

SEVENTH AMENDMENT TO THE AGREEMENT

In accordance with the NW/SW 80th/70th Avenue Agreement entered into on November 20, 2018, and all of its amendments (if any), collectively (the "Agreement") this Seventh Amendment to the Agreement (this "Amendment") is made and entered into by and between **Guerra Development Corp.**, whose address is 2817 NE 3rd Street, Ocala, FL 34470; possessing FEIN **59-2615012**, (hereinafter referred to as "FIRM") and Marion County, a political subdivision of the State of Florida, 601 SE 25th Avenue, Ocala, FL, 34471, (hereinafter referred to as "COUNTY").

WITNESSETH

WHEREAS this Amendment shall remain in full force and effect until completion of all services required of FIRM, and the parties wish to amend the Agreement.

IN CONSIDERATION of the mutual covenants and conditions contained herein, COUNTY and FIRM (singularly referred to as "Party", collectively "Parties") hereto agree as follows:

1. This Amendment shall be deemed to amend and become part of the Agreement in accordance with the project 18Q-160, (the "Project"). All provisions of the Agreement not specifically amended herein shall remain in full force and effect.
2. This Amendment adds additional scope of services set forth in Scope of Services, Exhibit A, hereto.
3. COUNTY shall make payment of Ninety-Nine Thousand, Two Hundred and Seventy-Five Dollars with Zero Cents (\$99,275.00) (the "Agreement Price"), to the FIRM under COUNTY's established procedure and according to the Fee Schedule, Exhibit B, hereto.
4. This Amendment is effective Upon Board Approval and ending Twenty-four (24) months from the receipt of the purchase order (the "Term").
5. **Section '11' Public Records Compliance of the Agreement** is modified solely to delete the email address publicrelations@marioncountyfl.org and replace it with public relations@marionfl.org.
6. **Section '12' Indemnification of the Agreement** is deleted in its entirety and is replaced with the following:

Section 12 – Indemnification, pursuant to Section 725.08, F.S. FIRM shall indemnify COUNTY and its elected officials and employees against, and hold COUNTY and its elected officials and employees harmless from, all liabilities, damages, losses, and costs, including but not limited to reasonable attorneys' fees, which COUNTY or its elected officials and employees may sustain, or which may be asserted against COUNTY or its elected officials and employees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of FIRM and other persons employed or utilized by FIRM, in the performance of the Agreement, including but not limited to property damage, harm or personal injury, including death, to the extent allowed by Section 725.08, F.S., and to the extent that the services rendered pursuant to the Agreement were services of a "Design Professional" as defined in Section 725.08(4), F.S. This section shall survive the termination of the Agreement.

7. **Section '13' Insurance of the Agreement** is modified solely to delete the Certificate of Insurance rating of "B+" and replace it with "A-".
8. **Section '19' Employee Eligibility Verification of the Agreement** is deleted in its entirety and is replaced with the following:

Section 19 – Employee Eligibility Verification. COUNTY hereby affirms it is duly registered, uses, and adheres to the practices of the E-Verify system, including those outlined in the clauses below.

Section 448.095, F.S., requires FIRM to register and use the E-Verify system to verify the work authorization status of all newly hired employees and prohibits FIRM from entering into this Contract unless it is in compliance therewith. Information provided by FIRM is subject to review for the most current version of the State or Federal policies at the time of the award of this Contract.

By previously signing the ITB Acknowledgment and Addenda Certification Form, and this Contract, FIRM has agreed to perform in accordance with the requirements of this subsection and agrees:

- a. It is registered and uses the E-Verify system to verify work authorization status of all newly hired employees.
- b. COUNTY shall immediately terminate FIRM if COUNTY has a good faith belief that FIRM has knowingly violated Section 448.09(1), F.S., that is, that FIRM knowingly employed, hired, recruited, or referred either for itself or on behalf of another, private or public employment within the State an alien who is not duly authorized to work by the immigration laws or the Attorney General of the United States.
- c. If FIRM enters into a contract with a subcontractor, FIRM shall obtain from the subcontractor an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien.
- d. FIRM shall maintain a copy of such affidavit for the duration of this Contract and provide it to COUNTY upon request.
- e. FIRM shall immediately terminate the subcontractor if FIRM has a good faith belief that the subcontractor has knowingly violated Section 448.09(1), F.S., as set forth above.
- f. If COUNTY has a good faith belief that FIRM's subcontractor has knowingly violated Section 448.095, F.S., but that FIRM has otherwise complied, COUNTY shall promptly order FIRM to terminate the subcontractor. FIRM agrees that upon such an order, FIRM shall immediately terminate the subcontractor. FIRM agrees that if it should fail to comply with such an order, COUNTY shall immediately terminate FIRM.
- g. If COUNTY terminates this Contract with FIRM, FIRM may not be awarded a public contract for at least one (1) year after the date of termination.
- h. FIRM is liable for any additional costs incurred by COUNTY as a result of a termination under this subsection.
- i. Any such termination under this subsection is not a breach of this Contract and may not be considered as such.
- j. FIRM shall maintain records of its registration, use, and compliance with the provisions of the E-Verify system, including the registration and use by its subcontractors, and to make such records available to COUNTY or other authorized governmental entity.
- k. To comply with the terms of this Employment Eligibility Verification provision is made an express condition of this Contract and COUNTY may treat a failure to comply as a material breach of this Contract.

9. **Section '23' Scrutinized Companies of the Agreement** is deleted in its entirety and is replaced with the following:

Section 23 - Scrutinized Companies, pursuant to Section 287.135, F.S.

A. Certification.

1. If the Agreement is for One Million Dollars or more, FIRM certifies that at the time it submitted its bid or proposal for the Agreement or before entering into the Agreement or renewing same, FIRM was not then and is not now:
 - a. On the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, F.S., or
 - b. Engaged in business operations in Cuba or Syria.
2. If the Agreement is for any amount, FIRM certifies that at the time it submitted its bid or proposal for the Agreement or before entering into the Agreement or renewing same, FIRM was not then and is not now:
 - a. On the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, F.S. or
 - b. Engaged in a boycott of Israel.

B. Termination, Threshold Amount. COUNTY may, entirely at its option, terminate the Agreement if it is for One Million Dollars or more, and FIRM meets any of the following criteria.

1. Was entered into or renewed on or after July 1, 2011, through June 30, 2012, and
2. FIRM is found to have:
 - a. Submitted a false certification as provided under Section 287.135(5), F.S., or
 - b. Been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, F.S.

OR

3. Was entered into or renewed on or after July 1, 2012, through September 30, 2016, and
4. FIRM is found to have:
 - a. Met either prohibition set forth in Section “3(B)(2)” above or
 - b. Been engaged in business operations in Cuba or Syria.

OR

5. Was entered into or renewed on or after October 1, 2016, through June 30, 2018, and
6. FIRM is found to have:
 - a. Met any prohibition set forth in Section “3(B)(4)” above or
 - b. Been placed on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, F.S. or is engaged in a boycott of Israel.

OR

7. Was entered into or renewed on or after July 1, 2018, and
8. FIRM is found to have met any prohibition set forth in Section “3(B)(4)” above.

C. Termination, Any Amount. COUNTY may, entirely at its option, terminate the Agreement if it is for any amount and meets any of the following criteria.

1. Was entered into or renewed on or after July 1, 2018, and
2. FIRM is found to have been placed on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, F.S. or is engaged in a boycott of Israel.

D. Comply; Inoperative. The Parties agree to comply with Section 287.135, F.S., as it may change from time to time during the Term. The contracting prohibitions in this Section become inoperative on the date that Federal law ceases to authorize the State of Florida to adopt and enforce such contracting prohibitions.

10. **Section ‘32’ Law, Venue, Waiver of Jury Trial, Attorney Fees of the Agreement** is deleted in its entirety and is replaced with the following:

Section 32 – Law, Venue, Waiver of Jury Trial, Attorney's Fees. This Agreement and all the Contract Documents shall be construed according to the laws of Florida and shall not be construed more strictly against one party than against the other because it may have been drafted by one of the parties. In the event of any legal proceeding arising from or related to this Agreement; (1) venue for state or federal legal proceedings shall be in Marion County, Florida, (2) for civil proceedings, the parties consent to trial by the court and waive right to jury trial, (3) the prevailing party shall be entitled to recover all of its costs, including attorney fees. This section shall survive the termination of the Agreement.

11. This Amendment adds the following provisions to the Agreement:

Prohibition Against Contingency Fees. Adds Section ‘34’ to the Agreement with the following:

Section 34 – Prohibition Against Contingent Fees. The Engineer warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the Engineer to solicit or secure this Agreement and that he or she has not paid or agreed to pay any person, company, corporation, or individual firm, other than a bona fide employee working solely for the Engineer any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Agreement.

