



## II. FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
Grant Expenditures	<u>\$49,165</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
NET FISCAL IMPACT	<u>\$49,165</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

# ADDITIONAL FTE  
POSITIONS (Cumulative) \_\_\_\_\_

Is Item Included in Current Budget? Yes X No     
Budget Acct No.: Fund 3502 Dept. 361 Unit 1197 Object 6505  
Program

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

Road Impact Fees - Zone 2  
45<sup>th</sup> Street from Pinewood Ave to US1

Authorization - Basic Services	\$18,196.95
- Reimbursables	\$19,617.50
Authorization	\$37,814.45
Traffic	\$ 3,785.00
Roadway Production	\$ 7,565.00
Fiscal Impact	\$49,164.45

C. Departmental Fiscal Review:                     atwillwhite                    

## III. REVIEW COMMENTS

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

                    J. Owl 4/13/09                                         An J. Jansen 4/14/09                      
OFMB                     100 4/13/09                                         Contract Dev. and Control                      
                    abw 4/14                                         SP 4/14/09                    

This Contract complies with our  
contract review requirements.

### B. Approved as to Form and Legal Sufficiency:

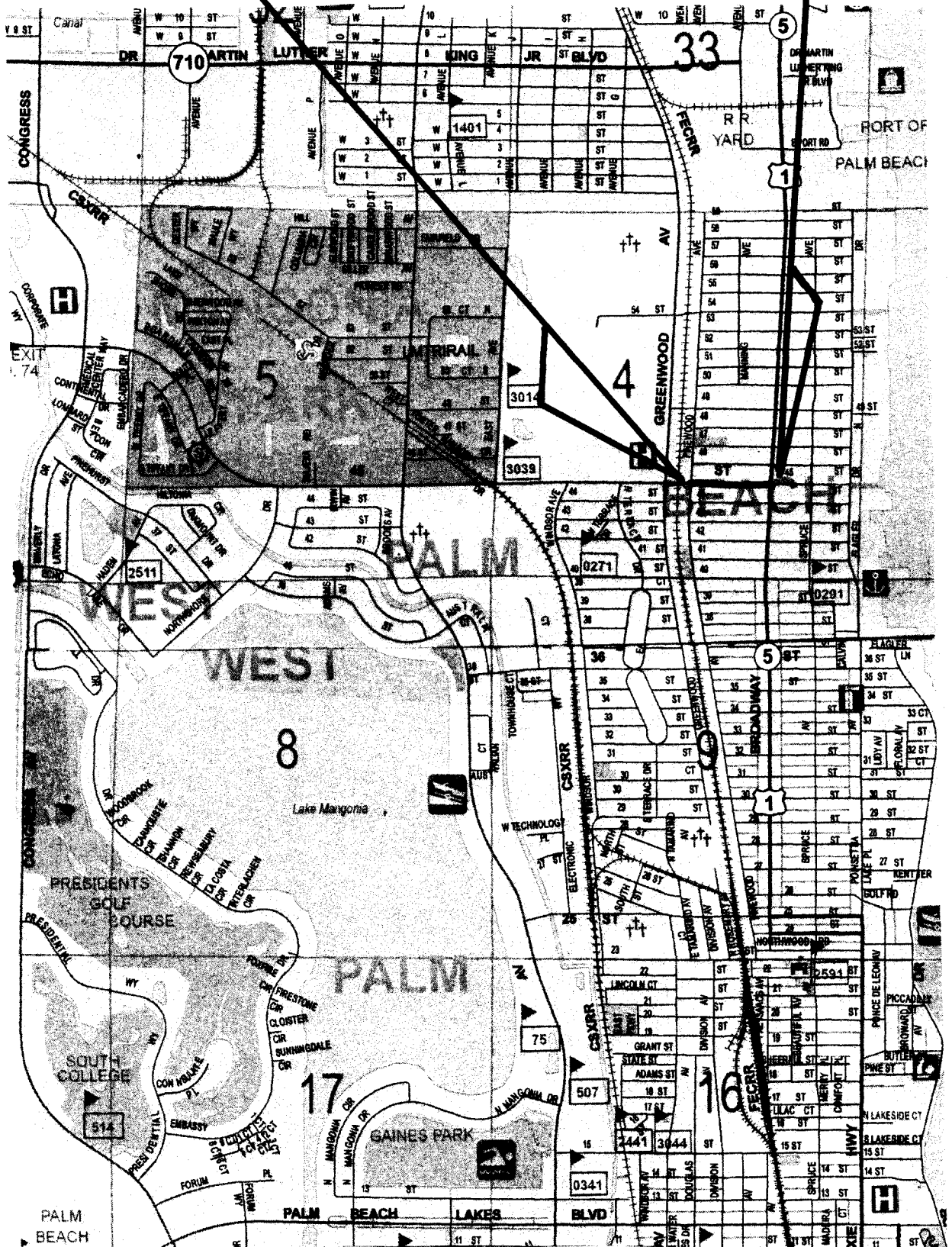
                    Paul F. J. 4/15/09                      
Assistant County Attorney

### C. Other Department Review:

\_\_\_\_\_  
Department Director

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

45<sup>TH</sup> STREET  
PINewood AVENUE TO U.S. 1  
PALM BEACH COUNTY PROJECT NO. 2008502



LOCATION SKETCH

**ATTACHMENT 2**

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

This is an Agreement made as of \_\_\_\_\_, 2009 between **Palm Beach County, Florida (COUNTY)** and **Last Devenport, Inc. (CONSULTANT)**, an engineering firm having an office and a place of business at 901 Northpoint Parkway, Suite 120, West Palm Beach, Florida 33407, and having Federal Tax I.D. #83-0373570. The COUNTY intends to construct a five lane roadway on **45<sup>th</sup> Street from Pinewood Avenue to U.S. 1, Project No. 2008502** (hereinafter called the **PROJECT**).

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

**SECTION 1 - BASIC SERVICES OF CONSULTANT**

**1.1 General**

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

1.1.2 The 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 CONSULTANT has, during the selection and negotiation process which has preceded this agreement, represented to the COUNTY that the 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 CONSULTANT acknowledges that the COUNTY has relied on the CONSULTANT'S representations of skill, knowledge, experience and expertise. By executing this contract, the CONSULTANT agrees that the 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 CONSULTANT has claimed. The CONSULTANT shall perform such duties as may be assigned without neglect. The 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 CONSULTANT'S skill, efforts and judgment commensurate with engineering firms of national repute in the areas of practice required for this project. The 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 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 **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**. **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**.

