

**SUBMIT TO:**  
 The School District of Osceola County,  
 Florida  
 Purchasing Department, Building 2000  
 817 Bill Beck Blvd.  
 Kissimmee, FL 34744



# REQUEST FOR PROPOSAL

AN EQUAL OPPORTUNITY EMPLOYER  
[www.osceola.k12.fl.us/depts/Purchasing/Index.asp](http://www.osceola.k12.fl.us/depts/Purchasing/Index.asp)

CONTACT PERSON:  
**Cheryl M. Jessee, Senior Buyer**

Telephone #: 407.870.4630  
 Fax #: 407.870.4616

Date issued: April 14, 2008

TITLE: **EDUCATIONAL FACILITIES IMPACT  
 FEES CONSULTANT**

NUMBER:  
**SDOC 08-P-098 CJ**

SUBMITTAL DEADLINE:  
**May 14, 2008 at 2:00 PM**

PRE PROPOSAL DATE, TIME AND LOCATION:  
**April 23, 2008 at 9:30 AM in the Purchasing Department Conference Room,  
 817 Bill Beck Blvd, Building 2000, Kissimmee, Florida 34744**

*SUBMITTALS RECEIVED AFTER ABOVE DATE  
 AND TIME WILL NOT BE CONSIDERED*

FIRM'S NAME:

MAILING ADDRESS:

CITY - STATE - ZIP:

TELEPHONE NO:

FAX NO:

FEDERAL ID NO. OR SOCIAL SECURITY NO.

X \_\_\_\_\_  
 Authorized Signature \_\_\_\_\_ Typed Name  
 \_\_\_\_\_  
 Title Date  
 \_\_\_\_\_  
 Email Address

**THIS FORM MUST BE COMPLETED AND RETURNED WITH YOUR RESPONSE  
 GENERAL CONDITIONS AND INSTRUCTIONS**

\*\*\*\* PLEASE READ CAREFULLY \*\*\*\*

Individuals covered by the Americans with Disabilities Act of 1990 in need of accommodations to attend public openings or meetings sponsored by the School District of Osceola County Purchasing Department shall contact the Purchasing Department at 407.870.4630, at least five (5) days prior to the scheduled opening or meeting.

1. **SUBMISSION OF OFFERS:** All offers shall be submitted in a sealed envelope or package. The invitation number, title, and opening date shall be clearly displayed on the outside of the sealed envelope or package. The delivery of responses to the School District of Osceola County Purchasing Department prior to the specified date and time is solely and strictly the responsibility of the offeror. Any submittal received in the Purchasing Department after the specified date and time will not be considered.  
  
Responses shall be submitted on forms provided by the School Board. Additional information may be attached to the submittal. Facsimile submissions are NOT acceptable. No offer may be modified after acceptance. No offer may be withdrawn after opening for a period of sixty (60) days unless otherwise specified.
2. **EXECUTION OF OFFER:** Offer shall contain a manual signature in the space(s) provided of a representative authorized to legally bind the offeror to the provisions therein. All spaces requesting information from the offeror shall be completed. Responses shall be typed or printed in ink. Use of erasable ink or pencil is not permitted. Any correction made by the offeror to any entry must be initialed.
3. **OPENING:** Opening shall be public in the School District Purchasing Department immediately following the advertised deadline date and time for receipt of submittals. Pursuant to Section 119.07(3) (b) Florida Statutes (1991) no further information regarding offers submitted will be made public until such time of intended award or ten (10) days, whichever is earlier.
4. **PUBLIC RECORD:** The School District is governed by the Public Record Law, Chapter 119, Florida Statutes. Pursuant to Chapter 119 only trade secrets as defined in Section 812.081, Florida Statute shall be exempt from disclosure.
5. **CLARIFICATION/CORRECTION OF ENTRY:** The School Board reserves the right to allow for the clarification of questionable entries and the correction of OBVIOUS MISTAKES.
6. **INTERPRETATION/ADDENDA:** Any questions concerning conditions and specifications shall be directed to the designated contact person. Those interpretations which may affect the eventual outcome of the invitation/offer shall be furnished in writing to prospective offerors.  
  
No interpretation shall be considered binding unless provided in writing by the School District Purchasing Department in the form of an addendum. Any addenda issued shall be acknowledged by signature and returned with offeror's response.  
  
Failure to acknowledge addenda may result in the offer not being considered.
7. **INCURRED EXPENSES:** This invitation does not commit the School Board to make an award nor shall the School Board be responsible for any cost or expense which may be incurred by any respondent in preparing and submitting a reply, or any cost or expense incurred by any respondent prior to the execution of a purchase order or contract agreement.
8. **PRICING:** Unless otherwise specified prices offered shall remain firm for a period of at least sixty (60) days; all pricing of goods shall include FOB DESTINATION, all packing, handling, shipping charges and delivery to any point(s) within the School District to a secure area or inside delivery; all prices of services shall include all expenses necessary to provide the service at the location specified.

9. **ADDITIONAL TERMS & CONDITIONS:** The School Board reserves the right to reject offers containing terms or conditions contradictory to those requested in the invitation specifications.
10. **TAXES:** The School District of Osceola County is exempt from Federal and State Tax for Tangible Personal Property. Florida State Exemption Certificate No. 85-8012500806C-9. Vendors or Contractors doing business with the School District of Osceola County shall not be exempted from paying sales tax to their suppliers for materials to fulfill contractual obligations with the District, nor shall any Vendor/Contractor be authorized to use the District's Tax Exemption Number in securing such materials.
11. **DISCOUNTS:** All discounts except those for prompt payment shall be considered in determining the lowest net cost for evaluation purposes.
12. **MEETS SPECIFICATIONS:** The offeror represents that all offers to this invitation shall meet or exceed the minimum requirements specified.
13. **BRAND NAME OR EQUAL:** If items requested by this invitation have been identified in the specifications by a Brand Name "OR EQUAL" description, such identification is intended to be descriptive and not restrictive and is to indicate the quality and characteristics of products that will be acceptable. Offers proposing "equal" products will be considered for award if such products are clearly identified in the offer and are determined by the School Board to meet fully the salient characteristic requirements listed in the specifications.

Unless the offeror clearly indicates in his/her offer that he/she is proposing an "equal" product, the offer shall be considered as offering the same brand name product referenced in the specifications.

If the offeror proposes to furnish an "equal" product, the brand name of the product to be furnished shall be clearly identified. The evaluation of offers and the determination as to equality of the product offered shall be the responsibility of the School Board and will be based on information furnished by the offeror. The Purchasing Department is not responsible for locating or securing any information which is not identified in the response and reasonably available to the Purchasing Department. To insure that sufficient information is available the offeror shall furnish as part of the response all descriptive material necessary for the Purchasing Department to determine whether the product offered meets the salient characteristics required by the specifications and establish exactly what the offeror proposes to furnish and what the School Board would be binding itself to purchase by making an award.

14. **SAMPLES:** When required, samples of products shall be furnished with response to the School Board at no charge. Samples may be tested and will not be returned to the offeror. The result of any and all testing shall be made available upon written request.
15. **SILENCE OF SPECIFICATIONS:** The apparent silence of these specifications or any supplemental specifications as to details or the omission from same of any detailed description concerning any point, shall be regarded as meaning that only the best commercial practices are to prevail and that only materials of first quality and correct type, size, and design are to be used. All workmanship shall be first quality. All interpretations of specifications shall be made upon the basis of this statement.
16. **GOVERNING LAWS AND VENUE:** All legal proceedings brought in connection with this Contract shall only be brought in a state court located in the State of Florida. Venue in state court shall be in Osceola County, Florida. Each party hereby agrees to submit to the personal jurisdiction of these courts for any lawsuits filed there against such party arising under or in connection with this Contract. In the event that a legal proceeding is brought for the enforcement of any term of the contract, or any right arising there from, the parties expressly waive their respective rights to have such action tried by jury trial and hereby consent to the use of non-jury trial for the adjudication of such suit.  
All questions concerning the validity, operation, interpretation, construction and enforcement of any terms, covenants or conditions of this Contract shall in all respects be governed by and determined in accordance with the laws of the State of Florida without giving effect to the choice of law principles thereof and unless otherwise preempted by federal law.

17. **ASSIGNMENT:** Any agreement to purchase issued pursuant to this invitation and award thereof and the monies which may become due hereunder are not assignable except with the prior written approval of the School Board.
18. **CONTENT OF INVITATION/RESPONSE:** The contents of this invitation, all terms, conditions, specifications, and requirements included herein and the accepted and awarded response thereto may be incorporated into an agreement to purchase and become legally binding. Any terms, conditions, specifications, and/or requirements specific to the item or service requested herein shall supersede the requirements of the "GENERAL CONDITIONS AND INSTRUCTIONS."
19. **INDEMNIFICATION OF SCHOOL BOARD**  
The Respondent shall indemnify, hold harmless and defend the School Board, its officers, agents, and employees, from or on account of any claims, losses, expenses, injuries, damages, or liability resulting or arising solely from Respondent's performance or nonperformance of services pursuant to this contract, excluding any claims, losses, expenses, injuries, damage, or liability resulting or arising from the actions of School Board, its officers, agents, or employees. The indemnification shall obligate the Respondent to defend, at its own expense or to provide for such defense, at School Board's option, any and all claims and suits brought against School Board that may result from Respondent's performance or nonperformance of services pursuant to the contract.
20. **PATENTS, COPYRIGHT, AND ROYALTIES:** The supplier/provider, without exception, shall indemnify and save harmless the School Board, its officers, agents and employees from liability of any nature of kind, including cost and expenses for or on account of any copyrighted, registered, patented, or unpatented invention, process, or article manufactured or used in the provision of goods and/or services, including use by the School Board. If the supplier/provider uses any design, device, or materials covered by letters, patent, copyright, or registration, it is mutually agreed and understood without exception that the quoted price shall include all royalties or costs arising from the use of such design, device, or materials in any way involved.
21. **TRAINING:** Unless otherwise specified suppliers/providers may be required at the convenience of and at no expense to the School Board to provide training to School Board personnel in the operation and maintenance of any item purchased as a result of this invitation.
22. **ACCEPTANCE:** Products purchased as a result of this invitation may be tested for compliance with specifications. Items delivered not conforming to specifications may be rejected and returned at Respondent's expense. Those items and items not delivered by the delivery date specified in accepted offer and/or purchase order may be purchased on the open market. Any increase in cost may be charged against the Respondent.
23. **SAFETY WARRANTY:** Any awarded supplier/provider including dealers, distributors, and/or manufacturers shall be responsible for having complied with all Federal, State, and local standards, regulations, and laws concerning the product or service specified, and the use thereof, applicable and effective on the date of manufacture or use or date in service including safety and environmental standards as apply to both private industry and governmental agencies.
24. **WARRANTY:** The offeror agrees that, unless otherwise specified, the product and/or service furnished as a result of this invitation and award thereto shall be covered by the most favorable commercial warranty the offeror gives to any customer for comparable quantities of such products and/or services and that the right and remedies provided herein are in addition to and do not limit any rights afforded to the School Board by any other provision of the invitation/offer.
25. **AWARD:** As the best interest of the School Board may require, the School Board reserves the right to make award(s) by individual item, group of items, all or none, or a combination thereof; on a geographical basis and/or on a district wide basis with one or more supplier(s) or provider(s); to reject any and all offers or waive any irregularity or technicality in offers received. Offerors are cautioned to make no assumptions unless their offer has been evaluated as being responsive. Any or all award(s) made as a result of this invitation shall conform to applicable School Board Rules, State Board Rules, and State of Florida Statutes.

26. **VIOLATIONS:** Any violation of any of the stipulations, terms, and/or conditions listed and/or included herein may result in the offeror/Respondent being removed from the School Board Bid list and the offeror/Respondent being disqualified from doing business with the School Board for a period of time to be determined on a case-by-case basis.
27. For purposes of this Invitation and evaluation of responses hereto the following shall apply: unit prices shall prevail over extended prices; written matter shall prevail over typed matter; numbers spelled in word form shall prevail over Arabic numerals (“one” over “1”). When not inconsistent with context words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.
28. **GENERAL INFORMATION ABOUT THE DISTRICT:** The District and its governing board were created pursuant to Section 4, Article IX of the Constitution of the State of Florida. The District is an independent taxing and reporting entity managed, controlled, operated, administered, and supervised by School District Officials in accordance with Chapters 1000-1013, Florida Statutes. The Board consists of five elected officials responsible for the adoption of policies, which govern the operation of the District public schools. The Superintendent of Schools is responsible for the administration and management of the schools and its departments within the applicable parameters of state laws, State Board of Education Rules, and School Board policies. The Superintendent is also specifically delegated the responsibility of maintaining a uniform system of records and accounts in the District by Section 1010.01, Florida Statutes as prescribed by the State Board of Education.

The District is coterminous with Osceola County. The annual budget for the District for 2007-2008 school year totals \$999,422,956, including an operating budget of \$461,355,469, and a capital budget of \$401,140,409. The District operates thirty-nine schools, which includes twenty-one (21) elementary schools, seven (7) middle schools, eight (8) high schools, two (2) K thru 8 schools, and one (1) 6th thru 12th grade school. The District is also responsible for twelve alternative education sites, and seven charter schools. The total full-time K-12 projected enrollment of public school students for August 2007 is 53,070. Growth is projected to continue in the future at an average of 2000 students per year.

