

**City of Cocoa**  
**AMENDMENT TO PURCHASE AGREEMENT**

**Engineering Services**  
**Water Supply, Treatment, Transmission & Distribution System Projects**

**RFQ-08-27-COC**

**AMENDMENT #3**

This THIRD Amendment to Service Agreement for Engineering Services for Water Supply, Treatment, Transmission & Distribution System Projects is made and entered into as of September 14, 2017 by and between the **City of Cocoa**, a Florida municipal corporation, whose address is 65 Stone Street, Cocoa, Florida 32922 ("CITY") and **CH2M Hill Engineers Inc., a Delaware Corporation, 225 East Robinson Street, Suite 505, Orlando, Florida. 32801, hereinafter referred to as ("Engineer")**.

The CITY and the CONTRACTOR agree as follows:

The original agreement entered into on November 11, 2008 is hereby amended to renew for twenty-four (24) additional months, fulfilling the same rates, terms, and conditions in the original contract documents schedule of rates in **Exhibit-A** (attached). **The term of this THIRD Amendment commencing on November 11, 2017 and terminating on November 10, 2019.**

Comment:  
No Amendments  
ever submitted  
for extension to  
this agreement.

The parties hereto duly execute this THIRD Amendment to become effective as of the date and year first above written.

**CH2M HILL ENGINEERS, INC.**

**CITY OF COCOA**

By: Brenda Van Renswaaay  
(Name) Printed

By: Henry U. Parrish III  
(Name) Printed

Senior Vice President  
(Title)

Mayor  
(Title)

PS - P October 9, 2017 Henry U. Parrish III 10/24/17  
Signature Date Signature Date

CC: Carie Shealy, City Clerk  
John "Jack" Walsh P.E., Utilities Director  
Tammy Eastburn, Procurement Card Coordinator



**EXHIBIT "A "**

**AMENDMENT #3**

**CH2M HILL ENGINEERING, INC. RATE SCHEDULE**

CLASSIFICATION	DESCRIPTION	RATE
ENGINEER 9	Principal	199.17
ENGINEER 8	Senior Reviewer/Consultant	199.17
ENGINEER 7	Senior Project Manager	199.17
ENGINEER 6	Senior Professional Engineering/Scientist/Consultant	188.40
ENGINEER 5	Mid-Level Professional Engineer/Scientist/Consultant/Project Manager	166.44
ENGINEER 4	Professional Engineer/Scientist/Consultant/Project Manager	138.96
ENGINEER 3	Junior Professional Engineer/Scientist/Consultant	120.84
ENGINEER 2	Project Engineer/Scientist/Consultant	101.84
ENGINEER 1	Junior Project Engineer/Scientist/Consultant	95.27
ENGINEER 0	Engineering Intern	85.28
TECHNICIAN 5	Senior Construction Manager/Senior Designer	155.59
TECHNICIAN 4	Construction Manager/Senior Technician	125.06
TECHNICIAN 3	Senior Construction Inspector	111.34
TECHNICIAN 2	Construction Inspector/Technician	86.17
TECHNICIAN 1	Junior Construction Inspector/Junior Technician	76.53
TECHNICAL AIDE	Technical Aide	66.56
OFFICE	Office/Project Administration	69.99

**Notes:**

1. Billing rates for the City of Cocoa are designated for the length of this renewal Amendment #3 from November 11, 2017 through November 10, 2019.
2. These rates do not include other direct expense cost. Reimbursable other direct expenses shall be billed in accordance with the terms of the contract.
3. Billing rate schedule is for time basis work order and City will be billed based on actual hours by category designated for an individual employee.
4. CH2M Hill reserves the right to request annual rate modifications for future years under this agreement. Rate modifications must be established and agreed upon by both parties.

City of Cocoa  
AMENDMENT TO PURCHASE AGREEMENT  
**2nd AMENDMENT**

**BID NO. RFQ-08-27-COC**

This amendment to the purchase agreement for Consulting Services for Water Supply, Treatment, Transmission & Distribution System is made and entered into as of September 19, 2013 by and between the City of Cocoa and **CH2M Hill Engineers, Inc., a Delaware Corporation, 225 East Robinson Street, Suite 505, Orlando, Florida 32801.**

The original agreement, entered into on November 11, 2008, is hereby amended to renew the 2nd of 3 renewal options available under the agreement for twenty-four (24) additional months, fulfilling the same terms and conditions in the original contract documents with the revised schedule of rates in **Exhibit-A** (attached), **commencing on November 11, 2015 and terminating on November 10, 2017.**

The parties hereto duly execute this amendment to become effective as of the date and year first above written.

**CH2M HILL ENGINEERS, INC.**

**CITY OF COCOA**

By: Brenda van Ravenswaay  
(Name) Printed

By: Henry U. Parrish III  
(Name) Printed

Vice President  
(Title)

Mayor  
(Title)

BS-1-R 9/16/15  
Signature Date

[Signature] 11-10-15  
Signature Date

CC: Carie Shealy, City Clerks  
John "Jack" Walsh P.E., Utilities Director  
Tammy Eastburn, Procurement Card Coordinator

**EXHIBIT "A"**  
**CH2M HILL RATE SCHEDULE**

<b>Classification</b>	<b>DESCRIPTION</b>	<b>RATE</b>
Engineer 9	Principal	<b>199.17</b>
Engineer 8	Senior Reviewer/Consultant	<b>199.17</b>
Engineer 7	Senior Project Manager	<b>199.17</b>
Engineer 6	Senior Professional Engineering/Scientist/Consultant	<b>188.40</b>
Engineer 5	Mid-Level Professional Engineer/Scientist/Consultant/Project Manager	<b>166.44</b>
Engineer 4	Professional Engineer/Scientist/Consultant/Project Manager	<b>138.96</b>
Engineer 3	Junior Professional Engineer/Scientist/Consultant	<b>120.84</b>
Engineer 2	Project Engineer/Scientist/Consultant	<b>101.84</b>
Engineer 1	Junior Project Engineer/Scientist/Consultant	<b>95.27</b>
Engineer 0	Engineering Intern	<b>85.28</b>
Technician 5	Senior Construction Manager/Senior Designer	<b>155.59</b>
Technician 4	Construction Manager/Senior Technician	<b>125.06</b>
Technician 3	Senior Construction Inspector	<b>111.34</b>
Technician 2	Construction Inspector/Technician	<b>86.17</b>
Technician 1	Junior Construction Inspector/Junior Technician	<b>76.53</b>
Technical Aide	Technical Aide	<b>66.56</b>
Office	Office/Project Administration	<b>69.99</b>

**Notes:**

1. Billing rates for the City of Cocoa are designated for the length of this renewal amendment #2 from November 11, 2015 to November 10, 2017.
2. These rates do not include other direct expense cost. Reimbursable other direct expenses shall be billed in accordance with the terms of the contract.
3. Billing rate schedule is for time basis work order and City will be billed based on actual hours by category designated for an individual employee.
4. CH2M HILL reserves the right to request annual rate modifications for future years under this agreement. Rate modifications must be agree to an approved by both parties.