1.1.5 The **CONSULTANT** shall provide to the **COUNTY** all cost summaries/estimates and "Summary of Pay Items" on disk and/or electronic file (as requested). The **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 **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 **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 **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 **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 **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 **CONSULTANT** by placing at the **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 **CONSULTANT** the items listed in Exhibit "A".
- 3.5. Arrange for access to and make all provisions for the **CONSULTANT** to enter upon public and private property as reasonably required for the **CONSULTANT** to perform services under this Agreement.
- 3.6. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by the **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 **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 **CONSULTANT** whenever the **COUNTY** observes or otherwise becomes aware of any development that affects the scope or timing of the **CONSULTANT'S** services, or any defect or non-conformance in the work of any contractor.
- 3.11. Furnish, or direct the **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. The **COUNTY** will issue a written "**NOTICE TO PROCEED**" to the **CONSULTANT** within sixty (60) days of contract execution by the **COUNTY**. The **CONSULTANT** will immediately commence work on the **PROJECT** and all schedule dates shall be determined from the date of the "**NOTICE TO PROCEED**". Final

completion of all work under this Agreement shall be in accordance with the schedule, or as otherwise approved in writing by the COUNTY.

#### SECTION 5 - PAYMENTS TO CONSULTANT

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

5.1.1. Basic Services: The COUNTY will pay the CONSULTANT the lump sum of \$18,196.95 for completion of the Basic Services set forth in Exhibits "A" and "B".

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 2.98 for services rendered by principals and employees assigned to the PROJECT plus all reimbursable expenses.

5.1.2.2. For services rendered by the 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 CONSULTANT the actual costs of all reimbursable expenses incurred in the provision of these services when authorized in writing by the COUNTY. These expenses will not exceed \$19,617.50 without additional authorization from the COUNTY.

5.1.4. Optional Services: The COUNTY will pay the CONSULTANT for completion of the Optional Services set forth in Exhibits "A" and "B" when the provision of each service is specifically authorized in writing by the COUNTY. These expenses will not exceed \$0.00 without additional authorization from the COUNTY.

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

5.1.6. 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 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 CONSULTANT upon satisfactory completion of the services described in this Agreement and approval and acceptance of the plans by the COUNTY.

##### 5.3. Other Provisions Concerning Payments

5.3.1. If this Agreement is terminated prior to its completion other than due to default on the part of the CONSULTANT, the CONSULTANT shall be paid for Basic Services called for under Section 1 an amount equal to the percentage complete at the time of termination, times the lump sum fee stated in Section 5. Further, the CONSULTANT shall be paid for the completed portion of additional services authorized under Section 2, in accordance with Paragraph 5.1.2.

5.3.2. Records of the **CONSULTANT'S** Salary Costs pertinent to the **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 **CONSULTANT'S** services.

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 **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 **CONSULTANT'S** opinions of probable construction cost provided for herein are to be made on the basis of the **CONSULTANT'S** experience and qualifications and represent the **CONSULTANT'S** best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but the **CONSULTANT** cannot and does not guarantee that proposals, bids or actual construction costs will not vary from opinions of probable cost prepared by the **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 **CONSULTANT** upon thirty (30) days prior written notice to the **COUNTY** if, through no fault of the **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 **CONSULTANT**. Unless the **CONSULTANT** is in breach of this Agreement, the **CONSULTANT** shall be paid for services rendered to the **COUNTY'S** satisfaction through the date of cancellation or termination. In the event of cancellation by the **CONSULTANT** or termination by the **COUNTY**, **CONSULTANT** agrees to waive and make no claim for lost profits or other consequential damages. After receipt of a Termination Notice and except as otherwise directed by the **COUNTY**, the **CONSULTANT** shall:

- A. Stop work on the date and to the extent specified.
- B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
- C. Transfer all work in process, completed work, and other materials related to the terminated work to the **COUNTY**.
- D. Continue and complete all parts of the work that have not been terminated.

Should a termination for breach later be declared wrongful, said termination shall be considered and treated as a termination without cause.



7.2. **DISCLOSURE AND OWNERSHIP OF DOCUMENTS**

7.2.1. Upon completion and acceptance of the final work, the **CONSULTANT** shall furnish to the **COUNTY** the original drawings, field notes and all documents and materials prepared by and for the **COUNTY** under this Agreement. The **CONSULTANT** may keep a reproducible set of the original drawings and shall keep all other data collected during the provision of the services. The **COUNTY** may, at its expense, obtain copies of any data which the **CONSULTANT** has accumulated in the process of providing the services on this project tasks. Any reuse without written verification or adaptation by the **CONSULTANT** for the specific purpose intended will be at the **COUNTY'S** sole risk and without liability or legal exposure to the **CONSULTANT**.

7.2.2. All written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the **COUNTY** or at its expense will be kept confidential by the **CONSULTANT** and will not be disclosed to any other party, directly or indirectly, without the **COUNTY'S** prior written consent unless required by a lawful order. All drawings, maps, sketches, programs, data base, reports and other data developed or purchased under this Agreement at the **COUNTY'S** expense shall be, and remain, the **COUNTY'S** property, and may be reproduced and reused at the discretion of the **COUNTY**.

7.2.3. The **COUNTY** and the **CONSULTANT** shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

7.2.4. All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

7.3 **Reuse of Documents**

Notwithstanding any breach of this Agreement by either party nor the status of payment to the **CONSULTANT**, nor the **COUNTY'S** exercise of its rights of termination, it is hereby agreed between the parties that copies of any and all property, work product, documentation, reports, computer systems and software, schedules, graphs, outlines, books, manuals, logs, files, deliverables, photographs, videos, tape recordings or data relating to this Project which have been created as a part of the **CONSULTANT'S** services, or authorized by the **COUNTY** as a reimbursable expense, whether generated directly by the **CONSULTANT**, or by or in conjunction or consultation with any other party whether or not a party to this Agreement, whether or not in privity of contract with the **COUNTY** or **CONSULTANT**, and wherever located shall be the property of the **COUNTY**.

7.4. **Insurance**

**CONSULTANT** shall, at its sole expense, agree to maintain in full force and effect at all times during the life of this Contract, insurance coverages and limits (including endorsements), as described herein. **CONSULTANT** shall agree to provide the **COUNTY** with at least ten (10) day prior notice of any cancellation, non-renewal or material change to the insurance coverages. The requirements contained herein, as well as **COUNTY'S** review or acceptance of insurance maintained by **CONSULTANT** are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by **CONSULTANT** under the contract.

7.4.1 **Commercial General Liability**

**CONSULTANT** shall maintain Commercial General Liability at a limit of liability not less than **\$1,000,000** Each Occurrence. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted in writing by County's Risk Management Department. **CONSULTANT** shall provide this coverage on a primary basis.

7.4.2. **Business Automobile Liability**

CONSULTANT shall maintain Business Automobile Liability at a limit of liability not less than **\$1,000,000** Each Accident for all owned, non-owned and hired automobiles. In the event CONSULTANT doesn't own any automobiles, the Business Auto Liability requirement shall be amended allowing CONSULTANT to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form. CONSULTANT shall provide this coverage on a primary basis.

7.4.3. **Worker's Compensation Insurance & Employers Liability**

CONSULTANT shall maintain Worker's Compensation & Employers Liability in accordance with Florida Statute Chapter 440. CONSULTANT shall provide this coverage on a primary basis.