29. **NO CONTACT: VENDORS, CONTRACTORS, CONSULTANTS, OR THEIR REPRESENTATIVES SHALL NOT MEET WITH, SPEAK INDIVIDUALLY WITH, OR OTHERWISE COMMUNICATE WITH SCHOOL BOARD MEMBERS, THE SUPERINTENDENT, OR SCHOOL DISTRICT STAFF, OTHER THAN THE DESIGNATED PURCHASING AGENT, ABOUT POTENTIAL CONTRACTS WITH THE SCHOOL BOARD ONCE AN INVITATION TO BID, REQUEST FOR QUOTE, OR REQUEST FOR PROPOSAL HAS BEEN ISSUED. ANY SUCH COMMUNICATION WITH INDIVIDUAL SCHOOL BOARD MEMBERS, THE SUPERINTENDENT, OR SCHOOL DISTRICT STAFF SHALL DISQUALIFY THE VENDOR, CONTRACTOR, OR CONSULTANT FROM RESPONDING TO THE SUBJECT INVITATION TO BID, REQUEST FOR QUOTE, OR REQUEST FOR PROPOSAL. (SCHOOL BOARD RULE SECTION 7.70.II.E)**

30. **AVAILABILITY OF FUNDS**  
The obligations of the School District of Osceola County under this award are subject to the availability of funds lawfully appropriated for its purpose by the State of Florida and the School Board. All purchases are contingent upon available District funding.

31. **DEFINITIONS:**
- RESPONDENT** – The term “respondent” used herein refers to any dealer, manufacturer, representative, distributor, or business organization that will be or has been awarded a contract and/or purchase order pursuant to the terms and conditions of the invitation and accepted offer.
- OFFEROR** – The term “offeror” used herein refers to any dealer, manufacturer, representative, distributor, or business organization submitting an offer to the County in response to this invitation.
- SCHOOL BOARD** – The term “School Board” herein refers to the School Board of Osceola County, Florida, and its duly authorized representatives and any school, department, or unit within the School District.
- USING AGENCY** – The term “using agency” used herein refers to any school, department, committee, authority, or another unit in the School District using supplies or procuring contractual services as provided for in the Purchasing Department of the School District.

**THE SCHOOL BOARD RESERVES THE RIGHT TO REJECT ANY OR ALL OFFERS, TO WAIVE INFORMALITIES, AND TO ACCEPT ALL OR ANY PART OF ANY OFFER AS MAY BE DEEMED TO BE IN THE BEST INTEREST OF THE SCHOOL BOARD**

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## 1.0 PURPOSE & OVERVIEW

The purpose of this Request For Proposal (RFP) is to solicit competitive sealed proposals for an Educational Facilities Impact Fees Consultant.

### 1.01 General Information about the District:

The District and its governing board were created pursuant to Section 4, Article IX of the Constitution of the State of Florida. The District is an independent taxing and reporting entity managed, controlled, operated, administered, and supervised by School District Officials in accordance with Chapters 1000-1013, Florida Statutes. The Board consists of five elected officials responsible for the adoption of policies, which govern the operation of the District public schools. The Superintendent of Schools is responsible for the administration and management of the schools and its departments within the applicable parameters of state laws, State Board of Education Rules, and School Board policies. The Superintendent is also specifically delegated the responsibility of maintaining a uniform system of records and accounts in the District by Section 1010.01, Florida Statutes as prescribed by the State Board of Education.

The District is coterminous with Osceola County. The annual budget for the District for 2007-2008 school year totals \$999,422,956, including an operating budget of \$461,355,469, and a capital budget of \$401,140,409. The District operates thirty-nine schools, which includes twenty-one (21) elementary schools, seven (7) middle schools, eight (8) high schools, two (2) K thru 8 schools, and one (1) 6th thru 12th grade school. The District is also responsible for twelve alternative education sites, and seven charter schools. The total full-time K-12 projected enrollment of public school students for August 2007 is 53,070. Growth is projected to continue in the future at an average of 2000 students per year.

## 2.0 SCOPE OF SERVICES

The School District of Osceola County, Florida is seeking proposals from responsive, responsible, qualified firms to provide Consultant Services for the Educational Impact Fees as required by the District. The services shall result in an updated report of the Impact Fees for the Educational Facilities in Osceola County, Florida based on the District's 2008-2009 5-Year Capital Outlay Plan and the Department of Education Capital Outlay FTE Projection. The Capital Outlay FTE projection will be available July 2008 and the District's 5-Year Capital Outlay Plan will be available in October 2008. The Consultant's report shall be available for District staff to review by January 31, 2009. The District must submit the Final Report to the Osceola County Board of County Commissioners by July 1, 2009. A copy of the most recent update not adopted by the Osceola County Board of County Commissioners is attached. (Attachment K) The final report must be in compliance with methodology as approved by applicable legal precedent.

The Consultant shall perform the services described below in order to provide an updated Summary Report of the Educational Facilities Impact Fee for the District.

### 1. Research

Local data will be updated to supply the facts that will be the basis of the impact fee report calculations. The following items list the primary local data that will be updated during the research phase and further defines the consultant's responsibilities:

- A. Cost of schools and support facilities, including cost of land, by school level.
- B. Enrollment capacity of new schools, by school level.
- C. Average number of public school students per household, by size and type of dwelling.
- D. Historical capital expenditures and revenue sources.
- E. Projections of future revenue sources and amounts.
- F. Current enrollment and forecasts of future enrollment (10 years) by level.

- G. Projection of support facilities requirements.
- H. Inventory of current facilities.
- I. Coordination with the appropriate District staff so all necessary information is provided to perform accurate calculations.
- J. Advisement to the appropriate District staff on changes in related state laws as they occur so the District may react in a timely fashion to the changes.

The District staff will locate and assemble the raw data available from existing District records. Item C, the average number of public school students per dwelling unit will be provided by the Consultant. The Consultant shall provide templates for the staff to report requested data. This template will be distributed early in the process and designed only to collect the specific data and format needed. In order to avoid confusion and delays the Consultant's staff shall work with District staff to ensure that the data is provided on a timely basis.

## 2. Analysis and Technical Study

The data will be audited and analyzed by the Consultant; the data will then be used to calculate the updated impact fee. The results will be documented in the Consultant's report and will cover the research and technical study. The Consultant shall be prepared to testify on behalf of the Board if necessary at the hourly rates proposed.

## 3. Cost

The District shall pay the Consultant a not to exceed amount for services rendered and expenses incurred by the Consultant. This cost shall include a minimum of four on-site visits: (1) to meet with District staff during the research phase, (2) to present results to the School Board, (3) to meet with community interests groups including Growth Management Task Force and (4) to present the results to the Osceola County Board of County Commissioners. Additional necessary visits can be arranged for additional costs that include professional services in preparing for and attending meetings, and actual out-of-pocket travel expenses.

The not to exceed amount submitted and/or negotiated with the Consultant shall be charged on a basis of time plus reimbursable expenses. Time shall be charged at hourly rates, billed in tenths of hours using the same rates as the Consultant submits in this RFP. Reimbursable expenses shall be charged at actual cost. Travel expenses shall be limited to the maximum rates prescribed by the District for mileage and per diem or subsistence.

Invoices shall be submitted once per month, and shall specify for each person who worked on the contract during the month: name, position title, number of hours, hourly rate, and total cost (hours X rate). In addition, invoices shall itemize expenses incurred.

### 2.01 Confidentiality of Reports

Unless otherwise required by law, any reports, data or other similar information given to or prepared or assembled by the Consultant under this contract which the District requests to be kept confidential shall not be made available to any individual or organization by the Consultant without prior written approval of the District.

### 3.0 GENERAL TERMS & CONDITIONS

#### 3.01 RFP Closing Date

Proposals must be received by the School District of Osceola County's Purchasing Department, 817 Bill Beck Blvd, Building 2000, Kissimmee, Florida 34744-4495, no later than **2:00 p.m., local time, on May 14, 2008**. Proposals received after this time will not be considered.

#### 3.02 Proposed Schedule

April 14, 2008	Release date for Request for Proposal
April 23, 2008	Pre-proposal Conference
May 5, 2008	Final date to receive written questions
May 7, 2008	Release date for Addenda to answer written questions
May 14, 2008	Closing Date
May 22, 2008	Written Evaluations (Committee)
May 29, 2008	Oral Presentations
June 4, 2008	Pre-Contract Meetings
June 6, 2008	Submittal of Final Contract for Board Approval
June 17, 2008	Board Approval

#### 3.03 Delivery of Proposals

All proposals shall be sealed and delivered or mailed to (faxes/e-mails will not be accepted):

School District of Osceola County, Florida  
 Purchasing Department, Building 2000  
 817 Bill Beck Blvd  
 Kissimmee, Florida 34744-4495

Mark package(s) "**RFP # 08-P-098 CJ Educational Facilities Impact Fee Consultant**"

**Note:** Please ensure that if a third party carrier (Federal Express, Airborne, UPS, USPS, etc.) is used, that they are properly instructed to deliver your proposal **only** to the Purchasing Department, Building 2000 at the above address. To be considered, **a proposal must be received and accepted in the Purchasing Office before the RFP Closing Date and Time.**

#### 3.04 Pre-proposal Conference

- A. A pre-proposal conference will be held in the Purchasing Conference Room, 817 Bill Beck Blvd., Building 2000, at 9:30 a.m., local time, Wednesday, April 23, 2008. While this is not mandatory, all interested parties are encouraged to attend and participate.
- B. Individuals covered by the Americans with Disabilities Act of 1990 in need of accommodations to attend public RFP openings or meetings should contact the School Board's Purchasing Department, Kissimmee, Florida, (407) 870-4625 at least five (5) days prior to the date.

#### 3.05 Public RFP Opening

- A. Only the names of the firms submitting proposals will be read aloud at the RFP opening. The proposals will be available for inspection during normal business hours in the Purchasing Departments ten (10) days of the closing date, by appointment (Florida Statute 119.071 (1) (b)).
- B. A complete recap of proposals will be available after the committee makes a recommendation. A copy of the completed proposal recap will be available on our Purchasing web page at <http://www.osceola.k12.fl.us/depts/Purchasing/index.asp> within ten (10) days.

- C. Individuals covered by the Americans with Disabilities Act of 1990 in need of accommodations to attend public RFP openings or meetings should contact the School Board's Purchasing Department, Kissimmee, Florida, (407) 870-4625 at least five (5) days prior to the date.

### 3.06 Proposal Form

- A. See **Submittal Requirements** for complete details.  
**It is not necessary to return every page of this document with the Proposal; return only the pages that require signatures or information.**
- B. Each respondent shall submit Seven (7) complete sets of their Proposal response all submittals shall include the fee structures:
- **One (1)** hard copy marked "ORIGINAL"
  - **Six (6)** hard copies marked "COPY"
  - **Two (2) COMPLETE electronic copies on CD's, in PDF format (Excel spreadsheets shall not be recorded in PDF). Note solicitation number and name of company on the disk.**
- If a Non-disclosure Agreement is signed and confidential materials are submitted, such confidential materials shall not be included on the master CD. Confidential materials shall be segregated on a separate CD, plainly labeled "Confidential Materials".**
- C. Terms and conditions differing from those in this RFP may be cause for disqualification of the proposal.

### 3.07 Questions Concerning RFP

- A. Questions concerning any portion of this RFP shall be directed in writing or by e-mail to the Purchasing Agent named herein, who shall be the official point of contact for this RFP. Questions should be submitted at least ten (10) days before the closing date.
- B. Mark cover page or envelope(s) **"Questions on RFP #SDOC 08-P-098 CJ, Educational Facilities Impact Fee Consultant"**.

Submit questions to:  
 Cheryl M. Jessee, Senior Buyer  
 Telephone: 407.870.4627  
 Fax: 407.870.4616  
 E-mail: [jesseec@osceola.k12.fl.us](mailto:jesseec@osceola.k12.fl.us)

### 3.08 Clarification and Addenda

- A. It is incumbent upon each respondent to carefully examine all specifications, terms, and conditions contained herein. Any inquiries, suggestions, or requests concerning interpretation, clarification or additional information shall be made in writing, (facsimile transmissions acceptable, 407.870.4616) through the Purchasing Agent named herein. The School Board will not be responsible for any oral representation(s) given by any employee, representative or others. The issuance of a written addendum is the only official method by which interpretation, clarification or additional information can be given.
- B. If it becomes necessary to revise or amend any part of this RFP, notice may be obtained by accessing our web site. Respondents in their proposal must acknowledge receipts of amendments. **Each respondent should ensure that they have received all addenda and amendments to this RFP before submitting their proposal. Please check the School District's web site at <http://www.osceola.k12.fl.us/depts/Purchasing/index.asp> for any addenda.**



**3.09 Award**

The School Board reserves the right to award the contract to the respondent(s) that the School Board deems to offer the best overall proposal(s). The School Board is therefore not bound to accept a proposal on the basis of lowest price. In addition, the School Board at its sole discretion, reserves the right to cancel this RFP, to reject any and all proposals, to waive any and all informalities and/or irregularities, or to re-advertise with either the identical or revised specifications, if it is deemed to be in the best interest of the School Board to do so. The School Board also reserves the right to make multiple awards, based on experience and qualifications if it is deemed to be in the School Board's best interest. The District reserves the right to further negotiate any proposal, including price, with the highest rated proposer. If an agreement cannot be reached with the highest rated proposer, the District reserves the right to negotiate and recommend award to the next highest proposer or subsequent proposers until an agreement is reached.

**3.10 LIQUIDATED DAMAGES**

In case of failure on the part of the Consultant to complete the work within the time(s) specified in the Agreement, or within such additional time(s) as may be granted by formal action of the School District of Osceola County or fails to prosecute the work, or any separable part thereof, with such diligence as will ensure its completion within the time(s) specified in the Agreement or any extensions thereof, the School District of Osceola County will suffer damage, the amount of which is difficult, if not impossible to ascertain. Therefore, the Consultant shall pay to the District, as liquidated damages, the sum of \$1,000.00 for each calendar day of delay that actual completion extends beyond the time limit specified until such reasonable time as may be required for final completion of the work. In no way shall costs for liquidated damages be construed as a penalty on the Respondent.

**3.11 Other Agencies**

- A. All respondents awarded contracts from this solicitation may, upon mutual agreement with the awarded respondent(s), permit any school board, community college, state university, municipality or other governmental entity to participate in the contract under the same prices, terms and conditions.
- B. Further, it is understood that each entity will issue its own purchase order to the awarded respondent(s).

**3.12 F.O.B. Point**

The F.O.B. points for this contract and for all purchases made under it shall be as specified by the using entity (in accordance with the RFP proposal form), in Osceola County, Florida. Delivery will not be complete until the using department has accepted each item. Delivery to a common carrier shall not constitute delivery to the ordering agency. All disputes shall be between the seller / respondent and the carrier.

