

5B-1

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: May 18, 2010

Consent

Regular

Workshop

Public Hearing

Department: Facilities Development and Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve:

A) Waiver of prohibited relationship for three Cotleur & Hearing, Inc. employees; 1) Brian Chegus, Public Art Committee, 2) Suzanne Hearing, Public Art Committee Artist Selection Committee, and 3) Jan Polson, Development Review Officer (DRO) Oversight Committee; all of which are advisory board members, as we do not perceive there to be any conflict of interest (5 vote supermajority required to approve); and

B) Contract with Cotleur & Hearing, Inc., to provide property development evaluation services on a continuing contract basis for Facilities Development & Operations Department projects.

Summary: Cotleur & Hearing, Inc. has disclosed that three of their employees are members of Palm Beach County advisory boards (two are members of the Public Art Committee and one is on the DRO Oversight Committee). Per the County's Code of Ethics, this may be perceived as a prohibited relationship and Cotleur & Hearing, Inc. is disclosing this and requesting a waiver under the requirements of the Code. Staff recommends approval of the waiver. The purpose of this contract is to have a consultant under contract to provide planning, engineering, and related consulting services for Facilities Development & Operations Department efforts to evaluate the developability of existing County-owned property and potential land acquisition parcels. Consultant fees will be negotiated on an individual basis for the identified project. This contract will be for two (2) years with two (2) - one (1) year extension options. Cotleur & Hearing, Inc. is a Palm Beach County firm as are all their subconsultants. The Small Business Enterprise (SBE) goal for this contract is 15%. Cotleur & Hearing, Inc. anticipates 98% SBE participation. (Capital Improvements Division) Countywide (JM)

Background and Policy Issues: Selection was performed under Board adopted procedures pursuant to the Consultants Competitive Negotiation Act (CCNA) and Florida Statute 287.055 on February 24, 2010. Three firms were selected for these services. Work will be authorized through individual task agreements when they are required during the term of the contract.

Attachments:

- 1. Contract
- 2. Disclosure of Ownership Interests
- 3. Cotleur & Hearing Disclosure Letter

Recommended by: Jan Army Wolf 4/23/10
Department Director Date

Approved by: [Signature] 5/12/10
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2010	2011	2012	2013	2014
Capital Expenditures	\$ _____	0	0	0	0
Operating Costs	_____	0	0	0	0
External Revenues	_____	0	0	0	0
Program Income (County)	_____	0	0	0	0
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	\$ <u>0 & see below</u>	_____	_____	_____	_____
# ADDITIONAL FTE	_____	_____	_____	_____	_____
POSITIONS (Cumulative)	_____	_____	_____	_____	_____


Is Item Included in Current Budget? Yes X No _____
 Budget Account No: Fund _____ Dept _____ Unit _____ Object _____
 Reporting Category _____

★ **Fiscal impact cannot be determined at this time. Individual Task Assignments requiring BCC approval will be brought to the Board and fiscal impact will be addressed at that time; otherwise, funding will come from previously approved BCC projects.**

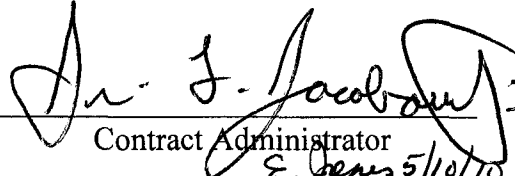
B. Recommended Sources of Funds/Summary of Fiscal Impact:

III. REVIEW COMMENTS:

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

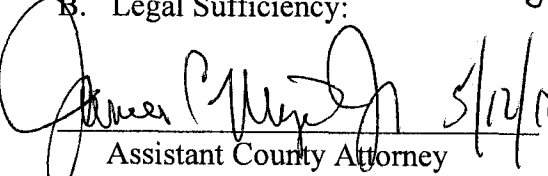


 OFMB
 4/30/10
 4/29/10



 Contract Administrator
 E. Jones 5/10/10
 5/10/10

B. Legal Sufficiency:



 Assistant County Attorney
 5/12/10

This Contract complies with our contract review requirements.

C. Other Department Review:

 Department Director

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

CONTRACT FOR PROFESSIONAL SERVICES
ANNUAL PLANNING & PROPERTY DEVELOPMENT
COTLEUR & HEARING, INC.

This Contract is made as of _____ by
and between **PALM BEACH COUNTY**, a Political Subdivision of the State of Florida, by
and through its Board of Commissioners, hereinafter referred to as the COUNTY, and
COTLEUR & HEARING, INC., a corporation authorized to do business in the State of
Florida, hereinafter referred to as the CONSULTANT, whose Federal I.D. number is
65-0270814.

In consideration of the mutual promises contained herein, the COUNTY and the
CONSULTANT agree as follows:

DEFINITIONS:

Approval, Acceptance, Authorization when referring to the COUNTY shall not
constitute acceptance or approval of the buildability or suitability of any documents nor
the approval or acceptance of the condition, status or progress of the work, but only
establishes that the COUNTY has verified such documents exist and that progress
payments may be made. No liability shall flow to, be assumed by, or incurred to the
COUNTY for its acceptance, approval or authorization of any documents or work
hereunder.

SECTION I - BASIC SERVICES OF CONSULTANT

1.1 General

1.1.1 Provide planning, due diligence, development analysis, and development
approval services for the proposed or actual projects owned or to be acquired by Palm
Beach County. Individual tasks under this contract will be assigned on an as-needed
basis by the COUNTY.

1.1.2 CONSULTANT shall provide for COUNTY Professional services in all phases of
the Project to which this Agreement applies as hereinafter provided. These services will
include serving as COUNTY'S professional representative for the project(s), providing
consultation and advice and furnishing customary engineering services, surveying,
environmental, architectural, and landscape architectural services incidental thereto.

1.1.3 The services of this Contract may include a series of many separate individual
task or projects, all related to planning services, as more particularly described below.
Task assignments will be subject to scope definition and determination of level of effort
on a task-by-task basis. During the term of this Contract, the COUNTY may require
services that are expected to be more extensive in scope or a different nature than that
described in this Section. In such an event, the COUNTY may, at its sole discretion,
obtain said services in accordance with the State of Florida Consultants Competitive
Negotiation Act. If so, it is mutually understand that the relationship between

CONSULTANT and COUNTY under this Contract shall be considered as neither barring CONSULTANT from, nor granting special consideration to CONSULTANT in participating in the selection process for a consultant to provide such additional services.

