

BY THE CITY COMMISSION

ORDINANCE NO. 2011-01

AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF DADE CITY, FLORIDA AMENDING CHAPTER 2, ARTICLE VII, DIVISION 4 OF THE DADE CITY CODE, THE PURCHASING ORDINANCE TO EXPAND REQUIREMENTS FOR ACQUISITION OF PROFESSIONAL SERVICES; SPECIFICALLY AMENDING SEC. 2-258 RETENTION OF CONSULTANTS TO INCLUDE DEFINITIONS, ADS, SHORTLIST SELECTIONS, SHORTLISTING, SCOPE OF SERVICES, REVIEW OF PROPOSALS, RANKING CONSULTANTS, AND NEGOTIATING AND PREPARING CONTRACTS; PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Sections 2-501 through 2-528 of the Dade City Code of Ordinances provides requirements for the City's purchase of goods and services; and

WHEREAS, Specifically, Section 2-528 pertaining to the hiring of professional consultants must be updated to include additional requirements beyond those set forth in Section 287.055, Florida Statutes; and

WHEREAS, the City Commission now wishes to amend Section 2-528 to provide for update of these provisions.

NOW, THEREFORE, BE IT ORDAINED by the City of Dade City Commission, as follows:

SECTION 1. Section 2-528(a) of the Dade City Code of Ordinances is hereby amended as follows:

Section 2-258. Retention of Consultants.

- (1) *Contracts for architectural, engineering, and land surveying services.* Contracts for architectural, engineering, and land surveying services shall be procured in accordance with Section 287.55, Florida Statutes, referred to as the *Consultant's Competitive Negotiation Act (CCNA)* as amended, and the Acquisition of Professional Services Policy as set forth in Exhibit "A" attached hereto and incorporated by reference.

SECTION 2. The remainder of Section 2-528 remains in full force and effect.

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SECTION 3. Repealer

All provisions of the Dade City Code of Ordinances, as amended, and ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of any conflict.

SECTION 4. Severability.

It is declared to be the intent of the City Commission of the City of Dade City, Florida, that if any section, subsection, sentence, clause, or provision of this Ordinance shall be declared invalid, the remainder of this Ordinance shall be construed as not having contained said section, subsection, sentence, clause, or provisions and shall not be affected by such holding.

SECTION 5. Inclusion in Code.

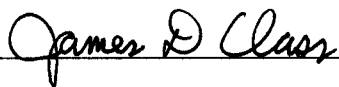
It is the intent of the City Commission that the provisions of this Ordinance shall become and be made a part of the Dade City Code of Ordinances, and that the sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 6. Effective Date.

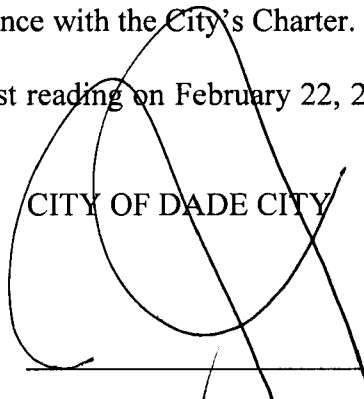
This Ordinance shall take effect in accordance with the City's Charter.

Adopted by the City Commission after first reading on February 22, 2011 and following public hearing on March 8, 2011.

ATTEST:




James D. Class, City Clerk

CITY OF DADE CITY


Scott Black, Mayor

Approved as to Legal Form and Sufficiency



Karla S. Owens, City Attorney

Exhibit “A”

**ACQUISITION OF PROFESSIONAL SERVICES
CITY OF DADE CITY**

PURPOSE:

This procedure defines the method used by the City of Dade City to acquire qualified professional architectural; engineering; landscape architectural; and planning services.

AUTHORITY:

49 CFR, Part 23 and 23 CFR, Part 172
Sections 287.055, 337.105, 337.106, 337.107, 337.1075 and Chapter 339, Florida Statutes (F.S.)
Rule Chapter 14-75 and 14-78, Florida Administrative Code (F.A.C.)

SCOPE:

This procedure will apply to all City, State or Federally funded professional service contracts, unless otherwise excepted herein or in cases of a valid public emergency as certified by the City Commission.

