

INFORMATION ONLY

EMERGENCY PROCUREMENTS

13. **In accordance with the Seminole County Code, Section 220.41 Emergency Procurement; reporting of an emergency purchase exceeding the mandatory bid threshold concerning Howell Creek Erosion Control @ Eagles Point Subdivision to Singhofen & Associates, Inc., Winter Park (not-to-exceed amount of \$124,966.64).**

In accordance with the Seminole County Code, Section 220.41(Emergency Procurement), on December 29, 2004, an Emergency Consultant Services Agreement (PS-5176-04/PWM, Howell Creek Erosion Control @ Eagles Point Subdivision, in the not-to-exceed amount of \$124,966.64), was executed by the Chairman of the Board of County Commissioners for design services by the firm of Singhofen & Associates, Inc., for the Howell Creek Erosion Control storm recovery project.

This approximately two million dollar project is one of ten drainage channel projects awarded up to \$5,208,000 in hurricane relief funding from the National Resource Conservation Service, subject to meeting requirements to complete work within 6 months of the recently finalized reimbursement agreements approved by the Board on December 14, 2004. The scope of the funded Howell Creek Erosion Control project involves an estimated 3,000 linear feet within Howell Creek and one of its tributaries, and will be subject to Water Management District permit requirements. The project area also includes points where approximately a dozen residential properties have been identified by Public Works as potentially at risk of significant damage. Expedited engineering services for both the permitting process and preparation of plans for contractor bidding were thus deemed necessary, and on December 30th, the day after contract execution, the consultant initiated field survey and geotechnical work. The backup includes a copy of the contract.

EMERGENCY CONSULTANT SERVICES AGREEMENT (PS-5176-04/PWM)
EROSION CONTROL AT EAGLES POINT SUBDIVISION

THIS AGREEMENT is made and entered into this 29 day of December, 2004, by and between SINGHOFEN & ASSOCIATES, INC., duly authorized to conduct business in the State of Florida, whose address is 925 S. Semoran Boulevard, Suite 104, Winter Park, Florida 32792, hereinafter called the "CONSULTANT" and SEMINOLE COUNTY, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter called the "COUNTY".

W I T N E S S E T H:

WHEREAS, the COUNTY desires to retain the services of a competent and qualified consultant prepare construction plans to provide erosion protection and channel bank restoration in Seminole County; and

WHEREAS, the COUNTY has determined that the need for such services constitutes an emergency as defined under Sections 220.41 and 222.41, Seminole County Code, such that absent immediate action the lives, health, safety, and welfare of COUNTY citizens will be adversely affected; and

WHEREAS, CONSULTANT is competent and qualified to furnish consulting services to the COUNTY and desires to provide its professional services according to the terms and conditions stated herein,

NOW, THEREFORE, in consideration of the mutual understandings and covenants set forth herein, COUNTY and CONSULTANT agree as follows:

SECTION 1. SERVICES. COUNTY does hereby retain CONSULTANT to furnish professional services and perform those tasks as further described in the Scope of Services attached hereto and incorporated herein as Exhibit "A".

CERTIFIED COPY
MARYANNE MORSE
CLERK OF CIRCUIT COURT
SEMINOLE COUNTY, FLORIDA
BY Maryanne Morse
DEPUTY CLERK

month and for which the COUNTY is billed;

(4) A description of the services rendered in (3) above with sufficient detail to identify the exact nature of the work performed; and

(5) Such other information as may be required by this Agreement or requested by the COUNTY from time to time.

The original invoice shall be sent to:

Director of County Finance
Seminole County Board of County Commissioners
Post Office Box 8080
Sanford, Florida 32772

A duplicate copy of the invoice shall be sent to:

Engineering Department
520 W. Lake Mary Boulevard, Ste 200
Sanford, Florida 32773

(b) Payment shall be made after review and approval by COUNTY within thirty (30) days of receipt of a proper invoice from the CONSULTANT.

SECTION 5. AUDIT OF RECORDS.