City of Cocoa  
**AMENDMENT TO PURCHASE AGREEMENT**  
**1st AMENDMENT**  
**BID NO. RFQ-08-27-COC**

This amendment to the purchase agreement for Consulting Services for Water Supply, Treatment, Transmission & Distribution System is made and entered into as of September 19, 2013 by and between the City of Cocoa and **CH2M Hill Engineers, Inc., a Delaware Company, 225 East Robinson Street, Suite 505, Orlando, Florida 32801.**

The original agreement, entered into on November 11, 2008, is hereby amended to renew the 1 st of 3 renewal options available under the agreement for twenty-four (24) additional months, at the same terms, and conditions commencing on November 11,2013 and terminating on November 10,2015 except for the following underlined changes to Article 2.1 of the first paragraph only:

2.1 The City shall make request of Engineer to perform engineering services on a "task" basis. The City will communicate with Engineer, verbally or in writing, a general description of the task to be performed. The Engineer will generate a detailed Scope of Work document, prepare a Schedule, add a Not-to-Exceed-Budget or Lump Sum fee to accomplish the task **with a detailed cost breakdown based on hourly rate schedule attached hereto as "Attachment B"**, and send the thus developed "Task Proposal" to the City. If a site visit by Engineer is needed to generate the scope document, Engineer shall request approval prior to visiting the site.

The parties hereto duly execute this amendment to become effective as of the date and year first above written.

**CH2M HILL ENGINEERS, INC.**

**By: Francois Didier Menard**  
(Name) Printed

**Vice President**  
(Title)

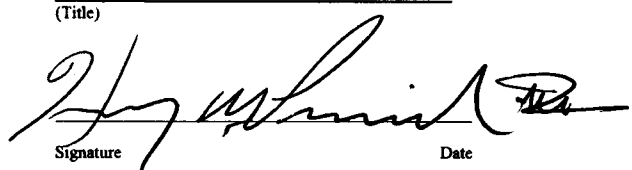
  
Signature

10/9/13  
Date

**CITY OF COCOA**

**By: Henry U. Parrish III**  
(Name) Printed

**Mayor**  
(Title)

  
Signature

Date

CC: Joan Clark, City Clerks  
John "Jack" Walsh P.E., Utilities Director  
Tammy Eastburn, Procurement Card Coordinator

**Attachment B**  
**CH2M HILL FY 2014 Per Diem Schedule**

<b>Classification</b>	<b>Description</b>	<b>Rate</b>
Engineer 9	Principal	\$199.17
Engineer 8	Senior Reviewer/Consultant	\$199.17
Engineer 7	Senior Project Manager	\$199.17
Engineer 6	Senior Professional Engineer/Scientist/Consultant	\$188.40
Engineer 5	Mid-Level Professional Engineer/Scientist/Consultant/Project Manager	\$166.44
Engineer 4	Professional Engineer/Scientist/Consultant/Project Manager	\$138.96
Engineer 3	Junior Professional Engineer/Scientist/Consultant	\$120.84
Engineer 2	Project Engineer/Scientist/Consultant	\$101.84
Engineer 1	Junior Project Engineer/Scientist/Consultant	\$95.27
Engineer 0	Engineering Intern	\$85.28
Technician 5	Senior Construction Manager/Senior Designer	\$155.59
Technician 4	Construction Manager/Senior Technician	\$125.06
Technician 3	Senior Construction Inspector	\$111.34
Technician 2	Construction Inspector/Technician	\$86.17
Technician 1	Junior Construction Inspector/Junior Technician	\$76.53
Technical Aide	Technical Aide	\$66.56
Office	Office/Project Administration	\$69.99

**Notes:**

1. Billing rates are for City designated Fiscal Year 2014 and 2015, October 1, 2013 to September 30, 2015.
2. These rates do not include other direct expense costs. Reimbursable other direct expenses shall be billed in accordance with the terms of the contract.
3. Billing rate schedule is for time basis work orders and City will be billed based on actual hours by category designated for an individual employee.
4. CH2M HILL reserves the right to request annual rate modification for future fiscal years under this agreement. Rate modifications must be agreed to and approved by both parties.

**AGREEMENT FOR  
Engineering Services for Water Supply, Treatment,  
Transmission and Distribution System Projects**

**THIS AGREEMENT** is made and entered into this 11th day of November, 2008, by and between the **CITY OF COCOA, FLORIDA**, a Florida Municipal Corporation, hereinafter referred to as "City", located at 603 Brevard Avenue, Cocoa 32922, and **CH2M HILL, INC.**, a Florida Corporation, 225 East Robinson Street, Suite 505, Orlando, FL 32801, hereinafter referred to as "Engineer".

**WITNESSETH:**

**WHEREAS**, City wishes to obtain consulting engineering services for water supply, treatment, transmission and distribution system projects on a continuing basis; and

**WHEREAS**, the City has followed the selection and negotiation process set forth in the Florida's Consultants' Competitive Negotiation Act, Section 287.055, *Florida Statutes*; and

**WHEREAS**, Engineer participated in the selection and negotiation process; and

**WHEREAS**, Engineer is willing to provide such engineering services to the City under the terms and conditions stated herein.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

**1.0 TERM AND DEFINITIONS**

**1.1** Unless sooner terminated by either Party pursuant to the terms and conditions herein, this Agreement shall terminate on the FIFTH (5th) anniversary of the Effective Date. The City shall have the option to extend the period of performance for three (3) additional two (2) year renewals at the agreement of both parties. Such an extension shall only be by written Amendment to this Agreement.

**1.2** The terms and conditions of any Task Order, as described in Section 2 hereof, shall be as set forth in such Task Order. Any Task in effect at the termination of this Agreement shall remain in effect until completion of said Task Order, and all of the terms and conditions of this Agreement shall survive until completion of all Task Orders.