CONTENTS:

1. DEFINITIONS 2

2. ADVERTISEMENT 3

3. SHORTLIST SELECTION 3

3.1 Shortlist 3

3.2 Shortlist Consideration Factors 3

3.3 Shortlist Notification/Documentation 4

3.4 Decision on Proposal Requirements 4

3.5 Optional Alternate Selection Process 4

4. PREPARATION OF REQUEST FOR PROPOSALS 4

4.1 Boilerplate 4

4.2 Instructions for Written Proposals 4

4.3 Instructions for Oral Presentations 5

4.4 Scope of Services 5

4.5 Proposed Method of Compensation 5

4.6 Technical Review Criteria..... 5

4.7 Staff Hour Estimate Form 5

4.8 Required Forms and Notices..... 6

5. SCOPE OF SERVICES MEETING 6

6. REVIEW OF TECHNICAL PROPOSALS AND PRESENTATIONS 7

7. RANKING OF SHORTLISTED CONSULTANTS 8

8. NEGOTIATING CONTRACT FEES..... 8

8.1 Negotiating Work Effort 8

8.2 Review Process for Fee Proposals and Audit Package 8

8.3 Fee Proposal Review 11

8.4 Establishing the Method of Compensation 11

Exhibit “A”

8.5 Negotiations 12

9. THE AGREEMENT 12

9.1 Preparation of the Agreement 12

9.2 Agreement Execution 13

9.3 Contract Distribution 14

10. EXEMPT CONTRACTS 14

1. DEFINITIONS

Letter of Qualification: On each occasion when the City requires professional services, the advertisement for such services will require interested Consultants to submit a Letter of Qualification. The content criteria for this letter will be finalized by the City’s Project Manager and listed in the project’s advertisement. Each letter must contain a listing of key staff, anticipated Subconsultants to be used, a work history of similar projects completed by the Consultant (including references and their telephone numbers), and an estimate of the Consultant’s current workload or a forecast of the Consultant’s ability to assign resources to the project, in addition to any other information requested in the specific project’s advertisement. Consultants not prequalified with the City are also required to provide proof of professional liability insurance or letter of credit, licenses and registrations.

Project: A project may include the following:

- (A) Professional services associated with a specifically identified project.
- (B) Professional services provided to the City on a continuing basis with no time limitation except that the contract will provide a termination clause. Continuing contracts for professional services will be restricted in use to services for projects which construction costs do not exceed the amounts set forth in Section 287.055, Florida Statutes. Without the approval of the City Commission, the period for a continuing contract may not exceed 1 year and total fee may not exceed \$25,000.
- (C) Professional services of a General Consultant which include the administration, support and management of engineering; architectural; or planning activities. These activities may involve a number of different projects in the work program. The original contract time will not exceed five years unless extended to complete assignments previously authorized. The contract may be renewed for a period not to exceed the original contract time, contingent upon continued satisfactory performance of the consultant and approval by the City Commission. This type of contract is not eligible for federal funding participation.

Project Manager: This is a person in the City who is responsible for the general administration of the professional service contracts and who coordinates activities between the Consultant and the City, assuring that the Consultant provides the specified services at a satisfactory level of quality, in accordance with the terms and conditions of the contract. Additionally, the Project Manager will complete performance evaluations on the Consultant as required in these procedures and will initiate necessary actions as the result of the Consultant’s non-compliance with the terms and conditions of the contract.

Selection Committee: This Committee will make both shortlist and final selections. As a minimum, the Selection Committee will be composed of the City Manager (who will serve as Chairperson), the appropriate Director, and other members appointed by the City Manager. The City Clerk will be a non-voting member and will serve as Recording Secretary at all meetings. Each member of the Committee may appoint an appropriate management level alternate.

Exhibit "A"

Shortlist: This consists of no less than three and no more than four Consultants chosen by a Selection Committee. These Consultants may be required to submit written proposals or present oral proposals or both for the required work in order to be considered for final selection.

2. ADVERTISEMENT

The City will advertise, in accordance with Florida law and in a uniform and consistent manner, each occasion when professional consulting services are required and the fee is in excess of the threshold amount of Category Two, **Section 287.017, F.S.**, except in the case of a valid public emergency, declared as such by the City Commission. The results of all final selection meetings will also be advertised.

