

Contract No. CM1412
Bid/RFQ No. N/A

PROFESSIONAL SERVICES AGREEMENT
Design and Consulting for the Kings Ferry Boat Ramp
Hilliard, Florida

THIS AGREEMENT made and entered into this 23rd day of March 2009, by and between the **Board of County Commissioners of Nassau County**, a political subdivision of the State of Florida, hereinafter referred to as "County", and **Tarbox Consulting & Design, Inc.**, a Florida corporation, whose principle office address is located at 1785 Emerson Street, Jacksonville, Florida 32207, hereinafter referred to as "Tarbox":

WHEREAS, the County desires to obtain professional services in connection with the parking lot expansion of the Kings Ferry Boat Ramp located in Hilliard, Nassau County, Florida; and

WHEREAS, Tarbox desires to render specialized civil engineering design and permitting services, as described herein, and has the qualifications, experience, staff and resources to perform those services; and

WHEREAS, Tarbox hereby certifies that Tarbox has been granted and possesses all necessary and current licenses to do business in the State of Florida and in Nassau County, Florida, issued by the respective State Boards and Government Agencies responsible for regulating and licensing the services to be provided and performed by Tarbox pursuant to this Agreement; and

WHEREAS, the County, has determined that it would be in the best interest of the County to award a contract to Tarbox for the rendering of those services described herein.

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties hereto agree as follows:

ARTICLE 1 - EMPLOYMENT OF CONSULTANT

The County hereby agrees to engage Tarbox, and Tarbox hereby agrees to perform the services set forth in the Scope of Services, described herein.

ARTICLE 2 - SCOPE OF SERVICES

Tarbox shall provide civil engineering services to design and permit a parking lot expansion at the existing Kings Ferry Boat Ramp site, in accordance with the Civil Engineering Services Agreement, submitted by Tarbox, dated February 16, 2009, set forth in Attachment "A", attached hereto and incorporated by reference.

ARTICLE 3 - THE COUNTY'S RESPONSIBILITY

Except as provided in the Scope of Service, the County's responsibilities are to furnish required information, services, render approvals and decisions as necessary for the orderly progress of TARBOX's services. The County hereby designates the Director of Building Maintenance (Director) to act on the County's behalf with respect to the Scope of Services. The Director, under the supervision of the County Coordinator, shall have complete authority to transmit instructions, receive information, interpret and define County's policies and decisions with respect to materials, elements and systems pertinent to TARBOX's services.

ARTICLE 4 - TERM OF AGREEMENT

4.1 The provisions for this article and the rate of compensation for TARBOX's services provided for elsewhere in this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion. TARBOX's obligation to render services hereunder will extend for a period of not less than one (1) year from the date of this agreement. If the County has requested significant modifications or changes in the general scope, extent or character of the project, the time of performance of TARBOX's services shall be adjusted equitably as agreed upon in writing by the County and TARBOX.

ARTICLE 5 - COMPENSATION

5.1 The County shall pay TARBOX a not to exceed amount of \$18,800.00, in accordance with the provisions contained in the Proposal attached hereto as Attachment "A", and incorporated herein as if set forth in full, as follows:

Design and Permitting			
Design and Permitting			
1	Completion of Task 2 (Site Plan)	15%	\$2,580
2	SJRWMD/ACOE Submittal 1	60%	\$10,320
3	SJRWMD/ACOE Submittal 2	15%	\$2,580
4	SJRWMD/ACOE approvals	10%	\$1,720
Sub-Total for Design & Permitting =		100%	\$17,200
5	Construction Phase Services	Not to exceed	\$1,200
6	Reimbursable Expenses	Not to exceed	\$400
Total Design and Permitting			\$18,800

5.2 TARBOX shall prepare and submit to the Director, for approval, monthly invoices for the services rendered under this Agreement. Invoices for services shall be paid within forty-five (45) upon receipt of the invoice, in accordance with the Florida Prompt Payment Act. All invoices shall be accompanied by a report identifying the nature and progress of the work performed. The statement shall show a summary of fees with an accrual of the total fees billed and credits for portions paid previously. The County reserves the right to withhold payment to TARBOX for failure to perform the work in accordance with the provisions of this Agreement, and the County shall promptly notify TARBOX if any invoice or report is found to be unacceptable and will specify the reasons therefor.