**3.13 Assignment**

The awarded respondent shall not assign, transfer, convey, sublet, or otherwise dispose of any award or of any of its rights, title, or interests therein, without the prior written consent of the School Board. School Board shall approve any requests for assignments and/or sub-letting of leasing contracts prior to responding to such requests.

**3.14 Contract**

- A. The contents of this RFP and all provisions of the successful proposal deemed pertinent by the School Board may be incorporated into a contract and become legally binding. A separate agreement document, other than the purchase order, will be issued; see attached preliminary draft (Attachment "A"). The attached draft agreement is the School Board's standard agreement and may be revised subject to negotiation between the School Board and the Consultant. Content of the final agreement may contain changes from the School Board's perspective as a result of the RFP process and submittal(s) received. The final negotiated agreement shall include the scope of services as outlined in Section 2.0 of the RFP along with the successful Consultant's submittal. School Board contracts are subject to review by the School Board Attorney or designee for determination of legal form and substantive sufficiency.
- B. The Director of Purchasing and Warehouse, Superintendent and Board Chair are the sole Contracting Officers for the School Board, and only they or their designee is authorized to make changes to any contract.
- C. The School Board shall be responsible for only those orders placed by the School Board on an authorized signed Purchase Order or Price Agreement. The School Board shall not be responsible for any order, change substitution or any other discrepancy from the Purchase Order or Price Agreement. If there is any question about the authenticity of a Purchase Order, Price Agreement or change order, the respondent should promptly contact the Purchasing Department at 407.870.4625.

**3.15 Disclosure of Proposal Content**

- A. All material submitted becomes the property of the School Board and may be returned only at the School Board's option. The School Board has the right to use any or all ideas presented in any reply to this Bid. Selection or rejection of any Bid Submittal does not affect this right.
- B. The School Board is governed by the Public Record Law, Chapter 119, Florida Statutes (F.S.). Only trade secrets as defined in Section 812.081(1)(c), F.S. or financial statements required by the School Board for road or public works projects as defined in 119.071(1)(c), F.S. (hereinafter "Confidential Materials"), may be exempt from disclosure. If a respondent submits Confidential Materials, the information **must be segregated**, accompanied by an executed Non-disclosure Agreement for Confidential Materials and each pertinent page must be clearly labeled "confidential" or "trade secret." The School Board will not disclose such Confidential Materials, subject to the conditions detailed within the Agreement, which is attached to this solicitation. When such segregated and labeled materials are received with an executed Agreement, the School Board shall execute the Agreement and send the respondent a "Receipt for Trade Secret Information."

**RETURN THIS FORM *ONLY* IF CONFIDENTIAL MATERIALS ARE BEING INCLUDED IN THE SUBMITTAL. PLEASE READ THE SECTION IN THE RFP DOCUMENT TO DETERMINE IF THIS APPLIES. THE CONFIDENTIAL MATERIALS WILL ONLY BE HANDED OUT TO THE SELECTION COMMITTEE ON THE DAY OF THE EVALUATION, THEREFORE, THE EVALUATION OF THIS MATERIAL WILL BE LIMITED TO THAT TIME ONLY.**

**3.16 Respondent's Responsibility**

A respondent, by submitting a proposal, represents that:

- A. The respondent has read and understands the RFP in its entirety that and the proposal is made in accordance therewith, and;
- B. The respondent possesses the capabilities, resources, and personnel necessary to provide efficient and successful service to the School Board, and;
- C. Before submitting a proposal, each respondent shall make all investigations and examinations necessary to ascertain site and/or local conditions and requirements affecting the full performance of the contract and to verify any representations made by the School Board, upon which the respondent will rely. If the respondent receives an award because of its proposal submission, failure to have made such investigations and examinations will in no way relieve the respondent from its obligations to comply in every detail with all provisions and requirements of the contract, nor will a plea of ignorance of such conditions and requirements be accepted as a basis for any claim by the respondent for additional compensation or relief.
- D. The respondent will be held responsible for any and all discrepancies, errors, etc. in discounts or rebates which are discovered during the contract term or up to and including three (3) fiscal years following the School Board's annual audit.

**3.17 Payment Terms**

- A. The School Board will remit full payment on all undisputed invoices within forty-five (45) days from receipt by the appropriate person(s) (to be designated at time of contract) of the invoice(s) or receipt of all products or services ordered.
- B. Pursuant to Chapter 218, Florida Statutes, the School Board will pay interest not to exceed one percent (1%) per month on all undisputed invoices not paid within forty-five (45) days after receipt of the entire order of the commodity or service, and a properly completed invoice, whichever is later.
- C. The School Board has the capabilities of Electronic Fund Transfer (EFT). List discounts, if any, for payments through Electronic Funds Transfer (EFT).
- D. By submitting a proposal (offer) to the School Board, the respondent expressly agrees that if awarded a contract, the School Board may withhold from any payment, monies owed by the respondent to the School Board for any legal obligation between the respondent and the School Board.

**3.18 Conflict of Interest Form**

All respondents shall complete and have notarized the attached disclosure form of any potential conflict of interest that the respondent may have due to ownership, other clients, contracts, or interest associated with this project.

**3.19 Licenses and Certificates**

- A. The School Board reserves the right to require proof that the respondent is an established business and is abiding by the ordinances, regulation, and the laws the State of Florida, such as but not limited to: Business Tax Receipts, business licenses, Florida sales tax registration, Federal Employers Identification Number, AND;

- B. Each firm and personnel who will be performing services on behalf of the firm for the Board are to be properly licensed to do business in its area of expertise in the State of Florida. Each firm shall submit with their proposal a copy of, and maintain the appropriate licenses and certificates during the term of the contract and any extensions. Failure to maintain these requirements shall be cause for immediate termination of the contract.

### **3.20 Minor Irregularities**

The School Board reserves the right to waive minor irregularities in proposals, providing such action is in the best interest of the School Board. Minor irregularities are defined as those that have no adverse effect on the School Board's best interests, and will not affect the outcome of the selection process by giving the respondent an advantage or benefit not enjoyed by other respondents.

### **3.21 Governing Law and Venue**

All legal proceedings brought in connection with this Contract shall only be brought in a state court located in the State of Florida. Each party hereby agrees to submit to the personal jurisdiction of these courts for any lawsuits filed there against such party arising under or in connection with this Contract. In the event that a legal proceeding is brought for the enforcement of any term of the contract, or any right arising there from, the parties expressly waive their respective rights to have such action tried by jury trial and hereby consent to the use of non-jury trial for the adjudication of such suit.

All questions concerning the validity, operation, interpretation, construction and enforcement of any terms, covenants or conditions of this Contract shall in all respects be governed by and determined in accordance with the laws of the State of Florida without giving effect to the choice of law principles thereof and unless otherwise preempted by federal law.

### **3.22 Insurance Requirements**

Each respondent shall include in their submittal proof of insurance capabilities, including but not limited to, the following requirements:

- A. Workers' Compensation – As required by Florida law. The Workers' Compensation policy shall state that it cannot be canceled or materially changed without first giving thirty (30) days prior notice thereof in writing to the School Board. Firms that have owner/operators that have filed a "Notice of Election to be Exempt" shall supply a copy of said notice.

Requirements for Respondents that qualify for an exemption under the Florida Worker's Compensation law in Chapter 440 Florida Statutes are detailed below:

Incorporated or unincorporated firms with less than four employees shall be required to sign a Hold Harmless Agreement relieving the School Board of liability in the event they and/or their employees are injured while providing goods and/or services to the School Board.

Incorporated or unincorporated firms with four or more employees shall be required to provide a copy of their "Notice of Election to be Exempt", along with valid proof of coverage for non-exempt employees.

**The waiver mentioned above is included as an attachment to this bid. Waivers shall be returned with the bid proposal as detailed in the Submittal Requirements.**

- B. Commercial General Liability Insurance
  - 1. Each occurrence
    - (a) One Million Dollars (\$1,000,000)
  - 2. Aggregate
    - (b) One Million Dollars (\$1,000,000)
- C. Professional Liability Insurance
  - 1. (a) One Million Dollars (\$1,000,000) per occurrence  
Two Million Dollars (\$2,000,000) aggregate with defense costs in addition to limits.

The respondent shall carry Property Damage and Public Liability Insurance in the minimum amounts listed above, and Worker's Compensation and Employer's Liability Insurance in statutory amounts. All insurance policies shall be issued by insurers licensed to do business in the State of Florida and any insuring company is required to have a minimum rating of B, Class VIII in the "Best Key Rating Guide" published by A.M. Best & Company, Inc.

If coverage as required is written on a claims-made basis, the Respondent warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this Agreement; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 3 years beginning from the time that work under the Agreement is completed.

The respondent shall either cover any subcontractors on its policy or require the subcontractor to obtain coverage to meet these requirements and file appropriate forms with the School Board.

Certificate of Insurance: A certificate of insurance indicating that the respondent has coverage in accordance with the requirements herein set forth shall be furnished by the respondent to the School Board Representative prior to the execution of the contract and annually upon renewal thereafter. Respondent agrees that School Board will make no payments pursuant to the terms of the contract until all required proof or evidence of insurance have been provided to the School Board Representative. Respondent agrees that the insurer shall waive its rights of subrogation, if any, against the School Board. These shall be completed by the authorized Resident Agent and returned to the Purchasing Office. This certificate shall be dated and show:

- (1) The name of the insured respondent, the specified job by name, name of the insurer, the number of the policy, its effective date and its termination date.
- (2) Statement that the Insurer will mail notice to the School Board at least thirty (30) days prior to any material changes in provisions or cancellation of the policy.
- (3) School Board shall be named as an additional insured on General Liability Insurance as evidenced by the endorsement.

Loss Deductible Clause: The School Board shall be exempt from, and in no way liable for, any sums of money that may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the respondent and/or subcontractor providing such insurance.

**3.23 Award Term**

The School Board is looking to promote partnership relationships within the policies and procedures of public procurement. Pursuant toward that end, the successful respondent(s) shall be awarded an initial five (5) year term with one (1) subsequent five (5) year renewal. All renewals will be contingent upon mutual written agreement and, with School Board approval.

**3.24 Cost Adjustments**

Prices offered or negotiated shall be firm for the initial contract term (5 years). Therefore, any extensions which may be approved by the Board shall be subject to the following: Costs for any extension terms shall be subject to an adjustment only if increase or decrease occurs in the industry. Such adjustment shall be based on the latest yearly percentage increase in the All Urban Consumer Price Index (CPI-U) as published by the Bureau of Labor Statistics, U.S. Department of Labor, and shall not exceed five percent (5%).

The yearly increase or decrease in the CPI SHALL BE THE LATEST Index published and available for the calendar year ending 12/31, prior to the end of the contract year then in effect, as compared to the index for the comparable month, one year period.

Any requested adjustment shall be fully documented and submitted to the District at least ninety (90) days prior to the contract anniversary date. Any approved cost adjustments shall become effective on the beginning date of the approved contract extension.

**3.25 Unusual Costs**

The Respondent may petition the School Board at any time for an additional rate adjustment on the basis of extraordinary and unusual changes in the costs of operation that could not reasonably be foreseen by a prudent operator and which, by all reasonable expectations, will continue for at least one year. The Respondent's request shall contain substantial proof and justification to support the need for the rate adjustment. The School Board may request from the Respondent, and the Respondent shall provide, such further information as may be reasonably necessary in making its determination. The School Board shall approve or deny the request, in whole or in part, within sixty (60) days of receipt of the request and all other additional information required by the School Board. Any price redetermination shall be solely based upon the documentation provided and the School Board reserves the right to rescind any price relief granted should the circumstances change and prices go down.

**3.26 Deviations**

All proposals must clearly and with specific detail, note all deviations to the **exact** requirements imposed upon the respondent by the Specifications. Such deviations must be stated upon the Proposal Form otherwise School Board will consider the subject proposals as being made in strict compliance with said Specifications to respondents; the respondent being held therefore accountable and responsible. Respondents are hereby advised that the School Board will only consider proposals that meet the exact requirements imposed by the Specifications; except, however, said proposals may not be subject to such rejection where, **at the sole discretion of the School Board**, the stated deviation is considered to be equal or better than the imposed requirement and where said deviation does not destroy the competitive character of the RFP process by affecting the amount of the proposal such that an advantage or benefit is gained to the detriment of the other respondents.

**3.27 Waiver of Claims**

Once this contract expires, or final payment has been requested and made, the awarded respondent shall have no more than thirty (30) calendar days to present or file any claims against the School Board concerning this contract. After that period, the School Board will consider the respondent to have waived any right to claims against the School Board concerning this agreement.

**3.28 Termination / Cancellation of Contract**

The School Board reserves the right to cancel the contract without cause with a minimum thirty (30) days written notice.

Termination or cancellation of the contract will not relieve the respondent of any obligations for any deliverables entered into prior to the termination of the contract (i.e., reports, statements of accounts, etc., required and not received).

Termination or cancellation of the contract will not relieve the respondent of any obligations or liabilities resulting from any acts committed by the respondent prior to the termination of the contract.

The Respondent may cancel the resulting contract with ninety (90) days **written** notice to the Director of Purchasing and Warehouse. Failure to provide proper notice to the School Board may result in the respondent being barred from future business with the School Board.

**3.29 Termination for Default**

The School Board's Contract Administrator shall notify, in writing, the respondent of deficiencies or default in the performance of its duties under the Contract. Three separate documented instances of deficiency or failure to perform in accordance with the specifications contained herein shall constitute cause for termination for default, unless specifically specified to the contrary elsewhere within this solicitation. It shall be at the School Board's discretion whether to exercise the right to terminate. Respondent shall not be found in default for events arising due to acts of God.