As a minimum, each advertisement will state the name and description of the project, where the project is located, the major type(s) of work required, any minor types of work that are required for the project but not normally associated with the major type(s) of work, the estimated construction cost of the project (if applicable), how and where Consultants can respond, time frames for submittal of Letter of Qualification, how respondents will be selected, and tentative dates for shortlist and final selection. The minimum advertisement period will be 10 calendar days although a longer period may be utilized as needed. The advertisement will require that all letters of qualification are submitted in hard copy triplicate. When final ranking is to be made directly from the letters of qualification, the advertisement will so indicate.

3. SHORTLIST SELECTION EVALUATION

3.1 Short List

The Project Manager will review all letters of qualification. The Project Manager will identify as non-responsive any letters received from Consultants not qualified or, alternatively, who have a subconsultant technically not qualified in those type(s) of work advertised. The Project Manager will provide the City Manager with a copy of all responsive Letters of Qualification received for a given project. This information, along with supporting data the Project Manager deems appropriate, will be packaged and presented to each Selection Committee member for their review prior to or at the scheduled selection meeting. The Selection Committee will shortlist no less than three or more than four Consultants.

3.2 Shortlist Consideration Factors

Factors to be considered by the Selection Committee include but are not limited to the following:

- (1) Performance grades received by the Consultant on current and previous City projects, or other performance data supplied by the Consultant.
- (2) The location of the Consultant in relation to the requirements necessary for the work to be performed.
- (3) The volume of work previously awarded to the Consultant by the City.
- (4) Preference to a certified Disadvantaged Business Enterprise or certified Minority Business Enterprise, when applicable.
- (5) Balancing the needs of the project to the abilities of the Consultants.
- (6) Information contained in the Letter of Qualification.

3.3 Shortlist Notification

At the conclusion of a shortlist meeting, the Project Manager will contact each shortlisted Consultant to advise of their inclusion on the short list.

3.4 Decision on Proposal Requirements

At the shortlist meeting, the Selection Committee should also decide on the type of technical proposal to be required from the shortlisted consultants. Either oral presentations or written proposals may be required, but not both. The Project Manager may make a recommendation to the Selection Committee as to the type of proposal and include it with the short list.

3.5 Optional Alternate Selection Process

An alternate selection process, allowing final ranking directly from letters of qualification, may be utilized for contracts where a detailed technical proposal is not practical or desired, such as CEI projects, and other task assignment contracts. When the advertisement has stated that the alternative process will be used, the Project Manager will provide the Selection Committee with the letters deemed responsive along with a short list profile for each consultant. The Selection Committee will review the documents and develop a recommended ranking of no fewer than three firms. The factors to be considered in developing the recommendations should include:

- (1) Quality of staff proposed for the project in the letters of response
 - (2) Performance grades received by the consultants on current and past City projects or other verifiable performance data supplied in the letters of response
 - (3) Volume of work previously awarded to the consultants by the City with an emphasis on the equitable distribution of work among qualified consultants as well as balancing the needs of the project with the capacity of the consultant
 - (4) Proposed utilization of certified disadvantaged business enterprise or minority business enterprises
 - (5) The location of the firms' offices in relation to the project where pertinent
- The Selection Committee will review the information provided and select in order of preference, no fewer than three firms. The recording secretary will document the reasons for the ranking. The Project Manager will notify the selected consultant within three working days of the Selection Committee meeting. When this alternate selection process is used, **Sections 4, 5, 6 and 7** of this procedure do not apply.

4. PREPARATION OF REQUEST FOR PROPOSALS

The Project Manager will prepare the Request for Proposal (RFP) package to be provided to the shortlisted consultants. The RFP package should consist of the following:

4.1 Boilerplate

Information on technical proposal due date, scope of services meeting, identification of Project Manager, insurance requirements, reference to standard professional services agreement terms, schedule of events, etc.

4.2 Instructions for Written Proposals

If written proposals are selected, the following information should be addressed:

- (A) The shortlisted consultants should be encouraged to use simplified proposal

Exhibit "A"

- formats and packaging for the proposal and to restrict the content of the proposal to a demonstration of an **awareness** of project issues, explanation of the proposed **approach** to the project, and plans for the **staffing** of the project. Performance of actual design as part of the proposal should be discouraged.
- (B) A firm limit to the number of pages allowed will be provided. A suggested limit is 20 single sided, letter-sized pages, exclusive of resumes, staffing charts and required forms. Font size will be restricted to 10 pitch or larger. The length of resumes should also be limited, with a suggested maximum length of two pages per person.
 - (C) The electronic transmission of proposals via the Internet should be considered where practical.

