

## **MISCELLANEOUS CONTRACTS**

- 27. Approve award exempt from the bidding process for M-0783-06 – Disclosure Counsel Services for Seminole County Government – Holland and Knight, LLP of Lakeland, FL (Not-to-Exceed \$75,000.00 per year).**

In order to assure that Seminole County complies with SEC regulations relating to primary and secondary market disclosure, the County wishes to retain the services of a qualified disclosure counsel. M-0783-06 will provide for a firm to serve as disclosure counsel which will assist the county with its disclosure of information to the investment community in conjunction with its bond and note issuances as well as on an on-going basis. This could include, but not necessarily be limited to, review and update of current continuing disclosure policy, assistance with further development of standardized disclosure documents/language and electronic publications, review and assistance with the Annual Disclosure Document and adequate training of county staff. It also includes assistance regarding continuing disclosure in connection with primary debt offering, as needed.

Holland and Knight, LLP has proficiently served as the County's Disclosure Counsel since 2001 under RFP-4102-01/BJC. Over that time they have provided excellent customer service, fostered strong relationships with County employees, and developed a unique knowledge of County needs, processes, and history. Holland and Knight, LLP has expressed explicit interest in continuing the agreement at the same rates of the current contract.

The new agreement shall take effect upon execution by the parties and shall have an indefinite term, canceled at the discretion of the Board. Authorization for performance of services by the Consultant under this agreement shall be in the form of written Work Orders issued and executed by the County and signed by the Consultant. The work and dollar amount for each Work Order will be negotiated on an as-needed basis for each project and will be within Board approved budget amounts.

Fiscal Services/Administration and Fiscal Services/Purchasing and Contracts Division recommend that the Board authorize the Chairman to execute the Miscellaneous Agreement as prepared by the County Attorney's Office.

**DISCLOSURE COUNSEL SERVICES AGREEMENT (M-0783-06)**

**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between **HOLLAND & KNIGHT LLP**, duly authorized to conduct business in the State of Florida, whose mailing address is P.O. Box 32092, Lakeland, Florida, 33802-2092, hereinafter called "COUNSEL" 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 legal counsel to provide disclosure counsel services in Seminole County; and

**WHEREAS**, on July 26, 1994, the Board waived the Seminole County Purchasing Code and competitive selection requirements for retention of disclosure counsel; and

**WHEREAS**, the COUNSEL is competent and qualified to furnish disclosure counsel services to the COUNTY and desires to provide professional services according to the terms and conditions stated herein,

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

**SECTION 1. SERVICES.** The COUNTY does hereby retain the COUNSEL to furnish professional services and perform those tasks as further described in the Scope of Services attached hereto as Exhibit "A" and made a part hereof. Required services shall be specifically enumerated, described and depicted in the Work Orders authorizing performance of the specific project, task or study. This Agreement standing alone does not authorize the performance of any work or require the COUNTY to place any orders for work.

**SECTION 2. TERM.** This Agreement shall take effect on the date of its execution by the COUNTY and shall run until termination by either party pursuant to Section 11 of this Agreement.

**SECTION 3. AUTHORIZATION FOR SERVICES.** Authorization for performance of professional services by the COUNSEL under this Agreement shall be in the form of written Work Orders issued and executed by the COUNTY and signed by the COUNSEL. A sample Work Order is attached hereto as Exhibit "B". Each Work Order shall describe the services required, state the dates for commencement and completion of work and establish the amount and method of payment. The Work Orders will be issued under and shall incorporate the terms of this Agreement. The COUNTY makes no covenant or promise as to the number of available projects nor that the COUNSEL will perform any project for the COUNTY during the life of this Agreement. The COUNTY reserves the right to contract with other parties for the services contemplated by this Agreement when it is determined by the COUNTY to be in the best interest of the COUNTY to do so.

**SECTION 4. TIME FOR COMPLETION.** The services to be rendered by the COUNSEL shall be commenced, as specified in such Work Orders as may be issued hereunder, and shall be completed within the time specified therein. In the event the COUNTY determines that significant benefits would accrue from expediting an otherwise established time schedule for completion of services under a given Work Order, that Work Order may include a negotiated schedule of incentives based on time savings.