5.3 All representation, indemnifications, warranties and guaranties made in, required by or given in accordance with this Agreement, as well as all continuing obligations indicated in this Agreement, will survive final payment and termination or completion of this Agreement.

5.4 Final Invoice per Project: In order for both parties herein to close their books and records, TARBOX will clearly state "Final Invoice" on TARBOX's final/last billing to the County, this indicates that all services have been performed and all charges and costs have been invoiced to the County and that there is no further work to be performed on the specific project.

ARTICLE 6 - STANDARD OF CARE

TARBOX shall exercise the same degree of care, skill, and diligence in the performance of the Services as is ordinarily provided by a professional under

similar circumstances and TARBOX shall, at no additional cost to the County, re-perform services which fail to satisfy the foregoing standard of care.

ARTICLE 7 - DOCUMENTS

The documents which comprise this Agreement between the County and TARBOX are attached hereto and made a part hereof and consist of the following:

- 7.1 This Agreement;
- 7.2 The proposal for civil engineering services submitted by Tarbox dated 02/16/09, attached hereto as Attachment "A";
- 7.3 Any written amendments, modifications or Addenda to this Agreement.

ARTICLE 8 - EQUAL OPPORTUNITY EMPLOYMENT

In connection with the work to be performed under this Agreement, TARBOX agrees to comply with the applicable provisions of State and Federal Equal Employment Opportunity statutes and regulations.

ARTICLE 9 - TRUTH-IN-NEGOTIATION/PUBLIC ENTITY CRIMES AFFIDAVIT

TARBOX certifies that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the county determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. TARBOX represents that it has furnished a Public Entity Crimes Affidavit pursuant to Section 287.133, Florida Statutes.

ARTICLE 10 - INDEMNIFICATION

10.1 TARBOX shall indemnify and hold harmless the County, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of TARBOX and other persons employed or utilized by TARBOX in the performance of this agreement.

ARTICLE 11 - INDEPENDENT CONTRACTOR

TARBOX undertakes performance of the services as an independent contractor under this Agreement, and shall be wholly responsible for the methods of performance. The County shall have no right to supervise the methods used, but the County shall have the right to observe such performance. TARBOX shall work closely with the County in performing services under this Agreement.

ARTICLE 12 – EXTENT OF AGREEMENT

12.1 This Agreement represents the entire and integrated agreement between the County and TARBOX and supersedes all prior negotiations, representations, or agreement, either written or oral.

12.2 This Agreement may only be amended, supplemented, modified, changed or canceled by a duly executed written instrument.

ARTICLE 13 - COMPLIANCE WITH LAWS

In performance of the services, TARBOX will comply with applicable regulatory requirements including federal, state, and local laws, rules regulations, orders, codes, criteria and standards.

ARTICLE 14 - INSURANCE

14.1 TARBOX shall purchase and maintain such commercial (occurrence form) or comprehensive general liability, workers compensation, professional liability, and other insurance as is appropriate for the services being performed hereunder by TARBOX, its employees or agents. The amounts and types of insurance shall conform to the following minimum requirements.

14.1.1 Worker's Compensation: Coverage must apply for all employees and statutory limits in compliance with the applicable state and federal laws. In addition, the policy must include the following:

- a. Employer's Liability with a minimum limit per accident in accordance with statutory requirements.
- b. Notice of Cancellation and/or Restriction. The policy must be endorsed to provide County with ten (10) days' written notice of cancellation and/or restriction.

14.1.2 Comprehensive General Liability: Coverage must include:

- a. \$1,000,000.00 combined limit per occurrence for bodily injury, personal injury and property damage; \$2,000,000 general aggregate.
- b. Contractual coverage applicable to this specific contract, including any hold harmless and/or indemnification agreement.

- c. Additional Insured. County is to be specifically included as an additional insured.
- d. Notice of Cancellation and/or Restriction. The policy must be endorsed to provide County with ten (10) days' written notice of cancellation and/or restriction.