**1.3** Definitions. The following words and phrases used in this Agreement shall have the following meaning ascribed to them unless the context clearly indicates otherwise:

a. "Agreement" or "Contract" shall be used interchangeably and shall refer to this Agreement, as amended from time to time, which shall constitute authorization for the Engineer to provide the engineering services approved by Task Order by the City.

b. "Effective Date" shall be the date on which the last signatory hereto shall execute this Agreement, and it shall be the date on which this Agreement shall go into effect. The Agreement shall not go into effect until said date.

c. "Engineer" shall mean CH2M HILL, INC., and its principals, employees, resident project representatives (and assistants).

d. "Public Record" shall have the meaning given in Section 119.011(1), *Florida Statutes*.

e. "Reimbursable Expenses" shall mean the actual expenses incurred by Engineer or Engineer's independent professional associates and consultants which are directly related to travel and subsistence at the rates, and under the requirements of, Section 112.061, Florida Statutes, or any other actual expenses the City agrees to reimburse by Task Order.

f. "Work" or "Services" shall be used interchangeably and shall include the performance of the work agreed to by the parties in a Task Order.

g. "Task Order" shall mean a written document approved by the parties pursuant to the procedure outlined in paragraph 2.0 of this Agreement, and any amendments thereto approved pursuant to the procedures outlined in paragraph 3.0 herein, which sets forth the Work to be performed by Engineer under this Agreement.

**1.4 Engagement.** The City hereby engages the Engineer and Engineer agrees to perform the Services outlined in this agreement for the stated fee arrangement. No prior or present representations shall be binding upon any of the parties hereto unless incorporated in this Agreement.

## **2.0 DESCRIPTION OF SERVICES**

**2.1** The City shall make request of Engineer to perform engineering services on a "task" basis. The City will communicate with Engineer, verbally or in writing, a general description of the task to be performed. The Engineer will generate a detailed Scope of Work document, prepare a Schedule, add a Not-to-Exceed-Budget or Lump Sum Fee to accomplish the task, and send the thus developed "Task Proposal" to the City. If a site visit by Engineer is needed to generate the scope document, Engineer shall request approval prior to visiting the site.



The City will review the Task Proposal, and if the description is mutually acceptable, the parties will enter into a written "Task Order". The Scope of Services generally to be provided by the Engineer through a Task Order may include any phases of engineering services for water supply, treatment, transmission and distribution system projects. These phases are more clearly defined in the attached Exhibit "A".

The City will issue a Notice to Proceed to the Engineer in the form of a City purchase order. Upon receipt of the signed Task Order and a written Notice to Proceed from the City, the Engineer shall perform the services set forth in the Task Order.

**2.2** The City reserves the right to perform any services related to this Agreement.

### **3.0 CHANGES IN THE SCOPE OF WORK**

**3.1** City may make changes in the Services at any time by giving written notice to Engineer. If such changes increase (additional services) or decrease or eliminate any amount of Work, City and Engineer will negotiate any change in total cost or schedule modifications. If the City and the Engineer approve any change, the Task Order will be modified in writing to reflect the changes; and Engineer shall be compensated for said services in accordance with the terms of Article 5.0 herein. All change orders shall be authorized in writing by City's and Engineer's designated representative.

**3.2** All of City's said Task Orders and amendments thereto shall be performed in strict accordance with the terms of this Agreement insofar as they are applicable.

**3.3** Any cost caused by defective or ill-timed services shall be borne by the parties responsible therefore.

### **4.0 SCHEDULE**

**4.1** Engineer shall perform services in conformance with the mutually agreed schedule set forth in the negotiated Task Order. Engineer shall complete all of said services in a timely manner and will keep City apprised of the status of work on at least a monthly basis or as otherwise reasonably requested by the City. Should Engineer fall behind the agreed upon schedule, it shall employ such resources so as to comply with the agreed-upon schedule.

**4.2** No extension for completion of services shall be granted to Engineer without City's prior written consent, except as provided in Sections 3.1 and 19.1 herein.

### **5.0 METHODS OF PAYMENT FOR SERVICES AND EXPENSES OF ENGINEER**

**5.1 General Services.** For basic and additional Services performed by Engineer's principals, employees, and resident project representatives (and assistants) pursuant to paragraphs 2.0 and 3.0, the City agrees to pay the Engineer an amount equal to that agreed upon by the parties for a particular Task Order.

**5.2 Additional Services Performed by Professional Associates and Consultants.** For additional Services and Reimbursable Expenses of independent professional associates and consultants employed by Engineer to render additional Services pursuant to paragraphs 2.0 and 3.0, the City agrees to pay the Engineer an amount equal to that billed Engineer by the independent professional associates and consultants multiplied by a factor of 1.10. Prior to payment by the City, the Engineer shall submit to the City a copy of any written invoice received by Engineer from all independent professional associates and consultants which clearly evidences the amount billed by the independent professional associates and consultants for additional Services and any Reimbursable Expenses.

**5.3 Witness Services.** For witness or expert services rendered by Engineer's principals, employees, resident project representatives (and assistants), and independent professional associates and consultants on behalf of the City in any litigation, arbitration, or other legal or interested administrative proceeding in which the City is a named interested party, City agrees to pay the Engineer or independent professional associate or consultant, which is used as a witness or expert, an amount equal to that agreed upon by the party for a particular Task Order.

**5.4 Reimbursable Expenses.** In addition to payments provided in paragraphs 5.1, 5.2 and 5.3 above, City agrees to pay Engineer the actual cost of all Reimbursable Expenses incurred in connection with any Task Order.

**5.5 Florida Prompt Payment Act.** Payment shall be due and payable as provided by the Florida Prompt Payment Act s.218.70 et. seq., Florida Statute (2002).

## **6.0 RIGHT TO INSPECTION**

**6.1** City or its affiliates shall at all times have the right to review or observe the services performed by Engineer.

**6.2** No inspection, review, or observation shall relieve Engineer of its responsibility under this Agreement.

## **7.0 PROGRESS MEETING**

**7.1** City's designated Project Manager may hold periodic progress meetings on a monthly basis, or more frequently if required by the City, during the term of any Task Order entered into under this Agreement. Engineer's Project Manager and all other appropriate personnel shall attend such meetings as designated by City's Project Manager.

## **8.0 SAFETY**

**8.1** Engineer shall be solely and absolutely responsible and assume all liability for the safety and supervision of its principals, employees, resident project representatives (and assistants) while performing Services provided hereunder.