7.4.4. **Professional Liability**

CONSULTANT shall maintain Professional Liability, or equivalent Errors & Omissions Liability at a limit of liability not less than **\$1,000,000** Each Claim. When a self-insured retention (SIR) or deductible exceeds **\$40,000**, COUNTY reserves the right, but not the obligation, to review and request a copy of CONSULTANT'S most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, CONSULTANT shall maintain a Retroactive Date prior to or equal to the effective date of this Contract. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims - made" form. If coverage is provided on a "claims - made" form the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the life of this Contract, CONSULTANT shall purchase a SERP with a minimum reporting period not less than 3 years. CONSULTANT shall provide this coverage on a primary basis.

7.4.5. **Additional Insured**

CONSULTANT shall endorse the COUNTY as an Additional Insured with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability. The Additional Insured endorsement shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents." CONSULTANT shall provide the Additional Insured endorsements coverage on a primary basis.

7.4.6. **Waiver of Subrogation**

CONSULTANT hereby waives any and all rights of Subrogation against the County, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONSULTANT shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should CONSULTANT enter into such an agreement on a pre-loss basis.

**7.4.7. Certificate(s) of Insurance**

Prior to execution of this Contract, **CONSULTANT** shall deliver to the **COUNTY** a Certificate(s) of Insurance evidencing that all types and amounts of insurance coverages required by this Contract have been obtained and are in full force and effect. Such Certificate(s) of Insurance shall include a minimum ten (10) day endeavor to notify due to cancellation or non-renewal of coverage. The certificate of insurance shall be issued to

Palm Beach County  
c/o Department of Engineering & Public Works  
2300 N. Jog Road, 3<sup>rd</sup> Floor  
West Palm Beach, FL 33411-2745

**7.4.8 Umbrella or Excess Liability**

If necessary, **CONSULTANT** may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for either Commercial General Liability, Business Auto Liability, or Employer's Liability. The **COUNTY** shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.

**7.4.9 Right to Review**

**COUNTY**, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject or accept any required policies of insurance, including limits, coverages, or endorsements, herein from time to time throughout the term of this Contract. **COUNTY** reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

**7.5. Indemnification**

**CONSULTANT** shall indemnify and hold harmless the **COUNTY**, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the **CONSULTANT** and other persons employed or utilized by the **CONSULTANT** in the performance of the contract.

**7.6. Controlling Law and Venue**

This Agreement is to be governed by the laws of the State of Florida. The parties agree that venue for any action which in any way arises out of this Agreement shall only be in a state court of competent jurisdiction located in Palm Beach County, Florida.

**7.7. Successors and Assigns**

7.7.1. The **COUNTY** and the **CONSULTANT** each binds itself and the partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as above, neither the **COUNTY** nor the **CONSULTANT** shall assign, sublet, convey or transfer its interest in this Agreement without the prior written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the **COUNTY**, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the **COUNTY** and the **CONSULTANT**.

7.7.2. Neither the COUNTY nor the CONSULTANT shall assign, sublet or transfer any rights under or interest in (including, but without limitation, monies that may become due or monies that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent the CONSULTANT from employing such independent professional associates and consultants as the CONSULTANT may deem appropriate to assist in the performance of services hereunder.

7.7.3. Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than the COUNTY and the CONSULTANT, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the COUNTY and the CONSULTANT and not for the benefit of any other party.

#### 7.8 Subcontracting

The COUNTY reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractors in order to make a determination as to the capability of the subcontractor to perform properly under this Agreement. The CONSULTANT is encouraged to seek small business enterprises for participation in subcontracting opportunities. If a subcontractor fails to perform or make progress, as required by this Agreement, and it is necessary to replace the subcontractor to complete the work in a timely fashion, the CONSULTANT shall promptly do so, subject to acceptance of the new subcontractor by the COUNTY.

In accordance with Palm Beach County Small Business Enterprise (SBE) Ordinance #2002-064, as amended from time to time, the annual goal for SBE participation for Professional Services is 15.0%. The CONSULTANT has committed to 100.00% for this Project.

The CONSULTANT agrees to abide by all provisions of the SBE Ordinance and understands that failure to comply with any of the requirements will be considered a breach of contract.

The CONSULTANT has provided Exhibit "D" (Participation for SBE Consultants) and Exhibit "E" (Letter's of Intent) attached hereto indicating the specific participation.

The CONSULTANT understands that each SBE firm utilized on this Agreement must be certified by Palm Beach County in order to be counted toward the contract goal.

The CONSULTANT understands that it is the responsibility of the County Department letting the Agreement and the SBE Office to monitor compliance with the SBE Ordinance requirements. In that regard, the CONSULTANT agrees to furnish progress payment reports, with each billing, to both parties on the progress of the SBE participation for this Agreement.

The CONSULTANT further agrees to provide the SBE Office with a copy of the CONSULTANT'S agreement with the SBE subcontractor or any other related documentation upon request.

The CONSULTANT understands the requirements to comply with the tasks and proportionate dollar amounts throughout the term of the Agreement as it relates to the use of SBE firms. Any SBE's which, for any reason, no longer remain associated with the Project shall be replaced by the CONSULTANT with other certified SBE's, unless approval to the contrary is granted by the COUNTY.

The CONSULTANT understands that he/she is prohibited from making any agreements with the SBE in which the SBE promises not to provide subconsultant quotations to other bidders or potential bidders.

The **CONSULTANT** agrees to maintain all relevant records and information necessary to document compliance with the SBE Ordinances, and will allow the **COUNTY** to inspect such records.

The **CONSULTANT** shall certify in writing that all subcontractors, subconsultants and suppliers have been paid for work and materials from previous progress payments received, less any retainage, by the **CONSULTANT** prior to receipt of any further progress payments. During the term of the Agreement and upon completion of the Agreement, the **COUNTY** may request documentation to certify payment to subcontractors, subconsultants or suppliers. This provision in no way creates any contractual relationship between any subcontractor, subconsultant, or supplier and the **COUNTY** or any liability on the **COUNTY** for the **CONSULTANT'S** failure to make timely payment to the subcontractor, subconsultant or supplier.

7.9. **Personnel**

The **CONSULTANT** represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement.

Such personnel shall not be employees of or have any contractual relationship with the **COUNTY**. All of the services required herein shall be performed by the **CONSULTANT** or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

The **CONSULTANT** warrants that all services shall be performed by competent personnel in accordance with all applicable national, federal, state, and local professional and technical standards.

7.10. **Availability of Funds**

The **COUNTY'S** performance and obligation to pay under this Agreement is contingent upon an annual appropriation for its purpose by the Board of County Commissioners.

7.11. **Conflict of Interest**

The **CONSULTANT** represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided for in Chapter 112, Part III, Florida Statutes. The **CONSULTANT** further represents that no person having any interest shall be employed for said performance.

The **CONSULTANT** shall promptly notify the **COUNTY'S** representative, in writing, by certified mail, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the **CONSULTANT'S** judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the **CONSULTANT** may undertake and request an opinion of the **COUNTY** as to whether the association, interest or circumstance would, in the opinion of the **COUNTY**, constitute a conflict of interest if entered into by the **CONSULTANT**.