**SECTION 5. COMPENSATION.** The COUNTY agrees to compensate the COUNSEL for the professional services called for under this Agreement on either a "Fixed Fee Basis" or on a "Time Basis Method". Work Orders shall be compensated in accordance with the Rate Schedule attached as Exhibit "C". The total annual compensation, including reimbursable

expenses, paid to COUNSEL for performance of services under this Agreement shall not exceed the sum of SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$75,000.00) per year.

**SECTION 6. REIMBURSABLE EXPENSES.** Reimbursable expenses may include actual expenditures made by the COUNSEL, his employees or his professional associates in the interest of the Project for the expenses listed in the following paragraphs:

(a) Expenses of transportation, when traveling in connection with the Project, based on Sections 112.061(7) and (8), Florida Statutes, or their successor; long distance calls and telegrams; and fees paid for securing approval of authorities having jurisdiction over the Project.

(b) Expense of reproductions, postage, facsimile transmission, express delivery, courier services, computer research services, filing fees and other expenses as may be approved by the COUNTY.

(c) If authorized in writing in advance by the COUNTY, the cost of other expenditures made by the COUNSEL in the interest of the Project.

**SECTION 7. PAYMENT AND BILLING.**

(a) If the Scope of Services required to be performed by a Work Order is clearly defined, the Work Order shall be issued on a "Fixed Fee Basis". The COUNSEL shall perform all work required by the Work Order but, in no event, shall the COUNSEL be paid more than the Fixed Fee amount reflected in Exhibit "C".

(b) A Work Order may be issued on a "Time Basis Method" and contain a Not-to Exceed amount. If a Not-to-Exceed amount is provided, the COUNSEL shall perform all work required by the Work Order; but, in no event, shall the COUNSEL be paid more than the Not-to-Exceed amount specified in the applicable Work Order.

(c) For Work Orders issued on a "Fixed Fee Basis", the COUNSEL may invoice the amount due based on the volume of bonds issued and at the time of such issuance.

(d) For Work Orders issued on a "Time Basis Method", payments may be made by the COUNTY to the COUNSEL when requested as work progresses for services furnished, but not more than once monthly. Each Work Order shall be invoiced separately. COUNSEL shall render to COUNTY, at the close of each calendar month, an itemized invoice properly dated, describing any services rendered, the cost of the services, the name and address of the COUNSEL, Work Order Number, Contract Number and all other information required by this Agreement.

The original invoice shall be sent to:

Director of County Finance  
Seminole County Board of County Commissioners  
P.O. Box 8080  
Sanford, Florida 32772-8080

A duplicate copy of the invoice shall be sent to:

Fiscal Services Department  
1101 East First Street  
Sanford, Florida 32771

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

#### **SECTION 8. GENERAL TERMS OF PAYMENT AND BILLING.**

(a) Upon satisfactory completion of work required hereunder and, upon acceptance of the work by the COUNTY, the COUNSEL may invoice the COUNTY for the full amount of compensation provided for under the terms of this Agreement less any amount already paid by the COUNTY. The COUNTY shall pay the COUNSEL within thirty (30) days of receipt of proper invoice.

(b) The COUNTY may perform or have performed an audit of the records of the COUNSEL after final payment to support final payment

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

(c) The COUNSEL 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 the COUNSEL's office at all reasonable times during the Agreement period and for five (5) years from the date of final payment under the contract for audit or inspection as provided for in subsection (b) of this Section.

(d) In the event any audit or inspection conducted after final payment, but within the period provided in paragraph (c) of this Section reveals any overpayment by the COUNTY under the terms of the Agreement, the COUNSEL shall refund such overpayment to the COUNTY within thirty (30) days of notice by the COUNTY.

#### **SECTION 9. RESPONSIBILITIES OF THE COUNSEL.**

(a) The COUNSEL shall be responsible for the professional quality, technical accuracy, competence, methodology, accuracy of its services of whatever type or nature furnished by the COUNSEL under this Agreement. The COUNSEL shall, without additional compensation, correct or revise any errors or deficiencies in its services of whatever type or nature.

