consent/approval of GADSDEN COUNTY, through action of the GADSDEN COUNTY Board of County Commissioners.

E. Any cost opinions or Project economic evaluations provided by CONTRACTOR will be on the basis of experience and judgment, but, since it has no control over market conditions or bidding procedures, CONTRACTOR cannot warrant that bids, ultimate construction cost, or Project economics will not vary from these opinions. If they do, CONTRACTOR will notify GADSDEN COUNTY.

IV. PAYMENT

A. Bills for fees or other compensation for services or expenses will be submitted to GADSDEN COUNTY in detail sufficient for a proper pre-audit and post-audit thereof. CONTRACTOR shall submit monthly invoices to GADSDEN COUNTY based on a percentage of completion. Invoice(s) shall be submitted on or before the fifteenth (15th)

day of the month and shall itemize the activities (and Direct Expenses, if appropriate) for the prior month.

B. Review, approval and payment by GADSDEN COUNTY on proper invoice by CONTRACTOR shall be in accordance with the Local Government "Prompt Payment Act" ("the Act"), section 218.74, Florida Statutes. CONTRACTOR may invoice for accrued interest or late payments in accordance with the Act.

C. Records of costs incurred under terms of this Agreement will be maintained and made available upon request to GADSDEN COUNTY at all times during the period of this Agreement and for three years after final payment for the work pursuant to this Agreement is made. Copies of these documents and records will be furnished to GADSDEN COUNTY upon request. Records of costs incurred will include CONTRACTOR's general accounting records and the project records, together with supporting documents and records, of CONTRACTOR and all sub-consultants performing work on the project, and all other records of CONTRACTOR and sub-consultants considered necessary by GADSDEN COUNTY for a proper audit of project costs.

D. GADSDEN COUNTY may withhold payment on any invoice in the event that CONTRACTOR is in default under any provision of this Agreement or any other Agreement between CONTRACTOR and GADSDEN COUNTY as of the time of processing the invoice or as of the time payment is made available on the invoice. This right to withhold will continue until such time as the default has been cured, and, upon cure, GADSDEN COUNTY will have the right to retain an amount equal to the damages suffered as a result of the default.

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3. TERM

The agreement shall be for a period of two (2) years, effective October 1, 2016 through September 30, 2018. After the initial two (2) year period, at the sole option of the County, the Agreement may be extended for no more than one (1) additional one (1) year period by a writing signed by both parties.

4. CONTRACT SUM/PAYMENT SCHEDULE

The Contractor agrees that for the performance of the services described in Exhibit A, it shall be remunerated by the County as follows:

Pursuant to and in accordance with Exhibit A, attached hereto and made a part hereof.

The Contractor shall not be entitled to any payments scheduled to be made following notice of termination of the Agreement in accordance with the terms of this Agreement.

5. PAYMENTS

The County will make such payments within thirty (30) days of submission and approval of an invoice for services.

6. STATUS

The Contractor at all times relevant to this Agreement shall be an independent contractor and in no event shall the Contractor nor any employees or sub-contractors under it be considered to be employees of Gadsden County. Nothing in this agreement shall be deemed to create a partnership or joint venture between the Contractor and the County, or between the County and any other party, or cause the County to be liable or responsible in any way for the actions, omissions, liabilities, debts, or obligations of the Contractor or any other person or entity.

This Agreement is solely for the benefit of the County and the Contractor, and no right or cause of action shall accrue upon or by reason hereof, or for the benefit of any third party. Nothing in this Agreement, either express or implied, is intended or shall be construed to confer upon or give any person or entity, other than the parties hereto, any right, remedy, or claim under or by reason of this Agreement or any of the provisions or conditions hereof.

7. INSURANCE

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the Contractor's bid.

A. Minimum Limits of Insurance. Contractor shall maintain limits no less than:

1. General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage (Non-owned, Hired Car).
3. Workers' Compensation and Employers Liability: Insurance covering all employees meeting Statutory Limits in compliance with the applicable state and federal laws and Employer's Liability with a limit of \$500,000 per accident, \$500,000 disease policy limit, \$500,000 disease each employee. Waiver of Subrogation in lieu of Additional Insured is required.
4. Professional Liability: All types necessary to protect the County from any professional liability arising under this agreement with a minimum \$1,000,000 liability unit. The deductible shall not exceed \$25,000 and if greater than \$1,000 must be guaranteed by the Contractor for the difference between the deductible and \$1,000. The professional liability insurance coverage for the services provided under this Agreement shall be maintained in force from the effective date of the contract through at least one year following the actual completion of the provision of any services under the terms of this Agreement.