(a) COUNTY may perform or have performed an audit of the records of CONSULTANT after final payment to support final payment hereunder. This audit would be performed at a time mutually agreeable to CONSULTANT and COUNTY subsequent to the close of the final fiscal period in which the last work is performed. Total compensation to CONSULTANT may be determined subsequent to an audit as provided for in subsection (b) and of this subsection, and the total compensation so determined shall be used to calculate final payment to CONSULTANT. Conduct of this audit shall not delay final payment as required by Section 4(b).

(b) The CONSULTANT agrees to maintain all books, documents, papers, accounting records and other evidences pertaining to work performed under this Agreement in such a manner as will readily conform to the terms of this Agreement and to make such materials available at

SECTION 8. TERM. This Agreement shall take effect on the date of its execution by COUNTY and shall remain in effect until completion of all review and acceptance work required by the Scope of Services.

SECTION 9. TERMINATION.

(a) The COUNTY may, by written notice to the CONSULTANT, terminate this Agreement, in whole or in part, at any time, either for the COUNTY'S convenience or because of the failure of the CONSULTANT to fulfill CONSULTANT'S Agreement obligations. Upon receipt of such notice, the CONSULTANT shall:

(1) immediately discontinue all services affected unless the notice directs otherwise, and

(2) deliver to the COUNTY all plans, studies, reports, estimates, summaries, and such other information and materials as may have been accumulated by the CONSULTANT in performing this Agreement, whether completed or in process.

(b) If the termination is for the convenience of the COUNTY, the CONSULTANT shall be paid compensation for services performed to the date of termination. CONSULTANT shall be paid no more than a percentage of the Fixed Fee amount equivalent to the percentage of the completion of work contemplated by the Agreement.

(c) If the termination is due to the failure of the CONSULTANT to fulfill his Agreement obligations, the COUNTY may take over the work and prosecute the same to completion by Agreement or otherwise. In such case, the CONSULTANT shall be liable to the COUNTY for reasonable additional costs occasioned to the COUNTY thereby. The CONSULTANT shall not be liable for such additional costs if the failure to perform the Agreement arises out of causes beyond the control and without the fault or negligence of the CONSULTANT. Such causes may include, but are not limited to, acts of God or of the public enemy, acts of the COUNTY in

employee working solely for CONSULTANT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, COUNTY shall have the right to terminate the Agreement at its discretion, without liability and to deduct from the Agreement price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

SECTION 12. ASSIGNMENT. This Agreement, or any interest herein, shall not be assigned, transferred, or otherwise encumbered, under any circumstances, by the parties hereto without prior written consent of the opposite party and only by a document of equal dignity herewith.

SECTION 13. SUBCONTRACTORS. In the event CONSULTANT, during the course of the work under this Agreement, requires the services of any subcontractors or other professional associates in connection with service covered by this Agreement, CONSULTANT must secure the prior written approval of the COUNTY. If subcontractors or other professional associates are required in connection with the services covered by this Agreement, CONSULTANT shall remain fully responsible for the services of subcontractors or other professional associates.

SECTION 14. INDEMNIFICATION OF COUNTY. The CONSULTANT agrees to hold harmless, replace, and indemnify the COUNTY, its commissioners, officers, employees, and agents against any and all claim, losses, damages or lawsuits for damages, arising from the negligent, reckless, or intentionally wrongful provision of services hereunder by the CONSULTANT, whether caused by the CONSULTANT or otherwise.

SECTION 15. INSURANCE.

(a) General. The CONSULTANT shall at the CONSULTANT'S own cost, procure the insurance required under this Section.

(4) Neither approval by the COUNTY or failure to disapprove the insurance furnished by CONSULTANT shall relieve the CONSULTANT of the CONSULTANT'S full responsibility for performance of any obligation including CONSULTANT'S indemnification of COUNTY under this Agreement.

(b) Insurance Company Requirements. Insurance companies providing the insurance under this Agreement must meet the following requirements:

(1) Companies issuing policies other than Workers' Compensation must be authorized to conduct business in the State of Florida and prove same by maintaining Certificates of Authority issued to the companies by the Department of Insurance of the State of Florida. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by Section 440.57, Florida Statutes. .