14.1.3 Comprehensive Automobile Liability: Coverage must be afforded on a form no more restricted than the latest edition of the Comprehensive Automobile Liability Policy filed by the Insurance Services Office and must include:

- a. \$1,000,000 combined single limit per accident for bodily injury and property damage.
- b. Owned Vehicles
- c. Hired and Non-Owned Vehicles
- d. Employee Non-Ownership
- e. Additional Insured. County is to be specifically included as an additional insured.
- f. Notice of Cancellation and/or Restriction. The policy must be endorsed to provide County with ten (10) days' written notice of cancellation and/or restriction.

14.1.4 Umbrella policy: Coverage must be afforded on a form no more restricted than the latest Umbrella Policy filed by Insurance Services Offices and must include:

- a. \$5,000,000 per occurrence

- b. General Liability underlying coverage: \$1,000,000 for bodily injury, personal injury and property damage. General Aggregate of \$2,000,000.
- c. Auto liability: Underlying Combined single limit of \$1,000,000.
- d. Employers' Liability: Underlying limit \$500,000/\$500,000/\$500,000.

14.1.5 Additional Insured. County is to be specifically included as an additional insured.

14.1.6 Notice of Cancellation and/or Restriction. The policy must be endorsed to provide County with ten (10) day's written notice of cancellation and/or restriction.

14.2 Certificates of Insurance evidencing the insurance coverage specified in this Section shall be filed with the County. The Certificates of Insurance shall be filed with County before this Agreement is deemed approved by the County. The required Certificates of Insurance not only shall name types of policies provided, but also shall refer specifically to this Agreement. All the policies of insurance so required of TARBOX except workers compensation and professional liability insurance shall be endorsed to include as additional insured the County, its officers, employees, and agents to the extent of the County's interest arising from any contract agreement between County and TARBOX. If the initial insurance expires prior to completion of the work, renewal Certificates

of Insurance shall be furnished thirty (30) days prior to the date of their expiration.

14.3 Insurance coverage shall be placed with insurers or self-insurance funds, satisfactory to the County, licensed to do business in the State of Florida and with a resident agent designated for the service of process. All insurers shall have an "A" policyholder's rating and a financial rating of at least Class IX in accordance with the most current Best's rating. TARBOX shall provide the County with financial information concerning any self insurance fund insuring TARBOX. At the County's option, a Best's rating or Self-Insurance Fund financial information may be waived.

ARTICLE 15 – ACCESS TO PREMISES

The County shall be responsible for providing access to all project sites, and for providing project-specific information.

ARTICLE 16 - TERMINATION OF AGREEMENT

16.1 Termination for Convenience: Notwithstanding any other provision herein, this Agreement may be terminated by the County for convenience, upon thirty (30) days of written notice to TARBOX. In such event, TARBOX shall be paid its compensation for services performed prior to the termination date. In the event that TARBOX abandons this Agreement or causes it to be terminated, TARBOX is liable to the County for any and all loss pertaining to this termination.

16.2 Default by Consultant: Notwithstanding any other provision herein, In addition to all other remedies available to the County, the County may

terminate this Agreement for cause should TARBOX neglect, fail to perform, or fail to observe any of the terms, provisions, conditions, or requirements herein contained. Prior to termination, the County shall provide written notice of the specific conditions warranting default, and the County shall allow thirty (30) days for TARBOX to cure.

ARTICLE 17 - UNCONTROLLABLE FORCES

17.1 Neither the County nor TARBOX shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to fire, flood, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, and governmental actions.

17.2 Neither party shall, however, be excused from performance if nonperformance is due to forces, which are preventable, removable, or remediable, and which the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed, or remedied with reasonable dispatch. The nonperforming party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.

ARTICLE 18 - GOVERNING LAW AND VENUE

This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Nassau County.

ARTICLE 19 - MISCELLANEOUS

19.1 Non-waiver: A waiver by either County or TARBOX of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach. The making or acceptance of a payment by either party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any subsequent default or breach.

19.2 Severability: Any provision in this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provisions in any other jurisdiction. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

19.3 The provisions of this section shall not prevent the entire Agreement from being void should a provision, which is of the essence of the Agreement, be determined to be void.