1.1.4 Assignment of tasks to the CONSULTANT will be at the sole discretion of the COUNTY. The COUNTY may choose to select another firm or use in-house staff to perform any of the tasks described, in whole or in part. Task scope and fee negotiation will be performed on a task-by-task basis. No minimum amount of professional services or compensation is guaranteed to the CONSULTANT. This is not an exclusive contract. The COUNTY may enter into similar contracts with other Consultants to provide the same or similar services during the term of this contract.

1.1.5 Each task performed under this Contract will be assigned to CONSULTANT for accomplishment by a separate written service authorization. For each task COUNTY will require CONSULTANT to provide proposed written scope of services including schedule, cost, and Schedules 1 and 2 (SBE/M/WBE) for COUNTY review. Upon mutual agreement of the scope of services, schedule and cost (lump sum fee or not to exceed arrived as in accordance with Section 5 of this contract), COUNTY will issue a notice to proceed for each assigned task.

1.1.6 The types of individual projects or tasks to be assigned to CONSULTANT under this Contract may include, but not necessarily limited to those listed in EXHIBIT A.

1.1.7 The CONSULTANT shall 1) have the COUNTY present at all meetings with representatives of regulatory agencies; 2) have the COUNTY's signature on all applications, and 3) not represent itself as an "agent" of the COUNTY. The COUNTY will pay directly all associated fees within fifteen (15) days of notification of same by the CONSULTANT.

1.1.8 The CONSULTANT shall document all meetings with written meeting notes.

SECTION 2 - ADDITIONAL SERVICES OF CONSULTANT

2.1 Notification

CONSULTANT shall notify COUNTY immediately in writing of all changes to the Scope of Work that increase or decrease the CONSULTANT'S cost or the duration of CONSULTANT's services.

2.2 Additional Compensation

2.2.1 Notice of a request for additional compensation shall be given in writing to COUNTY within five (5) working days from the date on which CONSULTANT knows, or should reasonably know, of the event giving rise to such request. Failure to give such notice shall constitute a waiver of CONSULTANT's right to additional consideration.

2.2.2 Before making any additions or deletions to the work or undertaking any changes or revisions to such work, the parties shall negotiate any necessary cost changes and shall enter into a Change Authorization covering such work and compensation.

2.3 Services Requiring Authorization in Advance

Only if authorized in writing by COUNTY, and not included in basic services, may CONSULTANT receive additional compensation for furnishing or obtaining Additional Services of the types listed in this section.

2.3.1 Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans or advances in connection with the Project preparation or review of environmental assessments and impact statements.

2.3.2 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 of 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 CONSULTANT's control. Such services may be additional services provided such services are not required as a result of any act, error or omission of the CONSULTANT.

2.3.3 Providing renderings or models for COUNTY's use.

2.3.4 Investigations and studies involving detailed consideration of operations, maintenance and overhead expenses; preparation of feasibility studies, cash flow and economic evaluations, rate schedules and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing and assisting COUNTY in obtaining process licensing; detailed quantity surveys of materials, equipment and labor; and audits or inventories required in connection with construction performed by COUNTY.

2.3.5 Furnishing services of specialty professional associates and consultants for other than Basic Services. Sub-contractual services, which include **new** project team members, may be invoiced at the actual fees paid by the CONSULTANT plus an additional cost of Ten Percent (10%) for these services to compensate CONSULTANT, for the procuring and management of the new sub-consultant, and for the other financial and administrative costs. Sub-contractual services shall be approved by the COUNTY in writing prior to performance of the sub-contractual work.

2.3.6 Services during out-of-town travel required of CONSULTANT other than visits and inspections/observations to the site or COUNTY's office as required by Section 1.

2.3.7 Providing any type of property surveys or related services needed for the transfer of interests in real property.

2.3.8 Preparing to serve or serving as a consultant or witness for COUNTY in any litigation involving the Project (except for negotiations in seeking settlement of disputes and assistance in consultations which is included as part of Basic Services and where CONSULTANT may be responsible due to incompetence, errors, omissions, or fraud).

2.3.9 Additional services which are to be furnished by COUNTY in accordance with Section 3, and services not otherwise provided for in this Contract.

SECTION 3 - COUNTY'S RESPONSIBILITIES

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 COUNTY'S representative with respect to the services to be rendered under this Contract. Such person shall have complete authority to transmit instructions, receive information, interpret and define COUNTY'S policies and decisions with respect to CONSULTANT'S services for the Project.

3.2 As requested, in writing by CONSULTANT, provide all criteria and full information as to COUNTY'S requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations.

3.3 Arrange for access to and make provisions where necessary for CONSULTANT to enter upon property as required for CONSULTANT to perform services under this Contract.

3.4 Examine all studies, reports, sketches, Drawings, Specifications, proposals and other documents presented by CONSULTANT. If requested by CONSULTANT, render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of CONSULTANT. However, said decisions shall create no liability on the part of COUNTY for approval or acceptance.

3.5 Give prompt written notice to CONSULTANT whenever COUNTY observes or otherwise becomes aware of any development that affects the scope of timing of CONSULTANT'S services, or any defect or non-conformance in the work of any Contractor.

3.6 Furnish, or direct CONSULTANT to provide, Additional Services as stipulated in paragraph 2.3 of this Contract or other services as required.

SECTION 4 - PERIODS OF SERVICE

4.1 The period of service shall commence upon execution of this Contract and continue for a period of two (2) years, with two (2) one year renewal options at the sole discretion of the County and, additionally, it shall continue until completion of all phases or any outstanding additional service authorizations issued within the period of this

Contract, unless otherwise terminated as provided herein.

4.2 If COUNTY has requested significant modifications or changes in the general scope, extent or character of the Project, the time of performance of CONSULTANT'S services shall be adjusted equitably.

