
**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Miscellaneous Agreement: M-5004-09/BLH - Construction Management Services for Facilities Projects

DEPARTMENT: Administrative Services

DIVISION: Purchasing and Contracts

AUTHORIZED BY: Frank Raymond

CONTACT: Bob Hunter

EXT: 7119

MOTION/RECOMMENDATION:

Approve M-5004-09/BLH - Construction Management Services for Facilities Projects as a Single Source procurement with ZHA, Inc., or Orlando, Florida (Estimated Annual Usage of \$275,000.00).

County-wide

Ray Hooper

BACKGROUND:

M-5004-09/BLH will provide for professional construction management services during the design and construction of Facilities, Construction Management projects. These services will include, but not be limited to, reviewing plans and specifications, ensuring conformity and compliance with project scope, and developing cost estimates. As the Owner's Representative, the Consultant will also be providing assistance with the implementation of design, scheduling and value engineering for vertical construction projects.

The Administrative Services Department has an established need for a provider of project management services, to assist with ten (10) Facilities Management (FM) projects that are listed under Exhibit "A" of the attached Award Agreement. FM staff have selected ZHA, Inc. as the Consultant to provide these services under a Single Source procurement. This decision was based upon a number of factors, which included the continuity of project management, familiarity with organizational requirements for projects and with the local design and construction community, and the value added benefits of determining personnel selection and reasonable labor rates. The attached backup documentation includes the Single Source Justification Form.

This Master Agreement provides for an Estimated Annual Usage in the amount of \$275,000.00 for these services, and has an Agreement Term that includes a two (2) year base period, with three (3) 1-year each Renewal Options. Authorization for the performance of services by the Consultant under this Master Agreement shall be in the form of written Work Orders issued and executed by the County, and signed by the Consultant. The work and dollar amount for each Work Order shall be negotiated on an as-needed basis for the specific project, and funded within approved budget amounts.

STAFF RECOMMENDATION:

Staff recommends that the Board approve M-5004-09/BLH - Construction Management Services for Facilities Projects as a Single Source procurement with ZHA, Inc., or Orlando, Florida (Estimated Annual Usage of \$275,000.00).

ATTACHMENTS:

1. M-5004-09_BLH - Award Agreement (ZHA)
2. M-5004-09_BLH - Backup Documentation

Additionally Reviewed By:

County Attorney Review (Ann Colby)

**CONSTRUCTION MANAGEMENT SERVICES AGREEMENT
FACILITIES PROJECTS
(M-5004-09/BLH)**

THIS AGREEMENT is made and entered into this _____ day of _____, 20____, by and between **ZHA, INC.**, duly authorized to conduct business in the State of Florida, whose address is 221 NE Ivanhoe Boulevard, 2nd Floor, Orlando, Florida 32804, hereinafter called "CONSULTANT" and **SEMINOLE COUNTY**, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter called "COUNTY".

W I T N E S S E T H:

WHEREAS, COUNTY desires to retain the services of a competent and qualified CONSULTANT to provide construction management services for Facilities projects in Seminole County; and

WHEREAS, COUNTY has determined that CONSULTANT is the only company that can meet its needs for these services; and

WHEREAS, CONSULTANT is  competent and qualified to furnish construction management services for Facilities projects to COUNTY and desires to provide professional services according to the terms and conditions stated herein,

NOW, THEREFORE, in consideration of the mutual understandings and covenants set forth herein, COUNTY and CONSULTANT agree as follows:

SECTION 1. SERVICES.

(a) COUNTY does hereby retain CONSULTANT to furnish professional services and perform those tasks as further described in the Scope of Services attached hereto as Exhibit A and made a part hereof. Required services shall be specifically enumerated, described, and depicted in the Work Orders authorizing performance of the specific project, task, or study. This Agreement standing alone does not authorize the performance of any work or require COUNTY to place any orders for work.

(b) CONSULTANT may utilize labor categories that are not included in the fee proposal for each Work Order, but that have been approved in the Master Agreement. If a substitution is necessary, the work shall be completed within the approved Time Basis (Not-To-Exceed or Limitation of Funds) Work Order Amount, and in no event shall the Work Order Amount be modified as a result of any changes in labor categories. CONSULTANT shall submit a written request to the County's Project Manager for approval of any substitution prior to the utilization of any labor category for service, and the County Project Manager's approval of any substitution must take place prior to submission of the invoice. Any approved labor category substitution shall be based on the prevailing labor categories and their associated hourly rates established in the Master Agreement that are in effect on the date of the County's approval for any substitution.

SECTION 2. TERM. This Agreement shall take effect on the date of its execution by COUNTY and shall  run for a period of two (2) years and, at the sole option of COUNTY, may be renewed for three (3) successive periods not to exceed one (1) year each. Expiration of the term of this Agreement shall have no effect upon Work Orders issued pursuant to this Agreement and prior to the expiration date. Obligations entered therein by both parties shall remain in effect until completion of the work authorized by the Work Order.

SECTION 3. AUTHORIZATION FOR SERVICES. Authorization for performance of professional services by CONSULTANT under this Agreement shall be in the form of written Work Orders issued and executed by COUNTY and signed by CONSULTANT. A sample Work Order is attached hereto as Exhibit B. Each Work Order shall describe the services required, state the dates for commencement and completion of work, and establish the amount and method of payment. The Work Orders will be issued under and shall incorporate the terms of this Agreement. COUNTY makes no

covenant or promise as to the number of available projects or that CONSULTANT will perform any project for COUNTY during the life of this Agreement. COUNTY reserves the right to contract with other parties for the services contemplated by this Agreement when it is determined by COUNTY to be in the best interest of COUNTY to do so.

SECTION 4. TIME FOR COMPLETION. The services to be rendered by CONSULTANT shall be commenced as specified in such Work Orders as may be issued hereunder and shall be completed within the time specified therein.