(2) In addition, such companies other than those authorized by Section 440.57, Florida Statutes, shall have and maintain a Best's Rating of "A" or better and a Financial Size Category of "VII" or better according to A.M. Best Company.

(3) If, during the period which an insurance company is providing the insurance coverage required by this Agreement, an insurance company shall: 1) lose its Certificate of Authority, 2) no longer comply with Section 440.57, Florida Statutes, or 3) fail to maintain the requisite Best's Rating and Financial Size Category, the CONSULTANT shall, as soon as the CONSULTANT has knowledge of any such circumstance, immediately notify the COUNTY and immediately replace the insurance coverage provided by the insurance company with a different insurance company meeting the requirements of this Agreement. Until such time as the CONSULTANT has replaced the unacceptable insurer with an insurer acceptable to the COUNTY the CONSULTANT shall be deemed to be in default of this Agreement.

(C) The minimum amount of coverage under Part Two of the standard Workers' Compensation Policy shall be:

\$ 500,000.00	(Each Accident)
\$1,000,000.00	(Disease-Policy Limit)
\$ 500,000.00	(Disease-Each Employee)

(2) Commercial General Liability.

(A) The CONSULTANT'S insurance shall cover the CONSULTANT for those sources of liability which would be covered by the latest edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01), as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements other than the elimination of Coverage C, Medical Payment and the elimination of coverage for Fire Damage Legal Liability.

(B) The minimum limits to be maintained by the CONSULTANT (inclusive of any amounts provided by an Umbrella or Excess policy) shall be as follows:

	<u>LIMITS</u>
General Aggregate	\$Three (3) Times the Each Occurrence Limit
Personal & Advertising Injury Limit	\$500,000.00
Each Occurrence Limit	\$500,000.00

(3) Professional Liability Insurance. The CONSULTANT shall carry limits of not less than FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00).

(d) Coverage. The insurance provided by CONSULTANT pursuant to this Agreement shall apply on a primary basis and any other insurance or self-insurance maintained by the COUNTY or the COUNTY'S officials, officers, or employees shall be excess of and not contributing with the insurance provided by or on behalf of the CONSULTANT.

(c) In the event that COUNTY ADR procedures are exhausted and a suit is filed or legal remedies are otherwise pursued, the parties shall exercise best efforts to resolve disputes through voluntary mediation. Mediator selection and the procedures to be employed in voluntary mediation shall be mutually acceptable to the parties. Costs of voluntary mediation shall be shared equally among the parties participating in the mediation.

SECTION 17. REPRESENTATIVE OF COUNTY AND CONSULTANT.

(a) It is recognized that questions in the day-to-day conduct of performance pursuant to this Agreement will arise. The COUNTY, upon request by CONSULTANT, shall designate in writing and shall advise CONSULTANT in writing of one (1) or more COUNTY employees to whom all communications pertaining to the day-to-day conduct of the Agreement shall be addressed. The designated representative shall have the authority to transmit instructions, receive information and interpret and define the COUNTY'S policy and decisions pertinent to the work covered by this Agreement.

(b) CONSULTANT shall, at all times during the normal work week, designate or appoint one or more representatives of CONSULTANT who are authorized to act on behalf of CONSULTANT regarding all matters involving the conduct of the performance pursuant to this Agreement and shall keep COUNTY continually advised of such designation.

SECTION 18. ALL PRIOR AGREEMENTS SUPERSEDED. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein and the parties agree that there are not commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained or referred to in this document. Accordingly, it is agreed that no deviation from the terms hereof shall

under this Agreement and that said statute controls over the terms of this Agreement.

SECTION 24. NOTICES. Whenever either party desires to give notice unto the other, it must be given by written notice, sent by certified United States mail, with return receipt requested, addressed to the party for whom it is intended at the place last specified and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective places for giving of notice, to wit:

FOR COUNTY:

Engineering Department
520 W. Lake Mary Blvd., Ste 200
Sanford, FL 32773

FOR CONSULTANT:

Singhofen & Associates, Inc.
925 S. Semoran Blvd., Ste 104
Winter Park, FL 32792

SECTION 25. RIGHTS AT LAW RETAINED. The rights and remedies of the COUNTY, provided for under this Agreement, are in addition to any other rights and remedies provided by law.