The Contractor shall provide evidence of the insurance and the evidence shall provide for thirty (30) days' notice in writing to the County prior to cancellation, expiration, or non-renewal.

B. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the County. At the option of the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

C. Other Insurance Provisions: The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverages (County is to be named as Additional Insured).
 - a. The County, its officers, officials, employees and volunteers are to be covered as insureds as respects; liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products and completed operations of the

Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protections afforded the County, its officers, officials, employees or volunteers.

- b. The Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance of self-insurance maintained by the County, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees or volunteers.
- d. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. All Coverages

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the County.

- D. Acceptability of Insurers. Insurance is to be placed with insurers with a Best's rating of no less than A:VII.
- E. Verification of Coverage. Contractor shall furnish the County with certificates of insurance and with original endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by the County before work commences. The County reserves the right to require complete, certified copies of all required insurance policies at any time.
- F. Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

8. LICENSES; PERMITS

The Contractor shall be responsible for obtaining and maintaining its city or county occupational license and any licenses required pursuant to the laws of Gadsden County or the State of Florida or the United States of America. Should the Contractor, by reason of revocation, failure to renew, or any other reason, fail to maintain his license to operate, the contractor shall be in default as of the date such license is lost.

The Contractor shall be responsible for obtaining and maintaining all permits required pursuant to the laws of Gadsden County or the State of Florida or the United States of America.

9. ASSIGNMENTS

This Agreement shall not be assigned or sublet as a whole or in part without the written consent of the County nor shall the contractor assign any monies due or to become due to him hereunder without the previous written consent of the County.

10. INDEMNIFICATION; HOLD HARMLESS

The Contractor agrees to indemnify, defend and hold harmless the County, its officers, employees, attorneys, and agents from and against all claims, damages, liabilities, or suits of any nature whatsoever arising out of, because of, or due to the breach of this agreement by the Contractor, its delegates, agents or employees, or due to any act or occurrence of omission or commission of the Contractor, including but not limited to costs and reasonable attorneys' fees, whether or not there is litigation and including those incurred on appeal. The County may, at its sole option, defend itself or allow the Contractor to provide the defense. Whether it elects to defend itself or allow the Contractor to provide the defense, the County shall have the right to select the counsel of its choice to provide the defense and the Contractor shall be responsible for all costs and reasonable attorneys' fees incurred in the defense, whether or not there is litigation and including those incurred on appeal. The indemnity obligations of the Contractor under this Agreement shall continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement. By entering into this Agreement, the County does not intend and in no way waives any sovereign immunity rights that it possesses.

11. AUDITS, RECORDS, AND RECORDS RETENTION

For the services performed under this Agreement, the Contractor shall maintain books, records, documents, and other evidence according to generally accepted governmental accounting principles, procedures, and practices which sufficiently and properly reflect all costs and expenditures of any nature, incurred by the Contractor in connection with the services performed under this Agreement.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE GADSDEN COUNTY CLERK OF COURTS, 10 E. JEFFERSON ST., QUINCY, FL 32351, (850) 875-8612, clerkofcourt@gadsdenclerk.com.

The Contractor must comply with the public records laws, Chapter 119, F.S.; specifically the Contractor shall:

- a. Keep and maintain public records required by the County to perform the service.

- b. Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in chapter 119 Florida Statutes or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the County.
- d. Upon completion of the contract, transfer, at no cost, to the County all public records in possession of the Contractor or keep and maintain public records required by the County to perform the service. If the Contractor transfers all public records to the County upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining the public records. All records stored electronically must be provided to the County, upon the request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

The County shall have the right from time to time at its sole expense to audit the compliance by the City with the terms, conditions, obligations, limitations, restrictions and requirements of this Agreement and such right shall extend for a period of five (5) years after termination of this Agreement, or if an audit has been initiated and audit findings have not been resolved at the end of five (5) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of this Agreement.. However, notwithstanding the above, no books, records, documents, or other evidence reflecting all costs and expenditures incurred under this Agreement shall be destroyed until proper authorization for the disposal has been received pursuant to Florida law.