(b) Neither the COUNTY's review, approval or acceptance of, nor payment for, any of the services required shall be construed to operate

as a waiver of any rights under this Agreement nor of any cause of action arising out of the performance of this Agreement and the COUNSEL shall be and remain liable to the COUNTY in accordance with applicable law for any and all damages to the COUNTY caused by the COUNSEL's negligent or wrongful performance of any of the services furnished under this Agreement.

**SECTION 10. OWNERSHIP OF DOCUMENTS.** All deliverable analysis and reports or any other form of written instrument or document that may result from the COUNSEL's services or have been created during the course of the COUNSEL's performance under this Agreement shall become the property of the COUNTY after final payment is made to the COUNSEL.

**SECTION 11. TERMINATION.**

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

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

(2) deliver to the COUNTY all data, specifications, reports, summaries, and any and all such other information and materials of whatever type or nature as may have been accumulated by the COUNSEL in performing this Agreement, whether completed or in process.

(b) If the termination is for the convenience of the COUNTY, the COUNSEL shall be paid compensation for services performed to the date of termination. If this Agreement calls for the payment based on a Fixed Fee amount, the COUNSEL shall be paid no more than a percentage of the Fixed Fee amount equivalent to the percentage of the completion of work, as determined solely, conclusively and reasonably by the COUNTY,

contemplated by this Agreement.

(c) If, after notice of termination for failure to fulfill its Agreement obligations, it is determined that the COUNSEL had not so failed, the termination shall be conclusively deemed to have been effected for the convenience of the COUNTY. In such event, adjustment in the compensation due COUNSEL shall be made as provided in subsection (b) of this Section.

(d) The rights and remedies of the COUNTY provided for in this Section are in addition and supplemental to any and all other rights and remedies provided by law or under this Agreement.

**SECTION 12. AGREEMENT AND WORK ORDER IN CONFLICT.** Whenever the terms of this Agreement conflict with any Work Order issued pursuant to it, the Agreement shall prevail.

**SECTION 13. EQUAL OPPORTUNITY EMPLOYMENT.** The COUNSEL agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age, disability, or national origin and will take steps to ensure that applicants are employed, and employees are treated during employment, without regard to race, color, religion, sex, age, disability, or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

**SECTION 14. NO CONTINGENT FEES.** The COUNSEL warrants that it has not employed or retained any company or person, other than a bonafide employee working solely for the COUNSEL to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bonafide employee working



solely for the COUNSEL, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from award or making of this Agreement. For the breach or violation of this provision, the COUNTY shall have the right to terminate the Agreement at its sole 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 15. CONFLICT OF INTEREST.**

(a) During the term of this Agreement, except as provided below, COUNSEL agrees not to accept representation of another client to pursue interests that are directly adverse to the COUNTY's interests unless and until COUNSEL has made full disclosure to the COUNTY of all relevant facts, circumstances and implications of its undertaking of the two representations and the COUNTY consents to COUNSEL's representation of the other client. COUNTY agrees to be reasonable in evaluating such circumstances and to give its consent if COUNSEL confirms in good faith that the following criteria are met:

(1) there is no substantial relationship between any matter in which COUNSEL is representing or has represented the COUNTY and the matter for the other client;

(2) COUNSEL's representation of the other client will not implicate any confidential information COUNSEL has received from the COUNTY;

(3) COUNSEL's effective representation of the COUNTY would not be prejudiced by its representation of the other client; and

(4) the other client has also consented in writing based upon COUNSEL's full disclosure of the relevant facts, circumstances and implications of COUNSEL's undertaking the two representations.

In furtherance of the foregoing, COUNTY hereby consents to the

representation by COUNSEL of landowners or developers before the Board of County Commissioners, its commissions, boards, agencies and departments in connection with land use matters not substantially related to work performed by COUNSEL under this Agreement and to the representation by COUNSEL of landowners in eminent domain actions brought by the COUNTY that are not substantially related to work performed by COUNSEL under this Agreement.

(b) The COUNSEL agrees that it will neither take any action nor engage in any conduct that would cause any COUNTY employee to violate the provisions of Chapter 112, Florida Statutes, relating to ethics in government.