SECTION 5. COMPENSATION. COUNTY agrees to compensate CONSULTANT for the professional services called for under this Agreement on either a "Fixed Fee Basis" or on a "Time Basis Method". The CONSULTANT shall be compensated in accordance with the rate schedule attached as Exhibit C, which includes all reimbursable expenses.

SECTION 6. REIMBURSABLE EXPENSES.

(a) If a Work Order is  issued on a Time Basis Method, then reimbursable expenses are in addition to the hourly rates. Reimbursable expenses are subject to the applicable "Not-to-Exceed" or "Limitation of Funds" amount set forth in the Work Order. Reimbursable expenses may include actual expenditures made by CONTRACTOR, his employees or his professional associates in the interest of the Project for the expenses listed in the following paragraphs:

(1) Travel expenses in connection with the Project based on Sections 112.061(7) and (8), Florida Statutes, or its successor, and subject to the limitation listed below; long distance calls and telegrams; and fees paid for securing approval of authorities having jurisdiction over the Project. Reimbursement for meals, travel, vehicle mileage, tolls, and parking shall not apply to local employees of CONTRACTOR.

A. Reimbursement for mileage shall be at the rate allowable by the Federal Internal Revenue Services. Reimbursement for local mileage, defined as within a fifty (50) mile radius of the job site, is not allowed.

B. Car rental reimbursement is limited to compact cars for up to two (2) occupants and intermediate cars for more than two occupants.

C. Reimbursement for lodging shall be at \$75.00 or the actual expenses for lodging at a "non-resort"-type hotel located in Seminole County, Florida.

D. Meals shall not exceed:

1. Breakfast:

\$6.00 without receipts

\$10.00 with receipts;

2. Lunch:

\$11.00 without receipts

\$13.00 with receipts;

3. Dinner:

\$19.00 without receipts

\$27.00 with receipts.

E. Reimbursement for airfare shall be based on coach rates.

(2) Expense of reproduction, postage, and handling of drawings and specifications are authorized at actual cost only.

(3) If authorized in writing in advance by COUNTY, the cost of other expenditures made by CONTRACTOR in the interest of the Project.

(b) Any reimbursable expenses under this Agreement shall be supported by a source document, such as a receipt or invoice, with the employee's name, project name, and brief explanation of the expense. All reimbursable expenses shall be itemized on the invoices.

(c) All reimbursable expenses must be allowable, allocable to the contract, and reasonable, as solely determined by COUNTY.

SECTION 7. PAYMENT AND BILLING.

(a) If the Scope of Services required to be performed by a Work Order is clearly defined, the Work Order shall be issued on a Fixed Fee Basis. CONSULTANT shall perform all work required by the Work Order, but in no event shall CONSULTANT be paid more than the negotiated Fixed Fee amount stated therein.

(b) If the Scope of Services is not clearly defined, the Work Order may be issued on a Time Basis Method and contain a Not-to Exceed amount. If a Not-to-Exceed amount is provided, CONSULTANT shall perform all work required by the Work Order, but in no event shall CONSULTANT be paid more than the Not-to-Exceed amount specified in the applicable Work Order.

(c) If the Scope of Services is not clearly defined, the Work Order may be issued on a Time Basis Method and contain a Limitation of Funds amount. CONSULTANT is not authorized to exceed that amount without the prior written approval of COUNTY. Said approval, if given by COUNTY, shall indicate a new Limitation of Funds amount. CONSULTANT shall advise COUNTY whenever CONSULTANT has incurred expenses on any Work Order that equals or exceeds eighty percent (80%) of the Limitation of Funds amount.

(d) For Work Orders issued on a Fixed Fee Basis, CONSULTANT may invoice the amount due based on the percentage of total Work Order services actually performed and completed, but in no event shall the invoice amount exceed a percentage of the Fixed Fee amount equal to a percentage of the total services actually completed. COUNTY shall pay CONSULTANT ninety percent (90%) of the approved amount on Work Orders ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) and over in value and one hundred percent (100%) of the approved amount on Work Orders

under ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) in value issued on a Fixed Fee Basis.

(e) For Work Orders issued on a Time Basis Method with a Not-to-Exceed amount, CONSULTANT may invoice the amount due for actual work hours performed, but in no event shall the invoice amount exceed a percentage of the Not-to-Exceed amount equal to a percentage of the total services actually completed. COUNTY shall pay CONSULTANT ninety percent (90%) of the approved amount on Work Orders ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) and over in value issued on a Time Basis Method with a Not-to-Exceed amount and one hundred percent (100%) on Work Orders under ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) in value.

(f) Each Work Order ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) and over in value issued on a Fixed Fee Basis or Time Basis Method with a Not-to-Exceed amount shall be treated separately for retainage purposes. If COUNTY  determines that work is substantially complete and the amount retained is considered to be in excess, COUNTY may, at its sole and absolute discretion, release the retainage or any portion thereof.

(g) For Work Orders issued on a Time Basis Method with a Limitation of Funds amount, CONSULTANT may invoice the amount due for services actually performed and completed. COUNTY shall pay CONSULTANT one hundred percent (100%) of the approved amount on Work Orders issued on a Time Basis Method with a Limitation of Funds amount.

(h) Payments shall be made by COUNTY to CONSULTANT when requested as work progresses for services furnished, but not more than once monthly. Each Work Order shall be invoiced separately. At the close of each calendar month, CONSULTANT shall render to COUNTY a properly dated itemized invoice describing any services rendered, the cost of the services, the name and address of CONSULTANT, Work Order Number,

Contract Number, and all other information required by this Agreement.

The original invoice and one (1) copy shall be sent to:

Director of County Finance
Seminole County Board of County Commissioners
Post Office Box 8080
Sanford, Florida 32772

Two (2) copies of the invoice shall be sent to:

Administrative Services/Facilities
205 W. County Home Road
Sanford, Florida 32773

(i) Payment shall be made after review and approval by COUNTY within thirty (30) days of receipt of a proper invoice from CONSULTANT.