## 9.0 REASONABLE ACCESS

9.1 During the term of this Agreement, City shall grant Engineer reasonable access to the City's premises, records, and files for purposes of fulfilling its obligations under this Agreement.

## 10.0 INSURANCE

10.1 **Liability Amounts.** During the term of this Agreement, Engineer shall be responsible for providing the types of insurance and limits of liability as set forth below.

a) Professional Liability: Proof of professional liability insurance shall be provided to the City for the minimum amount of \$1,000,000 as the combined single limit for each occurrence.

b) The Engineer shall maintain comprehensive general liability insurance in the minimum amount of \$1,000,000 as the combined single limit for each occurrence to protect the Engineer from claims of property damages which may arise from any Services performed under this Agreement whether such Services are performed by the Engineer or by anyone directly employed by or contracting with the Engineer.

c) The Engineer shall maintain comprehensive automobile liability insurance in the minimum amount of \$1,000,000 combined single limit bodily injury and minimum \$50,000 property damage as the combined single limit for each occurrence to protect the Engineer from claims for damages for bodily injury, including wrongful death, as well as from claims from property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the Engineer or by anyone directly or indirectly employed by the Engineer.

d) The Engineer shall maintain, during the life of this Agreement, adequate Workers' Compensation Insurance and Employers' Liability Insurance in at least such amounts as are required by law for all of its employees performing Work for the City pursuant to this Agreement.

10.2 **Special Requirements.** Current, valid insurance policies meeting the requirements herein identified shall be maintained during the term of this Agreement. Renewal certificates shall be sent to the City 30 days prior to any expiration date. There shall also be a 30 day advance written notification to the City in the event of cancellation or modification of any stipulated insurance coverage. **The City shall be an additional named insured on stipulated insurance policies included in article 10.1.b and 10.1.c herein, as its interest may appear, from time to time.**

The insurance required by this Agreement shall include the liability and coverage provided herein, or as required by law, whichever requirements afford greater coverage. All of the policies of insurance so required to be purchased and maintained shall contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal

refused until at least thirty (30) days' prior written notice has been given to the City, and the Engineer by certified mail, return receipt requested. All such insurance shall remain in effect until final payment. In the event that the Engineer shall fail to comply with the foregoing requirement, the City is authorized, but in no event shall be obligated, to purchase such insurance, and the City may bill the Engineer. The Engineer shall immediately forward funds to the City in full payment for said insurance. It is expressly agreed that neither the provision of the insurance referred to in this Agreement nor the City's acceptance of the terms, conditions or amounts of any insurance policy shall be deemed a warranty or representation as to adequacy of such coverage. All insurance coverage shall be with insurer(s) rated as A+ by Best's Rating Guide (or equivalent rating and rating service as reasonably determined by the City Manager) and licensed by the State of Florida to engage in the business of writing of insurance. Unless agreed to by the City to the contrary, the City shall be named on the insurance policies included in article 10.1.b and 10.1.c as "additional insured." The Engineer shall cause its insurance carriers, prior to the effective date of this agreement to furnish insurance certificates specifying the types and amounts of coverage in effect pursuant hereto, the expiration dates of such policies, and a statement that no insurance under such policies will be canceled without thirty (30) days' prior written notice to the City in compliance with other provisions of this Agreement. Further copies of all relevant policies will be provided to the City within thirty (30) days of the effective date of this agreement. If the City has any objection to the coverage afforded by or other provision of the insurance required to be purchased and maintained by the Engineer in accordance with this Article on the basis of its not complying with the Agreement, the City shall notify the Engineer in writing thereof within thirty (30) days of the date of delivery of such certificates to the City. For all Work performed pursuant to this Agreement, the Consultant shall continuously maintain such insurance in the amounts, type, and quality as required by the Agreement.

**10.3 Independent Associates and Consultants.** All independent associates and consultants employed by Engineer to perform any Services hereunder shall fully comply with the insurance provisions contained in this paragraph.

## **11.0 COMPLIANCE WITH LAWS AND REGULATIONS**

**11.1** Engineer shall comply with all requirements of federal, state, and local laws, rules, regulations, standards, and/or ordinances applicable to the performance of Services under this Agreement.

## **12.0 REPRESENTATIONS**

**12.1** Engineer represents that the Services provided hereunder shall conform to all requirements of this Agreement and any Task Order, shall be consistent with recognized and sound engineering practices and procedures; and shall conform to the customary standards of care, skill, and diligence appropriate to the nature of the Services rendered.

**12.2** Engineer represents that all principals, employees, and other personnel furnishing such Services shall be qualified and competent to perform the Services assigned to

them and that such guidance given by and the recommendations and performance of such personnel shall reflect their best professional knowledge and judgment.

### **13.0 GUARANTEE AGAINST INFRINGEMENT**

**13.1** Engineer guarantees that all Services performed under this Agreement shall be free from claims of patent, copyright, and trademarks infringement. Notwithstanding any other provision of this Agreement, Engineer shall indemnify, hold harmless, and defend City, its officers, directors, employees, agents assigns, and servants from and against any and all liability, including expenses, legal or otherwise, for actual or alleged infringement of any patent, copyright, or trademark resulting from the use of any goods, Services, or other item provided under this Agreement. Notwithstanding the foregoing, Engineer may elect to provide non-infringing services.

### **14.0 DOCUMENTS**

**14.1 Public Records.** It is hereby specifically agreed that any record, document, computerized information and program, audio or video tape, photograph, or other writing of the Engineer and its independent contractors and associates related, directly or indirectly, to this Agreement, shall be deemed to be a Public Record whether in the possession or control of the City or the Engineer. Said record, document, computerized information and program, audio or video tape, photograph, or other writing of the Engineer is subject to the provisions of Chapter 119, *Florida Statutes*, and may not be destroyed without the specific written approval of the City's City manager. Upon request by the City, the Engineer shall promptly supply copies of said public records to the City. All books, cards, registers, receipts, documents, and other papers in connection with this Agreement shall at any and all reasonable times during the normal working hours of the Engineer be open and freely exhibited to the City for the purpose of examination and/or audit.

**14.2 Reuse of Documents.** All documents, including but not limited to, drawings, specifications, and data, or programs stored electronically or otherwise, prepared by the Engineer and its independent contractors and associates pursuant to this Agreement or related exclusively to the Services described herein may be reused by the City for any reason or purpose at anytime. However, the City agrees that the aforesaid documents are not intended or represented to be suitable for reuse by the City or others on any undertaking other than the Work outlined in this Agreement. Any reuse for an undertaking other than for the Work without verification or adaptation by the Engineer, or its independent contractors and associates if necessary, to specific purposes intended will be at the City's sole risk and without liability or legal exposure to the Engineer.