(c) In the event that COUNSEL causes or in any way promotes or encourages a COUNTY officer, employee, or agent to violate Chapter 112, Florida Statutes, the COUNTY shall have the right to terminate this Agreement.

**SECTION 16. 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 other party and in such cases only by a document of equal dignity herewith.

**SECTION 17. SUBCONTRACTORS.** In the event that the COUNSEL, during the course of the work under this Agreement, requires the services of any subcontractors or other professional associates in connection with services covered by this Agreement, the COUNSEL must first secure the prior express written approval of the COUNTY. If subcontractors or other professional associates are required in connection with the services covered by this Agreement, COUNSEL shall remain fully responsible for the services of subcontractors or other professional associates.

**SECTION 18. INSURANCE.**

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

(1) The COUNSEL shall furnish the COUNTY with a Certificate of Insurance signed by an authorized representative of the insurer evidencing the insurance required by this Section (Professional Liability, Workers' Compensation/Employer's Liability and Commercial General Liability). The COUNTY, its officials, officers, and employees shall be named additional insured under the Commercial General Liability policy. The Certificate of Insurance shall provide that the COUNTY shall be given not less than thirty (30) days written notice prior to the cancellation or restriction of coverage. Until such time as the insurance is no longer required to be maintained by the COUNSEL, the COUNSEL shall provide the COUNTY with a renewal or replacement Certificate of Insurance not less than thirty (30) days before expiration or replacement of the insurance for which a previous certificate has been provided.

(2) The Certificate shall contain a statement that it is being provided in accordance with the Agreement and that the insurance is in full compliance with the requirements of the Agreement. In lieu of the statement on the Certificate, the COUNSEL shall, at the option of the COUNTY submit a sworn, notarized statement from an authorized representative of the insurer that the Certificate is being provided in accordance with the Agreement and that the insurance is in full compliance with the requirements of the Agreement.

(3) In addition to providing the Certificate of Insurance, if required by the COUNTY, the COUNSEL shall, within thirty (30) days after receipt of the request, provide the COUNTY with a certified copy

of each of the policies of insurance providing the coverage required by this Section.

(4) Neither approval by the COUNTY or failure to disapprove the insurance furnished by COUNSEL shall relieve the COUNSEL of the COUNSEL's full responsibility for performance of any obligation including COUNSEL'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 COUNSEL shall, as soon as the COUNSEL 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 COUNSEL has replaced the unacceptable insurer with an insurer acceptable

to the COUNTY the COUNSEL shall be deemed to be in default of this Agreement.

(c) Specifications. Without limiting any of the other obligations or liability of the COUNSEL, the COUNSEL shall, at the COUNSEL's sole expense, procure, maintain and keep in force amounts and types of insurance conforming to the minimum requirements set forth in this Section. Except as otherwise specified in the Agreement, the insurance shall become effective prior to the commencement of work by the COUNSEL and shall be maintained in force until the Agreement completion date. The amounts and types of insurance shall conform to the following minimum requirements.

(1) Workers' Compensation/Employer's Liability.

(A) COUNSEL's insurance shall cover the COUNSEL for liability which would be covered by the latest edition of the standard Workers' Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. The COUNSEL will also be responsible for procuring proper proof of coverage from its subcontractors of every tier for liability which is a result of a Workers' Compensation injury to the subcontractor's employees. The minimum required limits to be provided by both the COUNSEL and its subcontractors are outlined in subsection (c) below. In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the United States Longshoremen and Harbor Workers' Compensation Act, Federal Employers' Liability Act and any other applicable federal or state law.

(B) Subject to the restrictions of coverage found in the standard Workers' Compensation Policy, there shall be no maximum limit on the amount of coverage for liability imposed by the Florida Workers' Compensation Act, the United States Longshoremen's and Harbor

Workers' Compensation Act, or any other coverage customarily insured under Part One of the standard Workers' Compensation Policy.

(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 COUNSEL's insurance shall cover the COUNSEL 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 COUNSEL (inclusive of any amounts provided by an Umbrella or Excess policy) shall be as follows:

LIMITS

|  |  |
|--|--|
| General Aggregate                      | \$Three (3) Times the<br>Each Occurrence Limit |
| Personal & Advertising<br>Injury Limit | \$1,000,000.00                                 |
| Each Occurrence Limit                  | \$1,000,000.00                                 |

(3) Professional Liability Insurance. The COUNSEL shall carry limits of not less than ONE MILLION HUNDRED THOUSAND AND NO/100 DOLLARS (\$1,000,000.00).