SECTION 8. GENERAL TERMS OF PAYMENT AND BILLING.

(a) Upon satisfactory completion of work required hereunder and upon acceptance of the work by COUNTY, CONSULTANT may invoice COUNTY for the full amount of compensation provided for under the terms of this Agreement including any retainage and less any amount already paid by COUNTY. COUNTY shall pay CONSULTANT within thirty (30) days of receipt of proper invoice.



(b) COUNTY may perform or have performed an audit of the records of CONSULTANT after final payment to support final payment hereunder. This audit would be performed at a time mutually agreeable to CONSULTANT and COUNTY subsequent to the close of the final fiscal period in which the last work is performed. Total compensation to CONSULTANT may be determined subsequent to an audit as provided for in subsections (b) and (c) of this Section, and the total compensation so determined shall be used to calculate final payment to CONSULTANT. Conduct of this audit shall not delay final payment as provided by subsection (a) of this Section.

(c) In addition to the above, if federal funds are used for any work under the Agreement, the Department of Housing and Urban Development, the Comptroller General of the United States, or any of

their duly authorized representatives shall have access to any books, documents, papers, and records of CONSULTANT which are directly pertinent to work performed under this Agreement for purposes of making audit, examination, excerpts, and transcriptions.

(d) CONSULTANT agrees to maintain all books, documents, papers, accounting records, and other evidence pertaining to work performed under this Agreement in such a manner as will readily conform to the terms of this Agreement and to make such materials available at CONSULTANT's office at all reasonable times during the Agreement period and for five (5) years from the date of final payment under the contract for audit or inspection as provided for in subsections (b) and (c) of this Section.

(e) In the event any audit or inspection conducted after final payment, but within the period provided in paragraph (d) of this Section, reveals any overpayment by COUNTY under the terms of the Agreement, CONSULTANT shall refund such overpayment to COUNTY within thirty (30) days of notice by COUNTY.

SECTION 9. RESPONSIBILITIES OF CONSULTANT.

(a) CONSULTANT shall be responsible for the professional quality, technical accuracy, competence, methodology, accuracy, and the coordination of all of the following which are listed for illustration purposes and not as a limitation: documents, analysis, reports, data, plans, plats, maps, surveys, specifications, and any and all other services of whatever type or nature furnished by CONSULTANT under this Agreement. CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in his plans, analysis, data, reports, designs, drawings, specifications, and any and all other services of whatever type or nature.

(b) Neither COUNTY's review, approval, or acceptance of, nor payment for, any of the services required shall be construed to operate

as a waiver of any rights under this Agreement nor of any cause of action arising out of the performance of this Agreement; and CONSULTANT shall be and always remain liable to COUNTY in accordance with applicable law for any and all damages to COUNTY caused by CONSULTANT's negligent or wrongful performance of any of the services furnished under this Agreement.

SECTION 10. OWNERSHIP OF DOCUMENTS. All deliverable analysis, reference data, survey data, plans, and reports or any other form of written instrument or document that may result from CONSULTANT's services or have been created during the course of CONSULTANT's performance under this Agreement shall become the property of COUNTY after final payment is made to CONSULTANT.

SECTION 11. TERMINATION.

(a) COUNTY may, by written notice to CONSULTANT, terminate this Agreement or any Work Order issued hereunder, in whole or in part, at any time, either for COUNTY's convenience or because of the failure of CONSULTANT to fulfill its Agreement obligations. Upon receipt of such notice, CONSULTANT shall:

(1) immediately discontinue all services affected unless the notice directs otherwise; and

(2) deliver to COUNTY all data, drawings, specifications, reports, estimates, summaries, and any and all such other information and materials of whatever type or nature as may have been accumulated by CONSULTANT in performing this Agreement, whether completed or in process.

(b) If the termination is for the convenience of COUNTY, CONSULTANT shall be paid compensation for services performed to the date of termination. If this Agreement calls for the payment based on a Fixed Fee amount, CONSULTANT shall be paid no more than a percentage of the Fixed Fee amount equivalent to the percentage of the completion of

work, as determined solely and conclusively by COUNTY, contemplated by this Agreement.

(c) If the termination is due to the failure of CONSULTANT to fulfill its Agreement obligations, COUNTY may take over the work and prosecute the same to completion by other Agreements or otherwise. In such case, CONSULTANT shall be liable to COUNTY for all reasonable additional costs occasioned to COUNTY thereby. CONSULTANT shall not be liable for such additional costs if the failure to perform the Agreement arises without any fault or negligence of CONSULTANT; provided, however, that CONSULTANT shall be responsible and liable for the actions of its subcontractors, agents, employees, and persons and entities of a similar type or nature. Such causes may include acts of God or of the public enemy, acts of COUNTY in its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but, in every case, the failure to perform must be beyond the control and  without any fault or negligence of CONSULTANT.

(d) If after notice of termination for failure to fulfill its Agreement obligations it is determined that CONSULTANT had not so failed, the termination shall be conclusively deemed to have been effected for the convenience of COUNTY. In such event, adjustment in the Agreement price shall be made as provided in subsection (b) of this Section.

(e) The rights and remedies of COUNTY provided for in this Section are in addition and supplemental to any and all other rights and remedies provided by law or under this Agreement.

SECTION 12. AGREEMENT AND WORK ORDER IN CONFLICT. Whenever the terms of this Agreement conflict with any Work Order issued pursuant to it, the Agreement shall prevail.

SECTION 13. EQUAL OPPORTUNITY EMPLOYMENT. CONSULTANT agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age, disability, or national origin and will take steps to ensure that applicants are employed, and employees are treated during employment, without regard to race, color, religion, sex, age, disability, or national origin. This provision shall include, but not be limited to, the following: employment; upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

SECTION 14. NO CONTINGENT FEES. CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm,  other than a bona fide employee working solely for CONSULTANT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from award or making of this Agreement. For the breach or violation of this provision, COUNTY shall have the right to terminate the Agreement at its sole discretion, without liability and to deduct from the Agreement price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

SECTION 15. CONFLICT OF INTEREST.