SECTION 5 - PAYMENTS TO CONSULTANT

5.1 The total amount to be paid by the COUNTY under this Contract and method of payment shall be set forth in each service authorization. The CONSULTANT will bill the COUNTY at the amounts set forth for services rendered toward the completion of the Scope of Work. Payments will generally be made either after completion of scheduled milestones or after acceptance of specified deliverables. Where incremental billings for partially completed items are permitted, the total incremented billings shall not exceed the percentage of estimated completion of identifiable deliverables or accepted deliverables as of the billing date.

5.2 CONSULTANT and COUNTY shall agree on a Schedule of Values incorporating scope of work references, deliverables, and milestones. A Pay Application with percent complete of each activity shall be included with each billing. A SVE Activity Report and a schedule update of consultant's work shall be included with each billing.

5.3 Pay Applications received from the CONSULTANT pursuant to this Contract will be reviewed and approved by the initiating COUNTY department, indicating that services have been received, and then will be sent to the Finance Department for payment. Invoices must reference the project number. Invoices will normally be paid within thirty (30) days following the department's approval.

5.3.1 Without changing the contract price, a fee of 0.25% will be deducted by the COUNTY from each Pay Application to defray costs of the Office of the Inspector General in accordance with Ordinance R2009-049. Refer to Paragraph 7.24 for more information.

5.4 Fixed Price Method of Payment: Whenever possible, the scope of services for Services, Projects or Programs shall be thoroughly defined and outlined prior to its authorization. The COUNTY and CONSULTANT shall mutually agree to a fixed price for services to be rendered and a detailed scope of services. Should the COUNTY deem that a change in the scope of services is appropriate, then a decrease or increase shall be agreed to in writing. Prior to execution of a fixed price authorization, the CONSULTANT shall have submitted a detailed cost proposal including the estimated labor hours, labor rates, subcontractual services, out of pocket expenses and other related costs supporting the proposed work. Fixed price contracts shall include all services including labor, reimbursable, overhead and profit as part of the fixed price.

5.5 Computation of Time Charges/Not to Exceed Method of Payment: When a service is to be compensated for on a time charge/not to exceed basis, the CONSULTANT will submit a not to exceed budget to the COUNTY for prior approval

based on estimated labor hours and labor rates which shall not exceed established hourly rates plus subcontractual services, out of pocket expenses and other related costs supporting the proposed work. The COUNTY shall not be obligated to reimburse the CONSULTANT for costs incurred in excess of the total not to exceed cost amount. The CONSULTANT shall notify the COUNTY in writing when 90% of the "not to exceed" amount has been reached.

5.5.1 The COUNTY agrees to pay the CONSULTANT compensation for services rendered based upon the established actual hourly raw labor rates for services rendered by personnel directly engaged on COUNTY projects, multiplied by an overall overhead and profit factor. The labor rates, overhead and profit factors are subject to audit. The schedule of hourly labor rates by labor category as set forth in Exhibit B is attached hereto and made a part hereof. The rates listed in Exhibit B shall remain in effect for a period of two years from the date of CONTRACT execution. At each renewal date, if the cost of living index supports an increase, an increase of up to three percent (3%) may be allowed for each one year term thereafter.

5.5.2 Sub-contractual services shall be approved by the COUNTY in writing prior to performance of the sub-contractual work.

5.5.3 "Out-of-pocket" expenses will be reimbursed up to the not-to-exceed amount. "Out-of-pocket" expenses mean the actual expenses expected to be incurred by the CONSULTANT or CONSULTANT'S independent professional associates directly or indirectly in connection with the work such as expenses for: transportation and subsistence incidental thereto; external reproduction of reports, drawings, specifications, bidding documents, and similar Project related items. Charges for specialized equipment shall be determined on an individual basis subject to approval of the COUNTY. All reimbursable expenses will be estimated at the time of negotiating this Contract. All requests for payment of "out-of-pocket" expenses eligible for reimbursement under the terms of the Contract shall include copies of paid receipts, invoices, or other documentation acceptable to the Palm Beach County Finance Department. Such documentation shall be sufficient to establish that the expense was actually incurred and necessary in the performance of the Scope of Work. Any travel, per diem, mileage, meals, or lodging expenses which may be reimbursable under the terms of this Contract will be paid in accordance with the rates and conditions set forth in Section 112.061, Florida Statutes.

5.6 In order for both parties to close their books and records, the CONSULTANT will clearly state "**Final**" on the CONSULTANT'S final/last billing to the COUNTY. This shall constitute CONSULTANT'S certification that all services have been properly performed and all charges and costs have been invoiced to COUNTY. Since this account will thereupon be closed, any and other further charges, if not properly included on this final invoice, are waived by the CONSULTANT.

SECTION 6 – NOT USED

SECTION 7 - GENERAL CONSIDERATION

7.1 Standard of Care

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

CONSULTANT further contracts with 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 Contract first written. It is specifically understood that the Florida Americans with Disabilities Accessibility Implementation Act shall be complied with and incorporated into the project.

Although specific provisions of this Contract refer to some services with terms such as "complete", "accurate", "full extent", "highest", "in detail", "verify", "certify", "represent", "substantiate", "inspect", "monitor", "discover", "as often as necessary", "approve", "accept", "reject", and "enforce", such terms and similar terms shall be qualified by the standard of care stated in the preceding two paragraphs.

The CONSULTANT shall not be responsible for the means, methods, techniques, sequences and operations of construction or safety precautions and programs except as provided in this Contract Document.

7.2 Termination

This Contract may be canceled by the CONSULTANT upon sixty (60) days prior written notice to the COUNTY in the event of failure by the COUNTY to perform in accordance with the terms of this Contract through no fault of the CONSULTANT. It 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 Contract, the CONSULTANT shall be paid for services rendered to the COUNTY'S satisfaction through the date of termination. In no event, whether

termination is with or without cause, shall the COUNTY be liable for any lost profits, lost opportunity damage, or 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.

Notwithstanding any breach of this Contract 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 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 contract, whether or not in privity of contract with the COUNTY or CONSULTANT, and wherever located shall be the property of the COUNTY.

7.3 Truth-in-Negotiation Certificate

Signature of this Contract by the CONSULTANT shall act as the execution of a truth-in-negotiation certificate certifying that the wage rates and costs used to determine the compensation provided for in this Contract are accurate, complete and current as of the date of the Contract and no higher than those charged the CONSULTANT'S most favored customer for the same or substantially similar service.

