

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: January 15, 2008 Consent Regular
 Workshop Public Hearing
Department:
Submitted By: Engineering & Public Works Department
Submitted For: Roadway Production Division

Project : Surveying and Mapping Projects on a Task Order Basis

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: An Agreement with Dennis J. Leavy & Associates, Inc. (DJLA) to provide the necessary professional services for surveying and mapping projects on a task order basis, for Countywide projects, as required.

Summary: This Agreement will provide the necessary professional services for surveying and mapping projects throughout the County for all user departments. At the option of the County, this Agreement can be renewed annually for a period of one (1) year, with a maximum of two (2) renewals.

District: Countywide (PK)

Background and Justification: On November 29, 2007, the Consultant's Competitive Negotiations Act (CCNA) Selection Committee selected DJLA and, in accordance with PPM No. CW-O-048, the Board of County Commissioners (Board) was notified of the selection on December 5, 2007. Palm Beach County now desires DJLA to provide the necessary professional services. The Small Business Enterprise (SBE) goal for the Contract is 15%. The SBE participation committed for this Contract by DJLA is 100.0% overall.

After reviewing the attached Agreement and finding it in proper order, staff recommends the Board's approval. This transaction will maintain the continuous process of professional services required by Palm Beach County.

Attachments:

- 1. Agreements with Exhibits and Certificate of Insurance (2)

Recommended by: Ornelis A. Fernandez 12/18/07
Division Director Date

Approved By: S. J. Will 12/27/07
County Engineer Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures	\$ -0-	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	\$ -0-	-0-	-0-	-0-	-0-

ADDITIONAL FTE POSITIONS (Cumulative) _____

Is Item Included in Current Budget? Yes _____ No _____
 Budget Acct No.: Fund ___ Dept. ___ Unit ___ Object _____
 Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

This item has no additional fiscal impact.

C. Departmental Fiscal Review: E.D. Ward 12/19/07

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

Jan D. 1-4-08
 OFMB SN 1/2/08
 1-2-08
 12/27

Jim J. J. 1/18/08
 Contract Dev. and Control
 1/2/08

B. Approved as to Form and Legal Sufficiency:

This Contract complies with our contract review requirements.

Paul F. J. 1/8/08
 Assistant County Attorney

C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment.

ATTACHMENT 1

**STANDARD FORM OF AGREEMENT
BETWEEN
PALM BEACH COUNTY AND CONSULTANT
FOR
PROFESSIONAL SERVICES**

This is an Agreement made as of _____, 2008 between **Palm Beach County, Florida (COUNTY)** and **Dennis J. Leavy & Associates, Inc. (ANNUAL CONSULTANT)**, an engineering firm having an office and a place of business at 460 Business Park Way, Suite D, Royal Palm Beach, Florida 33411, and having Federal Tax I.D. #65-0529801. The COUNTY intends to have the ANNUAL CONSULTANT provide surveying and mapping services required for County User Departments, on an as needed basis (hereinafter called the **PROJECT**).

The COUNTY and ANNUAL CONSULTANT in consideration of their mutual covenants herein agree in respect of the performance of professional surveying and mapping services by ANNUAL CONSULTANT and the payment for those services by COUNTY as set forth below.

SECTION 1 - BASIC SERVICES OF ANNUAL CONSULTANT

1.1 General

1.1.1 The ANNUAL CONSULTANT shall perform professional design services in connection with the **PROJECT** as hereinafter stated which shall include normal surveying and mapping services, more particularly described in Exhibit "A" (Scope of Services).

1.1.2 The ANNUAL CONSULTANT shall prepare all plans in accordance with Palm Beach County Thoroughfare Design Procedures, current standards adopted by AASHTO, and the Florida Department of Transportation Manual of Uniform Minimum Standards, and all other applicable professional and technical standards. Plans shall be based on the North American Datum of 1983 (NAD 83) 1990 Adjustment and the North American Vertical Datum of 1988 (NAVD 88). They shall be accurate, legible, complete in design, drawn to scale, and shall be suitable for bidding purposes, unless otherwise stated in Exhibit "A".