(a) CONSULTANT agrees that it will not contract for or accept employment for the performance of any work or service with any individual, business, corporation, or government unit that would create a conflict of interest in the performance of its obligations pursuant to this Agreement with COUNTY.

(b) CONSULTANT agrees that it will neither take any action nor engage in any conduct that would cause any COUNTY employee to violate the provisions of Chapter 112, Florida Statutes, relating to ethics in government.

(c) In the event that CONSULTANT causes or in any way promotes or encourages a COUNTY officer, employee, or agent to violate Chapter 112, Florida Statutes, COUNTY shall have the right to terminate this Agreement.

SECTION 16. ASSIGNMENT. This Agreement, or any interest herein, shall not be assigned, transferred, or otherwise encumbered, under any circumstances, by the parties hereto without prior written consent of the other party and in such cases only by a document of equal dignity herewith.

SECTION 17. SUBCONTRACTORS. In the event that CONSULTANT, during the course of the work under this Agreement, requires the services of any subcontractors or other professional associates in connection with services covered by this Agreement, CONSULTANT must first secure the prior express written approval of COUNTY. If subcontractors or other professional associates are required in connection with the services covered by this Agreement, CONSULTANT shall remain fully responsible for the services of subcontractors or other professional associates.

SECTION 18. INDEMNIFICATION OF COUNTY. CONSULTANT agrees to hold harmless, replace, and indemnify COUNTY, its commissioners, officers, employees, and agents against any and all claim, losses, damages or lawsuits for damages, arising from the negligent, reckless, or intentionally wrongful provision of services hereunder by CONSULTANT, whether caused by CONSULTANT or otherwise.

SECTION 19. INSURANCE.

(a) GENERAL. CONSULTANT shall at its own cost procure the insurance required under this Section.

(1) CONSULTANT shall furnish COUNTY with a Certificate of Insurance signed by an authorized representative of the insurer evidencing the insurance required by this Section (Professional Liability, Workers' Compensation/Employer's Liability and Commercial General Liability). COUNTY, its officials, officers, and employees shall be named additional insured under the Commercial General Liability policy. The Certificate of Insurance shall provide that COUNTY shall be given not less than thirty (30) days written notice prior to the cancellation or restriction of coverage. Until such time as the insurance is no longer required to be maintained by CONSULTANT, CONSULTANT shall provide COUNTY with a renewal or replacement Certificate of Insurance not less than thirty (30) days before expiration or replacement of the insurance for which a previous certificate has been provided.

(2) The Certificate shall contain a statement that it is being provided in accordance with the Agreement and that the insurance is in full compliance with the requirements of the Agreement. In lieu of the statement on the Certificate, CONSULTANT shall (at the option of COUNTY) submit a sworn notarized statement from an authorized representative of the insurer that the Certificate is being provided in accordance with the Agreement and that the insurance is in full compliance with the requirements of the Agreement. **The Certificate shall have this Agreement number clearly marked on its face.**

(3) In addition to providing the Certificate of Insurance, if required by COUNTY, CONSULTANT shall, within thirty (30) days after receipt of the request, provide COUNTY with a certified copy of each of the policies of insurance providing the coverage required by this Section.

(4) Neither approval by COUNTY nor failure to disapprove the insurance furnished by a CONSULTANT shall relieve CONSULTANT of its

full responsibility for performance of any obligation including CONSULTANT's indemnification of COUNTY under this Agreement.

(b) INSURANCE COMPANY REQUIREMENTS. Insurance companies providing the insurance under this Agreement must meet the following requirements:

(1) Companies issuing policies (other than Workers' Compensation) must be authorized to conduct business in the State of Florida and prove same by maintaining Certificates of Authority issued to the companies by the Department of Insurance of the State of Florida.

Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by Section 624.4621, Florida Statutes.

(2) In addition, such companies other than those authorized by Section 624.4621, Florida Statutes, shall have and maintain a Best's Rating of "A-" or better and a Financial Size Category of "VII" or better according to A.M. Best Company.

(3) If during the period which an insurance company is providing the insurance coverage required by this Agreement, an insurance company shall: (i) lose its Certificate of Authority; (ii) no longer comply with Section 624.4621, Florida Statutes; or (iii) fail to maintain the requisite Best's Rating and Financial Size Category, CONSULTANT shall, as soon as CONSULTANT has knowledge of any such circumstance, immediately notify COUNTY and immediately replace the insurance coverage provided by the insurance company with a different insurance company meeting the requirements of this Agreement. Until such time as CONSULTANT has replaced the unacceptable insurer with an insurer acceptable to COUNTY, CONSULTANT shall be deemed to be in default of this Agreement.

(c) SPECIFICATIONS. Without limiting any of the other obligations or liability of CONSULTANT, CONSULTANT shall, at its sole

expense, procure, maintain, and keep in force amounts and types of insurance conforming to the minimum requirements set forth in this subsection. Except as otherwise specified in the Agreement, the insurance shall become effective prior to the commencement of work by CONSULTANT and shall be maintained in force until the Agreement completion date. The amounts and types of insurance shall conform to the following minimum requirements.

(1) Workers' Compensation/Employer's Liability.

(A) CONSULTANT's insurance shall cover CONSULTANT for liability which would be covered by the latest edition of the standard Workers' Compensation Policy as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. CONSULTANT will also be responsible for procuring proper proof of coverage from its subcontractors of every tier for liability which is a result of a Workers' Compensation injury to the subcontractor's employees. The minimum required limits to be provided by both CONSULTANT and its subcontractors are outlined in subsection (c) below.

In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the United States Longshoremen and Harbor Workers' Compensation Act, Federal Employers' Liability Act, and any other applicable federal or state law.

(B) Subject to the restrictions of coverage found in the standard Workers' Compensation Policy, there shall be no maximum limit on the amount of coverage for liability imposed by the Florida Workers' Compensation Act, the United States Longshoremen's and Harbor Workers' Compensation Act, or any other coverage customarily insured under Part One of the standard Workers' Compensation Policy.