13. MONITORING

Contractor agrees to permit persons duly authorized by the County to inspect any records, papers, documents, facilities, goods, and services of the provider which are relevant to this Agreement, and interview any clients and employees of the provider to assure the County of satisfactory performance of the terms and conditions of this Agreement. Following such evaluation, the County will deliver to the provider a written report of its findings and will include written recommendations with regard to the provider's performance of the terms and conditions of this agreement. The provider will correct all noted deficiencies identified by the County within the specified period of time set forth in the recommendations. The provider's failure to correct noted deficiencies may, at the sole and exclusive discretion of the County, result in any one or any combination of the following: (1) the provider being deemed in breach or default of this agreement; (2) the withholding of payments to the provider by the County; and (3) the termination of this Agreement for cause.

14. TERMINATION

Gadsden County may terminate this Agreement without cause, by giving the Contractor thirty (30) days written notice of termination. Either party may terminate this Agreement for cause by giving the other party thirty (30) days written notice of termination. The

County shall not be required to give Contractor such thirty (30) day written notice if, in the opinion of the County, the Contractor is unable to perform its obligations hereunder, or if in the County's opinion, the services being provided are not satisfactory. In such case, the County may immediately terminate the Agreement by mailing a notice of termination to the Contractor.

15. PUBLIC ENTITY CRIMES STATEMENT

In accordance with Section 287.133, Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies 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 a public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two for a period of 36 months following the date of being placed on the convicted vendor list. Any person must notify the Department of Management Services and the County within 30 days after conviction of a public entity crime applicable to that person or to an affiliate of that person. Contractor hereby certifies that it has not been placed on the convicted vendor list for a period of at least 36 months prior to submission of its response to the solicitation that resulted in this Agreement, and that it shall notify the Department of Management Services and the County within 30 days after conviction of a public entity crime applicable to Contractor or to an affiliate of Contractor.

16. NON-WAIVER

Failure by the County to enforce or insist upon compliance with any of the terms or conditions of this Agreement or failure to give notice or declare this Agreement terminated shall not constitute a general waiver or relinquishment of the same, or of any other terms, conditions or acts; but the same shall be and remain at all times in full force and effect.

17. AMENDMENTS

In any case where, in fulfilling the requirements of this agreement or of any guarantee, embraced in or required thereby it is necessary for the Contractor to deviate from the requirements of the bid, Contractor shall obtain the prior written consent of the County.

18. VENUE

Venue for all actions arising under this agreement shall lie in Gadsden County, Florida.

19. CONSTRUCTION

The validity, construction, and effect of this Agreement shall be governed by the laws of the State of Florida.

20. DISPUTES

Any and all disputes, including but not limited to those concerning billing and payment, shall be resolved by the County Administrator. All decisions of the County Administrator shall be final.

21. SEVERABILITY

If any provision of this Agreement shall be held or deemed to be illegal, inoperative or unenforceable for any reason, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatsoever.

22. EXECUTION

This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which together shall constitute one in the same instrument.

23. COPYRIGHT; PROPERTY OF COUNTY

All works commenced for use in connection with any task authorized by the County, including but not limited to, all intellectual property, writings, drawings, graphics, and computer files, as well as all data collected and summaries and charts derived therefrom (collectively, "Works"), shall be works made for hire and shall become the property of the County in their native and executable format immediately upon commencement without restriction or limitation on their use and will be made available to the County at any time during the performance of the task and upon completion or termination of this Agreement. Upon delivery to the County, the County will become the custodian of the Works. The County shall have the ability to copyright or trademark any Works, and Contractor shall not copyright or trademark any Works in favor of Contractor.

**[THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK –
SIGNATURES APPEAR ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of, though not necessarily executed on, the Effective date.

Signed, sealed, and delivered
in the presence of:

_____, a Florida _____
authorized to transact business in Florida

(1st Witness Signature)

(1st Witness – Printed Name)

By: _____

Its: _____

(2nd Witness Signature)

(2nd Witness – Printed Name)

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by _____, as _____ of _____, a Florida _____ authorized to do business in Florida, on behalf of said company. Such person: () is personally known to me; () produced a current driver's license as identification; or () produced _____ as identification.

(Notarial Seal)

(Signature of Notary Public)

(Typed or Printed Name of Notary Public)

ATTEST: GADSDEN COUNTY CLERK
OF COURT

**GADSDEN COUNTY, FLORIDA, a political
subdivision of the State of Florida**

NICHOLAS THOMAS

BRENDA HOLT
Chairperson, Gadsden County Board of County
Commissioners

APPROVED AS TO FORM FOR
RELIANCE BY GADSDEN COUNTY
ONLY: GADSDEN COUNTY
ATTORNEY

DAVID J. WEISS

EXHIBIT "A"

I. PROVISION OF SERVICES

A. Specific to this Agreement, CONTRACTOR shall provide professional services for GADSDEN COUNTY as described under Projects and Compensation below.