The **COUNTY** agrees to notify the **CONSULTANT** of its opinion by certified mail within thirty (30) days of receipt of notification by the **CONSULTANT**. If, in the opinion of the **COUNTY**, the prospective business association, interest or circumstance would not constitute a conflict of interest by the **CONSULTANT**, the **COUNTY** shall so state in the notification and the **CONSULTANT** shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the **COUNTY** by the **CONSULTANT** under the terms of this Agreement.

**7.12. Independent Contractor Relationship**

The CONSULTANT and subconsultants are, and shall be, in the performance of all work services and activities under this Agreement, Independent Contractors, and not employees, agents, or servants of the COUNTY. The CONSULTANT does not have the power or authority to bind the COUNTY in any promise, agreement or representation other than specifically provided for in this Agreement. The CONSULTANT shall be responsible to the COUNTY for all the work or services performed by the CONSULTANT or any person or firm engaged as a subcontractor to perform work in fulfillment of this Agreement.

**7.13. Access and Audits**

The CONSULTANT shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion of this Agreement. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the CONSULTANT'S place of business.

**7.14. Severability**

If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

**7.15. Entirety of Contractual Agreement**

The COUNTY and the CONSULTANT agree that this Contract sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

During the term of this Contract, the COUNTY may require professional services that are the same or similar to those described in this agreement. The COUNTY may, at its sole discretion, obtain said services in accordance with the State of Florida Consultants Competitive Negotiation Act. If the COUNTY so elects, it is mutually understood that the relationship between the CONSULTANT and the COUNTY under this Contract shall be considered as neither barring the CONSULTANT from, nor granting special consideration to the CONSULTANT, in participating in the selection process for a consultant to provide such additional services.

**SECTION 8 - SPECIAL PROVISIONS, EXHIBITS AND SCHEDULES**

**8.1 Federal & State Tax**

The CONSULTANT shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this Agreement.

**8.2. The following Exhibits are attached to and made a part of this Agreement.**

**8.2.1. Exhibit A: Scope of Services**

**8.2.2. Exhibit B: Fee Summary**

**8.2.3. Exhibit C: Truth in Negotiation, Prohibition Against Contingent Fees & Public Entity Crimes Statements, Conflict of Interest Disclosure Form, Disclosure of Ownership Interests Form (if applicable).**

8.2.4. Exhibit D: Participation for SBE Consultants

8.2.5. Exhibit E: Letters of Intent to Perform as an SBE and/or M/WBE (if applicable).

8.3. This Agreement (consisting of pages 1 to 13, inclusive), together with the Exhibits and Schedules identified above constitute the entire Agreement between the COUNTY and the CONSULTANT and supersedes all prior written or oral understandings. This Agreement and said Exhibits may only be amended, supplemented, modified or canceled by a duly executed written instrument.

#### **SECTION 9 - CRIMINAL HISTORY RECORDS CHECK**

The CONSULTANT shall comply with the provisions of Ordinance 2003-030, the Criminal History Records Check Ordinance ("Ordinance"), if CONSULTANT'S employees or subcontractors are required under this contract to enter a "critical facility" as identified in Resolution R-2003-1274. The CONSULTANT acknowledges and agrees that all employees and subcontractors who are to enter a "critical facility" will be subject to a fingerprint based criminal history records check. Although COUNTY agrees to pay for all applicable FDLE/FBI fees required for criminal history record checks, the CONSULTANT shall be solely responsible for the financial, schedule, and staffing implications associated in complying with Ordinance 2003-030.

#### **SECTION 10 - REGULATIONS; LICENSING REQUIREMENTS**

The CONSULTANT shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. CONSULTANT is presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may in any way affect the services offered.

#### **SECTION 11 - ARREARS**

The CONSULTANT shall not pledge the COUNTY'S credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The CONSULTANT further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

#### **SECTION 12 - NONDISCRIMINATION**

The CONSULTANT warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, sexual orientation, gender identity and expression.

#### **SECTION 13 - AUTHORITY TO PRACTICE**

The CONSULTANT hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the COUNTY's representative upon request.

IN WITNESS WHEREOF, the parties have made and executed this Agreement as of the day and year first above written.

OWNER:  
Palm Beach County, Florida  
BY ITS BOARD OF COMMISSIONERS:

BY: \_\_\_\_\_  
John F. Koons, Chairman

SEAL

ATTEST:  
Sharon R. Bock, Clerk & Comptroller  
Circuit Court

BY: \_\_\_\_\_  
(Deputy Clerk)

APPROVED AS TO TERMS  
AND CONDITIONS:

BY: *[Signature]*

APPROVED AS TO FORM &  
LEGAL SUFFICIENCY:

BY: \_\_\_\_\_  
Assistant County Attorney

CONSULTANT:  
Last Devenport, Inc.

BY: *[Signature]*  
Ron W. Last, P.E., President

CORPORATE SEAL



ATTEST WITNESS:

BY: Francesca Mucciolo  
(Print Name)

*[Signature]*  
(Signature)

BY: Lisa Martin  
(Print Name)

*[Signature]*  
(Signature)



# **EXHIBIT “A”**

# **LDi** Last Devenport, Inc.

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## **PROFESSIONAL CONSULTING SERVICES**

45<sup>th</sup> Street (Phase I)  
from Pinewood Avenue to U.S. Highway One  
PBC Project No. 2008502  
**SCOPE OF SERVICES**

*OK*  
*Mike Rose*  
*3/5/09*

### **I. Introduction**

Last Devenport, Inc. (LDi) proposes to provide professional services for the preparation of a Preliminary Engineering Study, Phase I, to expand 45<sup>th</sup> Street from its existing, three lane undivided typical section to a four or five lane undivided typical section. The limits of the project are from approximately the intersection of Pinewood Avenue to the intersection of U.S. Highway One, a distance of approximately 0.25 miles.

Final Design services, Phase II, including the preparation of complete construction plans and special provisions including roadway plans, structure plans, drainage plans, signing and pavement making plans will be included in a subsequent scope. Preliminary Concept Plans will be prepared in accordance with the latest standards of Palm Beach County as described in the Thoroughfare Roadway Design Procedures dated February 2006.

Last Devenport, Inc. will provide all basic services listed below and will utilize subconsultants, subject to approval by Palm Beach County, for the services listed below

### **II. Basic Services**

#### **A. Develop Typical Section Alternates**

These services include the development of three typical section alternates which minimize right of way impacts while adequately addressing operational and safety aspects of the facility. Consideration will be given to the existing 75' RW and 80' RW typical sections.

#### **B. Alignment and Right of Way Acquisition Analysis**

The Preliminary Study phase, Phase I, will include right of way analysis regarding cost impacts. It is anticipated that one site visit by the team will be sufficient during this phase. Team members will review the concept plans prepared during this phase and compile their findings and recommendations in a draft Summary Report. We will provide land acquisition cost estimates for the study based on county supplied land acquisition rates on a cost per square foot or cost per acre basis.