4.3 Instructions for Oral Presentations

If oral presentations are selected, the following information should be addressed:

- (A) The shortlisted consultants will be instructed to make their presentations project specific. The presentation should provide a demonstration of an **awareness** of project issues, explanation of the proposed **approach** to the project, and plans for the **staffing** of the project.
- (B) Shortlisted consultants will be instructed that any handouts to be submitted at the Oral Technical Presentation will be restricted to copies of visual aids used in the presentation.
- (C) Attendance at the presentation by the Consultant's proposed Project Manager will be strongly recommended.
- (D) A limit on the number of participants will be established. Five is the suggested maximum number, including Subconsultants, for a routine project.
- (E) A firm time limit will be provided. The suggested time frame is 20 minutes for a formal presentation, 15 minutes for questions and answers, and 10 minutes for set up/take down.
- (F) Unless otherwise approved by the City Manager or his designee, the RFP will advise that videos and computer animations may not be used in the presentation. However, any other media may be used.
- (G) Additional written submittals will be restricted to required certifications, staffing charts, resumes, staff hour estimates and schedule of events (except where not applicable). The RFP will require that these be submitted to the Project Manager prior to the presentation.
- (H) The order of presentations should be by random drawing.

4.4 Scope of Services

The proposed scope of services will be provided.

4.5 Proposed Method of Compensation

The proposed method of compensation should be described.

4.6 Technical Review Criteria

The criteria to be used in the evaluation of proposals or presentation will be included.

4.7 Staff Hour Estimate Proposal Form

Except when not needed for task assignment type contracts, the consultant will be requested to complete a summary staff hour estimate. A form for this purpose will be included with the RFP and will be required to be submitted with the proposal.

Exhibit "A"

4.8 Required Forms and Notices

State Certification Forms: if the project is to be State funded, a ***DBE Participation Statement, Form No. 375-030-21*** (for non-FCO projects), ***MBE Utilization Certificate Form, No. 375-040-24*** (for FCO Projects), ***Bid Opportunity List, Form No. 275-030-10***, and ***Truth in Negotiation Certificate, Form No. 375-030-30*** will be included and are required to be submitted with the proposal. The RFP should encourage use of DBE or MBE sub-consultants and stress that completion of the DBE or MBE participation forms with meaningful data is required.

Federal Certification Forms: If the project is to be federally funded, a ***Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion*** as required by ***49 CFR, Section 29.510***; and ***Certification for Disclosure of Lobbying Activities, Form No. 375-030-33*** as required by ***49 CFR, Section 20.100(b)*** will be included and are required to be submitted with the proposal.

For Construction Engineering Inspection (CEI) contracts, a notice will be included advising that a consultant under contract with the City to perform CEI or material sampling and testing work on a project may not subcontract with the construction contractor on the same project. A complete scope of services and Staff Hour Estimate should be completed prior to the advertisement of the project. The Request for Proposal package can then be prepared and mailed to the shortlisted Consultants by the Project Manager in a timely fashion. The Project Manager will prepare the scope of services and Staff Hour Estimate for each occasion that the City requires professional services except where not applicable for task assignment type contracts. (For task assignment type contracts, detailed scope of services and staff hour estimates are required at the time of each assignment.)

5. SCOPE OF SERVICES MEETING

Scope of services meetings are optional, but should be held for complex projects or where procedural issues exist. Telephonic scope of services meetings should be used where practical. The purpose of this meeting is to provide a forum for all concerned parties to discuss the proposed project, answer questions on the scope of services, method of compensation, instructions for submitting proposals, and other relevant issues. The need for a meeting will be determined by the Project Manager in conjunction with the City Manager. Since the RFP package is the working document on which a scope of services meeting is based, the shortlisted Consultants should be furnished a copy of the RFP at least one week prior to the scope meeting, but as a minimum, a copy of the scope of services. The scope of services meeting should be attended by representatives of the shortlisted consultants and subconsultants, as appropriate, other functional area representatives (as necessary), and moderated by the Project Manager. The Project Manager will explain and answer questions to clarify project objectives, clarify contractual requirements and method of compensation, and selection procedures. The Project Manager will establish an information cutoff date at the scope of services meeting which should be no less than seven calendar days prior to the proposal submittal deadline. No questions should be answered relating to the project objectives after the information cutoff date. The consultants should be directed as to where to direct all questions after the scope meeting.