The said rates and costs shall be adjusted to exclude any significant sums should the COUNTY determine that the rates and costs 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 rights under this "Certificate" within three (3) years following final payment. County has the authority and right to audit CONSULTANT'S records under this provision.

7.4 Personnel

7.4.1 The CONSULTANT represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any conflicting 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.

Any changes or substitutions in the CONSULTANT'S key personnel or subconsultants must be made known to the COUNTY'S representative and written approval must be granted by the COUNTY before said change or substitution can become effective.

The CONSULTANT represents that all services shall be performed by skilled and competent personnel to the professional standard of care set forth in 7.1 above.

7.4.2 CONSULTANT'S Representative

Prior to executing the contract, the CONSULTANT shall advise the COUNTY of the name of the Project Consultant. The Project Consultant shall devote such time as may be necessary to the project and as may be appropriate to and consistent with full and timely performance of this Contract. The Project Consultant shall not be removed from his-her responsibilities on this project without the written consent of the COUNTY. The COUNTY shall retain reasonable right of approval of the CONSULTANT'S designated Project Consultant and the right to require the CONSULTANT to replace its designated Project Consultant with another individual acceptable to the COUNTY.

7.5 Subconsultants

7.5.1 The COUNTY reserves the right to accept the use of a sub-consultant, or to reject the selection of a particular sub-consultant and to inspect all facilities of any sub-consultant in order to make a determination as to the capability of the sub-consultant to perform properly under this Contract. The CONSULTANT is encouraged to seek small business enterprises for participation in subcontracting opportunities. SBE participation will be established in accordance with COUNTY ordinances and COUNTY Office of SBE goals, the CONSULTANT agrees to make a good faith effort to meet the goals so established.

If a sub-consultant fails to perform or make progress, as required by this Contract, and it is necessary to replace the sub-consultant to complete the work in a timely fashion, the CONSULTANT shall promptly do so, subject to the right of the COUNTY to reject the new sub-consultant.

7.5.2 SBE Participation

The CONSULTANT agrees to abide by all provisions of Palm Beach County SBE Ordinance and understands that failure to comply with any of the requirements will be considered a breach of contract. The SBE participation goals for this Contract are 15%.

Based on CONSULTANT's estimate of proposed services under this non-project specific contract, CONSULTANT has committed to a goal of 98%. Consultant shall use its best efforts to meet this goal in all of its service proposals.

The CONSULTANT incorporates Schedule 1 (Participation of SBE/M/WBE Contractors) and Schedule 2 (Letter of Intent) attached hereto as Exhibit C and made a part hereof, the names, addresses, scope of work, estimated percentage of the SBE/M/WBE participation on Schedule 1 and the Letter of Intent, Schedule 2, signed by each of the listed SBE subconsultants on Schedule 1.

The CONSULTANT understands that each small business firm utilized on this Contract 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 Department letting the Contract and the office of SBE 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 Contract.

The CONSULTANT further agrees to provide the COUNTY with a copy of the CONSULTANT'S Contract with the SBE subconsultant or any other related documentation upon request.

CONSULTANT understands the requirements to comply with the tasks and proportionate dollar amounts throughout the term of the contract as it relates to the use of SBE firms. Any SBE which, for any reason, no longer remains associated with the contract of CONSULTANT shall be replaced with other certified SBEs, 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 sub-consultants quotations to other bidders or potential bidders.

The CONSULTANT agrees to maintain all records and information necessary to document compliance with the Ordinance and will allow the COUNTY to inspect such records.

7.6 Non-Discrimination

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.

7.7 Independent Contractor Relationship

The CONSULTANT is, and shall be, in the performance of all work services and activities under this Contract, an Independent Contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the CONSULTANT'S sole direction, supervision, and control. The CONSULTANT shall exercise control over the means and manner in which it and its employees, sub-consultants and suppliers perform the work, and in all respects the CONSULTANT'S relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor and not as employees or agents 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 Contract.

The CONSULTANT represents that all sub-consultant agreements entered into shall incorporate by reference the terms and conditions of this Contract, and further warrants that the COUNTY is an intended express third party beneficiary of any such subcontract.

7.8 Contingent Fees

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, fit, or any other consideration contingent upon or resulting from the award of marking of this Contract.

7.9 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 upon request.

7.10 Federal and State Tax

The COUNTY is exempt from payment of Florida State Sales and Use Taxes. The COUNTY will sign an exemption certificate submitted by the CONSULTANT. The CONSULTANT shall **not** be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the COUNTY. The CONSULTANT is **not** authorized to use the COUNTY'S Tax Exemption Number in securing such materials.

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 contract.

7.11 Availability of Funds

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

7.12 INSURANCE

7.12.1 CONSULTANT shall, at its sole expense, agree to maintain in full force and effect at all times during the life of this Contract, insurance coverage and limits (including endorsements), as described herein. 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.

7.12.2 **Commercial General Liability** CONSULTANT shall agree to 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.

7.12.3 **Business Automobile Liability** CONSULTANT shall maintain Business Automobile Liability at a limit of liability not less than **\$1,000,000** Each Occurrence 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.

7.12.4 **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.

7.12.5 **Professional Liability** CONSULTANT shall maintain Professional Liability, or equivalent Errors & Omissions Liability at a limit of liability not less than **\$1,000,000** Per Occurrence. When a self-insured retention (SIR) or deductible exceeds **\$10,000**, 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 Retroactive Date shall be shown on the Certificate. 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. **The requirement to purchase a SERP shall not relieve the CONSULTANT of the obligation to provide replacement coverage.** CONSULTANT shall provide this coverage on a primary basis.

7.12.6 **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.

7.12.7 **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.

7.12.8 **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 coverage required by this Contract have been obtained and are in full force and effect. Such Certificate(s) of Insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage. Certificates shall be addressed to Palm Beach County Board of County Commissioners, c/o Capital Improvements Division, 2633 Vista Parkway, West Palm Beach, FL 33411-5604.

7.12.9 **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.

7.12.10 **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.

7.13 Disclosure and Ownership of Documents

The CONSULTANT shall deliver to the COUNTY, for acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the COUNTY under this Contract.