(d) Coverage. The insurance provided by COUNSEL 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 COUNSEL.

(e) Occurrence Basis. The Workers' Compensation Policy and the Commercial General Liability required by this Agreement shall be provided on an occurrence rather than a claims-made basis. The Professional Liability insurance policy must either be on an occurrence basis, or, if a claims-made basis, the coverage must respond to all claims reported within three (3) years following the period for which coverage is required and which would have been covered had the coverage been on an occurrence basis.

(f) Obligations. Compliance with the foregoing insurance requirements shall not relieve the COUNSEL, its employees or agents of liability from any obligation under a Section or any other portions of this Agreement.

#### **SECTION 19. ALTERNATIVE DISPUTE RESOLUTION.**

(a) In the event of a dispute related to any performance or payment obligation arising under this Agreement, the parties agree to exhaust COUNTY protest procedures prior to filing suit or otherwise pursuing legal remedies. COUNTY procedures for proper invoice and payment disputes are set forth in Section 22.15, "Prompt Payment Procedures," Seminole County Administrative Code.

(b) COUNSEL agrees that it will file no suit or otherwise pursue legal remedies based on facts or evidentiary materials that were not presented for consideration in the COUNTY protest procedures set forth in subsection (a) above of which the COUNSEL had knowledge and failed to present during the COUNTY protest procedures.

(c) In the event that COUNTY protest 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

(e) Occurrence Basis. The Workers' Compensation Policy and the Commercial General Liability required by this Agreement shall be provided on an occurrence rather than a claims-made basis. The Professional Liability insurance policy must either be on an occurrence basis, or, if a claims-made basis, the coverage must respond to all claims reported within three (3) years following the period for which coverage is required and which would have been covered had the coverage been on an occurrence basis.

(f) Obligations. Compliance with the foregoing insurance requirements shall not relieve the COUNSEL, its employees or agents of liability from any obligation under a Section or any other portions of this Agreement.

#### **SECTION 19. ALTERNATIVE DISPUTE RESOLUTION.**

(a) In the event of a dispute related to any performance or payment obligation arising under this Agreement, the parties agree to exhaust COUNTY protest procedures prior to filing suit or otherwise pursuing legal remedies. COUNTY procedures for proper invoice and payment disputes are set forth in Section 22.15, "Prompt Payment Procedures," Seminole County Administrative Code.

(b) COUNSEL agrees that it will file no suit or otherwise pursue legal remedies based on facts or evidentiary materials that were not presented for consideration in the COUNTY protest procedures set forth in subsection (a) above of which the COUNSEL had knowledge and failed to present during the COUNTY protest procedures.

(c) In the event that COUNTY protest 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 20. REPRESENTATIVES OF THE COUNTY AND THE COUNSEL.**

(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 the COUNSEL, shall designate in writing and shall advise the COUNSEL in writing of one (1) or more of its employees to whom all communications pertaining to the day-to-day conduct of this 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) The COUNSEL shall, at all times during the normal work week, designate or appoint one or more representatives of the COUNSEL who are authorized to act in behalf of and bind the COUNSEL regarding all matters involving the conduct of the performance pursuant to this Agreement and shall keep the COUNTY continually and effectively advised of such designation.

**SECTION 21. 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 no 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 be predicated upon any prior representations or agreements, whether oral or written.

**SECTION 22. MODIFICATIONS, AMENDMENTS OR ALTERATIONS.** No modification, amendment or alteration in the terms or conditions contained

herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

**SECTION 23. INDEPENDENT CONTRACTOR.** It is agreed that nothing herein contained is intended or should be construed as in any manner creating or establishing a relationship of co-partners between the parties, or as constituting the COUNSEL (including its officers, employees, and agents) the agent, representative, or employee of the COUNTY for any purpose, or in any manner, whatsoever. The COUNSEL is to be and shall remain forever an independent contractor with respect to all services performed under this Agreement.