**3.30 Termination for School Board's Convenience**

The performance of work under this contract may be terminated in accordance with this clause in whole, or from the time in part, whenever the School Board representative shall determine that such termination is in the best interest of the School Board. Any such termination shall be effected by the delivery to the respondent of a Notice of Termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective. Upon such termination for convenience, respondent shall be entitled to payment, in accordance with the payment provisions, for services rendered up to the termination date and the School Board shall have no other obligations to respondent. Respondent shall be obligated to continue performance of contract services, in accordance with this contract, until the termination date and shall have no further obligation to perform services after the termination date. The respondent may cancel the resulting contract with ninety (90) days **written** notice to the Director of Purchasing and Warehouse.

**3.31 Incurred Expenses**

This RFP does not commit the School Board to award a contract nor shall the School Board be responsible for any cost or expense which may be incurred by the respondent in preparing and submitting the proposal called for in this RFP, or any cost or expense incurred by the respondent prior to the execution of a contract agreement.

**3.32 Post-Proposal Discussions with Respondents**

It is the School Board's intent to award a contract(s) to the respondent(s) deemed most advantageous to the School Board in accordance with the evaluation criteria specified elsewhere in this RFP. The School Board reserves the right however, to conduct post-closing discussions with any respondent who has a realistic possibility of contract award including, but, not limited to: request for additional information, competitive negotiations, and best and final offers.

**3.33 Presentations by Respondents**

- A. The School Board, at its sole discretion, may ask individual respondents to make oral presentations, informal telephone interviews and/or demonstrations without charge to the School Board.
- B. The School Board reserves the right to require any respondent to demonstrate to the satisfaction of the School Board that the respondent has the fiscal and managerial abilities to properly furnish the services proposed and required to fulfill the contract. The demonstration must satisfy the School Board and the School Board shall be the sole judge of compliance.
- C. Respondents are cautioned not to assume that presentations will be required and should include all pertinent and required information in their original proposal package.

**3.34 Minimum Specifications**

The specifications listed in the Scope of Service are the minimum required performance specifications for this RFP. They are not intended to limit competition nor specify any particular respondent but to ensure that the School Board receives quality services.

**3.35 Compliance with Laws and Regulations**

The respondent shall be responsible to know and to apply all applicable federal and state laws, all local laws, ordinances, rules, regulations, and all orders and decrees of bodies or tribunals having jurisdiction or authority which in any manner affect the work, or which in any way affect the conduct of the work. Respondent shall always observe and comply with all such laws, ordinances, rules, regulations, orders, and decrees. Respondent shall protect and indemnify the School Board and all its officers, agents, servants, or employees against any claim or liability arising from or based on the violation of any such law, ordinance, rule, regulation, order, or decree caused or committed by respondent, its representatives, subcontractors, sub consultants, professional associates, agents, servants, or employees. Additionally, respondent shall obtain and maintain at its own expense all licenses and permits to conduct business pursuant to this contract from the Federal Government, State of Florida, Osceola County, or municipalities when legally required and maintain same in full force and effect during the term of the contract.

**3.36 Indemnification of School Board**

The respondent shall indemnify hold harmless and defend the School Board, its officers, agents, and employees, from or on account of any claims losses, expenses, injuries, damages, or liability resulting or arising solely from respondent's performance or nonperformance of services pursuant to this contract, excluding any claims, losses, expenses, injuries, damage, or liability resulting or arising from the actions of School Board, its officers, agents, or employees. The indemnification shall obligate the respondent to defend at its own expense or to provide for such defense, at School Board's option, any and all claims and suits brought against School Board, which may result from respondent's performance or nonperformance of services pursuant to the contract.

**3.37 Records & Right to Audit**

The respondent shall maintain such financial records and other records as may be prescribed by the School Board or by applicable federal and state laws, rules, and regulations. The respondent shall retain these records for a period of five (5) years after final payment, or until they are audited by the School Board, whichever event occurs first. These records shall be made available during the term of the contract and the subsequent three year period for examination, transcription, and audit by the School Board, its designees, or other entities authorized by law.



**3.38 Changes in Scope of Services**

- A. The School Board may order changes in the work consisting of additions, deletions, or other revisions within the general scope of the contract. No claims may be made by the respondent that the scope of the project or of the respondent's services has been changed, requiring changes to the amount of compensation to the respondent or other adjustments to the contract, unless such changes or adjustments have been made by written amendment to the contract signed by the School Board Representative, School Board's Director of Purchasing and Warehouse, and the respondent.
- B. If the respondent believes that any particular work is not within the scope of services of the contract, is a material change, or will otherwise require more compensation to the respondent, the respondent must immediately notify the School Board's Representative in writing of this belief. If the School Board's Representative believes that the particular work is within the scope of the contract as written, the respondent will be ordered to and shall continue with the work as changed and at the cost stated for the work within the scope. The respondent must assert its right to an adjustment under this clause within thirty (30) days from the date of receipt of the written order.
- C. The School Board reserves the right to negotiate with the awarded respondent(s) without completing the competitive RFP process for materials, products, and/or services similar in nature to those specified within this RFP for which requirements were not known when the RFP was released.

**3.39 Modifications Due to Public Welfare or Change in Law**

The School Board shall have the power to make changes in the contract as the result of changes in law and/or Ordinances of the School Board to impose new rules and regulations on the respondent under the contract relative to the scope and methods of providing services as shall from time-to-time be necessary and desirable for the public welfare. The School Board shall give the respondent notice of any proposed change and an opportunity to be heard concerning those matters. The scope and method of providing services as referenced herein shall also be liberally construed to include, but is not limited to the manner, procedures, operations and obligations, financial or otherwise, of the respondent. In the event any future change in Federal, State or County law or the Ordinances of Osceola School Board materially alters the obligations of the respondent, or the benefits to the School Board, then the contract shall be amended consistent therewith. Should these amendments materially alter the obligations of the respondent, then the respondent or the School Board shall be entitled to an adjustment in the rates and charges established under the contract. Nothing contained in the contract shall require any party to perform any act or function contrary to law. The School Board and respondent agree to enter into good faith negotiations regarding modifications to the contract which may be required in order to implement changes in the interest of the public welfare or due to change in law. When such modifications are made to the contract, the School Board and the respondent shall negotiate in good faith, a reasonable and appropriate adjustment for any changes in services or other obligations required of the respondent directly and demonstrably due to any modification in the contract under this clause.

**3.40 Right to Require Performance**

- A. The failure of the School Board at any time to require performance by the respondent of any provision hereof shall in no way affect the right of the School Board thereafter to enforce same, nor shall waiver by the School Board of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

- B. In the event of failure of the respondent to deliver services in accordance with the contract terms and conditions, the School Board, after due written notice, may procure the services from other sources and hold the respondent responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that the School Board may have.

**3.41 Force Majeure**

The School Board and the respondent will exercise every reasonable effort to meet their respective obligations as outlined in this RFP and the ensuing contract, but shall not be liable for delays resulting from force majeure or other causes beyond their reasonable control, including, but not limited to, compliance with any Government law or regulation, acts of God, acts or omissions of the other party, Government acts or omissions, fires, strikes, national disasters, wars, riots, transportation problems and/or any other cause whatsoever beyond the reasonable control of the parties. Any such cause will extend the performance of the delayed obligation to the extent of the delay so incurred.

**3.42 Respondent's Personnel**

The respondent shall be responsible for ensuring that its employees, agents and subcontractors comply with all applicable laws and regulations and meet all federal, state and local requirements related to their employment and position.

The respondent certifies that it does not and will not during the performance of the contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986, as amended.

During the performance of the contract, the respondent agrees to the following:

The respondent shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, handicap or national origin, except when such condition is a bona fide occupational qualification reasonably necessary for the normal operations of the respondent. The respondent agrees to post in conspicuous places, visible to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

The respondent, in all solicitations or advertisements for employees placed by or on behalf of the respondent, shall state that such respondent is an Equal Opportunity Employer.

Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

The respondent shall include the provisions of the foregoing paragraphs above in every subcontract or purchase order so that the provisions will be binding upon each respondent.

The respondent and any subcontractor shall pay all employees working on this contract not less than minimum wage specified in the Fair Labor Standards Act (29 CFR 510-794) as amended.

Any information concerning the School Board, its products, services, personnel, policies or any other aspect of its business learned by the respondent or personnel furnished by the respondent in the course of providing services pursuant to the Contract, shall be held in confidence and shall not be disclosed by the respondent or any employee or agents of the respondent or personnel furnished by the respondent, without the prior written consent of the School Board.

**3.43 Claim Notice**

The respondent shall immediately report in writing to the School Board's designated representative or agent any incident that might reasonably be expected to result in any claim under any of the coverage mentioned herein. The respondent agrees to cooperate with the School Board in promptly releasing reasonable information periodically as to the disposition of any claims, including a resume of claims experience relating to all respondent operations at the School Board project site.

**3.44 Contract/Respondent Relationship**

*The School Board reserves the right to award one or more contracts to provide the required services as deemed to be in the best interest of the School Board.*

Any awarded respondent shall provide the services required herein strictly under a contractual relationship with the School Board and is not, nor shall be, construed to be an agent or employee of the School Board. As an independent respondent the awarded respondent shall pay any and all applicable taxes required by law; shall comply with all pertinent Federal, State, and local statutes including, but not limited to, the Fair Labor Standards Act, The Americans with Disabilities Act, the Federal Civil Rights Act, and any and all relevant employment laws. The respondent shall be responsible for all income tax, FICA, and any other withholdings from its employees or sub-respondent's wages or salaries. Benefits for same shall be the responsibility of the respondent including, but not limited to, health and life insurance, mandatory social security, retirement, liability/risk coverage, and worker's and unemployment compensation.

The independent respondent shall hire, compensate, supervise, and terminate members of its work force; shall direct and control the manner in which work is performed including conditions under which individuals will be assigned duties, how individuals will report, and the hours individuals will perform.

The independent respondent shall not be provided special space, facilities, or equipment by the School Board to perform any of the duties required by the contract nor shall the School Board pay for any business, travel, or training expenses or any other contract performance expenses not specifically set forth in the specifications.

Prior to commencing work the successful respondent will be required to sign a written contract incorporating the specifications and terms of the Request for Proposal and the response thereto (See Attachment "A"). Any contract awarded as a result of this RFP shall begin on or about July 1, 2008 and continue through June 30, 2013. One (1) subsequent five (5) year renewal period will be allowed upon mutual consent of the School Board and the awarded respondent. The renewal option shall be exercised only if all original contract terms, conditions, and prices remain the same.

The independent respondent shall not be exclusively bound to the School Board and may provide professional services to other private and public entities as long as it is not in direct conflict and does not provide a conflict of interest with the services to be performed for the School Board.

**3.45 Proposal Acceptance/Rejection**

The School Board reserves the right to accept or reject any or all proposals received as a result of this RFP, or to negotiate separately with competing respondents, and to waive any informalities, defects, or irregularities in any proposal, or to accept that proposal or proposals, which in the judgment of the proper officials, is in the best interest of the School Board.

**3.46 Funding Out/Termination/Cancellation**

- A. Florida School Laws (Section 1000, Florida Statutes) prohibit School Boards from creating obligations on anticipation of budgeted revenues from one fiscal year to another without year-to-year extension provisions in the Contracts.
- B. It is necessary that fiscal funding out provisions be included in all proposals in which the terms are for periods longer than one (1) year.
- C. Therefore, the following funding out provisions is an integral part of this proposal and must be agreed to by all proposers:

The School Board may, during the contract period, terminate or discontinue the services covered in this proposal at the end of the School Board's then current fiscal year upon thirty (30) days prior written notice to the successful proposer.

Such written notice will state:

- a. That the lack of appropriated funds is the reason for termination, and
- b. Contract not to replace the services being terminated with services similar to those covered in this proposal from another vendor in the succeeding funding period.
- c. "This written notification will thereafter release the School Board of all further obligations in anyway related to the services covered herein."
- d. The Funding Out statement must be included as part of any Contract. No Contract will be considered that does not include this provision for "funding out".

**3.47 Posting of RFP Conditions/Specifications**

This RFP will be posted for review by interested parties on the School Board's Purchasing Department's web site and will remain posted up to and including the Due Date of this RFP. Failure to file a specification protest within the time prescribed in Florida Statutes 120.57(3) will constitute a waiver of proceeding under Chapter 120, Florida Statutes.

**3.48 Posting of RFP Recommendation**

The recommendation for award will be posted for review by interested parties on the School Board's Purchasing Department's web site on or about **June 7, 2008**, and will remain posted for a period of 72 hours. Any person who may be adversely affected by an intended decision with respect to the award of any bid may protest such a decision by following the bid protest procedure of the School District of Osceola County. Failure to follow the requirements of the bid protest procedures and Section 120.57(3), Florida Statutes, shall constitute a waiver of all protest rights.

**3.49 Examination of Documents**

Document files may be examined, during normal working hours, ten (10) days after proposals have been opened.

**3.50 Tobacco Free**

The School District is a Tobacco free District. Tobacco and tobacco products are prohibited on any of the District properties.