1.1.3. The ANNUAL CONSULTANT has, during the selection and negotiation process which has preceded this agreement, represented to the COUNTY that the ANNUAL CONSULTANT is possessed of that level of skill, knowledge, experience and expertise that is commensurate with engineering firms of national repute in the areas of practice required for this project. The ANNUAL CONSULTANT acknowledges that the COUNTY has relied on the ANNUAL CONSULTANT'S representations of skill, knowledge, experience and expertise. By executing this contract, the ANNUAL CONSULTANT agrees that the ANNUAL CONSULTANT will exercise that degree of care, knowledge, skill and ability as other engineering firms possessing the degree of skill, knowledge, experience and expertise which the ANNUAL CONSULTANT has claimed. The ANNUAL CONSULTANT shall perform such duties as may be assigned without neglect. The ANNUAL CONSULTANT accepts the relationship of trust and confidence established by this Agreement, and covenants with the COUNTY to cooperate with the COUNTY and to utilize the ANNUAL CONSULTANT'S skill, efforts and judgment commensurate with engineering firms of national repute in the areas of practice required for this project. The ANNUAL CONSULTANT agrees to perform each assignment in an efficient and economical manner consistent with the COUNTY'S interests and consistent with the COUNTY'S stated objectives and recognized professional engineering standards.

The ANNUAL CONSULTANT further contracts with the COUNTY to furnish its professional skill and judgment with due care in accordance with applicable Federal, State and local laws, codes and regulations as amended and supplemented which are in effect on the date of this Agreement first written. It is specifically understood that the

Accessibility provisions of the Americans With Disabilities Act (ADA) shall be complied with and incorporated into the project.

1.1.4 Prior to commencement of design, the **ANNUAL CONSULTANT** shall become familiar with the needs of **COUNTY** Microstation standards, obtain any seed or Microstation files, CADD standards, and standard sheets so that Microstation deliverables can be utilized by the **COUNTY**. **ANNUAL CONSULTANT** shall submit electronic files (in Microstation compatible format and Adobe PDF format) of the design, survey, and any related data used for the project, with the final document(s) submittal, or when otherwise directed by **COUNTY**.

1.15 The **ANNUAL CONSULTANT** shall provide to the **COUNTY** all cost summaries/estimates and "Summary of Pay Items" on disk and/or electronic file (as requested). The **ANNUAL CONSULTANT** shall apply descriptions to the pay items as called out in the **COUNTY'S** "Standard Nomenclature" listing, which is available from Roadway Production.

SECTION 2 - ADDITIONAL SERVICES OF CONSULTANT

2.1 Services Requiring Authorization in Advance

If authorized in writing by the **COUNTY'S** authorized representative, the **ANNUAL CONSULTANT** shall furnish or obtain from others Additional Services of the types listed in paragraphs 2.1.1 through 2.1.9 inclusive. These services are not included as part of Basic Services except to the extent provided otherwise in the Fee Summary, Exhibit "B". These will be paid for by the **COUNTY**, only when specifically authorized and in accordance with Section 5.

2.1.1. Preparation of applications and supporting documents for governmental grants, loans or advances in connection with the **PROJECT**.

2.1.2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by the **COUNTY**.

2.1.3. Services resulting from significant changes in the general scope, extent or character of the **PROJECT** or its design including, but not limited to, changes in size, complexity, the **COUNTY'S** schedule, character of construction or method of financing; and revising previously accepted studies, reports, design documents or contract documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports or documents, or are due to any other causes beyond the **ANNUAL CONSULTANT'S** control.

2.1.4. Preparing documents for alternate bids requested by the **COUNTY** for contractor(s) work which is not executed or documents for out-of-sequence work.

2.1.5. Furnishing the services of special consultants for other than the services included in Exhibit "A".

2.1.6. Services during out-of-town travel required of the **ANNUAL CONSULTANT** other than visits to the site or the **COUNTY'S** office as required by Section 1.

2.1.7. Assistance in connection with bid protests, rebidding or renegotiating contracts for construction, materials, equipment or services.

2.1.8. Preparing to serve or serving as a consultant or witness for the **COUNTY** in any litigation or other legal proceeding involving the **PROJECT**.

2.1.9. Additional services in connection with the **PROJECT**, including services which are to be furnished by the **COUNTY** in accordance with Article 3, and services not otherwise provided for in this Agreement.