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, utilized, or purchased under this Contract for a COUNTY project or 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. However, CONSULTANT will incur and assume no liabilities for reuse unless CONSULTANT agrees with said reuse and is compensated for any revisions necessary to update plans for code compliance, site adaptations, or COUNTY requested changes.

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

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

Notwithstanding any other provision in this Contract, all documents, records, reports and any other materials produced hereunder shall be subject to disclosure, inspection, audit, pursuant to the Palm Beach County Office of Inspector General Ordinance 2009-049, as may be amended.

7.14 Remedies

This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Contract will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

7.14.1 Indemnification - The CONSULTANT shall indemnify and save harmless the COUNTY, its officers, agents, servants and employees from and against all claims, liability, damages, losses, and/or cause of action including reasonable attorneys' fees, which may arise from any breach of contract, negligent act, error or omission of the

CONSULTANT, its officers, employees, agents, subconsultants or anyone acting under their authority and control in the performance of this Contract. The indemnity obligations of this section shall not apply to damages or injury to the extent caused by the negligence or willful misconduct of COUNTY, or its officers, employees, agents.

The CONSULTANT's duty to indemnify the COUNTY, its officers and employees shall continue even if COUNTY is contributorily negligent.

7.14.2 If any legal action or other proceeding is brought for the enforcement of this Contract, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract, each party shall bear its own attorney's fees, court costs and all expenses (including taxes and , without limitation, all such fees, costs, and expenses incident to appeals) incurred in that action or proceeding.

7.15 Conflict of Interest

For every proposal provided by the CONSULTANT in response to a task assigned under this Contract, the CONSULTANT shall provide COUNTY with an executed Conflict of Interest Disclosure Form, attached as Exhibit E and incorporated herein.

Any actual or potential conflict between the CONSULTANT'S interests and the CONSULTANT'S performance of the services provided hereunder must be waived by the COUNTY by written notification prior to the performance of any services by the CONSULTANT. The CONSULTANT shall abide by any terms contained within the waiver by the COUNTY or shall release the COUNTY from all of its obligations hereunder.

7.16 Excusable Delays

The CONSULTANT shall not be considered in default by reason of any failure in performance if such failure arises out of causes beyond the control of the CONSULTANT or its sub-consultants and without their fault or negligence. Such causes may include, under relevant circumstances: acts of God; natural or public health emergencies; strikes not within CONSULTANT'S work force, company or agent's thereof; freight embargoes; and "abnormally severe and unusual" weather conditions.

Upon the CONSULTANT'S request, the COUNTY shall consider the facts and extent of any failure to perform the work and, if in the opinion of the County the CONSULTANT'S failure to perform was without it or its sub-consultants fault or negligence, the Contract shall be revised accordingly; subject to the COUNTY'S rights to change, terminate, or stop any or all of the work at any time.

7.17 Arrears

The CONSULTANT shall not pledge the COUNTY'S credit or make it a guarantor of payment of 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.

7.18 Modifications of Work

The COUNTY reserves the right to make changes in the work, including alterations, reductions therein or additions thereto. Upon receipt by the CONSULTANT of the COUNTY'S notification of a contemplated change, the CONSULTANT shall promptly, (1) provide an estimate for the increase or decrease in cost due to the contemplated change, (2) notify the COUNTY of any estimated change in the completion date and (3) advise the COUNTY in writing if the contemplated change shall affect the CONSULTANT'S ability to meet the completion dates or schedules of this Contract.

If the COUNTY so instructs in writing, the CONSULTANT shall suspend work on that portion of the Work affected by a contemplated change, pending the COUNTY'S decision to proceed with the change. If COUNTY elects to make the change, the COUNTY will issue an amendment to the applicable SERVICE AUTHORIZATION and the CONSULTANT shall not commence work on any such change until such written amendment has been issued.

7.19 Notice

All notices required in this Contract if sent to the COUNTY shall be mailed to:

John A. Chesher, PE, Director
Palm Beach County Capital Improvements Division
2633 Vista Parkway
West Palm Beach, FL 33411-5604

with copy to:

Audrey Wolf, Director
Palm Beach County Facilities Development and Operations Department
2633 Vista Parkway
West Palm Beach, FL 33411-5603

and if sent to the CONSULTANT shall be mailed to:

Donaldson Hearing
Cotleur & Hearing, Inc.
1934 Commerce Lane, Suite 1
Jupiter, FL 33458

7.20 Severability - If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Contract, or the application of such terms or provision, 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 Contract shall be deemed valid and enforceable to the extent permitted by law.

7.21 Entirety of Contractual Agreement

7.21.1 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.

7.21.2 This Contract includes the following exhibits, which are attached hereto and made a part hereof:

Exhibit A	-	Scope of Work
Exhibit B	-	Hourly Rates
Exhibit C	-	SBE/M/WBE Schedules 1 & 2
Exhibit D	-	Insurance Certificates
Exhibit E	-	Conflict of Interest Disclosure Form
Exhibit F	-	Professional Service SBE Activity Report

7.22 Successors and Assigns

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

7.23 Public Entity Crimes

As provided in F.S. 287.132-133, by entering into this contract or performing any work in furtherance hereof, the CONSULTANT certifies that it, its affiliates, suppliers, subcontractors 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).

7.24 Office of the Inspector General

Palm Beach County has established the Office of the Inspector General, which is authorized and empowered to review past, present and proposed County contracts, transactions, accounts and records. All consultants and parties doing business with the County and receiving County funds shall fully cooperate with the Inspector General including receiving full and unrestricted access to records relating to this contract. The Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and audit, investigate, monitor, and inspect the activities of the

consultant, its officers, agents, employees, and lobbyists in order to ensure compliance with contract specifications and detect corruption and fraud. The cost of the Inspector General's Office shall be incorporated into the contract price of all contracts and shall be one quarter ($\frac{1}{4}$) of one (1) percent of the contract price.

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Contract on behalf of the COUNTY and CONSULTANT has hereunto set its hand the day and year above written.

ATTEST:
SHARON R. BOCK, Clerk & Comptroller

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Burt Aaronson, Chair

APPROVED AS TO TERMS
AND CONDITIONS

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: *James H. Woy*
Director, FD&O

By: _____
County Attorney

CONSULTANT:
COTLEUR & HEARING, INC.