**3.51 School Security**

Respondent acknowledges and understands that the goods or services contemplated by this contract/agreement that are delivered to or performed on school grounds, which may at various times be occupied by students, teachers, parents and school administrators. Accordingly, in order to secure the school, protect students and staff, and other wise comply with applicable law, the Respondent (awarded firm) agrees to the following provisions and agrees that the failure of the Respondent to comply with any of these provisions may result in the termination of this contract by the District:

- A. Unauthorized Aliens. The District considers the employment of unauthorized aliens by the awarded firm, or any of awarded firm's sub-contracted Firms, a violation of the Immigration and Naturalization Act. The awarded firm shall certify that no unauthorized aliens are working on the project site at any time. If it is determined that an unauthorized alien is working on the Project, the awarded firm shall immediately take all steps necessary to remove such unauthorized alien from the property and the project.
- B. Possession of Firearms. Possession of firearms will not be tolerated on School District property. No person, who has a firearm in their vehicle, may park their vehicle on the District's property. Furthermore, no person may possess or bring a firearm on District property. If any employee/independent Awarded Firm of the awarded vendor, or any of its sub-Awarded Firms, is found to have brought a firearm(s) on to the District's property, said employee/independent Awarded Firm shall be immediately removed and terminated from the project by the awarded vendor. If sub-Awarded Firm fails to terminate said employee/independent Awarded Firm, the awarded vendor shall terminate its Contract with the sub-Awarded Firm. If the awarded vendor fails to terminate said employee/independent Awarded Firm or fails to terminate the Contract with sub-Awarded Firm who fails to terminate said employee/independent Awarded Firm, the District may terminate this Contract. "Firearm" means any weapon (including a starter gun or antique firearm) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any destructive devise, or any machine gun. Powder actuated construction nailers and fasteners are excluded from this definition.
- C. Criminal Acts. Employment on the project by the awarded vendor, or any of its sub-Awarded Firms, of any employee, or independent Awarded Firm, with any prior convictions of any crimes against children, crimes of violence or crimes of moral turpitude will not be tolerated. If it is determined that any person with such criminal history is on the project site, the awarded vendor agrees to take all steps necessary to remove such person from the project. The District shall have the right to terminate this Contract if the awarded vendor does not comply with this provision.
- D. Possession/Use/Under the Influence of Mind Alerting Substances. Possession/use and/or being under the influence of any illegal mind altering substances, such as, but not limited to alcohol and/or substances delineated in Chapter 893, Florida Statutes, by the awarded vendor's employee/independent Awarded Firm or its sub-Awarded Firms' employees/independent Awarded Firms, will not be tolerated on the District's property. If any employee/independent Awarded Firm is found to have brought and/or used or is under the influence of any illegal mind altering substances as described above on the District's property, said employee/independent Awarded Firm shall be removed and terminated from the project by the awarded vendor. If a sub-Awarded Firm fails to terminate said employee/independent Awarded Firm, the Contract with the sub-Awarded Firm for the project shall be terminated by the awarded vendor. If the awarded vendor fails to terminate said employee/independent Awarded Firm of fails to terminate the Contract with the sub-Awarded Firm or fails to terminate the Contract with the sub-Awarded Firm who fails to terminate said employee/independent Awarded Firm, the District may terminate this Contract.

- E. Compliance with the Jessica Lunsford Act. Recent changes to the Florida Statutes require that all persons or entities entering into contracts with the School Boards/School Districts/Charter Schools who may have personnel who will be on school grounds when students may be present, or who will have contact with students shall comply with the level 2 screening requirements of the Statute. The required level 2 screening includes fingerprinting that must be conducted by the District. Any individual who fails to meet the screening requirements shall not be allowed on school grounds. Failure to comply with the screening requirements will be considered a material default of this contrast/agreement.

### 3.52 Definitions

As used in this RFP, the following terms shall have the meanings set forth below:

**Contract:** The document resulting from this solicitation between the School Board and the Contractor, including this RFP, along with any written addenda and other written documents, which are expressly incorporated by reference.

**Consultant:** That person or entity, including employees, servants, partners, principals, agents and assignees of the person or entity that has been awarded a contract/agreement for the purpose of obtaining business with the School Board to provide the product and/or services set forth herein.

**School Board:** The term School Board refers to the governing Board of The School District of Osceola County, Florida.

**School Board's Project Manager(s):** The Project Manager(s) have responsibility for the day to day administration of the resulting contract for the School Board and will be designated prior to award of contract.

**Day:** The word "day" means each calendar day or accumulation of calendar days.

**Director:** The Director is the Director of Purchasing and Warehouse for the School Board.

**Exceptions to RFP:** An exception is defined as the Respondent's inability or unwillingness to meet a term, condition, specification, or requirement in the manner specified in the RFP.

**Person or Persons:** An individual, firm, partnership, corporation, association, executor, administrator, trustee or other legal entity, whether singular or plural, masculine or feminine, as the context may require.

**Respondent:** That person or entity, including employees, servants, partners, principals, agents and assignees of the person or entity that submits a proposal for the purpose of obtaining a contract with the School Board for the provision of the services set forth herein.

**Respondent's Project Manager:** The Project Manager has responsibility for administering this contract for the Respondent and will be designated prior to execution of the contract.

#### 4.0 SUBMITTAL REQUIREMENTS/WRITTEN EVALUATION CRITERIA

Proposals shall include all of the information solicited in this RFP, and any additional data that the respondent deems pertinent to the understanding and evaluating of the proposal. Proposals shall be organized and sections tabbed in the following order. The respondent should not withhold any information from the written response in anticipation of presenting the information orally or in a demonstration, since oral presentations or demonstrations may not be solicited. Each proposer will be ranked based on an analysis of the criteria required below. Submittals will be scored using Adjectival Rating times a weighted value. The Adjectival Rating System to be utilized shall be: Unsatisfactory (0), Satisfactory (1), and Good (2). A maximum weighted value of 6 points has been assigned to the criteria. A maximum total of points to be assigned are 12. All proposals shall include at minimum:

##### **Tab 1 – Respondent’s Profile and Submittal Letter – (Weighted Value – 1)**

RFP Submittal Letter signed by authorized agent of the business/corporation with proof of authorization from business

1. A brief profile of the firm, including:
  - A. A brief history of the business
  - B. Organizational structure of business
  - C. Designation of the legal entity by which the business operates (i.e. sole proprietorship, partnership, limited liability partnership, corporation, limited liability corporation, etc.)
  - D. Ownership interests
  - E. Active business venues (counties, states, etc.)
  - F. Present status and projected direction of business
  - G. Documentation from the appropriate state’s agency confirming firm’s legal entity type (i.e. sole proprietorship, partnership, limited liability partnership, corporation, Limited Liability Corporation, etc.). For non-Florida businesses submit documentation from the state in which the business was formed and documentation from the State of Florida providing authorization to perform business in the state of Florida
  - H. Those firms located within the Osceola County must include a copy of their County Business Tax Receipt (formerly known as an occupational license). If a respondent is located within Osceola County, failure to have or obtain an Osceola County Business Tax Receipt prior to the RFP closing date and time shall automatically render a respondent non-responsive. **Note: Charitable organizations that qualify under Florida Statute No. 205.192 are exempt from this requirement.**
  - I. Federal Identification Number of firm

##### **Tab 2 - Completed Respondents Information Form (page 1 of this RFP) (Non-Scored)**

**Tab 3 – References – (Weighted Value – 1)**

List at least three (3) recent and relevant references where the proposed services have been used within the past three (3) years. The degree of relevant experience of the proposer with Florida School Boards and/or political subdivisions will be a primary factor. The information requested in this section should describe the qualifications of the firm, key staff and subcontractors providing Educational Facilities Impact Fee Consulting Services for state and local governments that are similar in size and scope, to demonstrate competence to perform these services.

**Tab 4 – Experience of Personnel – (Weighted Value – 1)**

Describe the approach and methods for managing the operation as well as the completion of this project. Provide a list of staff who will be assigned to the District's account. Include a resume for each listed individual, with a description of their qualifications and nature of their previous assignments.

**Tab 5 – Approach, Methodology and Timelines – (Weighted Value – 1)**

Describe Firm's understanding of the District's needs, the objectives to be accomplished, and should refer to the Scope of Services of this Request for Proposal. Describe the scope of services proposed for the project, including the firm's overall approach to address tasks assigned. Suggested deviations from the tasks or schedule may be proposed but must be clearly identified as such and explained. The work plan shall include a Project Schedule, with a projected timetable for completion of services as a work plan for the project.

**Tab 6 – Other Services – (Non-Scored)**

Services relevant to this contract that are in addition to the duties as outlined in the Scope of Services can be submitted in this section.

**Tab 7 – Exceptions to Contract – (Non-Scored)**

Include any/all exceptions taken to the content of the solicitation, the attached Contract (Attachment "A") or legal Contract (s) or document(s) related to the solicitation.

**Tab 8 – Conflict of Interest Form (Attachment "F") - (Non-Scored)**

All respondents shall properly complete, have notarized and attach with their proposal the attached notarized disclosure statement.

**Tab 9 – Addenda - (Non-Scored)**

Any addenda issued subsequent to the release of this solicitation must be signed and returned with the firm's proposal. **Failure to return signed addenda may be cause for the proposal to be considered non-responsive.**

**Tab 10– Confidential Materials (Attachment "H", Exhibit "A") - (Non-Scored)**

All materials that qualify as "trade secrets" shall be segregated, clearly labeled and accompanied by an executed Non-disclosure Agreement for Confidential Materials shall be submitted in this section.

**Tab 11– Additional Requirements Attachments**  
**Drug Free Workplace Certification, Attachment "D"**  
**Debarment Certification, Attachment "E"**  
**Hold Harmless Certification, Attachment "I"**  
**Public Entity Crime, Attachment "G"**



**Tab 12 – Fee Structure – (Weighted Value – 1)**

Include a proposed fixed fee for services based on the submitted work plan and proposal. The consultant shall bill for services on a basis of time plus reimbursable expenses. List the hourly rates and the title of the professional that could be associated with the requested services.

Provide estimates of other costs or charges, exclusive of fixed fee. If no additional costs are specifically detailed, the District will consider the basic fees as the only proposed and contractual fee schedule.

Additional Costs, Travel and other Expenses: Proposers shall include all related fees and additional costs for providing these services. If Proposer's basic fees do not include reimbursement for travel, living expenses, meals and other applicable expenses, this information shall be included in the response. The District will reimburse travel costs in accordance with the District's Travel Policy. The proposer shall provide, if required by the District, documentation of all actual travel or related costs.

**Tab 13 – Location of Firm/Branch – (Weighted Value – 1)**

Accessibility to staff, minimal cost associated with travel and turnaround time for meeting with staff and the Board.

**SELECTION PROCESS**

1. The Selection Committee will review all proposals received on time and score the proposals in accordance with the criteria listed in this RFP. In addition to the materials provided in the written responses to this RFP, the School District may request additional material, information, references, interviews or presentations from the Respondent(s) submitting proposals. The District may opt to conduct interviews instead of having formal presentations with selected Firms, should it be required or warranted. Discussions may be held between the Selection Committee and the Firms selected for interview based upon data submitted by each Firm. Firms will be notified in writing as to whether or not they have been selected for an interview or oral presentation.
2. The School District, at its sole discretion, may ask any Respondent to make an oral presentation and/or demonstration without charge to the School District. The School District reserves the right to require any Respondent to demonstrate to the satisfaction of the School District that the Respondent has the fiscal and technical ability to furnish the service(s) or product(s) as proposed. The demonstration must satisfy the School District, and the School District shall be the sole judge of compliance.
3. The School District reserves the right to conduct discussions with any Respondent(s) who has (have) a realistic possibility of Contract award.
4. Respondents are cautioned not to assume that they will be asked to make a presentation and should include all pertinent and required information in their original submittal.
5. Following the interviews the Respondents will be evaluated, based on their submission, references, and presentation. A final ranking of Respondents will be determined based on their interview or presentation.
6. Once the Selection Committee has ratified the final rankings, the School Board shall engage, or authorize one or more persons to engage, the highest ranked Finalist, or Designated Finalist, in negotiations for purposes of executing a Contract.

## 5.0 **INFORMAL INTERVIEWS/ORAL PRESENTATION EVALUATION CRITERIA**

If the Selection Committee requires informal interviews/oral presentations, each Firm will be notified of the schedule for the formal presentation, questions and answers, and setup and breakdown. Informal Interviews/Oral Presentations will be scored using Adjectival Rating times a weighted value. The Adjectival Rating System to be utilized shall be: Unsatisfactory (0), Satisfactory (1), Good, (2) and Excellent (3).

Each respondent will be ranked based on an analysis of the criteria required below. A maximum weighted value of 10 points has been assigned to the criteria. A maximum total of points to be assigned are 30. All presentations shall include at minimum:

### 1. **Responsiveness of the Proposal – (Weighted Value – 1)**

The respondent's ability to demonstrate their ability to comply with the minimum qualifications and mandatory requirements of this Request for Proposal.

### 2. **Ability, Capacity, and Skill of the Firm – (Weighted Value – 2)**

The respondent's past and current experience in providing impact fee consulting services in general, and specifically with regard to transactions issued by municipalities and municipality-level entities.

### 3. **Relevant References and Experience – (Weighted Value – 1)**

Explain the firm's experience with Florida School Boards and/or political subdivisions. The experience and qualifications of the respondent's staff assigned to the District's account in providing consulting service for impact fee studies.

### 4. **Approach, Methodology and Timelines – (Weighted Value – 2)**

Respondent shall describe their understanding of the District's needs, the objectives to be accomplished, and should refer to the Scope of Services of this Request for Proposal. Describe the scope of services proposed for the project, including the firm's overall approach to address tasks assigned. Suggested deviations from the tasks or schedule may be proposed but must be clearly identified as such and explained. The work plan shall include a Project Schedule, with a projected timetable for completion of services as a work plan for the project.

### 5. **Financial Statement – (Weighted Value – 1)**

All respondents shall supply a financial statement, preferably a certified audit of the last available fiscal year. A third party prepared financial statement and the latest Dunn & Bradstreet report will be accepted.

### 6. **Fee Schedule – (Weighted Value – 2)**

Fee proposed for providing Education Facilities Impact Fee Consulting Services as outlined in this Request for Proposal. Further discussion and clarification of additional costs and fees relevant to this Request for Proposal and/or revisions in the attached Contract (see Attachment "A").

### 7. **Location of Firm/Branch – (Weighted Value – 1)**

Accessibility to staff, minimal cost associated with travel and turnaround time for meeting with staff and the Board.

\_\_\_\_\_, 2008

**PROPOSAL FORM**

TO: School District of Osceola County, Florida  
Director of Purchasing and Warehouse  
817 Bill Beck Blvd., Building 2000  
Kissimmee, Florida 34744-4495

The undersigned hereby declare that [firm name] \_\_\_\_\_  
\_\_\_\_\_ have carefully examined the specifications to furnish:

**EDUCATIONAL FACILITIES IMPACT FEE CONSULTANT**

For which proposals were advertised to be received **no later than 2:00 p.m., local time, May 14, 2008** and further declare that [firm name] \_\_\_\_\_  
\_\_\_\_\_ will furnish the Educational Facilities Impact Fee Consultant Services according to specifications.