SECTION 3 - COUNTY'S RESPONSIBILITY

The **COUNTY** shall do the following in a timely manner so as not to delay the services of the **ANNUAL CONSULTANT**.

- 3.1. Designate in writing a person to act as the **COUNTY'S** representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define the **COUNTY** policies and decisions with respect to the **ANNUAL CONSULTANT'S** services for the **PROJECT**.
- 3.2. Provide all criteria and full information as to the **COUNTY'S** requirements for the **PROJECT**, including design objectives and constraints, space, capacity and performance requirements, flexibility and expendability, and any budgetary limitations; and furnish copies of all design and construction standards which the **COUNTY** will require to be included in the drawings and specifications.
- 3.3. Assist the **ANNUAL CONSULTANT** by placing at the **ANNUAL CONSULTANT'S** disposal all available information pertinent to the **PROJECT** including previous reports and any other data relative to design or construction of the **PROJECT**.
- 3.4. Furnish to the **ANNUAL CONSULTANT** the items listed in Exhibit "A".
- 3.5. Arrange for access to and make all provisions for the **ANNUAL CONSULTANT** to enter upon public and private property as reasonably required for the **ANNUAL CONSULTANT** to perform services under this Agreement.
- 3.6. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by the **ANNUAL CONSULTANT**, obtain advice of an attorney, insurance counselor and other consultants as the **COUNTY** deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of the **ANNUAL CONSULTANT**.
- 3.7. Furnish approvals and permits from all governmental authorities having jurisdiction over the **PROJECT** and such approvals and consents from others as may be necessary for completion of the **PROJECT**.
- 3.8. Providing such legal, accounting, independent cost estimating and insurance counseling services as may be required for the **PROJECT**, and such auditing service as **COUNTY** may require to ascertain how or for what purpose any contractor has used the monies paid to him.
- 3.9. Attend the pre-bid conference, bid opening, preconstruction conferences, construction progress and other job related meetings and substantial completion inspections and final payment inspections.
- 3.10. Give prompt written notice to the **ANNUAL CONSULTANT** whenever the **COUNTY** observes or otherwise becomes aware of any development that affects the scope or timing of the **ANNUAL CONSULTANT'S** services, or any defect or non-conformance in the work of any contractor.
- 3.11. Furnish, or direct the **ANNUAL CONSULTANT** to provide, Additional Services as stipulated in paragraph 2.1 of this Agreement or other services as required.
- 3.12. Bear all costs incident to compliance with the requirements of this Section 3.

SECTION 4 - PERIODS OF SERVICE

4.1. This is an Annual Agreement for professional surveying and mapping services. This Agreement will commence on the date of Board approval and shall remain in effect for a period of one (1) year from that date. At the option of the COUNTY, this agreement can be renewed for two (2) additional one (1) year terms commencing on the anniversary date of the original agreement approval, if agreed by both parties.

SECTION 5 - PAYMENTS TO CONSULTANT

5.1. Methods of Payment for Services and Expenses of the ANNUAL CONSULTANT.

5.1.1. Basic Services: The COUNTY will pay the ANNUAL CONSULTANT an hourly not-to-exceed fee, and/or a lump sum fee, as may be required for each project. The Basic Services (broadly outlined in Exhibit "A") for each project shall be negotiated in accordance with the fees/rates shown in Exhibit "B". The COUNTY shall authorize each project task order fee in writing prior to commencement of the work.

5.1.2. Additional Services: To the extent that additional services under Section 2 hereof are specifically authorized in writing by the COUNTY'S representative, the COUNTY will pay for such additional services in accordance with the following:

5.1.2.1. Actual Salary costs times a factor of 2.80 for services rendered by principals and employees assigned to the PROJECT plus all reimbursable expenses.

5.1.2.2. (DELETED)

5.1.2.3. For services rendered by the ANNUAL CONSULTANT'S principals and employees as consultants or witnesses in any litigation, arbitration or other legal or administrative proceeding in accordance with Paragraph 2.1.8. at the rate of \$800.00 per day or any portion thereof (but compensation for time spent in preparing to appear in any such litigation, arbitration or proceeding will be on the basis provided in Paragraph 5.1.2.1).

5.1.3. Reimbursable Expenses: The COUNTY will pay the ANNUAL CONSULTANT the actual costs of all reimbursable expenses incurred in the provision of these services when authorized in writing by the COUNTY.