SECTION 26. COMPLIANCE WITH LAWS AND REGULATIONS. In providing all services pursuant to this Agreement, the CONSULTANT shall abide by all statutes, ordinances, rules, and regulations pertaining to, or regulating the provisions of, such services, including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules, or regulations shall constitute a material breach of this Agreement, and shall entitle the COUNTY to terminate this Agreement immediately upon delivery of written notice of termination to the CONSULTANT.

ATTEST:

Maryanne Morse

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

By: *Carlton Henley*

CARLTON HENLEY, Chairman

Date: *12/29/04*

For the use and reliance
of Seminole County only.

As authorized under Section
220.41, Seminole County Code,
as an emergency purchase.

Approved as to form and
legal sufficiency

[Signature]

County Attorney

AC/lpk
12/28/04
ps-5176

Attachment:
Exhibit "A" - Scope of Services

Standards B.P.R., and 472.027 F.S. Refer to the subconsultant's proposal for a detailed description of the services to be performed under this task.

- A. The Consultant will align the survey information (text and callouts) to the orientation of the construction plan sheets to assist in readability with proposed work, including adjusting colors and text size to result in a construction base sheets with survey information in the background.
- B. The Consultant will convert the survey data into a three-dimension digital terrain model to assist in development of cross sections, profiles, and quantities.

1.3 Geotechnical Investigation

Refer to the subconsultant's proposal for a detailed description of the services to be performed under this task.

1.4 Ecological Services

Refer to the subconsultant's proposal for a detailed description of the services to be performed under this task.

TASK 2: ENGINEERING ANALYSIS, DESIGN AND DOCUMENTATION

2.1 Stormwater Modeling

No stormwater modeling is anticipated. The Consultant will use cross section data to demonstrate that no adverse impacts to flood stages are anticipated. If the SJRWMD requires modelling additional fees will be required.

2.2 Documentation

The report will be the minimum to obtain permitting through the SJRWMD. The geotechnical report will also be used as part of the project documentation.

TASK 3: CONSTRUCTION DOCUMENTS

Time is critical, therefore the construction documents are limited to the minimum requirements for construction (i.e. removal of plan and profile sheets). The objective of this task is to prepare construction documents suitable for bidding, award and construction. Plans for construction of the project shall be prepared in general conformance with the FDOT Roadway Plans Preparation Manual, but may be adjusted to provide better clarification of the intent of the work. It is anticipated that there will be two (2) sets of construction plans, which will generally include:

- Four (4) printed sets of signed and sealed construction plans.
- Two (2) copies of the opinion of probable cost.
- One (1) electronic copy of the construction plans in AutoCAD 14 format.
- One (1) electronic copy of the construction plans in TIF format.

TASK 4: PERMITTING

The Consultant will prepare applications and supporting documentation normally required by state and federal agencies to permit this project. All permit fees shall be paid by County.

- 4.1 The Consultant will apply for two emergency authorization permits through the SJRWMD.
- 4.2 The Consultant shall prepare and submit permit packages to the St. Johns River Water Management District (SJRWMD). The Consultant will monitor the permits throughout the approval process.

Permit application packages will be submitted as follows:

- St. Johns River Water Management District – five (5) copies.
 - County - one (1) copy.
 - Engineering - one (1) copies.
- 4.3 The Consultant will attend one pre-application meeting with the County and SJRWMD. The Consultant.
 - 4.4 The Consultant will represent the County and attend up to two (2) additional pre-application meetings with local government staff and the SJRWMD to address site specific concerns and regulatory requirements. The meetings will be as deemed necessary by the County. The Consultant will prepare and submit minutes to the County.
 - 4.5 The Consultant will anticipate a maximum of two (2) requests for additional information (RAI) from the SJRWMD and/or U.S. Army Corps of Engineers, and will respond in writing to two (2) RAI's per agency.
 - 4.6 The Florida Department of Environmental Protection (FDEP) for the NPDES Stormwater Permitting program. The new rules will require a CGP Notice of Intent (NOI) and Notice of Termination (NOT). The Contractor will submit the NOI and NOT based on the prepared SWPPP included in the plan set by SAI.:
 - 4.7 No FDOT permits are anticipated.