**14.3 Ownership of Documents.** The City and the Engineer agree that upon payment of fees due to the Engineer by the City for a particular design, report, inventory list, compilation, drawing, specification, model, recommendation, schedule or otherwise, said design, report, inventory list, compilation, drawing, specification, technical data, recommendation, model, schedule and other instrument produced by the Engineer in the performance of this Agreement, or any Work hereunder, shall be the sole property of the

City, and the City is vested with all rights therein. The Engineer waives all rights of copyright in said design, report, inventory list, compilation, drawing, specification, technical data, recommendation, model, schedule and other instrument produced by the Engineer in the performance of this Agreement, and hereby assigns and conveys the same to the City whether in the possession or control of the Engineer or not.

**14.4** The Engineer acknowledges that the City is a Florida Municipal Corporation and subject to the Florida Public Records Law. Engineer agrees that to the extent any document produced by Engineer under this Agreement constitutes a Public Record, Engineer shall comply with the Florida Public Records Law.

## **15.0 ASSIGNMENT**

**15.1** Engineer shall not assign or subcontract this Agreement, any Task Order hereunder, or any rights or any monies due or to become due hereunder without the prior, written consent of City.

**15.2** If upon receiving written approval from City, any part of this Agreement is subcontracted by Engineer, Engineer shall be fully responsible to City for all acts and/or omissions performed by the subcontractor as if no subcontract had been made.

**15.3** If City determines that any subcontractor is not performing in accordance with this Agreement, City shall so notify Engineer who shall take immediate steps to remedy the situation.

**15.4** If any part of this Agreement is subcontracted by Engineer, prior to the commencement of any Work by the subcontractor, Engineer shall require the subcontractor to provide City and its affiliates with insurance coverage as set forth by the City.

## **16.0 INDEPENDENT CONTRACTOR**

**16.1** At all times during the term of this Agreement, Engineer shall be considered an independent contractor and not an employee of the City.

## **17.0 DEFAULT BY ENGINEER AND CITY'S REMEDIES**

**17.1** The City reserves the right to revoke and terminate this Agreement and rescind all rights and privileges associated with this Agreement, without penalty, in the following circumstances, each of which shall represent a default and breach of this Agreement:

**17.2** Engineer defaults in the performance of any material covenant or condition of this Agreement and does not cure such other default within thirty (30) calendar days after written notice from the City specifying the default complained of, unless, however, the nature of the default is such that it cannot, in the exercise of reasonable diligence, be remedied within thirty (30) calendar days, in which case the Engineer shall have such time as is

reasonably necessary to remedy the default, provided the Engineer promptly takes and diligently pursues such actions as are necessary therefore; or

17.3 Engineer is adjudicated bankrupt or makes any assignment for the benefit of creditors or Engineer becomes insolvent, or is unable or unwilling to pay its debts; or

17.4 Engineer has acted grossly negligent, as defined by general and applicable law, in performing the Services hereunder; or

17.5 Engineer has committed any act of fraud upon the City; or

17.6 Engineer has made a material misrepresentation of fact to the City while performing its obligations under this Agreement.

17.7 Notwithstanding the aforementioned, in the event of a default by Engineer, the City shall have the right to exercise any other remedy the City may have by operation of law, without limitation, and without any further demand or notice.

## **18.0 TERMINATION**

18.1 Notwithstanding any other provision of this Agreement, City may, upon written notice to Engineer, terminate this Agreement, without penalty, if: (a) Engineer is in default pursuant to paragraph 17.0 Default; (b) Engineer makes a general assignment for the benefit of its creditors; (c) Engineer fails to comply with any condition or provision of this Agreement; or (d) Engineer is experiencing a labor dispute which threatens to have a substantial, adverse impact upon performance of this Agreement without prejudice to any other right or remedy City may have under this Agreement. In addition, either party may terminate for convenience with no penalty at any time upon thirty (30) days advance written notice. In the event of such termination, City shall be liable only for the payment of all unpaid charges, determined in accordance with the provisions of this Agreement, for Work properly performed prior to the effective date of termination.

## **19.0 FORCE MAJEURE**

19.1 Any delay or failure of either party in the performance of its required obligations hereunder shall be excused if and to the extent caused by acts of God; fire; flood; windstorm; explosion; riot; war; sabotage; strikes; extraordinary breakdown of or damage to City's affiliates' generating plants, their equipment, or facilities; court injunction or order; federal and/or state law or regulation; order by any regulatory agency; or cause or causes beyond the reasonable control of the party affected; provided that prompt notice of such delay is given by such party to the other and each of the parties hereunto shall be diligent in attempting to remove such cause or causes. If any circumstance of Force Majeure remains in effect for sixty days, either party may terminate this Agreement.

## **20.0 GOVERNING LAW & VENUE**

**20.1** This Agreement is made and shall be interpreted, construed, governed, and enforced in accordance with the laws of the State of Florida. Venue for any state action or litigation shall be Brevard County, Florida. Venue for any federal action or litigation shall be Orlando, Florida.

**21.0 HEADINGS**

**21.1** Paragraph headings are for the convenience of the parties only and are not to be construed as part of this Agreement.

**22.0 SEVERABILITY**

**22.1** In the event any portion or part of thereof this Agreement is deemed invalid, against public policy, void, or otherwise unenforceable by a court of law, the parties shall negotiate an equitable adjustment in the affected provision of this Agreement. The validity and enforceability of the remaining parts of this Agreement shall otherwise be fully enforceable.

**23.0 WAIVER AND ELECTION OF REMEDIES**

**23.1** Waiver by either party of any terms, or provision of this Agreement shall not be considered a waiver of that term, condition, or provision in the future.

**23.2** No waiver, consent, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of each party hereto.

**24.0 THIRD PARTY RIGHTS**

**24.1** Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than City and Engineer.

**25.0 PROHIBITION AGAINST CONTINGENT FEES**

**25.1** Engineer warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Engineer, 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 the Engineer, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

**26.0 ENTIRE AGREEMENT**

**26.1** This Agreement, including any Task Orders and Schedules, Attachments, Appendix's and Exhibits attached hereto, constitute the entire agreement between City and



Engineer with respect to the Services specified and all previous representations relative thereto, either written or oral, are hereby annulled and superseded.

**27.0 NO JOINT VENTURE**

27.1 Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third persons or the public in any manner which would indicate any such relationship with the other.