Sovereign Immunity. Adds Section ‘35’ to the Agreement with the following:

Section 32 – Sovereign Immunity. Nothing in the Agreement shall be deemed to waive the sovereign immunity protections provided COUNTY pursuant to Florida law. Notwithstanding anything stated to the contrary in the Agreement, any obligation of COUNTY to indemnify FIRM, if provided, is limited and shall not exceed the limits set forth in Section 768.28, Florida Statutes. This Section shall survive the termination of the Agreement.

On-Going Compliance. Adds Section ‘36’ to the Agreement with the following:

Section 36 – On-Going Compliance. The Parties acknowledge that the Agreement may contain provisions prescribed by laws, statutes, and regulations that can change during the Term of the Agreement. The Parties understand and agree that the Agreement is intended to reflect and require the Parties’ compliance with all laws at all times. The Parties expressly and specifically agree to perform the Agreement in full compliance with the governing laws, statutes, and regulations, as same may change from time to time.

IN WITNESS WHEREOF the Parties have entered into this Amendment, as approved by the Marion County Board of County Commissioners, on the date of the last signature below.

ATTEST:

MARION COUNTY, A POLITICAL SUB-DIVISION OF THE STATE OF FLORIDA

GREGORY C. HARRELL, DATE
MARION COUNTY CLERK OF COURT

MICHELLE STONE DATE
CHAIRMAN

FOR USE AND RELIANCE OF MARION
COUNTY ONLY, APPROVED AS TO
FORM AND LEGAL SUFFICIENCY

BCC APPROVED: July 16, 2024
18Q-160-CA-07 NW/SW 80th/70th Avenue

MATTHEW G. MINTER, DATE
MARION COUNTY ATTORNEY

WITNESS:

GUERRA DEVELOPMENT CORP.

SIGNATURE
PRINTED NAME

BY: DATE
PRINTED:
ITS: (TITLE)

WITNESS:

SIGNATURE
PRINTED NAME

EXHIBIT "A"

SCOPE OF SERVICES FOR
**Amendment No. 1 to the Agreement for
NW-SW 80th-70th Avenue Segment 1 Final Design**

FOR THE MARION COUNTY BOARD OF COUNTY COMMISSIONERS
Date of Amendment 1: June 14, 2024

Signed This 14th Day of June, 2024 by,



Juan C. Guerra, P.E.
President
Guerra Development Corp.
2817 NE 3rd Street
Ocala, FL 34470

PART I – PREAMBLE

A. UNDERSTANDING AND PURPOSE

On 9/20/2023 COUNTY issued a Purchase Order for the Final Design of Segment 1 of the SW-NW 70th – 80th Avenue project. COUNTY now desires to add to the original scope of services a study for various intersection configurations at SW 70th Avenue and SW 38th Street (Westport Highschool).

Guerra Development Corp., through its subconsultant Kimley Horn & Associates and other agents presents this scope of services to prepare said work.

This Scope of Services for Amendment No. 1 to the original agreement intends to describe the scope of work and the responsibilities of Guerra Development Corp., its subconsultants and agents, hereinafter called the ENGINEER and the Marion County Office of the County Engineer, hereinafter called the COUNTY.

Other than specifically described in the scope to follow, this Agreement does not include any new preliminary engineering studies, public involvement tasks, etc. designed to help set, or refine, the alignment of the roadway corridor. Those services were provided in a prior agreement during the PER process.

This Agreement does not include work pertaining to the acquisition of properties through the eminent domain process, the need for which was identified in the PER. This work will be considered post-design services and provided under a separate agreement or amendment to this Agreement if necessary. This Agreement does include all work needed to support the acquisition of right of way and pond sites from property owners that will provide right of way through cooperative negotiation with the COUNTY.

This Agreement does not include engineering support services to the COUNTY during the bidding phase. This work will be considered post-design services and provided under a separate agreement or amendment to this Agreement.

Compensation for the work under this Agreement is for the amount shown in the Fee Breakdown Table, under separate cover.

This Agreement does not include any design or permitting services associated with extensions of Marion County utility lines / facilities.

This Agreement does not include project phasing to divide the Project into phases. This work will be provided under a separate agreement or amendment to this Agreement if necessary.