**SECTION 24. EMPLOYEE STATUS.** Persons employed by the COUNSEL in the performance of services and functions pursuant to this Agreement shall have no claim to pension, workers' compensation, unemployment compensation, civil service or other employee rights or privileges granted to the COUNTY's officers and employees either by operation of law or by the COUNTY.

**SECTION 25. SERVICES NOT PROVIDED FOR.** No claim for services furnished by the COUNSEL not specifically provided for herein shall be honored by the COUNTY.

**SECTION 26. PUBLIC RECORDS LAW.** COUNSEL acknowledges COUNTY's obligations under Article I, Section 24, Florida Constitution and Chapter 119, Florida Statutes, to release public records to members of the public upon request. COUNSEL acknowledges that COUNTY is required to comply with Article I, Section 24, Florida Constitution and Chapter 119, Florida Statutes, in the handling of the materials created under this Agreement and that said statute controls over the terms of this Agreement. Notwithstanding the foregoing, however, nothing in this Agreement shall be deemed a waiver by COUNTY of any attorney/client privilege that it may have with COUNSEL.

**SECTION 27. COMPLIANCE WITH LAWS AND REGULATIONS.** In providing all services pursuant to this Agreement, the COUNSEL 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 COUNSEL.

**SECTION 28. NOTICES.** Whenever either party desires to give notice unto the other, it must be given by written notice, sent by registered or 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:**

Fiscal Services Department  
1101 East First Street  
Sanford, Florida 32771

**FOR COUNSEL:**

Holland & Knight LLP  
P.O. Box 32092  
Lakeland, Florida 33802-2092

**SECTION 29. RIGHTS AT LAW RETAINED.** The rights and remedies of the COUNTY, provided for under this Agreement, are in addition and supplemental to any other rights and remedies provided by law.

**IN WITNESS WHEREOF,** the parties hereto have made and executed this Agreement on the date below written for execution by the COUNTY.

HOLLAND & KNIGHT LLP

\_\_\_\_\_  
Witness

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

\_\_\_\_\_  
Witness

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

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

Date: \_\_\_\_\_

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

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

By: \_\_\_\_\_  
CARLTON HENLEY, Chairman

Date: \_\_\_\_\_

For the use and reliance  
of Seminole County only.

Approved as to form and  
legal sufficiency.

As authorized for execution  
by the Board of County Commissioners  
at their \_\_\_\_\_, 20\_\_\_\_\_  
regular meeting.

\_\_\_\_\_  
County Attorney

AC/lpk  
3/2/06 3/6/06  
M-0783

Attachments:

Exhibit "A"- Scope of Services  
Exhibit "B"- Sample Work Order  
Exhibit "C"- Rate Schedule

## EXHIBIT A SCOPE OF SERVICES

Review current status as to compliance with Securities and Exchange Commission Rule 15c 2-12. Provide feedback to County staff.

Assist the County in determining appropriate data and information to include in the annual disclosure documents.

Review annual disclosure documents and provide feedback and recommendations to County staff.

Inform County staff of changes in rules and regulations impacting annual disclosure submissions as they occur.

### **Services Relative to Primary Debt Offerings:**

1. Assist the County in determining the information and specific language to be included in its Official Statements for bond and/or note issuance, including conducting necessary due diligence to ensure full disclosure;
2. Advise as to disclosure requirements relative to issuance of the debt instrument(s).
3. Assist the County in ensuring the following disclosure requirements are met:
  - (a) Disclosure of potential conflicts of interest and material financial relationships among issuers, advisors, and underwriters, including those arising from political contributions;
  - (b) Disclosure regarding the terms and risks of securities being offered;
  - (c) Disclosure of issuer's financial condition, results of operation and cash flows;
  - (d) Disclosure of material events for which filings must be made; and
  - (e) Disclosure of instances of noncompliance with any previous continuing disclosure undertakings under the Rule during the preceding five years.
4. Prepare appropriate disclosure documents in connection with County financing, including the written agreement for the benefit of the bondholders committing to continuing disclosure (Continuing Disclosure Undertaking).
5. Prepare, with the assistance of working group members, the Preliminary Official Statement and any amendments thereto.
6. Review transcripts of all proceedings in connection with County financings and indicate any necessary corrective action.
7. Render appropriate opinions as to the adequacy and completeness of information included in the offering documents relating to County financings.
8. Assist the County in terms of compliance with Federal and State Securities Laws.
9. Ensure Government Finance Officers Association Guidelines are met for primary market disclosure.
10. Attend meetings with County staff and officials, the County's financial advisor, bond counsel, underwriters, rating agencies and others, if necessary, for development of dissemination of information in connection with the issuance of debt instruments.
11. Perform other related services as required to meet disclosure requirements of Federal and State Securities Laws.