During and after the scope of services meeting, it is the responsibility of the Project Manager to ensure that each shortlisted Consultant develops their technical proposal with the same information. If a Consultant receives information from the Project Manager relating to the project prior to the Information Cutoff Date, the City will ensure that all shortlisted consultants receive the same information in a timely fashion. The project file will clearly document all communications with any Consultant regarding the scope of services by the Project Manager.

Exhibit "A"

At the conclusion of the scope meeting, or when it is reasonable to assume that no further scope changes will be required, the Project Manager will update the scope of services and Staff Hour Estimate, as necessary. A review of the City's original Staff Hour Estimate following the scope of services meeting is essential to the negotiations process. The updated scope and Staff Hour Estimate should be made available to each member of the Selection Committee prior to the evaluation of the technical proposals. Also, should significant changes result from the scope of services meeting, the shortlisted consultants should be provided the updated scope of services.

6. REVIEW OF TECHNICAL PROPOSALS AND PRESENTATIONS

Each member of the Selection Committee must base their evaluation on the same criteria so that value uniformity can be established. The following considerations may be used as a guide in establishing review criteria. However, each Project Manager is encouraged to meet with the Selection Committee as a group so that project requirements and major emphasis points can be discussed. The Selection Committee may expand and/or revise the following considerations and point allocation based on individual project need so long as it can be demonstrated that each reviewer used the same basis for evaluation. The evaluation criteria, including their relative importance, will be provided to the shortlisted Consultants in the RFP or at the scope of services meeting.

(A) **Awareness of Project Issues:** (0 to 25 points) - Includes the Consultant's understanding of the scope of services and of any unique issues involved in the project.

(B) **Proposed Approach to Project:** (0 to 30 points) - Includes the Consultant's approach to the project, unique concepts and cost saving suggestions, proposed quality review schedule, the reasonableness of the proposed schedule based on the quantity of personnel available, whether the individual tasks are staged properly and in proper sequence, and whether the proposed schedule is better than, the same as, or worse than the Department's estimate.

(C) **Proposed Project Staffing:** (0 to 20 points) - Includes the Consultant's staffing quality and availability, experience on similar projects, proposed Subconsultants, interrelationship between the Consultant and any proposed Subconsultants.

(D) **Other Considerations:** (0 to 15 points) Communication ability, use of specialized equipment, proximity to project, commitment to satisfy the City's needs, past performance on similar projects, etc.

(E) **Minority Business Enterprise (MBE):** (0 to 10 points) A maximum of 10% of the total points may be awarded for FCO projects when the Consultant and/or the Subconsultant is on the Office of Supplier Diversity (OSD) Certified Minority Business Enterprise List. The Prime Consultant will execute **Form No. 375-040-24, MBE Preference Certification**, to receive the points. The maximum offered points will be awarded only when there will be at least 25% MBE participation.

The Selection Committee members should provide objective evaluations from a solely technical standpoint. The evaluations must be done individually by each reviewer and not as a consensus evaluation. The evaluators should provide narrative explanation for scores. When each evaluator has completed the evaluation of each proposal the raw scores will be transmitted to the Project Manager, who will calculate the average grade for each proposal.

All individual evaluations should be signed and dated by the evaluator. The Project Manager will summarize the comments of the Selection Committee members, which will be included in

Exhibit "A"

the selection package. The Selection Committee will consider the Staff Hour Estimates during the evaluation of the Consultants only in terms of understanding of the scope. The Staff Hour estimates will not be assigned evaluation criteria points; however, the work effort is recognized as an indication of scope understanding. All presentations will be tape-recorded by the City Clerk. The tape or tapes will be kept as a permanent record in the City Clerk's Office.

7. RANKING OF SHORTLISTED CONSULTANTS

Upon the completion of the technical review, the Project Manager will complete the scoring of the weighted rankings and comments written by the Selection Committee. Once compiled, the Project Manager should schedule a final selection meeting. During the final selection meeting, the form will be completed by the recording secretary with a narrative explanation for the reasons for the ranking.

The Project Manager will notify each Consultant of the selection results within five working days of the selection meeting. The Clerk's Office will publish the results of each meeting in accordance with Florida law. The announcement will state the project name, description, and appropriate Financial Management numbers, as well as the ranking of the Consultants.