(C) The minimum amount of coverage under Part Two of the standard Workers' Compensation Policy shall be:

\$ 500,000.00	(Each Accident)
\$1,000,000.00	(Disease-Policy Limit)
\$ 500,000.00	(Disease-Each Employee)

(2) Commercial General Liability.

(A) CONSULTANT's insurance shall cover CONSULTANT for those sources of liability which would be covered by the latest edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements other than the elimination of Coverage C, Medical Payment, and the elimination of coverage for Fire Damage Legal Liability.

(B) The minimum limits to be maintained by CONSULTANT (inclusive of any amounts provided by an Umbrella or Excess policy) shall be as follows:

LIMITS

General Aggregate	Three (3) Times the Each-Occurrence Limit
Personal & Advertising Injury Limit	\$1,000,000.00
Each Occurrence Limit	\$1,000,000.00



(3) Professional Liability Insurance. CONSULTANT shall carry professional liability insurance with limits of not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00).

(d) COVERAGE. The insurance provided by CONSULTANT pursuant to this Agreement shall apply on a primary basis, and any other insurance or self-insurance maintained by COUNTY or COUNTY's officials, officers, or employees shall be in excess of and not contributing to the insurance provided by or on behalf of CONSULTANT.

(e) OCCURRENCE BASIS. The Workers' Compensation Policy and the Commercial General Liability required by this Agreement shall be provided on an occurrence rather than a claims-made basis. The Professional Liability insurance policy must be on an occurrence basis

or claims-made basis. If a claims-made basis, the coverage must respond to all claims reported within three (3) years following the period for which coverage is required and which would have been covered had the coverage been on an occurrence basis.

(f) OBLIGATIONS. Compliance with the foregoing insurance requirements shall not relieve CONSULTANT, its employees, or its agents of liability from any obligation under a Section or any other portions of this Agreement.

SECTION 20. DISPUTE RESOLUTION.

(a) In the event of a dispute related to any performance or payment obligation arising under this Agreement, the parties agree to exhaust COUNTY dispute resolution procedures prior to filing suit or otherwise pursuing legal remedies. COUNTY dispute resolution procedures for proper invoice and payment disputes are set forth in Section 22.15, "Prompt Payment Procedures," Seminole County Administrative Code. Contract claims include all  controversies, except disputes addressed by the "Prompt Payment Procedures," arising under this Agreement within the dispute resolution procedures set forth in Section 8.1539, "Contract Claims," Seminole County Administrative Code.

(b) CONSULTANT agrees that it will file no suit or otherwise pursue legal remedies based on facts or evidentiary materials that were not presented for consideration in COUNTY dispute resolution procedures set forth in subsection (a) above of which CONSULTANT had knowledge and failed to present during COUNTY dispute resolution procedures.

(c) In the event that COUNTY dispute resolution procedures are exhausted and a suit is filed or legal remedies are otherwise pursued, the parties shall exercise best efforts to resolve disputes through voluntary mediation. Mediator selection and the procedures to be employed in voluntary mediation shall be mutually acceptable to the parties. Costs of voluntary mediation shall be shared equally among the

parties participating in the mediation.

SECTION 21. REPRESENTATIVES OF COUNTY AND CONSULTANT.

(a) It is recognized that questions in the day-to-day conduct of performance pursuant to this Agreement will arise. COUNTY, upon request by CONSULTANT, shall designate in writing and shall advise CONSULTANT in writing of one (1) or more of its employees to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed. The designated representative shall have the authority to transmit instructions, receive information, and interpret and define COUNTY's policy and decisions pertinent to the work covered by this Agreement.

(b) CONSULTANT shall at all times during the normal work week designate or appoint one or more representatives of CONSULTANT who are authorized to act on behalf of and bind CONSULTANT regarding all matters involving the conduct of the performance pursuant to this Agreement and shall keep COUNTY continually and effectively advised of such designation.

SECTION 22. ALL PRIOR AGREEMENTS SUPERSEDED. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained or referred to in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

SECTION 23. MODIFICATIONS, AMENDMENTS OR ALTERATIONS. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

SECTION 24. INDEPENDENT CONTRACTOR. It is agreed that nothing herein contained is intended or should be construed as in any manner creating or establishing a relationship of co-partners between the parties or as constituting CONSULTANT (including its officers, employees, and agents) an agent, representative, or employee of COUNTY for any purpose, or in any manner, whatsoever. CONSULTANT is to be and shall remain forever an independent contractor with respect to all services performed under this Agreement.

SECTION 25. EMPLOYEE STATUS. Persons employed by CONSULTANT in the performance of services and functions pursuant to this Agreement shall have no claim to pension, workers' compensation, unemployment compensation, civil service, or other employee rights or privileges granted to COUNTY's officers and employees either by operation of law or by COUNTY.

SECTION 26. SERVICES NOT PROVIDED FOR. No claim for services furnished by CONSULTANT not specifically provided for herein shall be honored by COUNTY.

SECTION 27. PUBLIC RECORDS LAW. CONSULTANT acknowledges COUNTY's obligations under Article I, Section 24, Florida Constitution, and Chapter 119, Florida Statutes, to release public records to members of the public upon request. CONSULTANT acknowledges that COUNTY is required to comply with Article I, Section 24, Florida Constitution, and Chapter 119, Florida Statutes, in the handling of the materials created under this Agreement and that said statute controls over the terms of this Agreement.

SECTION 28. COMPLIANCE WITH LAWS AND REGULATIONS. In providing all services pursuant to this Agreement, CONSULTANT shall abide by all statutes, ordinances, rules, and regulations pertaining to or regulating the provisions of such services, including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules,

or regulations shall constitute a material breach of this Agreement and shall entitle COUNTY to terminate this Agreement immediately upon delivery of written notice of termination to CONSULTANT.