EXHIBIT A  
SCOPE OF SERVICES

Review current status as to compliance with Securities and Exchange Commission Rule 16c 2-12. Provide feedback to County staff.

Assist the County in determining appropriate data and information to include in the annual disclosure documents.

Review annual disclosure documents and provide feedback and recommendations to County staff.

Inform County staff of changes in rules and regulations impacting annual disclosure submissions as they occur.

**Board of County Commissioners  
SEMINOLE COUNTY, FLORIDA**

# WORK ORDER

Work Order Number: \_\_\_\_\_

Master Agreement No.: \_\_\_\_\_ Dated: \_\_\_\_\_

Contract Title: \_\_\_\_\_

Project Title: \_\_\_\_\_

Consultant: \_\_\_\_\_

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

**ATTACHMENTS TO THIS WORK ORDER:**

- ☐ drawings/plans/specifications  
☐ scope of services  
☐ special conditions  
☐ \_\_\_\_\_

**METHOD OF COMPENSATION:**

- ☐ fixed fee basis  
☐ time basis-not-to-exceed  
☐ time basis-limitation of funds

**TIME FOR COMPLETION:** The services to be provided by the CONTRACTOR shall commence upon execution of this Agreement by the parties and shall be completed within "X" (days, months, years) of the effective date of this agreement. Failure to meet the completion date may be grounds for Termination for Default.

Work Order Amount: \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_)

IN WITNESS WHEREOF, the parties hereto have made and executed this Work Order on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for the purposes stated herein.

(THIS SECTION TO BE COMPLETED BY THE COUNTY)

**ATTEST:**

\_\_\_\_\_  
 (Company Name)

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

Date: \_\_\_\_\_

\_\_\_\_\_  
 (CORPORATE SEAL) \_\_\_\_\_, Secretary

\_\_\_\_\_, President

**WITNESSES:**

\_\_\_\_\_  
 (Contracts Analyst, print name)

By: \_\_\_\_\_  
 Peter W. Maley, Contracts Supervisor

Date: \_\_\_\_\_

\_\_\_\_\_  
 (Contracts Analyst, print name)