8. NEGOTIATING CONTRACT FEES

8.1 Negotiating Work Effort

Upon the ranking of the shortlisted Consultants, negotiations will begin with the number one ranked Consultant. At this time, the Consultant will usually be requested to submit a detailed Staff Hour Estimate and Fee Proposal with support information to the Department. When the final ranking has occurred directly from letters of qualification, the forms and certifications required under **Section 4.9** of this procedure will also be requested with the fee proposal. Once the Consultant's detailed Staff Hour Estimate is received, the City will make available the City's detailed estimate of work to the Consultant. The negotiations for work effort should focus on the technical proposal for the purpose of clarifying and resolving any differences concerning the scope of the project and the level of effort necessary to accomplish the project. The objective of work effort negotiations is to ensure that estimated work effort is fair and reasonable.

8.2 Review Process for Fee Proposals and Audit Package

The Project Manager must review the proposed costs to assure that they are reasonable, accurate and allowable. The fee proposal should be signed by the Consultant's comptroller, chief financial officer, accountant, or other appropriate person who is knowledgeable of the Consultant's normal accounting requirements. As a minimum, the review of the fee proposal by the Project Manager must include the following:

8.2.1 Identification of the Basis for Proposed Wage Rates

- (1) A payroll register containing current pay rates may be required to support proposed pay rates. The submittal will contain a certification from a responsible company official that the rates are actual on that particular date.
- (2) If salaries for select employees are used to establish contract billing rates by position classification, an explanation of how the average wage rate was computed (i.e., straight average, weighted average, etc.) is required.
- (3) The salaries proposed should be compared to the average proposed wage rates for similar positions in the State of Florida.
- (4) No escalation of any kind, including salary escalation, will be negotiated on any new contracts or contract amendments, regardless of length of services. In the case of

Exhibit "A"

added services or in the case of optional services, wage rates for job classes previously addressed under the original agreement should not be renegotiated, and should be held at the same wage rates established under the original agreement.

8.2.2 Overhead & Fringe Benefits

- (1) Consultant must provide an overhead statement and proposed overhead rate based on the Consultant's financial records of the most recently completed fiscal year. The overhead statement should have been prepared by an independent Certified Public Accountant.
- (2) The City will accept the audited overhead rate for contracting purposes and may not limit or negotiate these rates. If the consultant, as part of the negotiation of overall costs to arrive at a fair competitive and reasonable price, voluntarily proposes an overhead rate lower than the audited rate, the City may use this rate in the contract. The use of a lower overhead rate may not be a requirement of contracting.

8.2.3 Operating Margin

The operating margin which is paid in a Consultant contract does not necessarily represent net profit to the Consultant. Operating margin is intended to compensate the Consultant for those normal business expenses which are excluded from allowable overhead by Federal Regulation (e.g., interest, advertising, bad debts, etc.) as well as provide the Consultant with a reasonable profit.

Operating margin is normally calculated as a percentage of direct salaries. The percentage is negotiated within a range of 10 to 45 percent. The resulting dollar amount is the "fixed fee" in a cost plus fixed fee type contract or becomes part of the total fixed price in a lump sum agreement. The negotiation of operating margin as a fixed fee provides incentives for the Consultant for efficient contract performance, since completion of the project with less than estimated costs will result in a higher profit margin. This benefits both the City and the Consultant.

The basis for negotiating the operating margin percentage will be the complexity of the project, the degree of cost risk or liability involved, the project schedule, and cost control efforts demonstrated by the consultant's proposed staffing and overhead, direct expense, and salary rates compared to industry averages. The following table illustrates how these factors should be weighted and considered.

Exhibit “A”

Operating Margin % Calculation Table for Direct Salaries		
Criteria	% Range	Suggested Standards
Complexity of Project (20%)	3% - 10%	Low - simple straight forward projects such as resurfacing or restoration High - complex multi-disciplined projects requiring specialized skills with significant management issues – multiple subs etc.
Degree of Risk (20%)	3% - 10%	Low – cost plus fixed fee contract with little chance of cost overruns and low liability exposure High – lump sum contracts with possibility of overrunning costs - projects involving significant liability, hazardous materials, experimental designs, etc.
Schedule for Project(10%)	1% - 5%	Low – no critical short term deadlines or requirements for large staffing concentrations High – High visibility projects with short duration and aggressive schedules requiring large commitment of staff
Cost Control Efforts (50%)	3% - 20%	Low – staff hours higher than DOT estimate and all other cost factors (wage rates, overhead and expense %) higher than average High – hours and cost factors lower than average
Total	10% - 45%	

This is intended only as a guideline – not a fixed formula. If this method of negotiating operating margin is to achieve its desired affect of rewarding firms for assuming risk and controlling costs, there will need to be significant variance in the operating margin percentage negotiated from contract to contract. Negotiators cannot fall back on a standard operating margin percentage for all contracts.

