

# FIRST AMENDMENT TO THE AGREEMENT

In accordance with the original Civil/Site Engineers for Miscellaneous Projects Agreement entered into May 19, 2015 this First Amendment to the Agreement made and entered into September 15, 2015 by and between **Davis Dinkins Engineering, P.A.** (Engineer), whose address is 2201 SE 30th Avenue, Ocala, FL 34471; possessing FEIN 26-2634868, and Marion County Board of Co Commissioners (Owner), 601 SE 25th Avenue, Ocala, FL, 34471.

## WITNESSETH

WHEREAS this agreement shall remain in full force and effect until all completion of services required of the Engineer, and the parties wish to amend such agreement.

IN CONSIDERATION of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1. This Agreement shall be deemed to amend the original contract between Owner and Engineer for Civil/Site Engineers for Miscellaneous Projects, in accordance with the original project 15Q-051. All provisions of the original contract document not specifically amended herein shall remain in full force and effect.
2. This Amendment shall modify the original Agreement's Section 2 as noted for project amendments; the County reserves the right to waive additional contracts (formerly known as "project amendments") any value assigned to this contract, projects will be assigned a Task Order number and supported with a complete scope consisting of detail of work, timeframe, point of contact, and fee schedule/hourly rate to this corresponding agreement by the Engineer to be considered; subcontractor pricing, when requested as part of the Task Order, shall be included as part of the Engineer's scope, and shall not be approved at more than 10% markup of the subcontractor's actual costs. Section 3 shall be modified to allow reimbursable material expenses to be paid at direct cost. Travel is specifically excluded from billable charges. Hourly rates shall not be paid at more than 2x the established rate for legal/expert testimony. Purchase orders (POs) exceeding the threshold of Administrative approval shall require Board approval. Upon notice of award, the Engineer will be notified and may begin work at the using department's direction and schedule.
3. The Engineer shall be held to **Engineer's Standards** herein identified as Exhibit A for all work assigned under this agreement, or any subsequent Task Order through the end of its first of four (4) terms, ending May 19, 2020.

IN WITNESS WHEREOF the parties have executed this Amendment to Agreement the day and year first written above.

ATTEST:

  
DAVID R. ELLSPERMANN,  
CLERK OF COURT

MARION COUNTY BOARD OF  
COUNTY COMMISSIONERS,

  
STAN MCCLAIN,  
CHAIRMAN

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY

  
MATTHEW G. MINTER, DATE  
MARION COUNTY ATTORNEY

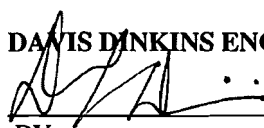
WITNESS:

  
SIGNATURE  
Nathan R. Gibbonay  
PRINTED NAME

WITNESS:

  
SIGNATURE  
Neal M. Goodwin Jr.  
PRINTED NAME

DAVIS DINKINS ENGINEERING, P.A.:

 9/21/2015  
BY: DATE  
DAVIS DINKINS  
PRINTED:  
PRESIDENT  
ITS: (TITLE)

## ARTICLE 1 THE ENGINEER'S BASIC DUTIES TO THE OWNER

1.1 SCOPE OF SERVICES - The Engineer shall diligently and in a timely manner perform the professional services for Marion County in connection with the surveying, geotechnical and engineering services for Miscellaneous Services for Civil/Site Engineering.

1.1.1 Preliminary Design

The Engineer shall review and examine the information, including any desired scheduled and budgetary requirements furnished by the Owner to understand the requirements of the project, and shall review the understanding of such requirements with Owner.

The Engineer shall furnish to the Owner a preliminary written evaluation of such information in light of any Project budget requirements.

The Engineer shall review and discuss with the Owner any alternative approaches design and construction of the Project.

The Engineer shall prepare and submit to the Owner for review preliminary design documents consisting of drawings and other documents illustrating the scale and relationship of proposed Project components.

1.2.1 Final Design

Based on the preliminary design documents and any adjustments authorized by the Owner in its program, desired schedule or Project budget, the Engineer shall prepare and submit to the Owner for review, design development documents consisting of a survey, site location design and construction plans, traffic control plans, cost estimates, schedule of quantities, permits, traffic impact analysis, drawings and other documents to fix and describe the size and character of the Project as to Engineering system, materials and such other elements as may be appropriate.

1.2.2 The Engineer shall review its estimate of probably construction costs and shall make any appropriate revisions thereto and furnish same to Owner.

1.3.1 Construction Documents

Upon the Owner's authorization, the Engineer shall prepare Construction Documents consisting of drawings setting forth in detail the requirements for construction of the Project. Such Construction Documents shall be reasonably accurate, coordinated and adequate for construction and shall be in conformity and comply with applicable law, codes and regulations. Products specified for use shall be readily available unless written authorization to the contract is given to the Owner.

1.3.2 The Engineer shall review its most recent estimate of probable construction costs and shall make any appropriate revisions thereto and furnish same to Owner.

1.3.3 The Engineer shall assist the Owner in preparing and filing documents required for the approval of authorities having jurisdiction over the project. The Owner shall be responsible for the payment of all permit application fees.

1.4.1 Administration of Construction

The Engineer shall represent the Owner during construction. Instructions and other appropriate communications from the Owner to the Contractor shall be communicated through the Engineer. The Engineer shall act on behalf of the Owner only to the extent provided herein and in the Construction Contract.