Plan sheet exhibits used in this analysis will be prepared on raster imagery to be provided by the County. These plan sheets will only include the following information:

- Typical sections
- Geometric layout of proposed alternatives
- Proposed centerline of construction and surveyed baseline
- Existing and proposed right of way lines
- Temporary Construction easements
- Back of Sidewalk profile
- Sight Distance Easements

Vertical alignment and cross sections will not be developed for this study. Location of the limit of construction impacts will be estimated only, with a conservative approach used in determining temporary construction easement limits.

#### **C. Preliminary Drainage Design**

These services consist of a preliminary drainage study in order to determine conveyance and treatment requirements. This will include initial contacts with South Florida Water Management District, the City of West Palm Beach, and The Florida Department of Transportation as necessary. Environmental impacts relative to trees will be analyzed in Phase I. A conceptual drainage design will be provided in report format.

A pre-application meeting with SFWMD, City of West Palm Beach and FDOT will also occur at this stage.

#### **D. Final Report Preparation**

These services consist of the preparation of a report summarizing the findings of this study. The report will consist of a narrative, sheet exhibits and an evaluation matrix and include but not limited to the estimated right-of-way and mitigation construction costs.

#### **E. Public Involvement**

The public involvement effort is anticipated to include meetings and coordination with the City of West Palm Beach.

### **III. Subconsultant Services**

#### **1. Surveying Services**

Brown & Phillips, Inc. will perform the surveying services for this project. The scope of the surveying effort is detailed in the attached fee proposal and scope of services submitted by Brown & Phillips.

## **2. Geotechnical Services**

Tierra, Inc. will perform the geotechnical services for the project. Geotechnical services are not anticipated in Phase I. Geotechnical services will be included in the Phase II scope.

## **3. Land Planner Services**

Land Design South, Inc. will provide environmental services in order to ensure compliance with local municipalities for code building setbacks and for proposed tree removals and relocations. These services will be provided in the Phase I scope.

# **IV. Reimbursable Items**

These items include costs to be reimbursed to LDi by the County for expenses incurred in the performance of the project tasks. These include but are not limited to:

- Reproduction
- Color Printing
- Document Binding
- Exhibit/Board Mounting

# **V. Project Schedule (Phase I)**

## **Activity or Event**

## **Duration**

Notice to Proceed	N/A
Data Collection	1 month
Design Survey	2 months (concurrent)
Conceptual Plans Development	1 month
Report Preparation	1 month (concurrent)
Document Submittal	N/A
Review by Palm Beach County	2 weeks
Address comments	2 weeks
Final Submittal	N/A

**Total:**

**4 months**

## **EXHIBIT “B”**

SALARY RELATED COSTS:		✓	\$ 6,108.00
OVERHEAD:	166.00%	✓	\$ 10,139.28
SUBTOTAL:		✓	\$ 16,247.28
OPERATING MARGIN:	12.00%	✓	\$ 1,949.67
EXPENSES:	4.92%	✓ (R)	\$ 800.00
TOTAL LAST DEVENPORT FEE		✓	\$ 18,996.95

SUBCONSULTANTS: Brown & Phillips (Survey) ✓ \$ 13,667.50  
Land Design South (Land Planning/Environmental) ✓ \$5,150.00  
TOTAL: ✓ \$ 37,814.45

\* 2.9792% multiplier

PRELIMINARY DESIGN STUDY										
	Project Manager	Staff	Engineer	Senior CAD	Technician	Notes	Total Staff Hours	Salary Cost by Activity		
	Hours	Rate	Hours	Rate	Hours					
<b>A. Typical Section</b>										
1. Field Review	2	\$48.20	2	\$34.05	2	\$23.50	2	\$	181.70	
2. Typical Section	1	\$48.20	0	\$34.05	12	\$23.50	21	\$	629.80	
3. P&C Coordination	4	\$48.20	2	\$34.05	0	\$23.50	6	\$	284.10	
Typical Section Subtotal	7	\$415.60	4	\$346.50	14	\$292.00	25	\$	1,044.20	
<b>B. Alignment &amp; Right of Way Analysis</b>										
1. Master Plan Layout	1	\$48.20	12	\$34.05	12	\$23.50	25	\$	978.00	
2. P&C Coordination	4	\$48.20	4	\$34.05	0	\$23.50	8	\$	323.40	
3. Design Documentation and Data Collection										
4. Cost Analysis of Alternatives	1	\$48.20	0	\$34.05	0	\$23.50	1	\$	309.60	
Alignment & Right of Way Analysis	25	\$1,089.80	20	\$970.20	12	\$292.00	57	\$	2,352.00	
<b>C. Drainage Study</b>										
1. Data Collection										
2. Develop Concepts	2	\$48.20	1	\$34.05	0	\$23.50	3	\$	369.80	
3. Agency Review / Coordination	1	\$48.20	4	\$34.05	0	\$23.50	5	\$	418.60	
4. Preliminary Cals	1	\$48.20	0	\$34.05	0	\$23.50	1	\$	488.10	
Drainage Study Subtotal	4	\$194.60	5	\$908.30	0	\$	9	\$	1,577.50	
<b>D. Final Report</b>										
1. Report Preparation	1	\$48.20	1	\$34.05	0	\$23.50	2	\$	483.00	
Final Report	1	\$184.90	1	\$577.00	0	\$	2	\$	483.00	
<b>E. Community Involvement</b>										
1. Public Involvement Meeting	1	\$48.20	4	\$34.05	0	\$23.50	5	\$	323.40	
Community Involvement Subtotal	1	\$184.90	4	\$138.60	0	\$	5	\$	323.40	
<b>Total</b>										\$5,186.60



February 12, 2009

Mr. Ronald Last  
Last Devenport  
901 Northpoint Parkway  
Suit # 120  
West Palm Beach, Fl 33407

**Re: Roadway Design Survey – 45th street – Pinewood Ave to U.S.1. PBC Project No. 2008502**

Dear Mr. Last:

Thank you for the opportunity to provide you with the following services for the subject site. This proposal is based on documentation and information provided by your office. We will review any title work supplied by you. The scope of services is as follows:

#### **SCOPE OF SERVICES**

##### **I. HORIZONTAL PROJECT NETWORK CONTROL**

Using the information supplied by Palm Beach County, we will establish the Right-of-Way for 45<sup>th</sup> Street. A traverse will be run through the route and all found monumentation will be tied in. The survey will be oriented to Palm Beach County horizontal control (NAD 83/90 Adjustment). The Palm Beach County Survey Department will supply all the sectional control information along the proposed route.

The limits of the survey are from the Easterly track of the Florida East Coast Railway to 100 feet east of the east right of way of US1 (as shown on Attachment B).

##### **II. VERTICAL PROJECT NETWORK CONTROL**

A level run will be performed along the route using the existing Palm Beach County benchmarks (NAVD 1988). Benchmarks will be set along the route, not exceeding 600 feet apart, so that we will have at least one benchmark per plan sheet. All benchmarks will be set outside of the proposed right of way.