SECTION 29. NOTICES. Whenever either party desires to give notice unto the other, it must be given by written notice, sent by registered or certified United States mail, return receipt requested, addressed to the party for whom it is intended at the place last specified. The place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

For COUNTY:

Administrative Services/Facilities
205 W. County Home Road
Sanford, Florida 32773

For CONSULTANT:

ZHA, Inc.
221 NE Ivanhoe Blvd., 2nd Floor 
Orlando, Florida 32804

SECTION 30. RIGHTS AT LAW RETAINED. The rights and remedies of COUNTY, provided for under this Agreement, are in addition and supplemental to any other rights and remedies provided by law.

(Signature Page Follows)

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the date below written for execution by COUNTY.

ATTEST: ZHA, INC.

, Secretary

(CORPORATE SEAL)

By: _____
, President

Date: _____

ATTEST: BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
BOB DALLARI, Chairman

Date: _____

For use and reliance
of Seminole County only.

As authorized for execution by
the Board of County Commissioners
at their _____, 20__
regular meeting.

Approved as to form and
legal sufficiency.



County Attorney
AEC/sjs
9/21/09
P:\Users\Legal Secretary CSB\Purchasing 2009\Agreements\M-5004-09.doc

- Attachments:
Exhibit A - Scope of Services
Exhibit B - Sample Work Order
Exhibit C - Rate Schedule

The Owner's Representative shall provide professional management services during the design and construction of a project designated by Seminole County. During the Preconstruction Phase, the Owner's Representative will assist in the implementation of design, scheduling, and value engineering. Anticipated Services are outlined in Section I. During the Construction Phase, the Owner's Representative will assist in the oversight of construction-related activities as described in Section II.

SCOPE OF SERVICES:

I. GENERAL SCOPE OF WORK – Preconstruction Phase

The Consultant's work shall include the following Tasks:

- A. Facilitate cooperation and communications between all parties associated with the project; providing full information in a timely manner.
- B. Participate in project meetings.
- C. Review Architect/Engineer's plans, specifications and construction documents for consistency and coordination of technical disciplines.
- D. Participate in reviews of design documents for conformance with project scope, budget, and construction phase.
- E. Review and make recommendations regarding construction bid packaging for purpose of bidding to facilitate an effective construction process.
- F. Review and monitor Architect/Engineer's design schedule to ensure adequate progress is being achieved to attain the objectives of the project.
- G. Review and monitor project budgets, recommend actions, as required, to maintain established budget.
- H. Develop cost estimates as requested by Seminole County.
- I. Review and recommend payment of Architect/Engineer's invoices based on progress and overall accomplishment.
- J. Assist Seminole County in evaluating contract changes, modifications, and change orders submitted by Architect/Engineer.
- K. Interface, as directed by Owner, with user groups, local government/business associations, etc., as requested, to inform parties of plans and progress of design activities.
- L. Assist Seminole County and Architect/Engineer in obtaining required permits and approvals.
- M. Assist Seminole County in establishing milestones for the project completion activities.
- N. Assist Seminole County in developing preconstruction conference checklist.
- O. Utilizing the Owner's Representative's LEED accreditation, assist Seminole County in reviewing LEED certification process, where appropriate.
- P. Interface, as directed by Owner, with user groups, local government/business associations, etc., as required, to inform parties of proposed construction activities.
- Q. For Contractor delivery method:
 - i. Review and make recommendations, as required, on the Contractor's construction plan for the facility.

- ii. Facilitate cooperation among Architect/Engineer, Contractor and Seminole County to expedite delivery of facility.
 - iii. Review and make recommendations, as required, of Contractor's proposed staging and safety program.
 - iv. Review and make recommendations, as required, of Contractor's proposed Schedule of Values breakdown.
 - v. Coordinate activities of Owner, Architect and Contractor.
- R. For Construction Management delivery systems:
- i. Review and make recommendations, as required, on the Construction Manager's construction plan for the facility.
 - ii. Review and make recommendations to the Construction Manager's proposed construction sequencing schedule and bid packages, including review of proposed suppliers and subcontractors.
 - iii. Assist Seminole County in establishing basis for the "Guaranteed Maximum Price" (GMP) contract with the Construction Manager.
 - iv. Reconcile cost estimates and assist Seminole County in negotiations with Construction Manager with GMP.
 - v. Facilitate cooperation among Architect/Engineer, Construction Manager and Seminole County to expedite delivery of facility.
 - vi. Review and make recommendations, as required, of Construction Manager's proposed staging and safety program.
 - vii. Review and make recommendations, as required, of Construction Manager's proposed Schedule of Values/trade payment breakdown and method of payment.
 - viii. Coordinate activities of Owner, Architect and Construction Manager.
- S. Provide other services as deemed appropriate by Seminole County.

II. GENERAL SCOPE OF WORK – Construction Phase

The Consultant's work shall include the following Tasks:

- A. Provide periodic construction oversight of the project to review the job progress.
- B. Monitor construction work for Contractor's / Construction Manager's compliance with contract and construction documents.
- C. Participate in periodic Contractor's / Construction Manager's construction planning meetings.
- D. Assist Seminole County and the Architect/Engineer in monitoring the processing of shop drawings to ensure that it follows the schedule submitted by the Contractor / Construction Manager and that the Architect/Engineer reviews the shop drawings in a timely manner.
- E. Assist Seminole County and the Architect/Engineer in securing, building and environmental permits and approvals for construction.
- F. Assist Seminole County in reviewing the daily quality control inspection reports to ensure all tests required by the specifications and drawings are performed.