Note: the District will reimburse all travel expenses in accordance with the District's rules and policies.

Prompt Payment Terms: \_\_\_\_\_ % \_\_\_\_\_ Days; Net 30 Days

Do you accept electronic funds transfer (ETF)? YES \_\_\_\_\_ NO \_\_\_\_\_

Do you offer a discount for electronic funds transfer (EFT)? YES \_\_\_\_\_% NO \_\_\_\_\_

The School District of Osceola County, Florida, reserves the right to reject any or all proposals, to waive informalities, and to accept all or any part of any proposal as they may deem to be in the best interest of the School Board.

I hereby certify that I have read and understand the requirements of this Request for Proposals No. **SDOC 08-P-098 CJ** and, that I as the respondent, will comply with all requirements, and that I am duly authorized to execute this proposal/offer document and any contract(s) and/or other transactions required by award of this RFP.

Company \_\_\_\_\_

Per \_\_\_\_\_ (Print name)

Signature \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Dunn & Bradstreet # \_\_\_\_\_ Fed. I.D. # \_\_\_\_\_

**Attachment "A"**  
**AGREEMENT TO UPDATE REPORT OF**  
**EDUCATIONAL FACILITIES IMPACT FEE**

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between THE SCHOOL BOARD OF OSCEOLA COUNTY, FLORIDA, a public body corporate constituting the contracting agent for the School District of Osceola County, Florida (hereinafter referred to as the "School Board" or the "District") and \_\_\_\_\_ (hereinafter referred to as the "Consultant").

WHEREAS, pursuant to the terms and conditions of this Agreement, the District desires to engage the Consultant, and the Consultant desires to be engaged by the District, to render certain technical and professional services described hereinafter. The services shall result in an updated report of the Educational Facilities Impact Fee.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, it is agreed by and between the District and the Consultant as follows:

1. Services To Be Rendered.

Consultant shall provide certain services to District (the "Services") as specified in one or more mutually agreed-upon statements of work signed by both parties ("Statements of Work"). Each such Statement of Work shall be substantially in the form attached hereto as Exhibit A. Each Statement of Work shall contain, to the extent applicable (i) a description of the services to be performed, (ii) a description of any required Deliverables (as defined in Section 9(a), (iii) any associated schedules, (iv) the applicable charges (which shall be on a time and materials basis unless otherwise specified in the Statement of Work), and (v) such additional information as the parties mutually agree. In the event of a conflict between any term of this Agreement and any Statement of Work, the terms of the Statement of Work shall prevail, except that this Agreement shall prevail over all Statements of Work with respect to any matters relating to intellectual property, confidential information. Such Statements of Work shall describe services within the Scope of Services set forth in Attachment B, "Scope of Services," a copy of which is attached hereto and incorporated herein by reference.

2. Consideration To Be Paid.

The District hereby agrees to pay the Consultant on a fee basis or hourly, as specified in the Statement(s) of Work, provided, however, that the total sum shall not exceed \_\_\_\_\_ (\$\_\_\_\_\_) as consideration for the performance of the services that the Consultant is required to perform under all Statements of Work within the scope of Attachment B. Payments, invoicing, hourly rates and expenses shall be governed by the provisions of Attachment C which is incorporated herein by reference.

3. Modification Of Services To Be Rendered.

The parties hereby agree that the District may request that the Consultant change, add to, or delete the services the Consultant is required to perform hereunder, provided that any such change, addition to or deletion of said services shall be evidenced in writing, which writing shall be first approved and signed by a duly authorized representative of the District and of the Consultant and shall set forth any additional modifications in the terms of this Agreement (including, but not limited to, the compensation to be paid to the Consultant hereunder) resulting from any such change, addition or deletion as may be mutually agreed to by the District and the Consultant.

4. Consultant's Performance of Services.

The Consultant shall perform the services required of it hereunder and shall supervise and secure, at its sole expense, all employees, agents, subconsultants and other personnel required to perform said services.

5. Duties of District.

In connection with Consultant's provision of the Services, District shall perform those tasks and fulfill those responsibilities specified in the applicable Statement of Work ("District Responsibilities"). District shall reject Deliverables (as defined in Section 9(a)(ii) below) if they are not in substantial conformance with the specifications therefor set forth in the applicable Statement of Work and will provide a written statement setting forth the reasons for rejection. Except to the extent a Statement of Work contains specific acceptance provisions, all Deliverables provided to the District for approval shall be deemed accepted if, within 30 days after delivery, District has not provided to Consultant written notice identifying the basis for disapproval of the Deliverable.

6. Term and Commencement.

The services that the Consultant is required to perform hereunder shall commence as soon as practicable after the execution of this Agreement by both parties and the full execution of an agreed-upon Statement of Work. The Consultant shall perform said services in an expeditious manner.

7. Termination of Agreement.

(a) Termination for Convenience. The School Board, by written notice to the Consultant, may terminate the Agreement in whole or in part when the School Board determines in its sole discretion that it is in the School Board's interest to do so. The Consultant shall not furnish any services after it receives the notice of termination, except as specifically instructed, in writing, by the School Board. The Consultant shall not be entitled to recover any cancellation charges or lost profits.

(b) Termination for Cause. The School Board may terminate the Agreement if the Consultant fails to (1) deliver services within the time specified in the Agreement, any Statement of Work or any extension, (2) maintain adequate progress, thus endangering performance of the Agreement, (3) honor any term of the Agreement, or (4) abide by any statutory, regulatory, or licensing requirement. The Consultant shall continue work on any work not terminated. Except for defaults of subconsultants at any tier, the Consultant shall not be liable for any excess costs if the failure to perform the Agreement arises from events completely beyond the control, and without the fault or negligence, of the Consultant. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both the Consultant and the subconsultant, and without the fault or negligence of either, the Consultant shall not be liable for any excess costs for failure to perform, unless the subcontracted services were obtainable from other sources in sufficient time for the Consultant to meet the required delivery schedule. If, after termination, it is determined that the Consultant was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the School Board. The rights and remedies of the School Board in this clause are in addition to any other rights and remedies provided by law or under the Agreement.

## 8. Confidentiality of Reports.

Unless otherwise required by law, any reports, data or other similar information given to or prepared or assembled by the Consultant under this Agreement which the District requests to be kept as confidential shall not be made available to any individual or organization by the Consultant without prior written approval of the District. The parties hereto acknowledge the applicability of Ch. 119, F.S., to this Agreement.

## 9. Ownership and Use of Studies and Reports.

(a) Definitions. The definitions set forth in this Section 9 shall apply to this Agreement:

(ii) "Deliverables" shall mean any and all work product and deliverables developed in the course of the Services, whether individually by Consultant or jointly with District.

(ii) "Preexisting Work" shall mean all of a party's content, expression, materials, documentation, software and technology possessed by the party prior to this Agreement.

(b) Ownership of Work Product. Except as set forth herein, the Deliverables, to the extent copyrightable under the United States Copyright Act of 1976 (the "Act") shall be considered "works made for hire" pursuant to the Act and, upon final payment, copyright in such Deliverables shall be owned exclusively by District. To the extent such Deliverables are not deemed a "work made for hire" under the Act, upon final payment, Consultant hereby assigns to District all its right, title and interest in such Deliverables. Notwithstanding anything to the contrary in this Section 9(b), and subject only to the license granted in Section 9(c), Consultant shall retain all right, title and interest to the Consultant's Preexisting Work, including Consultant's Preexisting Work incorporated into the Deliverables.

(c) License to District of Consultant's Preexisting Work. To the extent Consultant has incorporated Consultant's Preexisting Work into the Deliverables, Consultant grants to District an irrevocable, nonexclusive, perpetual, paid-up, worldwide license to use, copy, modify and prepare derivative works of such Consultant's Preexisting Work for District's internal business, educational and governmental purposes. District may not sublicense Consultant's Preexisting Work, except to independent consultants who may use Consultant's Preexisting Work solely for the benefit of District, and who have entered a written agreement containing confidentiality provisions at least as protective of Consultant's Confidential Information as those set forth in this Agreement.

(d) License to Consultant of Work Product. District hereby grants to Consultant an irrevocable, nonexclusive, perpetual, royalty-free, fully paid-up, worldwide right and license to use, copy, distribute, perform, display, modify and prepare derivative works of the Deliverables (except for the District Preexisting Work incorporated therein) and to sublicense any of the foregoing rights.

## 10. Consultant Is An Independent Contractor.

The parties hereby agree that the Consultant is an independent contractor, and not an employee of the District, and that nothing contained in this Agreement shall constitute or designate the Consultant or any of its employees, agents or subconsultants as employees of the District.

## 11. Notices.

All notices shall be in writing, and may be served by (a) depositing the same in the United States mail addressed to the party to be notified, postpaid, and registered or certified with return receipt requested, (b) by delivering the same in person to such party, by (i) personal delivery, or (ii) overnight courier, or (c) by facsimile transmission provided that a copy is sent on the same day, by 5 p.m., by either of the methods described in (a) or (b). Notice deposited in the mail shall be deemed to have been given on the third day next following the date postmarked

on the envelope containing such notice, or when actually received, whichever is earlier. All notices to be given to the parties shall be sent to or delivered at the addresses or facsimile numbers set forth below:

If to School Board: Superintendent  
School District of Osceola County, Florida  
817 Bill Beck Boulevard  
Kissimmee, FL 34744  
Telecopy: (407) 870-4010

If to Consultant:

Telecopy: \_\_\_\_\_

By giving the other party at least 15 days written notice, each party shall have the right to change its address and specify as its new address any other address in the United States of America.

#### 12. Modification.

No change or modification of this Agreement shall be valid or enforceable unless the same shall be in writing signed by both of the parties hereto.

#### 13. Benefit and No Assignability

This Agreement shall bind and inure to the benefit of the parties hereto, and their respective successors and assigns. This Agreement is for the personal services of Consultant and neither this Agreement nor any interest herein may be assigned, transferred or encumbered by Consultant without the prior, written consent of the District. There shall be no partial assignments of this Agreement, including, without limitation, the partial assignment of any right to receive payment from the District.

#### 14. This Agreement.

Except for the nonconflicting provisions of RFP SDOC #08-P-098 CJ, this Agreement cancels, terminates and supersedes all prior agreements of the parties respecting any and all subject matter contained herein. This Agreement may be executed in two or more original counterparts, each of which shall be an original but all of which together shall be but one agreement.

#### 15. Headings and Gender.

The headings of the paragraphs and subsections herein are included solely for convenience of reference, and if there is any conflict between such headings and the text of this Agreement, the text shall control. The gender of pronouns used herein, if any, may include any other gender, and the singular may include the plural (or vice versa) if the circumstances so require.



16. Non-Discrimination.

The parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities and obligations under this Agreement because of race, color, religion, gender, age, marital status, disability, political or religious beliefs, national or ethnic origin.

17. Governing Law.

This Agreement shall be interpreted and construed in accordance with the laws of the State of Florida. Any controversies or legal disputes arising out of this Agreement and any action involving the enforcement or interpretation of this Agreement shall be submitted to the jurisdiction of the State Courts of Florida in the Ninth Judicial Circuit of Osceola County, Florida. Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement. Consultant and District each hereby waive and renounce any and all rights and options which they, or either of them, have or might have to bring any such litigation or action in the federal court system or in any United States District Court.

18. Force Majeure.

Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of Consultant be deemed Force Majeure.

19. Insurance.

The Consultant shall, throughout the performance of its services pursuant to the Agreement and throughout the term of the Agreement, maintain and provide to the School Board the following insurance coverages:

a. Professional Liability Insurance. The professional liability insurance shall provide protection from the negligent act, errors, and omissions of the Consultant from or in connection with the performance of work under the Agreement. The policy shall provide coverage for the negligent acts or omissions of the Consultant in a minimum amount of \$1,000,000.00 per claim. The policy shall contain a maximum deductible of \$1,000.00 per claim.

b. Commercial General Liability. Commercial general liability coverage which includes broad form commercial general liability, including premises and operation, products and complete operations, personal injury, fire damage (minimum \$100,000) for limits of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 per policy year. This policy will include the School Board as an additional insured.

c. Automobile Liability Insurance. The automobile liability insurance coverage shall include coverage for business automobile liability with limits not less than \$1,000,000.00 combined single limit or \$1,000,000.00 per person/ \$1,000,000.00 per accident bodily injury, and \$1,000,000.00 per accident property damage. The policy will include the School Board as an additional insured.

d. Workers' Compensation Insurance. The workers' compensation insurance will be maintained as required by applicable Florida law.

The insurance policies shall be issued and underwritten by a licensed insurer, licensed as such in the State of Florida. The Consultant shall provide insurance that may not be reduced, terminated, or canceled unless 30 days prior written notice thereof is furnished to the School Board. Certificates of insurance and copies of all policies (if required by the School Board) shall be furnished to the School Board within 10 days after the date of this Agreement. In the event of any cancellation or reduction in insurance coverage, the Consultant shall obtain substitute coverage, without any lapse of coverage whatsoever. If Consultant fails to provide coverage or substitute coverage, School Board may terminate this Agreement and all Statements of Work,

#### 20. No Changes or Additions to the Work.

The Agreement contain the entire Agreement of the parties and supersedes all prior understandings or agreements. There shall be no changes, modifications, additions, or deletions to the scope of the work or services required under the Agreement unless the parties expressly agree, in writing, to such changes or alterations. The School Board may be bound to a change or alteration only if it enters into a written change order or amendment to the Agreement which is approved by a majority of quorum present in a public School Board meeting or by express delegation to the Superintendent (or his designee) for such change or by a formally adopted School Board policy. No changes or alterations in the work directed by any employee or agent of the School District shall be effective or binding upon the School Board unless it is expressly ratified by a majority of quorum present of the School Board in a subsequent School Board meeting.