##### **III. BASELINE LAYOUT**

We will lay out the baseline at 100-foot intervals setting appropriate points at each station. The baseline will be laid out within the limits of the 1600 foot route. These baseline points will be used in the topographic and cross section phase to locate features and facilitate checks.



Last  
February 12, 2009  
Page 2

#### **IV. REFERENCE POINTS**

We will reference the baseline at intervals not exceeding 1400 feet along the route. These points will be used to replace disturbed baseline stations. We propose to set 3 references.

#### **V. SECTION TIES AND PROPERTY TIES**

We will tie in section corners and property corners along the route to check the present alignment of 45<sup>th</sup> Street Road. We will try to locate as many corners as possible to positively establish the current right of ways.

#### **VI. TREE SURVEY**

We will locate all onsite trees (not exotics) over 4" in diameter located within the proposed 90' foot road improvement corridor. We will then produce a drawing showing all the trees located. We will provide you with signed and sealed hard copies, and an AutoCAD file of the trees located.

#### **VII. SIDE STREET SURVEYS**

A topographic survey will be done on US1 to 100 feet North and South from the right of way line of 45<sup>th</sup> Street and on Pinewood to 50 feet from the Right of Way of 45<sup>th</sup> Street. This survey will show the edge of pavement and all above ground structures to 25 feet outside of the existing right of way.

#### **VIII. TOPOGRAPHY**

A topographic survey will be performed along the route. This survey will tie in all visible features such as, but not limited to, signs, light poles, guardrails, utilities, walks, edge of pavement, curbing, drainage structures, etc. These locations will show all features within the corridor from right of way to right of way extending to +/- 35 feet outside the proposed right of way if provided. This will allow for the front of the houses along 45<sup>th</sup> Street to be located in the survey.

#### **IX. CROSS SECTIONS**

Cross sections will be done along the route at 100-foot intervals. These cross sections will cover the roadway to the right of way lines and extend to 35 feet outside of the right of way.

Last  
February 12, 2009  
Page 3

**X. ASBUILTS**

We will attempt to get asbuilt information on all the pipes leading out of any storm structures found. We will show invert elevations, pipe sizes and materials for all pipes located.

**XI. LEGAL & SKETCHES**

We will expect there to be a need for Legals & Sketches for parcel takes, but at this time it is unknown how many will be needed. This phase of the project will be determined at a later date.

**XII. CLOSURE**

A drawing will be produced which will show all the features located. We propose to provide Last Devenport with an AutoCAD file in the version requested. Any additional work ~~will be done on an hourly basis as approved by you.~~ The proposed cost for this project is \$13,667.50. Please do not hesitate to call me with any questions you might have regarding this proposal. We look forward to working with you on this project.

Sincerely,

**Brown & Phillips, Inc.**

  
John E. Phillips III, P.L.S.  
Principal

JEP/ml

Accepted This \_\_\_\_\_ Day Of \_\_\_\_\_, 2008.

Last Devenport

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

### ATTACHMENT "A"

**Roadway Design Survey – 45th street – Pinewood Ave to U.S.1. PBC Project No. 2008502**

**Description:** Roadway Survey

**Size:** 1600' +/-

**Date of Proposal:** February 12, 2009

TASK	3 MAN FIELD	CADD TECH	SURVEY TECH	PLS	COMMENTS
Horizontal Project Network Control	8		13	8	Establish control and right-of-way
Baseline Layout 100'	3		1		Lay out baseline at 100' intervals
Vertical Project Network Control	3		1		Set benchmarks along corridor
Reference Points	3		1		Set 3 references
Section Ties	2		.5		Tie in PBCo horizontal control
Properties Ties	4		1	1	Tie in adjoining property corners
Side Street Surveys	4		.5		side streets to 100' down street
Topography	20		3	1	Locate all above ground features including front houses
Cross-Sections	8		1		At 100' intervals to 25' outside R/W, (including soundings on canal and intersection plateau)
Asbuilts	3.5		1		Asbuilt storm structures
Tree Survey	8	6	2	1	Prepare tree survey
CADD Base Drawing		20	6	2	Prepare cadd drawing
Total Hours	✓ 66.5	✓ 26	✓ 31	✓ 13	
Rate/Hour	\$125.00	\$66.00	\$70.00	\$113.00	
Sub-total	✓ \$8,312.50	✓ \$1,716.00	✓ \$2,170.00	✓ \$1,469.00	
Total Price	✓ \$13,667.50				



Attn: Ron Last

**REVISED WORK AUTHORIZATION BETWEEN CLIENT AND LAND DESIGN SOUTH**

Agreement made this 18th day of February 2009, between Last Devenport, Inc. and professional consultant, Land Design South (LDS).

**PROJECT NAME:** Palm Beach County Roadway Production, 45<sup>th</sup> Street – Pinewood to US 1

**DESCRIPTION OF PROJECT:** Environmental Services

**SCOPE OF SERVICES:**

- Preparation of Tree Tabulation from field data collected by others. Tabulation will include field assessment for each specimen to verify species, size in diameter at breast height, canopy spread, overall health and condition of each specimen as require by City of West Palm Beach.
- Preparation of Tree Mitigation Plan for removed trees as required by the City.
- Preparation of Tree Removal Permit and coordination with City for issuance.
- Coordinate with City and consultants for revisions to plans and potential additional right of way acquisitions.

**ESTIMATED TIME OF COMPLETION:** To Be Determined

**CONTRACT AMOUNT:**

• Tree Tabulation	\$2,000.00
• Mitigation Plan	\$1,500.00
• Tree Removal Permit	\$1,000.00
• Coordination and plan revisions	\$650.00
Total = \$5,150.00	

The client is responsible for providing any application and recording fees for the completion of above scope of services.

**ADDITIONAL WORK:**

At the request of the client, or as identified in the Scope of Services above, Land Design South shall provide additional work on an hourly basis based on our current hourly rates.

	Rate Range/Hr.		Rate Range/Hr.
Principal	\$175 - \$250	Engineers	\$80 - \$90
Director	\$135 - \$150	Planners	\$75 - \$125
Sr. Project Mgr.	\$125	Envir. Scientist	\$80 - \$110
Project Manager	\$110	Designer	\$75 - \$85

\\Wpb-dc1\admin\cm\Proposals\_2009\090214R2\_LastDevenport\_45th St Tree Inventory\_15591env.doc

Page 2 of 2  
February 18, 2009  
45<sup>th</sup> Street

**BILLING:**

The above estimated contract amount does not include the fees of other professionals or regular reimbursable expenses such as prints, sepia's, mylars, travel expenses, photographic work, etc. which are invoiced to client at 1.15 times actual direct expenses.

Fees billed shall become due and payable upon receiving said invoice. Unpaid bills shall bear interest at a rate of eighteen percent (18%) per annum, commencing thirty (30) days after the invoice date until date paid. In the event that legal action is required to collect past due obligations, Land Design South shall be entitled to recover all reasonable attorney fees.