**28.0 ATTORNEY'S FEES**

28.1 Should either party bring an action to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party the costs and expenses of such action including, but not limited to, reasonable attorneys' fees, whether at settlement, trial or on appeal.

**29.0 COUNTERPARTS**

29.1 This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be considered an original agreement; but such counterparts shall together constitute but one and the same instrument.

**30.0 DRAFTING**

30.1 City and Engineer each represent that they have both shared equally in drafting this Agreement and no party shall be favored or disfavored regarding the interpretation of this Agreement in the event of a dispute between the parties.

**31.0 NOTICE**

31.1 Any notices required to be given by the terms of this Agreement shall be delivered by hand or mailed, postage prepaid to:

For Engineer

CH2M HILL, INC.  
225 East Robinson Street, Suite 505  
Orlando, FL 32801  
Attention: Mr. Ed Davis  
(407) 423-0030 FAX: (407) 839-5901

For City:

City of Cocoa/Utilities Department  
Attention: Utilities Director

activity by any Federal, State, or local governmental commission, department, corporation, subdivision, or agency;

(b) No principal (which includes officers, directors, or executive) or individual holding a professional license and performing work under this Agreement, employee, or agent has employed or otherwise provided compensation to, any employee or officer of the City; and;

(c) No principal (which includes officers, directors, or executive) or individual holding a professional license and performing work under this Agreement, employee, or agent has willfully offered an employee or officer of the City any pecuniary or other benefit with the intent to influence the employee or officer's official action or judgment.

**IN WITNESS WHEREOF**, the parties hereto caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

**CITY:**

**CITY OF COCOA, FLORIDA:**

By: Michael C. Blake  
Michael C. Blake, Mayor

**ATTEST:**

By: Joan Clark  
Joan Clark, City Clerk

11-11-08

**ENGINEER:**

**CH2M HILL, INC.**

By: D. Edward Davis  
Print Name/Title: D. Edward Davis, Vice President

**ATTEST:**

By: [Signature]

11-17-08

**EXHIBIT "A"**  
**SCOPE OF SERVICES**  
**BASIC CONSULTING SERVICES AGREEMENT**

The Scope of Services to be provided by the Engineer shall include the following types of services:

- Engineering evaluation and design of alternative and conventional water supplies, wells, treatment facilities, transmission and distribution system modifications, expansions and other improvements including bench/pilot scale testing when necessary
- Hydraulic, hydrogeologic and water quality modeling, calibration and analysis including ground water hydrology, ASR system assistance and well drilling assistance
- Planning including long-term master planning and CIP development, validation, prioritization, scheduling, probable cost determinations and coordination with various planning agencies
- Assistance with rate and fee determinations and associated revenue projections
- System optimization assistance including lost water mitigation
- Asset management and condition assessment assistance including operation and maintenance studies
- Assistance with acquisitions, negotiations, financial services, engineering and planning and permitting, and other services
- Promotion and support for licensed users of the City's patented Sulfuraetor™ system
- Permitting assistance including consumptive use permitting, negotiations and compliance
- Reporting assistance to regulatory and other agencies including document preparation, public meetings and presentations
- Bidding and construction management assistance including construction phase inspection and the use of alternative project delivery methods
- Grants assistance and state/federal funding assistance
- Environmental impact assessments and studies, including wetlands monitoring and other environmental assistance
- Information management services including GIS, GPS, instrumentation, custom programming/software and other technologies
- Miscellaneous services including public relations assistance, equipment evaluations, program management services and easement acquisition services
- Additional services as requested



**CH2MHILL**

CH2M HILL  
225 East Robinson Street  
Suite 505  
Orlando FL 32801-4321  
Tel 407.423.0030  
Fax 407.839.5901

November 17, 2008

371257.D1

Joan Clark, CMC  
City Clerk  
City of Cocoa  
603 Brevard Avenue  
Cocoa, FL 32922

Subject: Agreement for Engineering Services for Water Supply, Treatment, Transmission and Distribution System Projects and Task Order 2009-01, General Engineering Support Services for Water Supply, Treatment, Transmission and Distribution System Projects

Dear Ms. Clark:

Enclosed please find executed copies of the above-referenced agreement and task order. We have retained one executed copy of each document for our files.

We look forward to continue working with the City of Cocoa.

Sincerely,

CH2M HILL

Ed Davis, P.E.  
Vice President

ORI./111708 Letter of Trans.doc  
Enclosures

c: Carl Larrabee, P.E., Utilities Director  
File

Select Year: 2011

Go

## The 2011 Florida Statutes

Title XIX  
PUBLIC  
BUSINESS

Chapter 287  
PROCUREMENT OF PERSONAL PROPERTY AND  
SERVICES

[View Entire  
Chapter](#)

**287.055** Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties.—

(1) SHORT TITLE.—This section shall be known as the **“Consultants’ Competitive Negotiation Act.”**

(2) DEFINITIONS.—For purposes of this section:

(a) “Professional services” means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.

(b) “Agency” means the state, a state agency, a municipality, a political subdivision, a school district, or a school board. The term “agency” does not extend to a nongovernmental developer that contributes public facilities to a political subdivision under s. 380.06 or ss. 163.3220-163.3243.

(c) “Firm” means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice architecture, engineering, or surveying and mapping in the state.

(d) “Compensation” means the amount paid by the agency for professional services regardless of whether stated as compensation or stated as hourly rates, overhead rates, or other figures or formulas from which compensation can be calculated.

(e) “Agency official” means any elected or appointed officeholder, employee, consultant, person in the category of other personal service or any other person receiving compensation from the state, a state agency, municipality, or political subdivision, a school district or a school board.

(f) “Project” means that fixed capital outlay study or planning activity described in the public notice of the state or a state agency under paragraph (3)(a). A project may include:

1. A grouping of minor construction, rehabilitation, or renovation activities.
2. A grouping of substantially similar construction, rehabilitation, or renovation activities.

(g) A **“continuing contract”** is a contract for professional services entered into in accordance with all the procedures of this act between an agency and a firm whereby the firm provides professional services to the agency for projects in which the estimated construction cost of each individual project under the contract does not exceed \$2 million, for study activity if the fee for professional services for each individual study under the contract does not exceed \$200,000, or for work of a specified nature as outlined in the contract required by the agency, with the contract being for a fixed term or with no time limitation except that the contract must provide a termination clause. Firms providing professional services under continuing contracts shall not be required to bid against one another.