PART II – FINAL DESIGN SCOPE OF SERVICES

A. PROJECT ADMINISTRATION

The project administration activities contemplate a twenty-four-month duration following issuance of a purchase order by the COUNTY, not including post-design services. The activities that will be undertaken include the following:

The additional activities that will be undertaken include the following:

- 1) Miscellaneous Meetings: ENGINEER will prepare for and attend up to two general meetings with the County. One meeting will be to discuss the intersection alternatives developed as part of the Design Analysis (Task 1B). The second meeting will be to discuss the presentation slides for the Board of County Commissioners (BOCC) workshop.
- 2) BOCC Workshop: ENGINEER will prepare for and attend a BOCC Workshop meeting to discuss the intersection alternatives at SW 80th Avenue and SW 38th Street. ENGINEER will prepare a Microsoft PowerPoint presentation and send a draft version to the COUNTY for review. ENGINEER will revise the presentation slides based on comments received from the COUNTY. ENGINEER will present before the BOCC on the intersection alternatives. This task does not include the preparation of 3D graphics, videos, or renderings. Preparation of a plan view layout for each alternative to include in the presentation is included in the Design Analysis (Task 1B).
- 3) BOCC Meeting: ENGINEER will attend a BOCC Meeting where the BOCC will select a preferred intersection alternative for SW 80th Avenue at SW 38th Street. ENGINEER will answer technical questions which may arise from the BOCC discussion. This task does not include the preparation of a presentation or presenting before the BOCC.

B. DESIGN ANALYSIS

- 1) Intersection Alternatives for SW 80th Avenue and SW 38th Street. Under the previous Agreement, the ENGINEER developed conceptual alternatives for the intersection at SW 80th Avenue and SW 38th Street and SW 80th Avenue at SW 41st Place Road.
 - a. This task includes preparation of two additional conceptual alternatives for the intersections at SW 38th Street and SW 41st Place Road:
 - i. One additional two-lane roundabout option.
 - ii. One fly over option at the intersection with no proposed traffic signal.
 - b. ENGINEER will create two draft conceptual plan view layouts (one for each alternative) on 24" x 36" sheets with an aerial background. The layouts will depict the conceptual horizontal geometry and right-of-way impacts. Preparation of other renderings, 3D renderings, videos, and typical sections is not included in this Agreement.
 - c. ENGINEER will revise the alternatives up to one time based on comments received from the COUNTY.

- d. ENGINEER will prepare a planning level opinion of probable construction cost for each alternative. ENGINEER will submit the final conceptual plan view layouts and the opinion of probable construction costs to the County.
- i. The COUNTY acknowledges that ENGINEER has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable construction costs will be based on the information known to ENGINEER at the time and represent only ENGINEER'S judgment as a design professional familiar with the construction industry. ENGINEER cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.

C. IMPACT TO DRAINAGE

The ENGINEER will consider the impact the various alternatives may have on the selection of DRAs for the corridor for segment 1 of the project.

Impact to DRA sites already chosen and the need for possible alternatives will be investigated as part of this amendment. The actual selection and design of DRA sites shall be under the Final Design agreement for Segment 1.

----- END OF SCOPE OF SERVICES -----

NW-SW 80th-70th Avenue Segment 1 - Final Design Change Order #1 - Intersection Concepts									
Location: SW 80th Avenue at SW 38th Street									
June 14, 2024 Rev 6/19/24		PRINCIPAL	PROJECT MANAGER	PROJECT ENGINEER	SENIOR ENGINEER	CADD SENIOR TECH	CADD TECH	CLERICAL	TOTALS
HOURLY RATE ----->		\$ 250.00	\$ 175.00	\$ 150.00	\$ 125.00	\$ 75.00	\$ 65.00	\$ 45.00	
TASK DESCRIPTION									
TASK GROUP 1:									
A - PROJECT ADMINISTRATION		8	54	52	52			72	238
		2,000	9,450	7,800	6,500	0	0	3,240	\$28,990.00
B - DESIGN ANALYSIS		14	72	98	205	48	72	38	547
		3,500	12,600	14,700	25,625	3,600	4,680	1,710	\$66,415.00
C - IMPACT TO DRAINAGE		4	8	6		4		6	28
		1,000	1,400	900	0	300	0	270	\$3,870.00
FEES									
PERSONNEL HOURS		26	134	156	257	52	72	116	813
AMOUNT		\$ 6,500	\$ 23,450	\$ 23,400	\$ 32,125	\$ 3,900	\$ 4,680	\$ 5,220	\$99,275.00