

Contract No.: CM1557Bid/Proposal No.: NC09-039

GOODS/SERVICES AGREEMENT FOR  
MOBILE CRIME SCENE UNIT VEHICLE

This SERVICES AGREEMENT ("AGREEMENT"), entered into this 22 day of February, 2010 between the Nassau County Board of County Commissioners ("COUNTY"), a political subdivision of the State of Florida and a body politic, by and through its undersigned Chairman pursuant to the authority expressly granted by the Nassau County Board of County Commissioners, and Gerling and Associates, Inc. ("CONTRACTOR"). COUNTY and CONTRACTOR are collectively referred to as "PARTIES."

## WITNESSETH:

WHEREAS, the COUNTY desires to purchase a Mobile Crime Scene Unit Vehicle as set forth in the referenced and attached documents, in accordance with the requirements of the Nassau County Purchasing Policy; and

WHEREAS, CONTRACTOR has the expertise, knowledge and ability to provide the vehicle set forth herein and in the referenced and attached documents; and

WHEREAS, the COUNTY desires to hire CONTRACTOR to provide the vehicle set forth herein and in the referenced and attached documents; and

WHEREAS CONTRACTOR was awarded this AGREEMENT after a duly performed competitive procurement process, and AGREEMENT award by the Nassau County Board of County Commissioners on February 8, 2010; and

THEREFORE, in consideration of the mutual agreements contained in this AGREEMENT and the terms and conditions set forth below and by the referenced and attached documents, it is hereby AGREED between the parties as follows:

**1.0 GENERAL TERMS AND CONDITIONS**

This AGREEMENT shall follow the "General Terms and Conditions", attached as Exhibit 1, and incorporated into this AGREEMENT.

**2.0 SCOPE OF SERVICES**

The vehicle shall in all ways comply with the specifications set forth in the "Scope of Work" and "Specifications", as listed in Bid #: NC09-09, and Gerling and Associates, Inc. proposal dated January 13, 2010, and incorporated by reference into this AGREEMENT.

**3.0 PRICING**

All pricing and payment shall be as set forth in Section I.9 of this AGREEMENT.

4.0 WARRANTIES AND TITLE

CONTRACTOR warrants that it has free and clear title, without encumbrance of any kind to the vehicle set forth in this AGREEMENT and all attachments, and that it has the lawful right to dispose of, provide and/or sell the goods in this AGREEMENT.

5.0 CONTRACT DOCUMENTS

This AGREEMENT includes the following Contract Documents:

- a. Goods/Services Agreement, Contract #: CM1557,
- b. General Terms and Conditions, Exhibit 1
- c. Certificate of Insurance, Exhibit 2
- d. Invitation to Bid # NC09-039 (incorporated by reference)
- e. Gerling and Associates, Inc. proposal dated January 13, 2010 (incorporated by reference)

6.0 MERGER

CONTRACTOR and COUNTY agree that the Contract Documents set forth in the previous paragraph contain the entire agreement between the parties and that any previous representation or agreement, in writing or otherwise, is hereby superseded and made null and void. All amendments to this AGREEMENT shall be in writing with the notice provided as set forth in the General Terms and Conditions, attached as Exhibit 1.

7.0 CHOICE OF LAWS AND VENUE

Any and all disputes of any kind related to this AGREEMENT shall be brought before the Nassau County Circuit Court and determined under the Laws of the State of Florida.

IN WITNESS WHEREOF, the parties hereby set their signature to this AGREEMENT  
on

February            22 , 2010.

County of Nassau, Florida

Contractor:

Gerling and Associates, Inc.  
138 Stelzer Court  
Sunbury, Ohio 43074  
(740) 965-2888  
Fax: (740) 965-2898

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

  
Fred Gerling

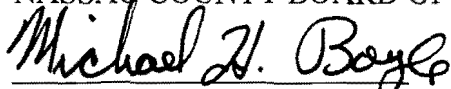
Title: \_\_\_\_\_

president

Contract No.: CM1557

Bid/Proposal No.: NC09-039

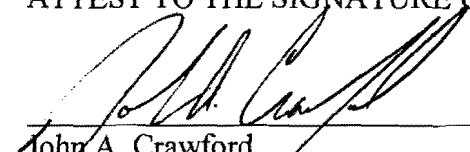
NASSAU COUNTY BOARD OF COUNTY COMMISSIONERS



BY: MICHAEL H. BOYLE

ITS: Chair

ATTEST TO THE SIGNATURE OF THE CHAIR:



John A. Crawford  
Ex-Officio Clerk

*EAR*  
*2/22/10*

APPROVED AS TO FORM BY THE  
NASSAU COUNTY ATTORNEY:



David A. Hallman  
County Attorney

MOBILE CRIME SCENE UNIT VEHICLE

EXHIBIT 1  
GENERAL TERMS AND CONDITIONS

I.1 DEFINITIONS

I.1.1

“Department or Department Head” means the Nassau County Sheriff’s Office.