B. In the performance of professional services, CONTRACTOR will use that degree of care and skill ordinarily exercised by other similar professionals in the field under similar conditions in similar localities. CONTRACTOR shall use due care in performing in an engineering capacity and will have due regard for acceptable standards of engineering principles.

C. Before undertaking or making any additions or deletions to the work described in the Agreement, and before undertaking any changes or revisions to such work, the parties will negotiate the cost of such work and any necessary cost changes due to any additions, deletions, changes, or revisions, and will enter into a separate Task Order covering such work and compensation. Reference herein to the Agreement will be considered to include any Task Order.

D. All services will be performed by CONTRACTOR to the satisfaction of the County Administrator or his assign, who will decide all questions, difficulties and disputes of any nature whatsoever, on behalf of GADSDEN COUNTY, that may arise under or by reason of the Agreement, the prosecution and fulfillment of the services hereunder and the character, quality, amount and value thereof.

E. Adjustments of compensation and contract time because of any major changes in the work that may become necessary or desirable as the work progresses will be subject to mutual agreement of the parties, and Task Order(s) of such a nature as required will be entered into by the parties in accordance herewith. In the event that CONTRACTOR and GADSDEN COUNTY are not able to reach an agreement as to the amount of compensation to be paid to CONTRACTOR for work desired by GADSDEN COUNTY, CONTRACTOR will be obligated to proceed with the work in a timely manner for the amount determined by GADSDEN COUNTY to be reasonable. In such event, CONTRACTOR will have the right to file a claim with GADSDEN COUNTY for such additional amounts as CONTRACTOR deems reasonable; however, in no event will the filing of the claim or the resolution or litigation thereof through administrative procedures or the courts relieve CONTRACTOR from the obligation to timely perform the work.

F. All design work performed by CONTRACTOR for projects where anticipated construction cost is one million dollars (\$1,000,000) or more may be subject to Value Engineering. GADSDEN COUNTY further reserves the right to subject projects of lesser construction cost to Value Engineering should GADSDEN COUNTY deem circumstances are present that warrant such a decision. Value Engineering may be performed at any stage of the design process. Unless specifically identified in the Agreement, CONTRACTOR will not be required to perform the Value Engineering

analysis.

G. CONTRACTOR will not be liable for use by GADSDEN COUNTY of works for any purpose other than intended by the terms of this Professional Services Agreement.

II. PROJECT SCHEDULES

A. Individual Task Orders may be negotiated for any post project schedule services needed by GADSDEN COUNTY after scheduled project services.

B. In the event there are delays caused by GADSDEN COUNTY in approval of any of the plans submitted by CONTRACTOR or if there are delays occasioned by circumstances beyond the control and without fault or negligence of CONTRACTOR which delay the scheduled project completion date, GADSDEN COUNTY may grant an extension of time equal to the aforementioned project schedule delay, as a minimum and not to exceed the Agreement term, by issuance of a Time Extension Letter. This letter will be for time only and does not include any additional compensation.

C. It will be the responsibility of CONTRACTOR to ensure at all times that sufficient time remains in the Project Schedule within which to complete the services on the project. In the event there have been delays which would affect the project completion date, CONTRACTOR will submit a written request to GADSDEN COUNTY which identifies the reason(s) for the delay, the amount of time related to each reason and specific indication as to whether or not the delays were concurrent with one another, GADSDEN COUNTY will review the request and make a determination as to granting all or part of the requested extension.

D. In the event time for performance of the scheduled project services expires and CONTRACTOR has not requested, or if GADSDEN COUNTY has denied, an extension of the Project Schedule completion date; partial progress payments will be stopped on the date time expires. No payment shall be made for work performed after the Project Schedule completion date until a time extension is granted or all work has been completed and accepted by GADSDEN COUNTY if the Agreement term has not expired.

III. PROJECTS AND COMPENSATION

A. CONTRACTOR shall provide the following engineering services to GADSDEN COUNTY:

1. Roadway and bridge' design.
2. Stormwater and flood plain management.
3. Project planning and management.
4. Survey services.
5. Environmental engineering to include water, sewer, and solid waste.
6. Site planning and design.
7. Traffic planning.

8. Permitting (local, state, and federal).
9. Planning and development review services.
10. Architectural services.
11. Other services requested by *staff* or the Board as requested.

GADSDEN COUNTY must approve a Task Order for the desired work in writing before CONTRACTOR provides any compensable service on that Task Order.