(h) A “design-build firm” means a partnership, corporation, or other legal entity that:

1. Is certified under s. 489.119 to engage in contracting through a certified or registered

Also Noted See  
255.32 (3)  
FL Statutes  
2 Million

PER CITY  
ATTORNEY THIS  
OPTION WILL  
ALLOW AWARD OF  
\$2M+ TO  
A CSA.  
APP

general contractor or a certified or registered building contractor as the qualifying agent; or

2. Is certified under s. 471.023 to practice or to offer to practice engineering; certified under s. 481.219 to practice or to offer to practice architecture; or certified under s. 481.319 to practice or to offer to practice landscape architecture.

(i) A "design-build contract" means a single contract with a design-build firm for the design and construction of a public construction project.

(j) A "design criteria package" means concise, performance-oriented drawings or specifications of the public construction project. The purpose of the design criteria package is to furnish sufficient information to permit design-build firms to prepare a bid or a response to an agency's request for proposal, or to permit an agency to enter into a negotiated design-build contract. The design criteria package must specify performance-based criteria for the public construction project, including the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and other site-specific requirements applicable to the project.

(k) A "design criteria professional" means a firm who holds a professional certificate under chapter 481 to practice architecture or landscape architecture or a professional certificate as a registered engineer under chapter 471 to practice engineering or is employed by or under contract to the agency for the providing of professional architectural services, or engineering services in connection with the design criteria package.

**287.017 Purchasing categories, threshold amounts.**  
are hereby created:

- (1) CATEGORY ONE: \$20,000.
- (2) CATEGORY TWO: \$35,000.
- (3) CATEGORY THREE: \$65,000.
- (4) CATEGORY FOUR: \$195,000.
- (5) CATEGORY FIVE: \$325,000.

(l) "Negotiate" or any form of that word means to conduct legitimate, arms length discussions and conferences to reach an agreement on a term or price. For purposes of this section, the term does not include presentation of flat-fee schedules with no alternatives or discussion.

(3) PUBLIC ANNOUNCEMENT AND QUALIFICATION PROCEDURES. —

(a)1. Each agency shall publicly announce, in a uniform and consistent manner, each occasion when professional services must be purchased for a project the basic construction cost of which is estimated by the agency to exceed the threshold amount provided in s. 287.017 for CATEGORY FIVE or for a planning or study activity when the fee for professional services exceeds the threshold amount provided in s. 287.017 for CATEGORY TWO, except in cases of valid public emergencies certified by the agency head. The public notice must include a general description of the project and must indicate how interested consultants may apply for consideration.

2. Each agency shall provide a good faith estimate in determining whether the proposed activity meets the threshold amounts referred to in this paragraph.

(b) Each agency shall encourage firms engaged in the lawful practice of their professions that desire to provide professional services to the agency to submit annually statements of qualifications and performance data.

(c) Any firm or individual desiring to provide professional services to the agency must first be certified by the agency as qualified pursuant to law and the regulations of the agency. The agency must find that the firm or individual to be employed is fully qualified to render the required service. Among the factors to be considered in making this finding are the capabilities, adequacy of personnel, past record, and experience of the firm or individual.

(d) Each agency shall evaluate professional services, including capabilities, adequacy of personnel, past record, experience, whether the firm is a certified minority business enterprise as

defined by the Florida Small and Minority Business Assistance Act, and other factors determined by the agency to be applicable to its particular requirements. When securing professional services, an agency must endeavor to meet the minority business enterprise procurement goals under s. 287.09451.

(e) The public must not be excluded from the proceedings under this section.

(4) COMPETITIVE SELECTION.—

(a) For each proposed project, the agency shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with, and may require public presentations by, no fewer than three firms regarding their qualifications, approach to the project, and ability to furnish the required services.

(b) The agency shall select in order of preference no fewer than three firms deemed to be the most highly qualified to perform the required services. In determining whether a firm is qualified, the agency shall consider such factors as the ability of professional personnel; whether a firm is a certified minority business enterprise; past performance; willingness to meet time and budget requirements; location; recent, current, and projected workloads of the firms; and the volume of work previously awarded to each firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms. The agency may request, accept, and consider proposals for the compensation to be paid under the contract only during competitive negotiations under subsection (5).

(c) This subsection does not apply to a professional service contract for a project the basic construction cost of which is estimated by the agency to be not in excess of the threshold amount provided in s. 287.017 for CATEGORY FIVE or for a planning or study activity when the fee for professional services is not in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO. However, if, in using another procurement process, the majority of the compensation proposed by firms is in excess of the appropriate threshold amount, the agency shall reject all proposals and reinstate the procurement pursuant to this subsection.

(d) Nothing in this act shall be construed to prohibit a continuing contract between a firm and an agency.

(5) COMPETITIVE NEGOTIATION.—

(a) The agency shall negotiate a contract with the most qualified firm for professional services at compensation which the agency determines is fair, competitive, and reasonable. In making such determination, the agency shall conduct a detailed analysis of the cost of the professional services required in addition to considering their scope and complexity. For any lump-sum or cost-plus-a-fixed-fee professional service contract over the threshold amount provided in s. 287.017 for CATEGORY FOUR, the agency shall require the firm receiving the award to execute a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any professional service contract under which such a certificate is required must contain a provision that the original contract price and any additions thereto will be adjusted to exclude any significant sums by which the agency determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract adjustments must be made within 1 year following the end of the contract.

(b) Should the agency be unable to negotiate a satisfactory contract with the firm considered

to be the most qualified at a price the agency determines to be fair, competitive, and reasonable, negotiations with that firm must be formally terminated. The agency shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the agency must terminate negotiations. The agency shall then undertake negotiations with the third most qualified firm.

(c) Should the agency be unable to negotiate a satisfactory contract with any of the selected firms, the agency shall select additional firms in the order of their competence and qualification and continue negotiations in accordance with this subsection until an agreement is reached.

(6) PROHIBITION AGAINST CONTINGENT FEES.—

(a) Each contract entered into by the agency for professional services must contain a prohibition against contingent fees as follows: “The architect (or registered surveyor and mapper or professional engineer, as applicable) warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the architect (or registered surveyor and mapper, or professional engineer, as applicable) to solicit or secure this agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the architect (or registered surveyor and mapper or professional engineer, as applicable) any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this agreement.” For the breach or violation of this provision, the agency shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

(b) Any individual, corporation, partnership, firm, or company, other than a bona fide employee working solely for an architect, professional engineer, or registered land surveyor and mapper, who offers, agrees, or contracts to solicit or secure agency contracts for professional services for any other individual, company, corporation, partnership, or firm and to be paid, or is paid, any fee, commission, percentage, gift, or other consideration contingent upon, or resulting from, the award or the making of a contract for professional services shall, upon conviction in a competent court of this state, be found guilty of a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083.