5.1.4. The terms "Salary Costs" and "Reimbursable Expenses" have the meanings assigned to them in Paragraph 5.4.

5.1.5. Additional services and reimbursable expenses authorizations shall be issued in accordance with Board policy per Resolution Number R-89-633 adopted April 4, 1989.

5.2. Payments

5.2.1. Progress payments to the ANNUAL CONSULTANT shall be due and payable monthly in proportion to the percentage of engineering services approved and accepted by the COUNTY based on said lump sum fee until 90% of the project is completed. There will be no additional payments for Basic Services until all services are completed and accepted by the COUNTY (including permits).

5.2.2. Final payment shall be due and payable to the ANNUAL CONSULTANT upon satisfactory completion of the services described in this Agreement and approval and acceptance of the plans by the COUNTY.

5.2.3. Due to the nature of the work flow and the small size of expected projects to be performed by the ANNUAL CONSULTANT, the COUNTY recognizes that the purpose of withholding retainage may not be applicable for all projects and the COUNTY may waive the requirement upon written request from the ANNUAL CONSULTANT.

5.3. **Other Provisions Concerning Payments**

5.3.1. Records of the ANNUAL CONSULTANT'S Salary Costs pertinent to the ANNUAL CONSULTANT'S compensation under this Agreement will be kept in accordance with generally accepted accounting practices. Copies will be made available to the COUNTY on request prior to final payment for the ANNUAL CONSULTANT'S services.

5.3.2 At the end of each one (1) year period and during the renewal process, the unburdened (raw) rates may be adjusted by negotiation as an "equitable adjustment", if the cost of living index (Consumer Price Index (CPI)) supports an increase. However, the multiplier agreed to under the original agreement SHALL NOT be changed.

5.3.3 If the proposed adjustments to the unburdened rates include inflationary increases, the percentage of such increase must be justified as being consistent with prior increases to the employees. This may be accomplished by providing a certified schedule of the employee's wage rates which show annual increases for the TWO (2) previous years, including the "anniversary" date of the increase. This schedule shall clearly distinguish between raises given as a result of promotions, change of job, etc., and other increases (inflationary, cost-of-living, and merit). Wage rate verification should be current payroll registers certified by an Officer of the Company, stating that the rates are accurate. The wage rate information must reference the ANNUAL CONSULTANT'S employee names and job classification to those contained in the proposal.

5.4. **Definitions**

5.4.1. The Salary Costs used as a basis for payment shall mean the actual salaries and wages paid to principals and employees engaged on the PROJECT. Time spent on this PROJECT by stenographers, typists and clerk skills shall not be charged to the PROJECT nor shall any fringe benefits such as social security contributions, unemployment, excise and payroll taxes, workman's compensation, etc., be included in the Salary Costs.

5.4.2. Reimbursable Expenses shall mean the actual expenses of soils testing, printing and similar PROJECT related items when authorized by the COUNTY.

SECTION 6 - CONSTRUCTION COST AND OPINIONS OF COST

6.1. **Opinions of Cost**

Since ANNUAL CONSULTANT has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s)' methods of determining prices, or over competitive bidding or market conditions, the ANNUAL CONSULTANT'S opinions of probable construction cost provided for herein are to be made on the basis of the ANNUAL CONSULTANT'S experience and qualifications and represent the ANNUAL CONSULTANT'S best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but the ANNUAL CONSULTANT cannot and does not guarantee that proposals, bids or actual construction costs will not vary from opinions of probable cost prepared by the ANNUAL CONSULTANT. If prior to the Bidding or Negotiating Phase, the COUNTY wishes greater assurance as to construction costs, the COUNTY shall employ an independent cost estimator.

SECTION 7 - GENERAL CONSIDERATION

7.1. **Termination**

This Agreement may be canceled by the ANNUAL CONSULTANT upon thirty (30) days prior written notice to the COUNTY if, through no fault of the ANNUAL CONSULTANT, the COUNTY fails to cure any material default by the COUNTY in its performance of the terms of this Agreement. This Agreement may also be terminated, in whole or in part, by the COUNTY, with or without cause, immediately upon written notice to the ANNUAL CONSULTANT. Unless the ANNUAL CONSULTANT is in breach of this Agreement, the ANNUAL