ARTICLE 20 - SUCCESSORS AND ASSIGNS

The County and TARBOX each binds itself and its director, officers, partners, successors, executors, administrators, assigns and legal representatives to the other party to this Agreement and to the partners, successors, executors, administrators, assigns, and legal representatives.

ARTICLE 21 - CONTINGENT FEES

TARBOX warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for TARBOX to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for TARBOX, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this Agreement.

ARTICLE 22 - OWNERSHIP OF DOCUMENTS

TARBOX shall be required to work in harmony with other consultants relative to providing information requested in a timely manner and in the specified form. Any and all documents, records, disks, original drawings, or other information shall become the property of the County upon completion for its use and distribution as may be deemed appropriate by the County.

ARTICLE 23 - FUNDING

This agreement shall remain in full force and effect only as long as the expenditures provided for in the Agreement have been appropriated by the

County Commission of the County of Nassau in the annual budget for each fiscal year of this Agreement, and is subject to termination based on lack of funding.

ARTICLE 24 - NOTICE

24.1 Whenever either party desires or is required under this Agreement to give notice to any other party, it must be given by written notice either delivered in person, sent by U.S. Certified Mail, U.S. Express Mail, air or ground courier services, or by messenger service, as follows:

COUNTY

Nassau County Contract Management
96135 Nassau Place, Suite 6
Yulee, Florida 32097

With a copy to the County Attorney at the same address.

CONSULTANT:

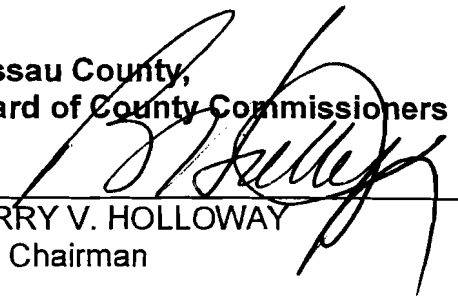
Troy Tarbox
Tarbox Consulting & Design, Inc.
1785 Emerson Street
Jacksonville, Florida 32207

24.2 Notices shall be effective when received at the address specified above. Changes in the respective addresses to which such notice may be directed may be made from time to time by any party by written notice to the other party. Facsimile is acceptable notice effective when received, however, facsimiles received (i.e.; printed) after 5:00 p.m. or on weekends or holidays, will be deemed received on the next business day. The original of the notice must additionally be mailed as required herein.

24.3 Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of TARBOX and County.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

Nassau County,
Board of County Commissioners



BARRY V. HOLLOWAY
Its: Chairman

ATTESTATION: ONLY TO AUTHENTICITY
AS TO CHAIRMAN'S SIGNATURE:



JOHN A. CRAWFORD
Its: Ex-Officio Clerk

EBL
3/23/09

Approved as to form and legal
sufficiency:



DAVID A. HALLMAN

[Consultant's signature on next page]



Attachment A

February 16, 2009

Civil Engineering Scope of Services

Project: Kings Ferry Boat Ramp – Parking Lot Expansion

Location: Nassau County, Florida

TARBOX Consulting and Design, Inc. (TARBOX) is pleased to present this civil engineering design and permitting services agreement (Agreement) to Nassau County's Building Maintenance Department (Client). This Agreement includes civil engineering services to design and permit a parking lot expansion at the existing Kings Ferry Boat Ramp site. It is anticipated that the proposed parking lot expansion will exceed 4,000 square feet of stabilized surface area; therefore, a storm water management facility will be required.

TARBOX will work with Client to design a project that best meets their development objectives given available funds. TARBOX anticipates that the design process will be a somewhat iterative process in order to bring design and development budget into alignment.

PROPOSED SCOPE OF SERVICES

Based on our current understanding of the project, TARBOX recommends the following tasks to complete the project:

Task 1. Data Collection

TARBOX will coordinate with the project's wetland scientist, surveyor and geotechnical engineer to obtain data required to design and permit the project.

Task 2. Site Plan

Based upon Client's input and site-specific conditions, TARBOX will prepare a Site Plan and an Opinion of Probable Cost for Client's review. Based upon Client's comments, TARBOX will revise the Site Plan and the Opinion of Probable Cost for Client's final review and approval.