Owner's Representative Scope of Services
 Seminole County
 Page 3 of 3

- G. Assist Owner, as required, in determining extent of hazardous materials within job site, perimeter and the development of actions to be taken regarding disposal.
- H. Assist Seminole County in determining if the Contractor / Construction Manager has contacted with sufficient fore warnings of all affected utilities and arranged for inspection and acceptance of construction work and coordinated on utility outages, closures, changeovers, disconnects and reconnects, etc.
- I. Assist Seminole County in determining that all building department inspections are conducted in a timely and efficient manner.
- J. Recommend rejection of all construction work or materials that do not comply with the contract requirements.
- K. Review and approve materials and equipment that are under an allowance to avoid delays in work.
- L. Recommend to Seminole County and Architect/Engineer issuance of Notice of Non-Compliance to Contractor / Construction Manager to correct non-conforming and/or defective work.
- M. Recommend to Seminole County and Architect/Engineer, as required, ordering corrective actions in writing if the Contractor / Construction Manager fails to promptly remove, correct, or replace rejected construction work or materials.
- N. Interface, as directed by Owner, with user groups, local government/business associations, etc., as required, in inform participants of upcoming construction activities.
- O. Monitor Contractor's / Construction Manager's construction schedule.
- P. Analyze construction progress vs. Contractor's / Construction Manager's proposed invoice and make recommendation of payment to the Contractor / Construction Manager.
- Q. Review and recommend actions to Seminole County on proposed design and construction changes to assess impact on project budget.
- R. Review, evaluate and make recommendations to Owner, as required, on Contract modifications and change orders.
- S. Develop cost estimates as requested by Seminole County.
- T. Maintain required record, photographs, files and reports for the construction history of the project.
- U. Assist Owner, Architect/Engineer and Contractor / Construction Manager in the preparation and review of punch lists and pre-final and final inspection of the work. Monitor performance of punch list work.
- V. Assist Seminole County in the assembly and transmittal of, (1) as-built documents; (2) record drawings; (3) manuals; and (4) warranties.
- W. Clarify expected level of completion with Contractor / Construction Manager prior to pre-final, final inspection, and final acceptance.
- X. Coordinate final inspection by the building department.
- Y. Coordinate turnover of project.
- Z. Monitor FF&E plan, purchase and installation, and monitor user moves.
- AA. Turn over all Consultants' generated project-related equipment, inventories, etc., to Seminole County in closeout activities.
- BB. Provide other services as deemed appropriate by Seminole County.

FY 2009/10 PROJECT LIST FOR ZHA**Construction Management Program**

Prepared: 08/31/2009

Project Name	CIP #	Description
FS-12 Renovations	00189301	Expansion and renovations to existing fire station.
FS-11 Renovations	00189302	Renovations to existing fire station.
FTC Parking Lot Improvements	00226101	Parking lot and drainage improvements at Fire Training facility.
Jetta Point Park	00234601	Design and construct a 45-acre multiuse recreational park.
FS-29 Construction	00258001	Design and construct a new 3-bay fire station.
AS Fire Reconstruction	00274801	Installation of fire suppression system, fire alarm system, and lightening protection system.
FS-16 Renovations	00189304	Renovations to existing fire station.
FS-36 Sewer Line Installation	TBD	Tentative Project -- Installation of a new sewer line and lift station.
FS-19 Construction	00249501	Design and construct a new 3-bay fire station.
Midway Community Center Rebuild	00278901	Repair or replace Community Center building.

**Board of County Commissioners
SEMINOLE COUNTY, FLORIDA**

WORK ORDER

Work Order Number: _____

Master Agreement No.: _____ Dated: _____
Master Agreement Title: _____
Project Title: _____

Consultant: _____
Address: _____

ATTACHMENTS TO THIS WORK ORDER:

- drawings/plans/specifications
- scope of services
- special conditions
- _____

METHOD OF COMPENSATION:

- fixed fee basis
- time basis-not-to-exceed
- time basis-limitation of funds
- retainage shall be withheld

TIME FOR COMPLETION: The services to be provided by the CONSULTANT shall commence upon execution of this Work Order by the parties, and shall be completed within calendar days from the effective date of this Work Order. Failure to meet the completion time shall be grounds for Termination of both the Work Order and the Master Agreement for Default.

WORK ORDER AMOUNT: _____ DOLLARS (\$ _____)

IN WITNESS WHEREOF, the parties hereto have made and executed this Work Order on this _____ day of _____, 20____, for the purposes stated herein.

(THIS SECTION TO BE COMPLETED BY THE COUNTY)

ATTEST:

Consultant

, Secretary

By: _____
, President

(CORPORATE SEAL)

Date: _____

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

WITNESSES:

(Procurement Analyst)

By: _____
, Procurement Supervisor

(Procurement Analyst)

Date: _____

As authorized by Section 8.153 Seminole
County Administrative Code.