WITNESS:

Carlene Schaukowitz
Signature

[Signature]
Signature

DARLENE SCHAUKOWITZ
Name (type or print)

Donaldson E. HEARING
Name (type or print)

PRINCIPAL/vice President
Title

Exhibit "A"

The consultant shall serve as the County's representative for projects authorized under the agreement. The scope of services required under this agreement will vary on a project by project basis and may include the following or similar type tasks:

- A. Due diligence evaluations of property including research of land use, zoning, drainage, utilities, traffic and site plans.
- B. Development of site plan and studies (including preliminary civil engineering).
- C. Pre-purchase development analysis and feasibility reviews.
- D. Project coordination with consultants for applicable multidisciplinary issues.
- E. Review of site plans prepared by others for consistency with code requirements.
- F. Site visits and investigations; documentation.
- G. Review of Comprehensive Plan and Zoning regulations which affect development.
- H. Analysis of physical, environmental, and governmental factors (including accessibility) that may affect development.
- I. Rezoning issues.
- J. Preparation of applications for development orders (through final approvals).
- K. Representation of applications to reviewing agencies, committees, and elected/appointed boards and officials.
- L. Preparation of regulatory permit applications required for property development.
- M. Review and analysis of responses to RFP for land development.
- N. Environmental evaluation of real property including but not limited to a review of vegetation and wildlife together with associated permitting requirements.
- O. Landscape architecture as required for governmental permitting requirements.
- P. Traffic engineering.
- Q. Geotechnical engineering services as required for due diligence investigations of real property.
- R. Land surveying services including platting as required for governmental processing requirements and real property transactions.
- S. Limited design services may be necessary when required by resolution, permit application, or vesting requirements.

Exhibit "B"
Hourly Rates
2010 RATE SCHEDULE
Professional Services

Staff Category	Hourly Rate
Clerical Assistant	\$ 40.00
Administrative Assistant	\$ 45.00
Graphic Designer	\$ 75.00
<hr/>	
Environmental CAD Technician	\$ 60.00
Field Technician	\$ 65.00
Biologist	\$ 75.00
Senior Biologist	\$ 85.00
Environmental Scientist	\$ 95.00
Senior Environmental Scientist	\$ 110.00
<hr/>	
CAD Technician	\$ 65.00
Landscape Designer/Technician	\$ 75.00
Landscape Architect	\$ 80.00
Senior Landscape Architect	\$ 85.00
<hr/>	
Planning Technician	\$ 65.00
Planner I – Land Planner	\$ 80.00
Planner II – Senior Land Planner	\$ 95.00
Project Manager	\$ 90.00
<hr/>	
GIS Specialist	\$ 95.00
Senior GIS Specialist	\$ 110.00
<hr/>	
Client Service Manager	\$ 125.00
Principal	\$ 150.00
Expert Witness	\$ 225.00



Initial: CH:

A handwritten signature in black ink, appearing to be 'CH' with a stylized flourish.

Client: _____

F:\Staff\SANDRA\CH - INC\Billing Rate Schedule 2010 without expense.doc

EXHIBIT "B"

Fee Schedule 2010/2011

Michael B. Schorah and Associates, Inc.

CLASSIFICATION

ENGINEERING

HOURLY RATE

Principal	\$150.00
Sr. Engineer	\$135.00
Project Engineer	\$110.00
Engineer (P.E.)	\$ 95.00
C.A.D.D. Tech	\$ 70.00
C.E.I. Sr. Inspector	\$ 68.00

SURVEYING

HOURLY RATE

Manager (P.S.M.)	\$130.00
Professional Surveyor and Mapper	\$105.00
C.A.D.D. Tech	\$ 70.00
Two-Man Field Crew	\$102.00
Three-Man Field Crew	\$114.00



PTC Transportation Consultants 5114 Okeechobee
Boulevard, Suite 210 Phone (561) 296-9698 ~ Fax (561)
296-9699 ~ Email: pindertroutman.com

Exhibit B

Hourly Rates

Principal \$180/hr

Project Engineer \$150/hr

Design Engineer/Planner \$115/hr

Technician \$90/hour

Clerical \$70/hour

DUNKELBERGER

engineering & testing, inc.

www.dunkelberger-engineering.com

- Fort Lauderdale
 - Lakeland
 - Port Saint Lucie
 - Sarasota
 - West Palm Beach
- 877.643.6832**

Exhibit B

Hourly Rates

Dunkelberger hourly rates fee schedule is as follows:

Principal Engineer	\$ 145.00/hour
Senior Project Engineer	\$ 120.00/hour
Project Engineer/Scientist	\$ 95.00/hour
Staff Engineer/Scientist	\$ 85.00/hour
Senior Engineering Technician	\$ 75.00/hour
CADD Technician	\$ 52.00/hour
Clerical	\$ 45.00/hour

Note: Field and Laboratory testing will be billed as "Other Direct Costs"

SCHEDULE 1

LIST OF PROPOSED SBE-M/WBE SUBCONSULTANTS

PROJECT NAME: Consultant Services on a Continuing Services Basis for Planning and Property Development Assistance PROJECT NO. PBC # --

NAME OF PRIME CONSULTANT: Cotleur & Hearing, Inc.

DESCRIPTION OF WORK: Landscape Architects/Land Planners/Environmental Consultants

PLEASE IDENTIFY ALL APPLICABLE CATEGORIES OF SUBCONSULTANTS

Name, Address and Phone Number	Check 1 or both Categories		Subcontract Amount					
	Minority Business	Small Business	Black	Hispanic	Women	Caucasian	Other (Please Specify)	
1. Cotleur & Hearing, Inc. 1934 Commerce Lane, Suite 1 Jupiter, FL 33458 561-747-6336	<input type="checkbox"/>	<input checked="" type="checkbox"/>	0%	0%	0%	72%	0%	
2. Michael B. Schorah & Assoc., Inc. 1850 Forest Hill Blvd., Ste. 206 West Palm Beach, FL 33406 561-968-0080	<input type="checkbox"/>	<input checked="" type="checkbox"/>	0%	0%	0%	25%	0%	
3. Pinder Troutman Consulting, Inc. 5114 Okeechobee Blvd., Ste. 210 West Palm Beach, FL 33417 561-296-9698	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	0%	0%	1%	0%	0%	
4.	<input type="checkbox"/>	<input type="checkbox"/>						
5.	<input type="checkbox"/>	<input type="checkbox"/>						
(If necessary Use Additional Sheets)			Total	0%	0%	1%	97%	%

Total SBE-M/WBE Participation 98 %

- Note:
1. The percentages listed on this form must be supported by the Subconsultant prices included on Schedule 2 in order to be counted toward goal attainment.
 2. Firms may be certified by Palm Beach County as an SBE and/or M/WBE.