Attachment A

King's Ferry Boat Ramp – Parking Lot Expansion

February 16, 2009

Page 2

Task 3. Engineering Design and Permitting

Upon Client's approval of the Site Plan and Opinion of Probable Cost, TARBOX will prepare engineering plans and calculations for submittal to the following agencies.

1. St. Johns River Water Management District (SJRWMD) – Environmental Resource Permit (40C-40);
2. U.S. Army Corps of Engineers (ACOE) – Individual Permit;
3. Nassau County - Development Review Committee (DRC).

TARBOX anticipates approximately 0.25 acres of wetland impacts. Any impacts to tidal wetlands will require an individual permit from the ACOE.

The project is located within a regulated flood plain. In accordance with Federal and State rules, there can be no net fill within the 10-year or 100-year flood plains. In order to offset proposed fill, a wet detention storm water management system may be required.

DESIGN AND PERMITTING SCHEDULE

TARBOX is prepared to start work immediately on this project. TARBOX anticipates the design and permitting process will require approximately 6-9 months to complete. A significant portion of this time is related to the SJRWMD/ACOE permitting process.

ASSUMPTIONS AND EXCLUSIONS

1. This Agreement does not include fees for wetland science, surveying or geotechnical engineering services.
2. This Agreement assumes that permitting requirements for fill within the 10-year and 100-year flood plains will be limited demonstrating no loss of flood plain storage via cut and fill calculations.
3. This Agreement assumes that no building is proposed with the project that would require additional FEMA considerations.
4. This Agreement does not include landscape architecture services.
5. This Agreement assumes no irrigation system will be required.
6. This Agreement assumes mitigation for wetland impacts will be accomplished by purchase of credits in a Wetland Mitigation Bank (Bank). This Agreement does not include costs for required Bank credits.

Attachment A

King's Ferry Boat Ramp – Parking Lot Expansion

February 16, 2009

Page 3

COMPENSATION

TARBOX proposes the following fees.

Item	Description		Fee
1.	Completion of Task 2	(15%)	\$ 2,580
2.	SJRWMD/ACOE Submittal 1	(60%)	\$ 10,320
3.	SJRWMD/ACOE Submittal 2	(15%)	\$ 2,580
4.	SJRWMD/ACOE approvals	(10%)	\$ 1,720
	Design and Permitting Subtotal =	(100%)	\$ 17,200
5.	Construction Phase Services	±	\$ 1,200
6.	Reimbursable Expenses	±	\$ 400
	TARBOX Total =	±	\$ 18,800

Construction phase services include contractor coordination, shop drawing review and storm water management system certification.

OTHER DESIGN AND PERMITTING EXPENSES

In addition to fees for civil engineering services, following is an estimate of other design and permitting expenses anticipated for the project.

Application Fees

Following is a summary of application fees required for the Project.

Application	Anticipated Fee
1. SJRWMD Standard ERP	\$ 1,000
2. ACOE Individual Permit	\$ 100
Application Fees =	\$ 1,100

Services by Others

Following is a summary of estimated fees for surveying, geotechnical engineering and wetland science services that will be required for the project.

Service Description	Anticipated Fee
1. Topographic Survey	±1,500
2. As-Built Survey	±1,500
3. Geotechnical Engineering Services	±1,500
4. Wetland Scientist	±5,000
Services by Others =	\$ 9,500
Total =	\$ 29,400

Attachment A

King's Ferry Boat Ramp – Parking Lot Expansion

February 16, 2009

Page 4

DELIVERABLES

TARBOX will provide Client with the following deliverables:

1. copies of all application submittal packages;
2. copies of all approved permits;
3. copies of engineering plans with quantity to be determined by Client;
4. Reviewed and approved shop drawings; and
5. Copies of final certification submittals.

REIMBURSABLE EXPENSES

Reimbursable expenses are direct costs associated with the delivery of services including large-format printing expense (e.g. color plots if requested), reprographic expenses (copies of plan sets for agency submittals), mileage expenses for site visits and meetings, package and postage expenses for the transmittal of documents and plans and application fees that may be advanced by TARBOX.