- 1.4.2 Upon receipt, the Engineer shall carefully review and examine the Contractor's Schedule of Values, together with any supporting documentation or data which the Owner or the Engineer may require from the Contractor. The purpose of such review and examination will be to protect the Owner from an unbalanced Schedule of Values which allocates greater value to certain elements of the Work than is indicated by such supporting documentation or data or, than is reasonable under the circumstances. If the Schedule of Values is not found to be appropriate, or if the supporting documentation or data is deemed to be inadequate, and unless the Owner directs the Engineer to the contrary in writing, the Schedule of Values shall be returned to the Contractor for revision or supporting documentation or data. After making such examination, if the Schedule of Values is found to be appropriate as submitted, or if necessary, as revised, the Engineer shall sign the Schedule of Values thereby indicating its informed belief that the Schedule of Values constitutes a reasonable, balanced basis for payment of the Contact Price to the Contractor. The Engineer shall not sign such Schedule of Values in the absence of such belief unless directed to do so, in writing, by the Owner.
- 1.4.3 The Engineer shall carefully inspect the Work of the Contractor whenever and wherever appropriate. The purpose of such inspections will be to determine the quality, quantity and progress of the Work in comparison with the requirements of the Construction Contract. In making such inspections, the Engineer shall exercise care to protect the Owner from defects or deficiencies in the Work, from unexcused delays in the schedule and from overpayment to the Contractor. Following each such inspection the Engineer shall submit a written report of such inspection, together with any appropriate comment or recommendations, to the Owner.
- 1.4.4 The Engineer shall at all times have access to the Work wherever it is located.
- 1.4.5 The Engineer shall determine amounts owed to the Contractor based upon inspections of the Work as required in Subparagraph 1.4.4 evaluations of the Contractor's rate of progress in light of remaining Contract Time and upon evaluations of the Contractor's Applications for Payment, and shall issue Certificates for Payment to the Owner in such amounts.
- 1.4.6 The issuance of a Certificate of Payment shall constitute a representation by the Engineer to the Owner that the Engineer has made an inspection of the Work as provided in Subparagraph 1.4.4 And, that the Work has progressed to the level indicated, that the quality of the Work meets or exceeds the requirements of the Construction Contract, and that, to the best of the knowledge, information and informed belief of the Engineer, the Contractor is entitled to payment of the amount certified.
- 1.4.7 The Engineer shall be the initial interpreter of the requirements of the drawings and specifications and the judge of the performance thereunder by the Contractor. The Engineer shall render written or graphic interpretations necessary for the proper execution or progress of the Work with reasonable promptness on request of the Contractor.
- 1.4.8 The Engineer's decisions in matters relating to aesthetic effect shall be final if consistent with the intent of the Construction Contract.
- 1.4.9 The Engineer shall reject Work which does not conform to the Contract Documents unless directed by the Owner, in writing, not to do so. Whenever, in the Engineer's opinion, it is necessary or advisable, the Engineer shall require special inspection or testing of the Work in accordance with the provisions of the Construction Contract whether or not such Work is fabricated, installed or completed.
- 1.4.10 The Engineer shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data schedules, maintenance of traffic plans and Samples. Approval by the Engineer of the Contractor's submittal shall constitute the Engineer's representation to the Owner that such submittal is in conformance with the Construction Contract. Such action shall be taken with reasonable promptness so as to cause no delay to the Contractor or the Project.

- 1.4.11 The Engineer shall review, and advise the Owner concerning, proposals and requests for Change Orders from the Contractor. The Engineer shall prepare Change Orders for the Owner's approval and execution in accordance with the Construction Contract, and shall have authority to order, by Field Order, minor changes in the Work not involving an adjustment in the Contract Price or an extension of the Contract Time.
- 1.4.12 The Engineer shall conduct an inspection to determine the date of Substantial Completion and the date of final Completion, shall receive and forward to the Owner for the Owner's review written warranties and related documents required by the Construction Contract and assembled by the Contractor, and shall, when appropriate, issue a final Certificate for Payment.
- 1.4.13 The Engineer shall, without additional compensation, promptly correct any errors, omissions, deficiencies or conflicts in its work product.

## ARTICLE 2 PAYMENT TO THE ENGINEER

### 2.1 ENGINEER'S INVOICES

Not more frequently than every four (4) weeks, unless otherwise agreed in writing by the Engineer and the Owner, the Engineer shall submit an invoice to the Owner requesting payment for services properly rendered and reimbursement for Reimbursable Expenses due hereunder. The Engineer's invoice shall describe with reasonable particularity each service rendered, the person(s) rendering the service, and their billing rate. The Engineer's invoice shall be accompanied by reasonable documentation or data in support of Reimbursable Expenses for which reimbursement is sought as the Owner may require.

## ARTICLE 3 MISCELLANEOUS PROVISIONS

### 3.1 USE AND OWNERSHIP OF DOCUMENTS

The Engineer agrees that drawing, specifications or other items prepared for the project shall become the sole property of the County. The firm shall be permitted to retain copies thereof for its records and for its future professional endeavors. Such drawings, specifications, and other items are not intended by the firm for use on other projects by the County or others. The County shall not reuse or make any modifications to the drawings, specifications without prior written authorization of the firm.