This work authorization is valid for 90-days from date of submittal to prospective client.

Authorized by: \_\_\_\_\_ Date: \_\_\_\_\_

Name Printed: \_\_\_\_\_ Company Name: \_\_\_\_\_

Billing Address: \_\_\_\_\_

Land Design South: Jerry Renick Date: 2/18/09  
Jerry Renick, Authorized Signature

## EXHIBIT “C”

Project: 45<sup>th</sup> Street from Pinewood Avenue to U.S. 1  
Project No.: 2008502

CONSULTANT: Last Devenport, Inc.

#### **TRUTH-IN-NEGOTIATION STATEMENT**

By entering into this Agreement, the **CONSULTANT** certifies that the wage rates and costs used to determine the lump sum fees contained in herein are accurate, complete and current as of the date of this Agreement.

The said lump sum fees shall be adjusted to exclude any significant sums should the **COUNTY** determine that the lump sum fees were increased due to inaccurate, incomplete or non-current wage rates or due to inaccurate representations of fees paid to outside consultants.

The **COUNTY** shall exercise its right under this "Certificate" within one year following final payment.

#### **PROHIBITION AGAINST CONTINGENT FEES STATEMENT**

By entering into this Agreement the **CONSULTANT** warrants that they have not employed or retained any company or person other than a bonafide employee working solely for the **CONSULTANT** to solicit or secure this Agreement and that they have not paid or agreed to pay any person, company, corporation, individual or firm other than a bonafide employee working solely for the **CONSULTANT**, any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award of making of this agreement.

#### **PUBLIC ENTITY CRIMES STATEMENT**

As provided in F.S. 287.132-133, by entering this Agreement or performing any work in furtherance hereof, the **CONSULTANT** certifies that it, its affiliates, suppliers, sub-contractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133 (3) (a).

#### **NON-DISCRIMINATION STATEMENT**

The **CONSULTANT** warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, sexual orientation, gender identity and expression.

  
\_\_\_\_\_  
Ronald W. Last, P.E., President

**CONFLICT OF INTEREST DISCLOSURE FORM**

**Project:** 45<sup>th</sup> Street from Pinewood Avenue to U.S. 1  
**Project No.:** 2008502

ENGINEER represents that it presently has no interest, either direct or indirect, which would or could conflict in any manner with the performance of services for the County, except as follows:

---

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(Attach additional sheets as needed.)

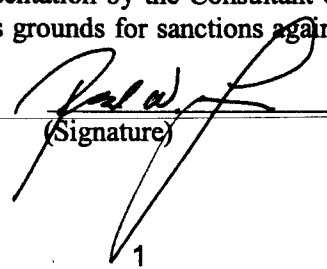
ENGINEER further represents that no person having any interest shall be employed for said performance. By signing below, ENGINEER certifies that the information contained herein is true and correct and constitutes all current potential conflicts of interest which may influence or appear to influence ENGINEER'S judgment or quality of services being provided to the County.

ENGINEER shall promptly notify the COUNTY in writing by certified mail of all potential conflicts of interest that may arise in the future through any prospective business association, interest or other circumstance which may influence or appear to influence ENGINEER'S judgment or quality of services being provided to the County. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that ENGINEER may undertake and request an opinion of the COUNTY as to whether the association, interest or circumstance would, in the opinion of the COUNTY, constitute an unacceptable conflict of interest if entered into by the ENGINEER.

If, in the sole opinion of the COUNTY, the prospective business association, interest or circumstance of ENGINEER would constitute an unacceptable conflict of interest to the COUNTY, the COUNTY shall so state in the notification and the ENGINEER shall not enter into said association, interest or circumstance.

THIS DISCLOSURE is submitted by Ronald W. Last, P.E., as  
(Name of Individual)  
President, of Last Devenport, Inc.  
(Title/Position) (Firm Name of ENGINEER)

who hereby certifies that the information stated above is true and correct. Further, it is hereby acknowledged that any misrepresentation by the Consultant on this Disclosure is considered an unethical business practice and is grounds for sanctions against future County business with the Consultant.

  
(Signature)

March 10, 2009  
(Date)



## **EXHIBIT “D”**

03/09/2009

## Engineering &amp; Public Works Roadway Production

**PARTICIPATION FOR MWBE/SBE CONSULTANTS****Contract**Project Name: 45th Street from Pinewood Avenue to U.S. 1Project No.: 2008502Prime Consultant: Last Devenport, Inc.Prime Contact Person: Ron W. Last, PresidentTelephone No.: (561) 615-8887Resolution Date: 04/21/2009Res #: R2009-Department: Engineering & Public Works

Name / Address / Telephone of Minority Sub-Consultant	Type / Description of Work Performed by Sub-Consultant		Contract Dollar Amount for Sub-Consultant				
			Black	Hispanic	Other	Women	White Male
Brown & Phillips, Inc. 901 NORTHPOINT PKY STE 119 WEST PALM BEACH, FL 33407 (561) 615-3888	Surveyor	MWBE	0.00	0.00	0.00	0.00	
		SBE	13,667.50	0.00	0.00	0.00	0.00
Land Design South of Florida, Inc. 2101 CENTREPARK DR W STE #100 WEST PALM BEACH, FL 33409 (561) 478-8501	Environmental	MWBE	0.00	0.00	0.00	5,150.00	
		SBE	0.00	0.00	0.00	0.00	0.00
Last Devenport, Inc. 901 NORTHPOINT PKY STE 405 WEST PALM BEACH, FL 33407 (561) 615-6567	Design	MWBE	0.00	0.00	0.00	0.00	
		SBE	0.00	0.00	0.00	0.00	18,996.95
		Total MWBE	0.00	0.00	0.00	5,150.00	
		%				13.81	
		Total SBE	13,667.50	0.00	0.00	0.00	18,996.95
		%	36.14				50.23
Total Contract Amount of Authorization			37,814.48				

# EXHIBIT “E”

**SCHEDULE 2**  
**LETTER OF INTENT TO PERFORM AS AN SBE-M/WBE CONSULTANT/SUBCONSULTANT**

PROJECT NO. 2008502

PROJECT NAME: 45<sup>th</sup> Street from Pinewood Avenue to U.S. 1

TO: Last Devenport, Inc.  
(Name of Prime Consultant)

The undersigned is certified by Palm Beach County as a(n) - (check one or more, as applicable):

Small Business Enterprise (SBE) X Minority Business Enterprise (M/WBE) \_\_\_\_\_

Black X Hispanic \_\_\_\_\_ Women \_\_\_\_\_ Caucasian \_\_\_\_\_ Other (Please Specify) \_\_\_\_\_

Date of Palm Beach County Certification: Jan. 5, 2007

The undersigned is prepared to perform the following described work in connection with the above project and will enter into a formal agreement for work with you conditioned upon your execution of a contract with Palm Beach County.

**(Specify in detail particular work items or parts thereof to be performed)**

Surveyor services. The work includes: horizontal and vertical project network control; baseline layout and reference points; tree survey; side street surveys; topography; cross sections; as-builts and legals and sketches.