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

PROJECT NO. -- _____

PROJECT NAME: Consultant Services on a Continuing Services Basis for Planning and Property Development Assistance

TO: Cotleur & Hearing, 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) _____

Black _____ Hispanic _____ Women _____ Caucasian _____ Other (Please Specify) _____

Date of Palm Beach County Certification: February 27, 2007 to February 26, 2010

The undersigned is prepared to perform the following described work in connection with the above project
(Specify in detail particular work items or parts thereof to be performed):

Landscape Architects/Land Planners/Environmental Consultants

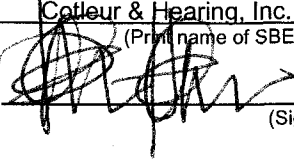
at the following price: \$ _____ 72% _____
(Subconsultant's fees) (Prime Consultant's %)

and will enter into a formal agreement for work with you conditioned upon your execution of a contract with Palm Beach County.

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 consultant does not prevent subconsultant from providing quotations to others.

Cotleur & Hearing, Inc.
(Print name of SBE-M/WBE Subconsultants)

By:  _____
(Signature)

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

Date: January 11, 2010

SCHEDULE 2

LETTER OF INTENT TO PERFORM AS AN SBE OR M/WBE SUBCONSULTANT

PROJECT NO. _____ PROJECT NAME: Planning and Property Development Assistance

TO: Cotleur & Hearing
(Name of Prime Consultant)

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

Small Business Enterprise Minority Business Enterprise _____

Black _____ Hispanic _____ Women _____ Caucasian Other (Please Specify) _____

Date of Palm Beach County Certification: June 22, 2006 to June 21, 2012

The undersigned is certified by the State of Florida:

Minority Business Enterprise _____

The undersigned is prepared to perform the following described work in connection with the above project **(Specify in detail, particular work items or parts thereof to be performed)**

Civil Engineering and Surveying

at the following price: \$ 25%
(Subconsultant's fees)

and will enter into a formal agreement for work with you conditioned upon your execution of a contract with Palm Beach County.

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

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

Michael B. Schorah and Associates, Inc.
(Print name of SBE-M/WBE Subconsultants)

By: 
(Signature)

Frederick Roth, Jr., P.E., Senior Vice President
(Print name/title of person executing on behalf of SBE-M/WBE Subconsultant)

Date: 1/5/10

SCHEDULE 2

BID/RFP NUMBER: _____

LIAISON: _____

LETTER OF INTENT TO PERFORM AS A MINORITY/SUBCONTRACTOR

TO: Cotleur & Hearing, Inc.
(NAME OF PRIME BIDDER)

The undersigned intends to perform work in connection with the above bid/RFP as (Check one):

___ a individual a corporation ___ a partnership ___ a joint venture

___ The undersigned is certified as an M/WBE.

The undersigned is prepared to perform the following described work in connection with the above project (specify in detail particular work items or parts thereof to be performed):

Transportation Engineering

at the following price: \$ 1%
(amount must match subcontractor's quote)

You have projected the following commencement date of such work, and the undersigned is projecting completion of such work as follows:

<u>Items</u>	<u>Projected Commencement Date</u>	<u>Projected Completion Date</u>

___ % of the dollar value of the subcontract will be sublet and/or awarded to non-minority contractors and/or non-minority suppliers. The undersigned will enter into a formal agreement for the work with you, conditioned upon your execution of a contract with the City of Riviera Beach.

Pinder Troutman Consulting, Inc.
(NAME OF MINORITY CONTRACTOR)

DATE: January 6, 2010

BY: [Signature]
(SIGNATURE OF MINORITY/WOMAN CONTRACTOR)



CERTIFICATE OF LIABILITY INSURANCE

OP ID LH
COTLE-1

DATE (MM/DD/YYYY)

03/25/10

PRODUCER Atlantic Pacific Insurance-PBG 11382 Prosperity Farms Rd #123 Palm Beach Gardens FL 33410 Phone: 800-538-0487 Fax: 561-626-3153	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.	
	INSURERS AFFORDING COVERAGE	NAIC #
INSURED 1934 Commerce Lane, Suite 1 Jupiter FL 33458	INSURER A: FCCI Insurance Co.	33472
	INSURER B: Everest Indemnity Ins Co	10851
	INSURER D:	
	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

INSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
A	X	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR	GL0007697	10/03/09	10/03/10	EACH OCCURRENCE	\$ 1,000,000
		<input checked="" type="checkbox"/> Contractual Liab <input checked="" type="checkbox"/> Pollution GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person)	\$ 100,000 \$ 5,000
B			40P005187081	06/13/09	06/13/10	PERSONAL & ADV INJURY	\$ 1,000,000
						<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	GENERAL AGGREGATE PRODUCTS - COMP/OP AGG
B		AUTOMOBILE LIABILITY <input checked="" 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	CA 0011810 2	10/03/09	10/03/10	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
						BODILY INJURY (Per person)	\$
						BODILY INJURY (Per accident)	\$
						PROPERTY DAMAGE (Per accident)	\$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT	\$
						OTHER THAN AUTO ONLY: EA ACC	\$
						AGG	\$
		EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE	\$
						AGGREGATE	\$
							\$
							\$
B		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in Nh) If yes, describe under SPECIAL PROVISIONS below	WC09A47468	08/12/09	08/12/10	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER	
						E L EACH ACCIDENT	\$ 1000000
						E L DISEASE - EA EMPLOYEE	\$ 1000000
C		OTHER Professional with Full Prior Acts	LAH113968722	05/15/09	05/15/10	CLAIMS MADE	
						Per Claim Aggregate	1,000,000 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Certificate holder is additional insured regarding the operations of the insured. Project: Annual Planning and Property Development Services

CERTIFICATE HOLDER**CANCELLATION**

PBCNTPU
 Palm Beach County
 Purchasing Department
 Records Specialist
 50 South Military Trail, #110
 West Palm Beach FL 33415

PBCNTPU

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

This Certificate of Insurance 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.