OC # _____ ON # _____

WORK ORDER TERMS AND CONDITIONS

- a) Execution of this Work Order by the COUNTY shall serve as authorization for the CONSULTANT to provide, for the stated project, professional services as set out in the Scope of Services attached as Exhibit "A" to the Master Agreement cited on the face of this Work Order and as further delineated in the attachments listed on this Work Order.
- b) Term: This Work Order shall take effect on the date of its execution by the COUNTY and expires upon final delivery, inspection, acceptance, and release of the final payments and encumbrances of the last approved amount of this Work Order, unless terminated earlier in accordance with the termination provisions herein.
- c) The CONSULTANT shall provide said services pursuant to this Work Order, its Attachments, and the cited Master Agreement (as amended, if applicable) which is incorporated herein by reference as if it had been set out in its entirety.
- d) Whenever the Work Order conflicts with the cited Master Agreement, the Master Agreement shall prevail.
- e) METHOD OF COMPENSATION - If the compensation is based on a:
 - (i) FIXED FEE BASIS, then the Work Order Amount becomes the Fixed Fee Amount and the CONSULTANT shall perform all work required by this Work Order for the Fixed Fee Amount. The Fixed Fee is an all-inclusive Firm Fixed Price binding the CONSULTANT to complete the work for the Fixed Fee Amount regardless of the costs of performance. The work to be performed by the CONSULTANT shall be based on the Labor Hour Rates established in the Master Agreement that are in effect on the date of the CONSULTANT'S price proposal for this project. In no event shall the CONSULTANT be paid more than the Fixed Fee Amount.
 - (ii) TIME BASIS WITH A NOT-TO-EXCEED AMOUNT, then the Work Order Amount becomes the Not-to-Exceed Amount and the CONSULTANT shall perform all the work required by this Work Order for a sum not exceeding the Not-to-Exceed Amount. In no event is the CONSULTANT authorized to incur expenses exceeding the not-to-exceed amount without the express written consent of the COUNTY. Such consent will normally be in the form of an Amendment to this Work Order. The CONSULTANT's compensation shall be based on the actual work required by this Work Order and the Labor Hour Rates established in the Master Agreement that are in effect on the date of the CONSULTANT'S price proposal for this project.
 - (iii) TIME BASIS WITH A LIMITATION OF FUNDS AMOUNT, then the Work Order Amount becomes the Limitation of Funds amount and the CONSULTANT is not authorized to exceed the Limitation of Funds amount without prior written approval of the COUNTY. Such approval, if given by the COUNTY, shall indicate a new Limitation of Funds amount. The CONSULTANT shall advise the COUNTY whenever the CONSULTANT has incurred expenses on this Work Order that equals or exceeds eighty percent (80%) of the Limitation of Funds amount. The CONSULTANT's compensation shall be based on the actual work required by this Work Order and the Labor Hour Rates established in the Master Agreement.
 - (iv) The CONSULTANT may utilize labor categories that are not included in the attached fee proposal, but that have been approved in the Master Agreement. If a substitution is necessary, the work shall be completed within the approved Time Basis (Not-To-Exceed or Limitation of Funds) Work Order Amount, and in no event shall the Work Order Amount be modified as a result of any changes in labor categories. The CONSULTANT shall submit a written request to the County's Project Manager for approval of any substitution prior to the utilization of any labor category for service, and the County Project Manager's approval of any substitution must take place prior to submission of the invoice. Any approved labor category substitution shall be based on the prevailing labor categories and their associated

hourly rates established in the Master Agreement that are in effect on the date of the County's approval for any substitution.

- f) Payment to the CONSULTANT shall be made by the COUNTY in strict accordance with the payment terms of the referenced Master Agreement.
- g) It is expressly understood by the CONSULTANT that this Work Order, until executed by the COUNTY, does not authorize the performance of any services by the CONSULTANT and that the COUNTY, prior to its execution of the Work Order, reserves the right to authorize a party other than the CONSULTANT to perform the services called for under this Work Order; if it is determined that to do so is in the best interest of the COUNTY.
- h) The CONSULTANT shall sign the Work Order first and the COUNTY second. This Work Order becomes effective and binding upon execution by the COUNTY and not until then. A copy of this Work Order will be forwarded to the CONSULTANT upon execution by the COUNTY.



*Program Management • Concepts
• Owner Representative Services*

BILLING CLASSIFICATIONS AND HOURLY RATES
September 16, 2009

Billing Classifications

Project Manager
Inspector

Hourly Rate

\$127.00
\$85.00

SEMINOLE COUNTY - PURCHASING AND CONTRACTS DIVISION

SINGLE SOURCE

SOLE SOURCE

PROPRIETARY SOURCE

Date Requested: 09/16/2009

JDE No.: _____

Requestor: Frank Raymond

Telephone/Ext.: 5277

Department/Division: Administrative Services

Description of Products/Services: Professional Project Management Services

Make _____ Manufacturer _____ Model# _____

Support justification (Please attach additional information as appropriate):
See attached.

Proposed Vendor: ZHA, Inc.

Phone# (407) 422-7487

Other Companies contacted: (Attach documentation of each firm contacted)

Compliance:

Does the requirement comply with the definition of sole/proprietary source as described in Section 220.4? Yes No

Is this commodity or service of a "unique nature" that would support a "Single Source" justification? Yes No
If you answer "YES", please explain in details.

Necessary: Is this commodity or service necessary to accomplish the County's task or mission? Yes No

Unique: Is this commodity or service, or some necessary features, unique to this source? Yes No

Compliance with Bid Tampering (F.S. 838.22) is acknowledged by signatures below:

Requesting Division Manager's Signature: [Signature]

Date: 9-17-09

Requesting Department Director's Signature: [Signature]

Date: 9-17-09

Purchasing and Contracts Division Determination:

Analyst Approval
Supervisor/Manager Approval pk

Disapproval
 Disapproval

Date: _____
Date: 9/21/09

Description Posted (at least 7 business days): From _____ to _____

Determination Posted (at least 3 business days): From _____ to _____

BCC Date, if applicable: _____

Comments: _____

Purchase Order No.: _____

Amount of Purchase: \$ _____

Justification for using ZHA for Project Management Services

The use of ZHA as the interim provider of project management services after our internal project management personnel positions were eliminated was based on a number of factors:

- Familiarity with the organization as relates to projects, both in terms of the past, present and future. ZHA provided Authorized Owner's Representative services for the CJC and JJC projects. Also, ZHA contributed to our 5 Pts. master plan and other planning efforts and project analyses. This familiarity with the personnel in our organization and with the methods and processes preferred by the County to accomplish vertical construction is an invaluable asset in bringing on an outside contractor to help with something as sensitive in nature as construction project management.
- Familiarity with the local design and construction community. ZHA has been a player in this arena for some time. Not in just the Country or the State, but in the central Florida area and specifically in the greater Orlando area.
- Value. The offered services are at a reasonable cost per hour; not subject to any multiplier; and, through past performance, the quantity of hours charged is reasonably and professionally held to the minimum acceptable to produce the desired effect of professionalism and efficiency of producing value in the end product.
- Continuity of project management. ZHA was called upon to fill the gap after the staff positions were reduced and has done so efficiently. Many of the projects are ongoing, in one phase or another (e.g., Fire Station 29 and Jetta Point Park), and keeping the personnel already familiar with the projects is inherently efficient.