Total SBE-M/WBE Participation 36.14 %

If undersigned intends to sub-subcontract any portion of this subcontract to a non-certified SBE subcontractor, the name of any such subcontractor must be stated \_\_\_\_\_

The undersigned subconsultant understands that the provision of this form to prime bidder does not prevent subconsultant from providing quotations to others.

Brown & Phillips, Inc.  
(Print name of SBE-M/WBE Subcontractor)

By: [Signature]  
(Signature)

John E. Phillips, Principal  
(Print name/title of person executing on behalf of SBE-M/WBE Subconsultant)

Date: 3/10/09

**SCHEDULE 2**  
**LETTER OF INTENT TO PERFORM AS AN SBE-M/WBE CONSULTANT/SUBCONSULTANT**

PROJECT NO. 2008502

PROJECT NAME: 45<sup>th</sup> Street from Pinewood Avenue to U.S. 1

TO: Last Devenport, Inc.  
(Name of Prime Consultant)

The undersigned is certified by Palm Beach County as a(n) - (check one or more, as applicable):

Small Business Enterprise (SBE) \_\_\_\_\_ Minority Business Enterprise (M/WBE) X

Black \_\_\_\_\_ Hispanic \_\_\_\_\_ Women X Caucasian \_\_\_\_\_ Other (Please Specify) \_\_\_\_\_

Date of Palm Beach County Certification: \_\_\_\_\_

The undersigned is prepared to perform the following described work in connection with the above project and will enter into a formal agreement for work with you conditioned upon your execution of a contract with Palm Beach County.  
**(Specify in detail particular work items or parts thereof to be performed)**

Land planning / environmental services. The work includes: tree tabulation; mitigation plan; tree removal permit; coordination and plan revisions.

Total SBE-M/WBE Participation 13.61 %

If undersigned intends to sub-subcontract any portion of this subcontract to a non-certified SBE subcontractor, the name of any such subcontractor must be stated \_\_\_\_\_

The undersigned subconsultant understands that the provision of this form to prime bidder does not prevent subconsultant from providing quotations to others.

Inc. \_\_\_\_\_

Land Design South of Florida,

(Print name of SBE-M/WBE Subcontractor)

By: Karen F. Bentz  
(Signature)

Karen F. Bentz, President

(Print name/title of person executing on behalf of SBE-M/WBE Subconsultant)

Date: 3/13/09

**SCHEDULE 2**  
**LETTER OF INTENT TO PERFORM AS AN SBE-M/WBE CONSULTANT/SUBCONSULTANT**

PROJECT NO. 2008502

PROJECT NAME: 45<sup>th</sup> Street from Pinewood Avenue to U.S. 1

TO: Palm Beach County  
(Name of Prime Consultant)

The undersigned is certified by Palm Beach County as a(n) - (check one or more, as applicable):

Small Business Enterprise (SBE) X Minority Business Enterprise (M/WBE) \_\_\_\_\_

Black \_\_\_\_\_ Hispanic \_\_\_\_\_ Women \_\_\_\_\_ Caucasian X Other (Please Specify) \_\_\_\_\_

Date of Palm Beach County Certification: \_\_\_\_\_

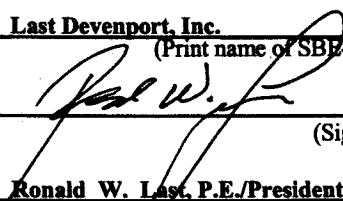
The undersigned is prepared to perform the following described work in connection with the above project and will enter into a formal agreement for work with you conditioned upon your execution of a contract with Palm Beach County.  
(Specify in detail particular work items or parts thereof to be performed)

Preparation of a Preliminary Engineering Study, Phase I, to expand 45<sup>th</sup> Street from its existing, three lane undivided typical section to a four or five lane undivided typical section.

Total SBE-M/WBE Participation 50.23 %

If undersigned intends to sub-subcontract any portion of this subcontract to a non-certified SBE subcontractor, the name of any such subcontractor must be stated \_\_\_\_\_

The undersigned subconsultant understands that the provision of this form to prime bidder does not prevent subconsultant from providing quotations to others.

Last Devenport, Inc.  
(Print name of SBE-M/WBE Subcontractor)  
By:   
(Signature)  
Ronald W. Last, P.E./President  
(Print name/title of person executing on behalf of SBE-M/WBE Subconsultant)

Date: March 10, 2009

Client#: 10237

LASTDEV3

ACORD <sup>TM</sup> CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY) 11/25/08
<b>PRODUCER</b> Suncoast Insurance Associates P.O. Box 22668 Tampa, FL 33622-2668 813 289-5200		<b>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.</b>
<b>INSURED</b> Last Devenport, Inc. 901 Northpoint Parkway Suite 120 West Palm Beach, FL 33407		
<b>INSURERS AFFORDING COVERAGE</b>		<b>NAIC #</b>
INSURER A: Phoenix Insurance Company		25623
INSURER B: Travelers Casualty and Surety Co		19038
INSURER C: XL Specialty Insurance Company		37885
INSURER D: Travelers Indemnity Company		25658
INSURER E:		

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
<b>A</b> GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	6806691L178	12/01/08	12/01/09	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (EA OCCURRENCE) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMPROP AGG \$2,000,000
<b>D</b> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	6802L544	12/01/08	12/01/09	COMBINED SINGLE LIMIT (EA accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
<b>Garage Liability</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
<b>EXCESS/UMBRELLA LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
<b>B</b> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	UB7872Y56107	12/10/08	12/10/09	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
<b>C</b> OTHER Professional Liability	DPF9610463	12/01/08	12/01/09	\$1,000,000 per claim \$1,000,000 annl aggr.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS  
Professional Liability is written on a claims-made basis.

RE: FOR ALL PROJECTS WITH PALM BEACH COUNTY.

Palm Beach County Board of County Commissioners, a political subdivision of the state of Florida, its officers, employees and agents are listed as  
(See Attached Descriptions)

## CERTIFICATE HOLDER

Palm Beach County  
160 Australian Ave.  
Ste. 583  
West Palm Beach, FL 33406

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE



## **IMPORTANT**

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## **DISCLAIMER**

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.



### DESCRIPTIONS (Continued from Page 1)

additional insureds with respects to the General Liability and Auto Liability policy. Professional Liability Retroactive Date is 12/01/2003.

**ATTACHMENT 3**

**45<sup>th</sup> Street (Phase I)  
from Pinewood Avenue to U.S. Highway One  
PBC Project No. 2008502**

**Project Schedule (Phase I)**

<b><u>Activity or Event</u></b>	<b><u>Duration</u></b>
Notice to Proceed	N/A
Data Collection	1 month
Design Survey	2 months (concurrent)
Conceptual Plans Development	1 month
Report Preparation	1 month (concurrent)
Document Submittal	N/A
Review by Palm Beach County	2 weeks
Address comments	2 weeks
Final Submittal	N/A
<b>Total:</b>	<b>4 months</b>