B. This Agreement provides for three ways for GADSDEN COUNTY and CONTRACTOR to accomplish payment for services rendered. These include:

1. **LUMP SUM PAYMENT** - If the scope of the work of a specific task can be determined with reasonable certainty, GADSDEN COUNTY and CONTRACTOR may negotiate a fixed, lump sum fee. The scope of the work and the negotiated fee shall be reduced to writing and signed by both parties.
2. **HOURLY FEES** - Work may be accomplished using the hourly rates listed below applied to the actual hours that are required to accomplish the assigned task, plus direct expenses. CONTRACTOR shall provide a "not to exceed" amount to GADSDEN COUNTY prior to performing work by hourly rates with the exception of emergency situations.

**Schedule of Hourly Rates
Continuing Engineering Services
Gadsden County, Florida**

9-4-14

Employee Classification	Range of Rates	
Principal	\$133.20	\$192.40
Project Director	\$133.20	\$192.40
Project Manager	\$118.40	\$162.80
Registered Engineer	\$88.80	\$162.80
Unregistered Engineer	\$59.20	\$103.60
Architect	\$88.80	\$192.40
Landscape Architect	\$74.00	\$162.80
Planner	\$59.20	\$162.80
Environmental Scientist	\$88.80	\$177.60
Designer	\$59.20	\$88.80

Technician	\$50.32	\$74.00
CADD Supervisor	\$74.00	\$148.00
CADD Operator	\$44.40	\$88.80
GIS Specialist	\$59.20	\$162.80
Draftsman (non-CADD)	\$44.40	\$88.80
Graphic Artist	\$44.40	\$74.00
Construction Site Observer	\$59.20	\$133.20
Rate Analyst	\$74.00	\$177.60
Registered Land Surveyor	\$74.00	\$133.20
2-Person Survey Party	\$162.80	\$192.40
Property Acquisition Specialist	\$74.00	\$133.20
Clerical - Administrative	\$44.40	\$74.00
Grant Specialist	\$74.00	\$133.20
Public Information Specialist	\$74.00	\$133.20

3. OTHER - Any other method that is mutually agreeable.

C. If a task is assigned to CONTRACTOR by competent authority of GADSDEN COUNTY, and no method is specified or otherwise agreed to, the Hourly Fees method above shall be used.

D. The Schedule of Hourly Fees may be modified from time to time but only with the express consent/approval of GADSDEN COUNTY, through action of the GADSDEN COUNTY Board of County Commissioners.

E. Any cost opinions or Project economic evaluations provided by CONTRACTOR will be on the basis of experience and judgment, but, since it has no control over market conditions or bidding procedures, CONTRACTOR cannot warrant that bids, ultimate construction cost, or Project economics will not vary from these opinions. If they do, CONTRACTOR will notify GADSDEN COUNTY.

IV. PAYMENT

A. Bills for fees or other compensation for services or expenses will be submitted to GADSDEN COUNTY in detail sufficient for a proper pre-audit and post-audit thereof. CONTRACTOR shall submit monthly invoices to GADSDEN COUNTY based on a percentage of completion. Invoice(s) shall be submitted on or before the fifteenth (15th)

day of the month and shall itemize the activities (and Direct Expenses, if appropriate) for the prior month.

B. Review, approval and payment by GADSDEN COUNTY on proper invoice by CONTRACTOR shall be in accordance with the Local Government "Prompt Payment Act" ("the Act"), section 218.74, Florida Statutes. CONTRACTOR may invoice for accrued interest or late payments in accordance with the Act.

C. Records of costs incurred under terms of this Agreement will be maintained and made available upon request to GADSDEN COUNTY at all times during the period of this Agreement and for three years after final payment for the work pursuant to this Agreement is made. Copies of these documents and records will be furnished to GADSDEN COUNTY upon request. Records of costs incurred will include CONTRACTOR's general accounting records and the project records, together with supporting documents and records, of CONTRACTOR and all sub-consultants performing work on the project, and all other records of CONTRACTOR and sub-consultants considered necessary by GADSDEN COUNTY for a proper audit of project costs.

D. GADSDEN COUNTY may withhold payment on any invoice in the event that CONTRACTOR is in default under any provision of this Agreement or any other Agreement between CONTRACTOR and GADSDEN COUNTY as of the time of processing the invoice or as of the time payment is made available on the invoice. This right to withhold will continue until such time as the default has been cured, and, upon cure, GADSDEN COUNTY will have the right to retain an amount equal to the damages suffered as a result of the default.