



**NASSAU COUNTY**  
**BOARD OF COUNTY COMMISSIONERS**  
 P.O. Box 1010  
 Fernandina Beach, Florida 32035-1010

Jim B. Higginbotham  
 Ansley Acree  
 Tom Branan  
 Floyd L. Vanzant  
 Marianne Marshall

Dist. No. 1 Fernandina Beach  
 Dist. No. 2 Fernandina Beach  
 Dist. No. 3 Yulee  
 Dist. No. 4 Hilliard  
 Dist. No. 5 Callahan

**RECEIVED**

**NOV 07 2005**

**BY WHI**

JOHN A. CRAWFORD  
 Ex-Officio Clerk

MICHAEL S. MULLIN  
 County Attorney

MIKE MAHANEY  
 County Administrator

October 31, 2005

Mr. David E. Wheeler  
 3820 Northdale Blvd., #309B  
 Tampa, FL 33624

Dear Mr. Wheeler:

This will acknowledge receipt of your letter dated October 28, 2005, with attachments.

I have reviewed your proposal, and I accept your terms as follows:

1. Ms. Menendez will meet with me and others associated with the County, review plans, specifications, contracts, and selected correspondence and provide a preliminary report within a billed total of 24 to 30 hours at a billing rate of \$185.00 per hour
2. The County will reimburse travel expenses. Said reimbursable travel expenses shall be pre-approved by me.
3. Additional work (to include assisting in discovery, reading documents, and providing expert testimony for depositions and trial) will be at my direction, and costs will be billed at \$185.00 per hour.
4. Any other members of WHI may be utilized at the direction of myself at the rates listed on the 2006 hourly fee schedule (attached).
5. Ms. Mendenez will begin the review process within thirty (30) days of the acceptance of this letter and finalize her report within a total of sixty (60) days from the date of the acceptance of this letter or less, as mutually agreed upon.

(904) 548- 4660, 879-1029, (800) 958- 3496

*An Affirmative Action / Equal Opportunity Employer*



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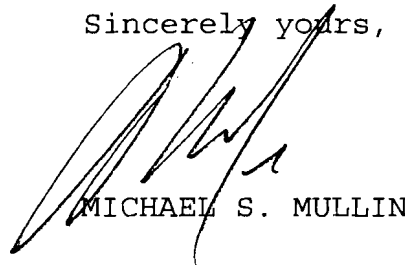
MIKE MAHANEY  
 County Administrator

David, I have obviously added items in my letter, and my reason is to insure that travel is reasonable, and that other members of WHI will only perform work at my direction, based upon WHI's request that it is required and necessary, but the final authorization is to be determined by me.

I have made changes to your standard contract conditions. If you have any questions, please give me a call. I look forward to working with your firm.

If these terms are acceptable, this will serve as authorization to proceed upon receipt by me of a signed copy of this letter.

Sincerely yours,

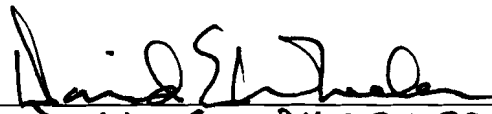


MICHAEL S. MULLIN

MSM/am

ACCEPTANCE

I hereby accept the terms and conditions set forth herein.

  
 By: DAVID E. WHEELER  
 Its: SR. VICE PRES, WHI Inc.

Date: Nov. 2, 2005

z/amyers/apac/wheeler-oct-31-2005

### 2006 CONTRACT CONDITIONS

The following contract conditions are hereby made a part of this proposal.

#### Acceptance

The terms of this proposal are firm for 60 days.

The terms and conditions of this proposal withstanding, but not limited to, the accompanying rate/policy sheet, constitute the entire agreement between the parties. Any terms, revisions, or conditions in Client's purchase orders, correspondence, or other forms which are inconsistent with the terms, provisions, or conditions of WHI's documents are void, unenforceable, and not part of the agreement.

#### Liability:

WHI's liability arising out of its performance under the agreement shall be limited to claims directly attributable only to the failure of WHI's officers or its project manager to exercise the degree of skill and performance normally exercised by duly qualified persons performing similar functions. The amount of WHI's liability shall not exceed the total amount of fees for services rendered under the agreement. In no event shall WHI, its employees, or agents be liable for loss of earnings, loss of profits, loss of interests, judgments, awards, or contribution thereto or any other special, indirect, or consequential damage however caused. ~~The client agrees that it will provide and pay for legal defense and indemnify WHI from any claims arising or allegedly arising from this contract regarding bodily injury, death, or property, or project damages.~~ There shall be no third party beneficiaries to this contract. WHI's work under the agreement shall be deemed a service, not goods or products. Reports, opinions, devices, or materials supplied by WHI shall not be construed as goods or products.

#### Time of Performance:

WHI shall not be held liable for any delay or failure to perform the work described in the agreement if such delay or failure is caused directly or indirectly by fire, flood, explosion, other casualty, strike, labor disturbance, state of war, insurrection, riot, government regulations, either existent or future restrictions, appropriations, or any other cause beyond the control of WHI.

#### Equal Employment Opportunity

WHI's policies of hiring are in accordance with the Federal Civil Rights Act of 1964, the Fair Employment Practices laws of the states in which we hire, and in compliance with Presidential Order 11246. WHI attempts to maintain a staff of capable, loyal, conscientious individuals, without regard to race, creed, color, origin, age, or sex.

#### Retention Policy:

~~WHI's policy is to require an adequate retention upon execution of contracts. The retention will be held by WHI and applied to the FPMAT invoice or refunded, in whole or in part, upon completion of the contract. Timely payment in full, of invoices is of the essence of this contract.~~

#### Invoice and Payment Policy:

*based on*  
WHI invoices monthly, and payment is due ~~upon receipt of~~ *Fla. Stat* invoice. WHI reserves the right to charge interest at the rate of 1-1/2% per month or a maximum interest allowable by law on invoices not paid within ~~thirty days of receipt by the client.~~ *Fla. Stat* In addition to invoices rendered and interest thereon, ~~the client shall pay any and all legal and consulting fees and costs incurred by WHI in collecting its account.~~

WHI's professional services, including but not limited to reports, deposition, and testimony are the work product and property of WHI, and will not be released until full payment has been received.

In the event WHI is called as a witness by any party or by client, to testify with respect to any matter about which it has obtained information while performing services under this contract, Client shall pay WHI its fee for its testimony and preparation in accordance with the fee schedule then in effect. WHI will credit or not bill for deposition payment received from other parties.

~~WHI reserves the right to adjust these rates. Work performed in subsequent years will be billed at the adjusted rates. Rates for any individual are subject to change at any time if WHI changes an individual's category.~~

#### Arbitration:

All disputes including collection of monies due under this contract shall be submitted to binding arbitration in accordance with the Construction Industry Panel Arbitration Rules of the American Arbitration Association. Arbitration will be held in the city of the WHI office signing the contract. WHI however may not be enjoined in any consolidated arbitration between its client and any other party(ies) involved in the project.

*Accepted*  
*David E. Wheeler*  
*11/2/05*