As authorized by Section 330.3, Seminole  
 County Administrative Code

## WORK ORDER TERMS AND CONDITIONS

- a) Execution of this Work Order by the COUNTY shall serve as authorization for the CONSULTANT to provide, for the stated project, professional services as set out in the Scope of Services attached as Exhibit "A" to the Master Agreement cited on the face of this Work Order and as further delineated in the attachments listed on this Work Order.
- b) Term: This work order shall take effect on the date of its execution by the County and expires upon final delivery, inspection, acceptance and payment unless terminated earlier in accordance with the Termination provisions herein.
- c) The CONSULTANT shall provide said services pursuant to this Work Order, its Attachments, and the cited Master Agreement (as amended, if applicable) which is incorporated herein by reference as if it had been set out in its entirety.
- d) Whenever the Work Order conflicts with the cited Master Agreement, the Master Agreement shall prevail.
- e) METHOD OF COMPENSATION - If the compensation is based on a:
  - (i) FIXED FEE BASIS, then the Work Order Amount becomes the Fixed Fee Amount and the CONSULTANT shall perform all work required by this Work Order for the Fixed Fee Amount. The Fixed Fee is an all-inclusive Firm Fixed Price binding the CONSULTANT to complete the work for the Fixed Fee Amount regardless of the costs of performance. In no event shall the CONSULTANT be paid more than the Fixed Fee Amount.
  - (ii) TIME BASIS WITH A NOT-TO-EXCEED AMOUNT, then the Work Order Amount becomes the Not-to-Exceed Amount and the CONSULTANT shall perform all the work required by this Work Order for a sum not exceeding the Not-to-Exceed Amount. In no event is the CONSULTANT authorized to incur expenses exceeding the not-to-exceed amount without the express written consent of the COUNTY. Such consent will normally be in the form of an amendment to this Work Order. The CONSULTANT's compensation shall be based on the actual work required by this Work Order and the Labor Hour Rates established in the Master Agreement.
  - (iii) TIME BASIS WITH A LIMITATION OF FUNDS AMOUNT, then the Work Order Amount becomes the Limitation of Funds amount and the CONSULTANT is not authorized to exceed the Limitation of Funds amount without prior written approval of the COUNTY. Such approval, if given by the COUNTY, shall indicate a new Limitation of Funds amount. The CONSULTANT shall advise the COUNTY whenever the CONSULTANT has incurred expenses on this Work Order that equals or exceeds eighty percent (80%) of the Limitation of Funds amount. The CONSULTANT's compensation shall be based on the actual work required by this Work Order and the Labor Hour Rates established in the Master Agreement.
- f) Payment to the CONSULTANT shall be made by the COUNTY in strict accordance with the payment terms of the referenced Master Agreement.
- g) It is expressly understood by the CONSULTANT that this Work Order, until executed by the COUNTY, does not authorize the performance of any services by the CONSULTANT and that the COUNTY, prior to its execution of the Work Order, reserves the right to authorize a party other than the CONSULTANT to perform the services called for under this Work Order; if it is determined that to do so is in the best interest of the COUNTY.
- h) The CONSULTANT shall sign the Work Order first and the COUNTY second. This Work Order becomes effective and binding upon execution by the COUNTY and not until then. A copy of this Work Order will be forwarded to the CONSULTANT upon execution by the COUNTY.



## EXHIBIT C

Henry M. Morgan, Jr.  
863 499 5360  
hank.morgan@hklaw.com

February 24, 2006

Mr. Timothy Jecks  
Seminole County  
1101 East First Street  
Sanford, Florida 32771

Attn: Purchasing Department

Re: RFP 4102-01/BJC; Disclosure Counsel Services to Seminole County  
Government

Dear Mr. Jecks:

Please be advised that Holland & Knight LLP would be delighted to continue to serve Seminole County as your Disclosure Counsel, continuing the present contract for whatever period the County Commission deems advisable. We would continue to use the current schedule of fees and charges, which are copied below.

### Price per Bond:

| <u>Amount of Issue</u>            | <u>Fee Proposed</u> | <u>Cumulative Fee</u> |
|-----------------------------------|---------------------|-----------------------|
| Up to \$25,000,000                | \$0.80 per \$1,000  | \$20,000*             |
| From \$25,000,000 to \$50,000,000 | \$0.55 per \$1,000  | \$33,750              |
| From \$50,000,000 to \$75,000,000 | \$0.45 per \$1,000  | \$46,250              |
| Over \$75,000,000                 | \$0.30 per \$1,000  |                       |
| Over \$150,000,000                | Negotiable          |                       |

\* Minimum fee of \$17,500

**Blended rates for compensation on a time and expense basis for attorney services:** Blended rate in the amount of \$200.00 per hour with a not-to-exceed amount of \$2,500 per year. For the initial year of the contract, Counsel will notify the County whenever the Counsel has incurred expenses that equals or exceeds ninety percent (90%) of the not-to-exceed dollar amount. At that point, the Counsel will submit to the County representative the status of any pending tasks

Mr. Timothy Jecks  
February 24, 2006  
Page 2

---

and the estimated amount of hours needed for completion of the tasks. For the remaining portion of the Agreement, the not-to-exceed amount will be \$2,500.00 per year.

Speaking on behalf of our firm, we greatly appreciate the opportunity to continue to work with everyone at the County. If you have any questions or desire further information, please do not hesitate to give me a call.

Sincerely yours,

HOLLAND & KNIGHT LLP



Henry M. Morgan, Jr.

HMM/lcm  
# 3610594\_v1  
622874-6