#### 21. Student Confidentiality.

The parties agree that any information which is personally identifying to a student or students is confidential. In the event the Consultant becomes aware of or becomes privy to any student identifying information as a necessary result of its performance of the Agreement, the Consultant shall maintain that information as confidential and shall not provide the information to any other person or publish the information in any respect. The Consultant has reviewed the provisions of section 1002.22(d)(3), Florida Statutes, as it relates to student confidentiality, and agrees to be bound by those provisions.

#### 22. Conduct While on School Property.

The Consultant acknowledges that its employees and agents will behave in an appropriate manner while on the premises of any school facility and shall at all times conduct themselves in a manner consistent with School Board policies and within the discretion of the premises administrator (or designee). It is a breach of the Agreement for any agent or employee of the Consultant to behave in a manner which is inconsistent with good conduct or decorum or to behave in any manner that will disrupt the educational program or constitute any level of threat to safety, health, and well being of any student or employee of the School Board. The Consultant agrees to immediately remove any agent or employee if directed to do so by the premises administrator or designee.

#### 23. No Taxes.

The School Board is not obligated and does not agree to pay any federal, state, or local tax by virtue of entering this Agreement.

#### 24. Multiyear Agreements Non-Appropriation of Funds.

The School Board's performance and obligation to pay is contingent upon an annual appropriation by the School Board. The School Board is a political subdivision of Florida and may cancel the Agreement in the event of non-appropriation of funds, within its governmental discretion. In the event the School Board declares there is a non-appropriation of funds for the purpose of funding payments under the Agreement, then the School Board shall cooperate by paying for services rendered by Consultant which are reasonably acceptable to the School Board and

which were performed prior to the date of non-appropriation. No other consequence will be suffered by the School Board.

25. Indemnity and Hold Harmless.

The Consultant shall hold harmless and indemnify the School Board, its agents and employees, from and against any and all losses, damages, claims made by third parties, liabilities to third parties, litigation and other matters which may arise from, be caused by, or result during or as a result of any act or omission of the Consultant, the performance of the Agreement, or breach of performance of the Agreement by the Consultant, or the performance (or failure of performance) of the product furnished by the Consultant under Agreement with the School Board. This Hold Harmless and Indemnification provision shall include a duty to defend the School Board and the payment of all reasonable attorneys' fees and expenses, including administrative and appeal, incurred by the School Board in the defense of any matter covered by this provision. The School Board shall not hold harmless and indemnify the Consultant in any manner whatsoever under the terms of the Agreement.

26. No Waiver of Warranties and Legal Rights.

Nothing in the Agreement shall shorten any applicable statute of limitations. Further, nothing in the Agreement shall constitute a limitation or waiver of any express or implied warranty nor a limitation or waiver of any legal right the School Board may have against the Consultant or any other parties on account of any services rendered to the School Board. By entering into the Agreement with the School Board, the Consultant acknowledges that he, she, or it has become familiarized with all purposes for which the services will be used

27. No Attorneys' Fee Provision or Arbitration.

The School Board does not agree to arbitrate in any manner whatsoever any issue arising out of the Agreement. The School Board does not agree to pay attorneys' fees to the prevailing party in connection with a dispute arising out of the Agreement.

28. Public Records Law.

The Agreement are subject to and governed by the laws of the state of Florida which generally make public all records or other writings made or received by the parties. The parties agree to comply with the Public Records and Sunshine Laws.

29. Waiver.

No consent or waiver, express or implied, by either party to the Agreement to or of any breach or default by another in the performance of any obligations hereunder shall be deemed or construed to be consent or waiver to or of any other breach or default by such party hereunder. Except as otherwise provided herein, failure on the part of any party in default hereunder, irrespective of how long such failure continues, shall not constitute a waiver of the rights of such party hereunder.

30. Captions.

The captions used for the Sections in the Agreement or Addendum are inserted only as a matter of convenience and for reference, and in no way define, limit, or describe the scope or the intent of the Agreement or Addendum or any Article or Section thereof

### 31. Severability.

In the event any of the foregoing provisions of the Agreement are determined by a court of competent jurisdiction to be illegal or unenforceable, then such unenforceable or unlawful provision shall be excised herefrom, and the remainder of the Agreement will continue in full force and effect. Notwithstanding the foregoing, if the result of the deletion of such provision will materially and adversely affect the rights of a party hereunder, such party may elect, at its option, to terminate the Agreement in its entirety.

### 32. Approvals.

Whenever any review or approval is required by any party hereunder, such party agrees that such review or approval will be promptly and expeditiously prosecuted to conclusion.

### 33. Further Assurances.

The parties hereto agree to execute any and all further instruments and documents, and take all such action as may be reasonably required by either party to effectuate the terms and provisions of the Agreement and the transactions contemplated herein.

### 34. No Partnership or Joint Venture.

It is understood and agreed that nothing contained in the Agreement shall be deemed or construed as creating a partnership or joint venture between the parties or any third party, or cause either party to be responsible in any way for the debts and obligations of the other party.

### 35. Access to Documentation.

Consultant shall, concurrently with performance of its services, prepare substantiating records regarding services rendered, and shall retain in its records copies of all written communications, and any memoranda of verbal communications, related to the Agreement. The School Board, the federal grantor agency (if federal grant moneys use in whole or in part), the Comptroller General of the United States (if federal grant moneys used in whole or in part), the Auditor General, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of Consultant which are directly pertinent to work and services to be performed under this agreement for the purpose of audit, examination, excerpting and transcribing. Upon seven calendar days' written notice, from the date first above written to the latest date described in paragraph 36 below, Consultant shall make its records available during normal business hours to the School Board or any of the entities mentioned in the first sentence of this paragraph. Such entities shall be entitled to inspect, examine, review and copy the records within adequate work space at the Consultant's facilities. Without limitation and not in derogation of any other provision of law or provision of this Agreement, failure of Consultant to supply substantiating records shall be reason to exclude the related costs from amounts which might otherwise be payable by School Board to Consultant pursuant to this Agreement.

### 36. Retention of Documentation.

Consultant shall retain all such records as described in paragraph 35 above, and records required under any state or federal rules, regulations or laws respecting audit, for a period of four years after the School Board has made final payment and all services have been performed under this agreement.

### 37. Public Entity Crime Information Statement and Debarment

– “A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a Agreement to provide any goods or services to a public entity, may not submit a bid on a Agreement with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a Agreement with any public entity, and may not transact

business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.”

By signing this Agreement, Consultant certifies, to the best of its knowledge and belief, that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency.
- (b) Have not, within a five-year period preceding the issuance of RFP #SDOC-08-P-098 CJ been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or Agreement under public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.
- (c) Are not presently indicted or otherwise criminally charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in the preceding paragraph (b).
- (d) Have not within a five-year period preceding the issuance of RFP #SDOC-08-P-098 CJ had one or more public transactions (federal, state or local) terminated for cause or default.

Consultant agrees to notify School Board within 30 days after the occurrence of any of the events, actions, debarments, proposals, declarations, exclusions, convictions, judgments, indictments, informations, or terminations as described in paragraphs (a) – (d) above, with respect to Consultant or its principals.

### 38. Background Screening.

Pursuant to Fla. Stat. 1012.465, all of Consultant’s personnel who are permitted access on school grounds when students are present, representative or who have direct contact with students, must meet level 2 screening requirements as described in Fla. Stat. 1012.32. Therefore, any officer, director, employee, agent or of Consultant who requires access onto any school grounds of District when students may be present, or who will be in direct contact with any students of District, shall be required to submit to fingerprinting by District and background screening. All costs of the fingerprinting and background screening shall be the responsibility of Consultant and shall be paid at the time of fingerprinting. The costs of the fingerprinting and background screening shall be determined by the District at the time the fingerprints are taken. Consultant agrees to indemnify and hold harmless District, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from Consultant's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, F.S.

### 39. Time is of the Essence

The parties agree that time is of the essence in the completion of the services and Work called for under this Agreement and any Statement of Work. Consultant agrees that all services and Work shall be executed regularly, diligently, and uninterrupted at such a rate of progress as will ensure full completion thereof within the time specified.

40. Liquidated Damages

Parties agree that damages are difficult to determine but that these liquidated damages are agreed to be a reasonable cost for any delays: If Consultant shall neglect, fail or refuse to complete services or the Work within the time specified, or any proper extension thereof granted by the School Board, then Consultant does hereby agree, as part consideration for awarding of the Agreement, to pay the School Board the sum of One Thousand Dollars (\$1,000.00), for each and every calendar day that Consultant shall be in default after the time stipulated in the Agreement for completing the services or the Work, not as a penalty but as liquidated damages for breach of contract as herein set forth. Specifically, Consultant shall deliver its report to District staff by January 31, 2009, as required by RFP #SDOC 08-P-098 CJ. Failure to deliver such report by such date shall obligate Consultant for said liquidated damages in the above amount for each and every calendar day that elapses until the delivery date of the report. The School Board and Consultant agree that the damages that will be incurred by the School Board as a result of Consultant's delay in meeting a completion date are of a kind difficult to accurately estimate, and the credit herein provided is not a penalty but a reasonable forecast of the damages that will actually be incurred by the School Board in the event of any such delay.

INTENDING TO BE BOUND, the parties hereto have executed this Agreement as of the date first set forth above.

CONSULTANT:

THE SCHOOL BOARD OF OSCEOLA  
COUNTY, FLORIDA

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

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

John McKay, Chairman

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_

Blaine A. Muse, Superintendent

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

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

## ATTACHMENT B

### SCOPE OF WORK

#### Update of Impact Fee for Educational Facilities

\_\_\_\_\_ (“Consultant”) shall perform the services described below in order to update the 2003 Educational Facilities Impact Fee Update Summary Report, as further updated as disclosed in RFP# SDOC#08-P-098 CJ, for the School District of Osceola County, Florida (“District”).

1. Research. Local data will be updated to supply the facts that will be the basis of the impact fee calculations. The following are the primary local data that will be updated during the research phase:

- A. Cost of schools and support facilities, by school level.
- B. Enrollment capacity of new schools, by school level.
- C. Average number of public school students per household, by size and type of dwelling unit.
- D. Historical capital expenditures and revenue sources.
- E. Projections of future revenue sources and amounts.
- F. Current enrollment and forecasts of future enrollment (10 years) by level.
- G. Projections of support facility requirements.
- H. Inventory of current facilities.

District staff will locate and assemble most of the raw data from existing District records. Consultant shall provide Item C, the average number of public school students per dwelling unit. Consultant shall provide all data requirements, in written form, no later than September 1, 2008 to the Assistant Superintendent, Business and Fiscal Services, of the District staff. Such data requirements will include the primary local data identified above, as well as any and all other data requirements.

2. Consultant shall coordinate with the appropriate District staff to ensure that all necessary information is provided in a timely and complete manner in order to perform accurate calculations. Consultant shall prepare and provide templates to District staff to be used in reporting the data requested by Consultant. Such templates shall be prepared and distributed to District staff no later than September 1, 2008, and shall be targeted and focused on the specific data identified in this Scope and required for analysis and preparation of the final report. In

addition, such templates shall clearly disclose and demonstrate the specific format for data submission necessitated by the study and required by Consultant.

3. Consultant shall advise appropriate District staff on changes in related state laws so that the District may respond and react in a timely fashion to the changes.

4. Analysis and Technical Study. Consultant shall audit and analyze the data. Thereafter the data will be used to calculate the updated impact fee. Finally, Consultant will document the results in a report covering the research and technical study. The report shall comply with the methodology as approved by applicable legal precedent.

5. Consultant shall make presentations regarding the study and the final report as requested by District including without limitation, making a presentation of results to the School Board, meeting with community interest groups including Growth Management Task Force and making a presentation to the Osceola County Board of County Commissioners. Consultant shall testify, and prepare to testify, as required and requested by District in any administrative or court proceeding.



ATTACHMENT C

COST AND PAYMENT

Update of Impact Fee for Educational Facilities

Total Cost

The District shall pay the Consultant an amount not to exceed \$\_\_\_\_\_ for all services rendered and expenses incurred by the Consultant. This total cost shall include four on-site visits: (1) to meet with District staff during the research phase, (2) to present results to the School Board, (3) to meet with community interest groups including the Growth Management Task Force, and (4) to present the results to the Osceola County Board of County Commissioners. Additional visits may be arranged in District's discretion, for an additional cost that includes professional services in preparing for and attending meetings, and reimbursement of travel expenses pursuant to section 112.061, Florida Statutes, as implemented by School Board policy.

Hourly Rates and Expenses

For services not included within Total Cost above, the Consultant shall charge for its services on the basis of time plus reimbursable expenses. Time shall be charged at hourly rates, billed in tenths of hours. The hourly rates to be used with respect to the Agreement shall be as follows: \_\_\_\_\_ Reimbursable expenses shall be charged as provided herein. Travel expenses shall be reimbursed pursuant to section 112.061, Florida Statutes, and shall be limited to the maximum rates prescribed by the District for mileage and per diem or subsistence. All other expenses when allowable shall be reimbursed at actual cost provided that documentation as required by School Board is submitted.

Monthly Invoices

Provided that services are performed during the month, invoices shall be submitted once per month, and shall specify for each person who worked on the contract during the month: name, position title, number of hours, hourly rate, description of work performed and total cost (hours times rate). In addition, invoices shall itemize expenses incurred.

Payment by the District to the Consultant

The District shall follow the Local Government Prompt Payment Act in the processing and payment of invoices. The District shall mail payments to the Consultant by first class mail no later than 45 days after the District receives an invoice that complies with the previous paragraph.

Attachment "D"

DRUG FREE WORKPLACE  
CERTIFICATION FORM

In accordance with Florida Statute 287.087, preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids are equal with respect to price, quality and service are received by the State or by any political subdivision for the procurement of commodities or contractual services; a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie bids will be followed if none of the tied vendors have a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs and penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1) notify employees that as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo-contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

---

Vendor's Signature

Attachment "E"

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION  
INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS**

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This certification is required by the regulations implementing *Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510 Participants responsibilities*. The regulations were published as **Part IV of the January 30, 1989, Federal Register (pages 4722-4733)**.