Any other factors which impact the cost/benefit of the project to the City or the Consultant may be considered in negotiating the operating margin. With the exception of Construction Engineering and Inspection (CEI) contracts, few projects require the Consultant to incur overtime cost. If overtime is required, the percentage of operating margin negotiated for the overtime may be less than the percentage used for regular time. Operating margin and overhead are not allowed on the premium portion of overtime nor on facilities capital cost of money. For supplemental services, operating margin is normally negotiated in the same manner as original agreements, but is a negotiable item and should not be considered as an automatic entitlement.

Exhibit "A"

8.2.4 Expenses

- (1) Direct project expenses will be compensated at actual cost. Sufficient documentation must be provided to support the basis for all expenses contained in the price proposal. Written quotes from vendors, invoices reflecting prices paid on previous purchases, copies of catalog pages, etc. may be used as support for the proposed prices. The acquisition of any item costing more than \$1000 will be supported by at least two quotes, when competition exists. As a general rule, the method of reimbursement for purchase by the Consultant of any capital asset (item costing \$1,000 or more and having a life expectancy of 1 year or more) will be determined through the use of a lease versus purchase analysis.
- (2) Unit rates used to compute travel costs may not exceed those authorized for State employee travel in accordance with Florida Statutes. Air fare must be based on coach rates with reasonable advance purchase and costs for rental cars must be based on the use of compact cars, unless otherwise justified and approved by the City.

8.2.5 Subconsultant Costs

Subconsultant(s) costs must be specifically identified in the price proposal and supported in a manner that will allow the City to make a determination that the proposed costs are fair, reasonable and competitive. Usually, this will require submission of the same type of data as required for the Prime Consultant. This includes support for wage rates, loaded billing rates, rates per unit of work, direct expenses and overhead. For subcontracts with fees at or greater than \$250,000, an acceptable overhead audit report performed by an independent CPA will be required to document the consultant's overhead rate and the adequacy of the consultant's accounting system. For subcontracts with fees of less than \$250,000, a self-certified overhead statement in the may be accepted in lieu of an audit report.

8.3 Fee Proposal Review

The Project Manager will review the various cost elements to determine if the cost elements contained in the fee proposal are necessary for the performance of the required services. The Project Manager should provide a written technical analysis of the fee proposal for use in the price review.

The Project Manager should verify the cost elements of the fee proposal, review the technical analysis, and also review all proposed salaries to determine if they are in line with prevailing wage rates. Any errors, deficiencies, omissions, etc., noted during the review of the fee proposal by the Project Manager should be brought to the attention of the selected Consultant, and corrective data should be requested immediately.

8.4 Establishing the Method of Compensation

Compensation for professional services agreements should involve one or more of the following methods:

LUMP SUM: A firm fixed price not subject to adjustment due to the actual cost experience of the Consultant in the performance of the contract. This places the maximum risk on the Consultant and provides motivation for efficient cost management to maximize profits. It also minimizes the City's time in contract administration.

It is the recommended method of compensation when the scope of services is well defined and the level of effort can be reasonably predicted.

Exhibit "A"

COST REIMBURSEMENT: The Consultant is reimbursed the actual costs incurred in the performance of the contract. A "maximum limiting amount" is normally established to cap the amount the City will pay for the services. This method is used when the services are so vague or complex that the level of effort or expenditure cannot be estimated with reasonable accuracy. This provides minimal incentive to the Consultant to control costs and is time consuming to administer.

SPECIFIC RATES OF COMPENSATION: Billing rates are established for units of time, usually per hour. These rates normally include wages, overhead, estimated expenses and operating margin. A maximum limiting amount is normally established. This method is frequently used for surveying, legal services and expert witness contracts. Except for extraordinary contract requirements, the method of compensation should be described in the agreement using the standard Method of Compensation language.

8.5 Negotiations

During the entire negotiation process, a written and/or taped record of the resolution of all decisions between the Consultant and the City will be kept and will be filed with the official agreement records in the Project Manager.