EXHIBIT E
CONFLICT OF INTEREST DISCLOSURE FORM

CONSULTANT 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:

(Attach additional sheets as needed.)

CONSULTANT further represents that no person having any interest shall be employed for said performance. By signing below, CONSULTANT 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 CONSULTANT'S judgment or quality of services being provided to the County.

CONSULTANT 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 CONSULTANT'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 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 an unacceptable conflict of interest if entered into by the CONSULTANT.

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

THIS DISCLOSURE is submitted by, _____, as
(Name of Individual)

(Title/Position)

(Firm Name of CONSULTANT)

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)

(Date)

ATTACHMENT # 2

PROFESSIONAL SERVICE SBE ACTIVITY REPORT

APPLICATION #: _____
REPORT PERIOD: _____

Prime Consultant: _____

Project Name: _____ Project No: _____

Is Prime Consultant a SBE Firm? _____

If yes, Prime Consultant's Fee \$ _____

Amount completed to date \$ _____

Have SBE Sub-Consultants completed work for this application? ___ Yes ___ No ___

If Yes, complete below:

SBE SUB-CONSULTANTS

1. Firm's Name: _____
SBE Category: _____
SCOPE OF WORK: _____
Contract Amount: _____ Amount Paid to Date: _____

2. Firm's Name: _____
SBE Category: _____
SCOPE OF WORK: _____
Contract Amount: _____ Amount Paid to Date: _____

3. Firm's Name: _____
SBE Category: _____
SCOPE OF WORK: _____
Contract Amount: _____ Amount Paid to Date: _____

I certify that the above is true to the best of my knowledge.

Signature

Title _____ Date _____

DISCLOSURE OF OWNERSHIP INTERESTS

TO: PALM BEACH COUNTY CHIEF OFFICER,
OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Donaldson Hearing, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant appears herein as:

an individual or
 the Vice President of Cotleur & Hearing, Inc.
[position—e.g., sole proprietor, president, partner, etc.] [name & type of entity—e.g., ABC Corp., XYZ Ltd. Partnership, etc.]. The Affiant or the entity the Affiant represents herein seeks to do business with Palm Beach County through its Board of County Commissioners.

2. Affiant's address is: 1934 Commerce Lane, Suite 1,
Jupiter, FL 33458

3. Attached hereto as Exhibit "A" is a complete listing of the names and addresses of every person or entity having a five percent (5%) or greater interest in the Affiant's corporation, partnership, or other principal. Disclosure does not apply to nonprofit corporations, government agencies, or to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County and the Board of County Commissioners. Affiant further acknowledges that he or she is authorized to execute this document on behalf of the entity identified in paragraph one, if any.

5. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

6. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct and complete.

FURTHER AFFIANT SAYETH NAUGHT.



Donaldson Hearing, Affiant
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 5 day of March, 2010, by Donaldson Hearing, who is personally known to me or who has produced _____ as identification and who did take an oath.

Notary Public
Sandra Bruorton
(Print Notary Name)
State of Florida at Large
My Commission Expires: 10/09/2013



Cotleur & Hearing

Landscape Architects | Land Planners | Environmental Consultants

1934 Commerce Lane · Suite 1 · Jupiter, Florida · 33458 · Ph 561.747.6336 · Fax 561.747.1377 · www.cotleurhearing.com · Lic # LC-C000239

March 31, 2010

Mr. John Chesher
Palm Beach County
2633 Vista Parkway
West Palm Beach, FL 33411

**Re: Ordinance 2009-051 Palm Beach County Code of Ethics
Advisory Board Members**

Dear John:

Our office has recently been provided a copy of Palm Beach County's new Code of Ethics policy. Based on our review of Ordinance 2009-051 it is our understanding that any company doing business with Palm Beach County is required to disclose all potential conflicts of interest. Section 3, Paragraph C, "Prohibited Contractual Relationships", prohibits officials or employees from entering into any contract or other transaction for goods or services with Palm Beach County. "Officials" are described in Section 2, to include members of any advisory or quasi-judicial board, created by the Board of County Commissioners.

Cotleur & Hearing, as well as many other of the professional firms in Palm Beach County, have for years, volunteered professional services, on a pro bono basis, as a means of giving back and to further the overall objectives of the County. Cotleur & Hearing has several employees who participate on various Palm Beach County voluntary advisory Boards.

The purpose of this correspondence is to advise you of the specific individuals within our firm serving in such capacity and to solicit your advice as to the necessity of these individuals to resign from their respective positions in order to comply with the provisions of Ordinance 2009-051. From our perspective, we do not believe that the advisory positions held by the employees of Cotleur & Hearing represent a conflict with our existing Contract or Consultant Service Authorizations, with Palm Beach County. That being said, we are very concerned that we are in full disclosure and full compliance with all Palm Beach County Ordinances.

The following members of Cotleur & Hearing staff serve on advisory boards:

- Brian Cheguis – Palm Beach County – Public Art Committee Member
- Suzanne Hearing – Palm Beach County - Public Art Committee Artist Selection Member
- Jan Polson – DRO Oversight Committee

ATTACHMENT # 3

Section 3, Paragraph D, Exceptions and Waivers of Ordinance 2009-51, provides a provision for exceptions and waivers applicable to advisory board members. We would request the County's acknowledgement that this correspondence of disclosure fully satisfies the requirements of the provision.

We thank you in advance for your time and further review of this matter. While it would not be our first choice, our employees are willing to step down from their Advisory Board positions, if such a determination is made. Again, we thank you and look forward to your advice on this matter.

Sincerely yours,
Cotleur & Hearing, Inc.



/MLB

Donaldson E. Hearing, ASLA, LEED® AP
Principal

DEH/mlb
C: Bryan Rapp with Kimley Horn