\*\*\*\*\* BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON NEXT PAGE \*\*\*\*\*

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department of agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attached an explanation to this proposal.

\_\_\_\_\_  
Organization Name

SDOC 08-P-098 CJ Educational  
Facilities Impact Fee Consultant  
\_\_\_\_\_  
Bid Name & Number

\_\_\_\_\_  
Names and Titles of Authorized Representative(s)

\_\_\_\_\_  
Signature(s)

\_\_\_\_\_  
Date

**INSTRUCTIONS FOR DEBARMENT CERTIFICATION**

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1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out herein in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department of agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", "voluntarily exclude", as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of these regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions", without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a perspective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction may pursue available remedies, including suspension and/or debarment.

**Attachment "F"**  
**Conflict of Interest**

I HEREBY CERTIFY that

1. I (*printed name*) \_\_\_\_\_ am  
the (*title*) \_\_\_\_\_ and the duly authorized representative  
of the firm of (*Firm Name*) \_\_\_\_\_  
whose address is \_\_\_\_\_, and  
that I possess the legal authority to make this affidavit on behalf of myself and the firm  
for which I am acting; and,

2. Except as listed below, no employee, officer, or agent of the firm have any conflicts  
of interest, real or apparent, due to ownership, other clients, contracts, or interests  
associated with this project; and,

3. The business nor any authorized representative or significant stakeholder of the  
business has been determined by judicial or administrative board action to be in  
noncompliance with or in violation of any provision/contract of the School Board of  
Osceola County, nor has any outstanding past due debt to the School Board of Osceola  
County, Florida; and

4. This Bid Submittal is made without prior understanding, agreement, or connection  
with any corporation, firm, or person submitting a bid for the same services, and is in all  
respects fair and without collusion or fraud.

EXCEPTIONS (List)

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Firm Name: \_\_\_\_\_

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

COUNTY OF \_\_\_\_\_ STATE OF \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by  
\_\_\_\_\_, who is personally known to me or who has  
produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
NOTARY PUBLIC – STATE OF \_\_\_\_\_

Type or print name: \_\_\_\_\_

Commission No.: \_\_\_\_\_

Commission Expires \_\_\_\_\_

(Seal)

**Attachment “G”**  
**Notification Regarding Public Entity Crime and Discriminatory Vendor List Requirements and Disqualification Provision**

A. Pursuant to Florida Statutory requirements, potential Respondents are notified:

*287.133(2)(a)* A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

*287.133(2)(b)* A public entity may not accept any bid, proposal, or reply from, award any contract to, or transact any business in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO with any person or affiliate on the convicted vendor list for a period of 36 months following the date that person or affiliate was placed on the convicted vendor list unless that person or affiliate has been removed from the list pursuant to paragraph (3)(f). A public entity that was transacting business with a person at the time of the commission of a public entity crime resulting in that person being placed on the convicted vendor list may not accept any bid, proposal, or reply from, award any contract to, or transact any business with any other person who is under the same, or substantially the same, control as the person whose name appears on the convicted vendor list so long as that person's name appears on the convicted vendor list.

*287.134(2)(a)* An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

*287.134(2)(b)* A public entity may not accept any bid, proposals, or replies from, award any contract to, or transact any business with any entity or affiliate on the discriminatory vendor list for a period of 36 months following the date that entity or affiliate was placed on the discriminatory vendor list unless that entity or affiliate has been removed from the list pursuant to paragraph (3)(f). A public entity that was transacting business with an entity at the time of the discrimination resulting in that entity being placed on the discriminatory vendor list may not accept any bid, proposal, or reply from, award any contract to, or transact any business with any other entity who is under the same, or substantially the same, control as the entity whose name appears on the discriminatory vendor list so long as that entity's name appears on the discriminatory vendor list.

B. By submitting a proposal, the Respondent represents and warrants that the submission of its proposal does not violate Section 287.133, Florida Statutes (2005), nor Section 287.134, Florida Statutes (2005).

C. In addition to the foregoing, the Respondent represents and warrants that Respondent, Respondent’s subcontractors and Respondent’s implementer, if any, is not under investigation for violation of such statutes.

D. Respondent should read carefully all provisions of 287.133 and 287.134, Florida Statutes (2005).



**Attachment "H"**  
**NON-DISCLOSURE AGREEMENT**  
**For**  
**CONFIDENTIAL MATERIALS**

Reference # \_\_\_\_\_

**RETURN THIS FORM *ONLY* IF CONFIDENTIAL MATERIALS ARE BEING INCLUDED IN THE SUBMITTAL. PLEASE READ THE SECTION IN THE BID DOCUMENT TO DETERMINE IF THIS APPLIES. *THE CONFIDENTIAL MATERIALS WILL ONLY BE HANDED OUT TO THE SELECTION COMMITTEE ON THE DAY OF THE EVALUATION, THEREFORE, THE EVALUATION OF THIS MATERIAL WILL BE LIMITED TO THAT TIME ONLY.***

Respondent:

Address:

This Agreement is entered into as of the date of the last signature set forth below between the School District of Osceola County, a political subdivision of the State of Florida (the "District"), and the above named Respondent (hereinafter the "Respondent"). The School District of Osceola County and the Respondent are collectively referred to as the "Parties" and may be referred to individually as a Party.

**RECITALS**

WHEREAS, the Respondent possesses certain confidential trade secret materials that it wishes to disclose to the School District of Osceola County for the purpose of responding to a request for proposal or otherwise conducting business with the School District; and

WHEREAS, the School District desires to review such materials in order to evaluate the District's interest in negotiating and concluding an agreement for the purchase of certain products and services, or otherwise conducting business with the Respondent.

NOW THEREFORE, in consideration of the mutual promises and premises contained herein, the receipt and sufficiency of which are hereby acknowledged, the School District and the Respondent agree as follows:

1. Confidential Materials. The Respondent warrants and represents to the School District that the materials described in the attached Exhibit A (the “Confidential Materials”) constitute trade secrets as defined by Section 812.081(1)(c), Florida Statutes, or financial statements required by the School District for projects as defined in 119.071(1)(c), Florida Statutes. Subject to the terms and conditions of this Agreement, the School District agrees not to disclose such Confidential Materials to third parties.

2. Additional Materials. During the course of the negotiations or the business relationship with the School District, the Respondent may disclose additional confidential or trade secret information to the District in which case the restrictions and obligations on the use and disclosure of the Confidential Materials imposed by this Agreement shall also apply to such additional information to the extent permitted by Florida law. Any such additional confidential or trade secret information shall be duly marked and stamped “confidential” or “trade secret” prior to delivery to the School District, and shall be subject to this Agreement and Section 812.081(2), Florida Statutes, only if written receipt is provided by the School District acknowledging receipt of such materials.

3. Exclusions. For purposes of this Agreement, the term “Confidential Materials” does not include the following:

- (a) Information already known or independently developed by the School District;
- (b) Information in the public domain through no wrongful act of the School District;
- (c) Information received by the School District from a third party who was legally free to disclose it;
- (d) Information disclosed by the Respondent to a third party without restriction on disclosure;
- (e) Information disclosed by requirement of law or judicial order, including without limitation Chapter 119 Florida Statutes; or



- (f) Information that is disclosed with the prior written consent of the Respondent, but only to the extent permitted by such consent.

4. Non Disclosure by Respondent. In the event that the School District discloses confidential or trade secret information to Respondent, the Respondent agrees to not disclose such information to any third party or copy such information or use it for any purpose not explicitly set forth herein without the School District's prior written consent. Further, upon conclusion of discussions or business transactions between the School District and the Respondent, or at any time upon request of the School District, Respondent agrees to return such information (including any copies) to the School District.

5. Duty of Care. Each Party agrees to treat the other Party's confidential or trade secret information with the same degree of care, but not less than reasonable care, as the receiving Party normally takes to preserve and protect its own similar confidential information and to inform its employees of the confidential nature of the disclosing Party's information and of the requirement of nondisclosure. In the event either Party has actual knowledge of a breach of the nondisclosure requirements set forth in this Agreement, the Party acquiring such knowledge shall promptly inform the other Party and assist that Party in curing the disclosure, where possible, and preventing future disclosures.

6. Limitations of Florida Law. Respondent understands and agrees that its assertion that any item is confidential or a trade secret does not, in and of itself, render such material exempt from the Florida Public Records Law, Chapter 119 of the Florida Statutes, and that the School District's ability to prevent disclosure of confidential and trade secret information may be subject to determination by a Florida court that such materials qualify for trade secret protection under Florida law. In the event a third party makes a public records request for the Confidential Materials or other materials deemed by Respondent to be confidential or a trade secret, the School District may submit the materials to the court for inspection in camera as set forth in Section 119.07(1)(e) Florida Statutes. Respondent further understands that the School District may be required to disclose such information if directed by a court of competent jurisdiction.

7. Indemnification by Respondent. In the event of any litigation instituted by a third party to compel the School District to disclose such materials, Respondent shall, at its sole cost and expense, provide assistance to the School District in defending the denial of the records request, and shall hold the School District harmless from any claim for statutory costs and attorneys fees arising from the School District's refusal to disclose such materials.

8. No Additional Obligations. This Agreement shall not be construed in any manner to be an obligation for either Party to enter into any subsequent contract or agreement.

9. Sovereign Immunity. Nothing in this Agreement shall be deemed as a waiver of immunity or limits of liability of the School District beyond any statutory limited waiver of immunity or limits of liability, which has been or which may be adopted by the Florida Legislature, regardless of the nature of any claim which may arise, including but not limited to a claim sounding in tort, equity or contract. In no event shall the School District be liable for any claim or claims for breach of contract, including without limitation the wrongful disclosure of confidential or trade secret information for an amount which exceeds, individually and collectively, the then current statutory limits of liability for tort claims. Nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim against the School District, which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

10. Notice. Whenever either Party desires to give notice unto the other, it must be given by written notice, sent by registered 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 in compliance with the provisions of this paragraph. For the present, the Respondent designates the address set forth above as its place for receiving notice, and the School District designates the following address for such notice:

The School District of Osceola County, Florida  
Director of Purchasing and Warehouse  
817 Bill Beck Blvd., Building 2000  
Kissimmee, Florida 34744

11. Governing Law. This Agreement shall be governed by the laws of the State of Florida, and venue for any action arising out of or relating to the subject matter of this Agreement shall be exclusively in Osceola County, Florida, or the Federal District Court for the Middle District of Florida, Orlando Division.

12. Respondent and the School District hereby expressly waive any rights either may have to a trial by jury of any civil litigation related to this Agreement for any litigation limited solely to the parties of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers the day and year as set forth below.

**School District of Osceola County, Florida**

**Respondent**

BY: \_\_\_\_\_

BY: \_\_\_\_\_

NAME: Blaine Muse

NAME: \_\_\_\_\_

TITLE: Superintendent

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

ATTEST:

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

Exhibit "A"

DESCRIPTION OF CONFIDENTIAL MATERIALS

**Attachment "T"**  
**HOLD HARMLESS AGREEMENT**

**Return this page ONLY if claiming exemption from the  
Worker's Compensation Insurance Requirement**

I am the owner of \_\_\_\_\_, an incorporated/unincorporated business operating in the State of Florida. As such, I am bound by all laws of the state of Florida, including but not limited to those regarding the workers' compensation law.

I hereby affirm that the above named business employs less than four employees, including myself, and therefore, the business is exempt from the statutory requirement for workers' compensation insurance for its employees.

On behalf of the business, and its employees, I hereby agree to indemnify, keep and hold harmless the School Board of Osceola County, Florida (the "School Board"), its agents, officials and employees, against all injuries, deaths, losses, damages, claims, liabilities, judgments, costs and expenses, direct, indirect or consequential (including, but not limited to, fees and charges of attorneys and other professionals) arising out of our contract with School Board, whether or not it shall be alleged or determined that the act was caused by intention or through negligence or omission of School Board or their employees, or of their subcontractors or their employees. The named business shall pay all charges of attorneys and all costs and other expenses incurred in connection with the indemnity provided herein, and if any judgment shall be rendered against the School Board in any action indemnified hereby, the named business shall, at its own expense, satisfy and discharge the same. The foregoing is not intended nor should it be construed as, a waiver of sovereign immunity of the SCHOOL BOARD under Section 768.28, Florida Statutes.

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
by \_\_\_\_\_, who is personally known to me  
or who has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
*NOTARY PUBLIC – STATE OF* \_\_\_\_\_  
*Type or print name:* \_\_\_\_\_  
*Commission No.:* \_\_\_\_\_  
*Commission Expires* \_\_\_\_\_

(Seal)

Attachment "J"  
**STATEMENT OF NO BID**

The School District of Osceola County, Florida  
Purchasing Department  
817 Bill Beck Boulevard, Building 2000  
Kissimmee, Florida 34744-4495

Attn: Cheryl M. Jessee

Bid # SDOC 08-P-098 CJ

We, the undersigned, have decided not to bid for the following reasons.

- \_\_\_\_\_ We do not handle products/services in this classification
- \_\_\_\_\_ Opening date does not allow sufficient time to complete bid
- \_\_\_\_\_ Cannot supply at this time
- \_\_\_\_\_ Suitable but engaged in other work
- \_\_\_\_\_ Quantity too small
- \_\_\_\_\_ Cannot meet required delivery
- \_\_\_\_\_ Equivalent not presently available
- \_\_\_\_\_ Unable to meet specifications
- \_\_\_\_\_ Unable to meet insurance/bond requirements
- \_\_\_\_\_ Please remove our name from the vendor file for the commodity listed above
- \_\_\_\_\_ Please remove our name from the School Board's entire vendor files
- \_\_\_\_\_ Other reasons or remarks

We understand that if the "No Bid" letter is not returned by the bid due date, our name may be deleted from the School District of Osceola County's vendor list for this commodity.

Company Name \_\_\_\_\_

Authorized Signature \_\_\_\_\_

Print Name of Authorized Person \_\_\_\_\_

Email Address for Authorized Person \_\_\_\_\_

Telephone Number \_\_\_\_\_

Fax Number \_\_\_\_\_