(c) Any architect, professional engineer, or registered surveyor and mapper, or any group, association, company, corporation, firm, or partnership thereof, who offers to pay, or pays, any fee, commission, percentage, gift, or other consideration contingent upon, or resulting from, the award or making of any agency contract for professional services shall, upon conviction in a state court of competent authority, be found guilty of a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083.

(d) Any agency official who offers to solicit or secure, or solicits or secures, a contract for professional services and to be paid, or is paid, any fee, commission, percentage, gift, or other consideration contingent upon the award or making of such a contract for professional services between the agency and any individual person, company, firm, partnership, or corporation shall, upon conviction by a court of competent authority, be found guilty of a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083.

(7) AUTHORITY OF DEPARTMENT OF MANAGEMENT SERVICES.—Notwithstanding any other provision of this section, the Department of Management Services shall be the agency of state government which is solely and exclusively authorized and empowered to administer and perform the functions described in subsections (3), (4), and (5) respecting all projects for which the funds



necessary to complete same are appropriated to the Department of Management Services, irrespective of whether such projects are intended for the use and benefit of the Department of Management Services or any other agency of government. However, nothing herein shall be construed to be in derogation of any authority conferred on the Department of Management Services by other express provisions of law. Additionally, any agency of government may, with the approval of the Department of Management Services, delegate to the Department of Management Services authority to administer and perform the functions described in subsections (3), (4), and (5). Under the terms of the delegation, the agency may reserve its right to accept or reject a proposed contract.

(8) STATE ASSISTANCE TO LOCAL AGENCIES.—On any professional service contract for which the fee is over \$25,000, the Department of Transportation or the Department of Management Services shall provide, upon request by a municipality, political subdivision, school board, or school district, and upon reimbursement of the costs involved, assistance in selecting consultants and in negotiating consultant contracts.

(9) APPLICABILITY TO DESIGN-BUILD CONTRACTS.—

(a) Except as provided in this subsection, this section is not applicable to the procurement of design-build contracts by any agency, and the agency must award design-build contracts in accordance with the procurement laws, rules, and ordinances applicable to the agency.

(b) The design criteria package must be prepared and sealed by a design criteria professional employed by or retained by the agency. If the agency elects to enter into a professional services contract for the preparation of the design criteria package, then the design criteria professional must be selected and contracted with under the requirements of subsections (4) and (5). A design criteria professional who has been selected to prepare the design criteria package is not eligible to render services under a design-build contract executed pursuant to the design criteria package.

(c) Except as otherwise provided in s. 337.11(7), the Department of Management Services shall adopt rules for the award of design-build contracts to be followed by state agencies. Each other agency must adopt rules or ordinances for the award of design-build contracts. Municipalities, political subdivisions, school districts, and school boards shall award design-build contracts by the use of a competitive proposal selection process as described in this subsection, or by the use of a qualifications-based selection process pursuant to subsections (3), (4), and (5) for entering into a contract whereby the selected firm will, subsequent to competitive negotiations, establish a guaranteed maximum price and guaranteed completion date. If the procuring agency elects the option of qualifications-based selection, during the selection of the design-build firm the procuring agency shall employ or retain a licensed design professional appropriate to the project to serve as the agency's representative. Procedures for the use of a competitive proposal selection process must include as a minimum the following:

1. The preparation of a design criteria package for the design and construction of the public construction project.

2. The qualification and selection of no fewer than three design-build firms as the most qualified, based on the qualifications, availability, and past work of the firms, including the partners or members thereof.

3. The criteria, procedures, and standards for the evaluation of design-build contract proposals or bids, based on price, technical, and design aspects of the public construction project, weighted for the project.

4. The solicitation of competitive proposals, pursuant to a design criteria package, from those

qualified design-build firms and the evaluation of the responses or bids submitted by those firms based on the evaluation criteria and procedures established prior to the solicitation of competitive proposals.

5. For consultation with the employed or retained design criteria professional concerning the evaluation of the responses or bids submitted by the design-build firms, the supervision or approval by the agency of the detailed working drawings of the project; and for evaluation of the compliance of the project construction with the design criteria package by the design criteria professional.

6. In the case of public emergencies, for the agency head to declare an emergency and authorize negotiations with the best qualified design-build firm available at that time.

(10) REUSE OF EXISTING PLANS.—Notwithstanding any other provision of this section, there shall be no public notice requirement or utilization of the selection process as provided in this section for projects in which the agency is able to reuse existing plans from a prior project of the agency, or, in the case of a board as defined in s. 1013.01, a prior project of that or any other board. Except for plans of a board as defined in s. 1013.01, public notice for any plans that are intended to be reused at some future time must contain a statement that provides that the plans are subject to reuse in accordance with the provisions of this subsection.

(11) CONSTRUCTION OF LAW.—Nothing in the amendment of this section by chapter 75-281, Laws of Florida, is intended to supersede the provisions of ss. 1013.45 and 1013.46.

**History.**—ss. 1, 2, 3, 4, 5, 6, 7, 8, ch. 73-19; ss. 1, 2, 3, ch. 75-281; s. 1, ch. 77-174; s. 1, ch. 77-199; s. 10, ch. 84-321; ss. 23, 32, ch. 85-104; s. 57, ch. 85-349; s. 6, ch. 86-204; s. 1, ch. 88-108; s. 1, ch. 89-158; s. 16, ch. 90-268; s. 15, ch. 91-137; s. 7, ch. 91-162; s. 250, ch. 92-279; s. 55, ch. 92-326; s. 1, ch. 93-95; s. 114, ch. 94-119; s. 10, ch. 94-322; s. 868, ch. 95-148; s. 2, ch. 95-410; s. 45, ch. 96-399; s. 38, ch. 97-100; s. 1, ch. 97-296; s. 80, ch. 98-279; s. 55, ch. 2001-61; s. 63, ch. 2002-20; s. 944, ch. 2002-387; s. 1, ch. 2005-224; s. 19, ch. 2007-157; s. 3, ch. 2007-159; s. 3, ch. 2009-227.

Disclaimer: The information on this system is unverified. The journals or printed bills of the respective chambers should be consulted for official purposes. Copyright © 2000-2011 State of Florida.