Final negotiations will reconcile any variances in work effort from that previously negotiated and establish the compensation to be paid the Consultant for the services to be rendered. The results of all negotiations with the Consultant must be documented in writing and made a part of the permanent project file.

Compensation will be negotiated within the limits established by state and federal law, rules and regulations, whichever is more restrictive. The negotiated compensation will be in an amount the City determines is fair, competitive, and reasonable considering the scope and complexity of the project.

Should the City be unable to resolve differences in the considered data or negotiate a fair and reasonable fee for the services as determined by the City, the City will terminate negotiations with the Consultant and provide written notice of termination to the Consultant. The City will then initiate negotiations with the Consultant previously ranked second by the City's Selection Committee.

Should the City be unable to negotiate an agreement with the second ranked Consultant, the aforementioned procedure will be initiated with the third ranked Consultant. Should the City be unable to negotiate a satisfactory agreement with any of the selected Consultants, the City will select additional Consultants in order of their competence and qualification and continue negotiations in accordance with these procedures until an agreement is reached, or initiate a new selection process in accordance with this procedure.

The decision to terminate negotiations is a business decision the City makes and it should not cause the consultant to be viewed negatively or in any way impact their opportunity for future selections.

9. THE AGREEMENT

9.1 Preparation of the Agreement

Subsequent to negotiations, the City Attorney will prepare an appropriate agreement consistent with the results of the negotiations.

Exhibit “A”

9.2 Agreement Execution

The Project Manager will coordinate execution of the professional service agreement. The following lists the signatures and approvals necessary for agreements.

9.2.1 The City Attorney’s Office

This signature indicates that the agreement has been reviewed by the City attorney to determine that the agreement contains all the required statutory provisions; contains all necessary provisions to be legally enforceable; contains all relevant provisions to clearly define the responsibilities and obligations of each party; and to protect the City’s interests.

9.2.2 The Consultant

This signature indicates that the Consultant agrees to all terms, conditions, and provisions contained in the agreement. If any changes have been made by the Consultant subsequent to the City Attorney’s initial review, the City Attorney’s Office will review the changes and approve.

9.2.3 Office of Finance Director

Before executing an agreement, fund approval must be obtained from the Office of the Finance Director. This system checks for 1) available budget; 2) that projects are programmed for the appropriate amount and year in the City Budget.

9.2.4 The City Manager’s Office

This signature indicates that the City Manager has either verified or certifies that:

- (A) The Consultant was competitively selected in accordance with the City’s approved selection process, and that all City requirements, if applicable, have been met.
- (B) That the terms and conditions of the agreement meet the specifications of the Project Manager, are reasonable to the City and the Consultant, and were written in a form approved by legal counsel.
- (C) That the agreement, when negotiated, was done so in good faith and in accordance with all applicable laws, rules, and procedures. Also, that the negotiated price is fair, competitive, and reasonable considering the scope and complexity of the project.
- (D) That the method of compensation is appropriate and the amount is reasonable.
- (E) That the project is included in the City’s budget.
- (F) That any change to previously approved form or content has been reviewed and resolved with the appropriate office.
- (G) Assure the person signing for the Consultant has signature authority.
- (H) That the prime Consultant has secured and presented proof of professional liability insurance in accordance with the agreement.

9.2.5 The City Commission

Any professional contract in excess of \$25,000 must be approved by the City Commission in an advertised public hearing. This approval also authorizes the City manager to execute the contract which will obligate the City to the terms, conditions, and provisions of the agreement.

Signature authority for this agreement is delegated to the City Manager. This signature completes execution of the agreement.

Exhibit "A"

9.3 Contract Distribution

The Project Manager distributes the executed agreements in the manner set forth below.

- (A) One original to the Consultant.
- (B) One original to City Clerk.
- (C) One copy to the Project Manager.

10. EXEMPT CONTRACTS

Certain professional services contracts are exempted from formal advertising and selection in strict adherence to the selection procedures outlined above. These include where the fee for professional services is less than the threshold amount in **Section 287.017, F.S.**, for Category Two or when the construction cost is estimated to be less than the threshold amount for Category Five.

For work under the Category Two threshold, at least three qualified Consultants should be considered and ranked in order of preference and negotiations initiated with the Consultant ranked number one. If this competitive selection process is not followed, the contract file will be documented as to the reasons for the selection.