ESTIMATE OF FEES

Attachment 1

Fee Estimate Eagles Point S/D Emergency Erosion Control Project

	Principal	Project Manager	Reg. Engineer	Unreg. Engineer	CAD Tech	Clerical	Man Hours By Activity	Cost By Activity
Total Hourly Rate	\$ 125.00	\$ 105.00	\$ 90.00	\$ 62.00	\$ 44.00	\$ 45.00		
Task Description								
1 Data Collection								
1.1 Site Reconnaissance		24.00		16.00			40.00	\$ 3,512.00
1.2 Survey Coordination (DTM, Convert, Rotate)		8.00			24.00	1.00	33.00	\$ 1,941.00
1.3 Geotechnical Investigation (coordination)		8.00		8.00		1.00	17.00	\$ 1,381.00
1.4 Ecological Services		2.00		4.00		1.00	7.00	\$ 503.00
2 Engineering Analysis, Design and Documentation								
2.1 Stormwater Modeling		2.00	8.00	40.00	4.00		54.00	\$ 3,586.00
2.2 Documentation		1.00	8.00	16.00	2.00	2.00	29.00	\$ 1,995.00
Supervision & checking	4.00						4.00	\$ 500.00
3 Construction Documents								
3.1 Utility Notification				2.00		4.00	6.00	\$ 304.00
3.2 Prepare 90% Plans (2 sets)		80.00	40.00	60.00	120.00	4.00	304.00	\$ 21,180.00
3.3 Prepare 100% Plans (2 sets)		32.00	4.00	32.00	48.00	4.00	120.00	\$ 7,996.00
3.4 Prepare Provisions		4.00		8.00	4.00		16.00	\$ 1,092.00
3.5 Summation of Quantities							0.00	\$ -
3.6 Cost Estimates		4.00		24.00	4.00		32.00	\$ 2,084.00
3.7 Final Deliverables		2.00		8.00	4.00	4.00	18.00	\$ 1,062.00
Supervision & checking	25.00						25.00	\$ 3,125.00
4 Permit Preparation								
4.1 SJRWMD Emergency Authorization (2)		4.00	16.00	24.00	8.00	8.00	60.00	\$ 4,060.00
4.2 SJRWMD Environmental Resource Permit (1)		4.00	16.00	40.00	16.00	4.00	80.00	\$ 5,224.00
4.3 SJRWMD Preapplication Meeting		4.00		4.00			8.00	\$ 668.00
4.4 SJRWMD additional meetings (2)		8.00		8.00			16.00	\$ 1,336.00
4.5 SJRWMD response to RAI (2)		8.00		24.00	8.00	4.00	44.00	\$ 2,860.00
4.6 FDEP NOI and NOT		4.00				2.00	6.00	\$ 510.00
4.7 FDOT							0.00	\$ -
Total Estimated Labor Cost	29.00	199.00	92.00	318.00	242.00	39.00	919.00	\$ 64,919.00
Estimated Reimbursable Direct Costs								
Reproduction (Xerox, Color Prints, Diazo, Bond, Mylar)								\$ 750.00
Postage and Courier								\$ 100.00
Miscellaneous (Binders, Tabs, Laminates, Etc.)								\$ 200.00
Survey Subconsultant							=	\$ 17,430.64
Geotechnical Subconsultant							=	\$ 37,267.00
Environmental Subconsultant							=	\$ 4,300.00
Total Estimated Reimbursable Direct Costs							=	\$ 60,047.64
TOTAL LUMP SUM FEE COMPUTATIONS							=	\$ 124,966.64