I.1.2

“Duly authorized representative” means any person authorized in writing by the department head to act for the department head in connection with this AGREEMENT

I.1.3

“Contract Manager” means the Purchasing Agent of Nassau County whose duties and responsibilities are more particularly described in the Nassau County Purchasing Ordinance, or his or her designees, as duly authorized pursuant to the Purchasing Ordinance.

I.1.4

“Goods” and “Services” shall be as defined in the Nassau County purchasing ordinance in effect at the time of the execution of this AGREEMENT.

I.1.5

“Project” means Mobile Crime Scene Unit Vehicle for Nassau County, Florida.

I.1.6 “Contractor” shall mean: Gerling and Associates, Inc., 138 Stelzer Court, Sunbury, Ohio 43074, Phone: (740) 965-2888, Fax: (740) 965-2898

I.2 CONTRACT PERIOD

The term for the AGREEMENT shall be from date of contract execution (signature) by both parties until the completion, delivery, and acceptance of the custom vehicle by Nassau County. Completed vehicle, ready for use by Nassau County shall be delivered 90-120 days after receipt of chassis.

I.3 COMPLIANCE WITH LAWS

The CONTRACTOR shall at all times observe and comply with all laws, ordinances and regulations of the federal, state and local government, which may in any manner affect the performance of this AGREEMENT.

This AGREEMENT is governed by the applicable provisions of the Nassau County Purchasing Ordinance, which is incorporated herein by reference. Procedures for contractual disputes, appeals and protests shall be governed by the Ordinance.

#### I.4 TAXES

Nassau County is exempt from excise taxation by virtue of an exemption certificate. Nassau County will complete such documents as may be necessary for the CONTRACTOR to comply with applicable tax laws and regulations. The price or prices quoted here shall include all other federal and state, direct and indirect taxes which apply.

#### I.5 NOTICE

All communications and notices provided for herein shall be in writing, delivered personally or by certified mail, to the CONTRACTOR by name and address listed on the proposal; to the department head by name and address listed on the cover here and to Contract Management, 96135 Nassau Place, Suite 6, Yulee, Florida 32097.

#### I.6 NONDISCRIMINATION

During the performance of this contract, the CONTRACTOR agrees as follows:

##### I.6.1

The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, creed, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the CONTRACTOR. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause

##### I.6.2

The CONTRACTOR, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, will state that such CONTRACTOR is an equal opportunity employer.

##### I.6.3

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.

##### I.6.4

CONTRACTOR shall comply with the provisions of the Americans with Disabilities Act of 1990, which prohibits discrimination against individuals with disabilities in employment and mandates their full participation in both publicly and privately provided services and activities.

#### I.6.5

The CONTRACTOR will include the provisions of the foregoing paragraphs in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or contractor.

#### I.7 DRUG-FREE WORKPLACE

The CONTRACTOR agrees to (i) provide a drug-free workplace for the CONTRACTOR'S employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the CONTRACTOR'S workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR that the CONTRACTOR maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or contractor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a CONTRACTOR in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the contract.

#### I.8 OTHER RESTRICTIONS

##### I.8.1

No firearms and/or weapons are permitted within 500 feet of Nassau County property and facilities except as required by private security employed by Nassau County or official public law enforcement. Alcohol and/or or illegal drugs are not permitted within 500 feet of Nassau County property and facilities.

#### I.9 PRICE AND SERVICES

##### I.9.1

###### Payment Amount

The total cost for all services provided for under this AGREEMENT will be for the custom Mobile Crime Scene Unit Vehicle. In response to the Invitation to Bid NC09-039, the bid amount, one hundred eighty-four thousand dollars (\$184,000.00) shall be a "Not to Exceed" amount. During the development of the final engineering design, price adjustments shall be negotiated for changes or removal of specifications listed by the CONTRACTOR which are considered over the listed specifications.

#### I.10 SECRECY OF DATA

The CONTRACTOR shall not use or disclose to third parties any data, designs, or other information belonging to or supplied by or on behalf of the COUNTY, without first obtaining the prior written authorization of the COUNTY. Upon the COUNTY'S request, such data, designs, or other information, including all copies thereof, shall be returned to the COUNTY. Where the COUNTY'S data, designs, or other information are furnished to the CONTRACTOR'S suppliers for procurement of supplies for use in the performance of the COUNTY'S orders, the CONTRACTOR shall insert the substance of this provision in its orders.

#### I.11 ASSIGNMENT AND SET-OFF

This AGREEMENT shall be binding upon all successors, assigns, employees or other agents of the CONTRACTOR. The CONTRACTOR shall not delegate any duties, nor assign any rights or claims under this AGREEMENT, without prior written consent of the COUNTY (but in no case shall the consent relieve the CONTRACTOR from its obligations or change the terms of the AGREEMENT). The CONTRACTOR shall not transfer or assign any contract funds or claims due or to become due without the written approval of COUNTY having first been obtained. All claims for monies due or to become due from COUNTY shall be subject to deduction by the COUNTY for any set-off or counterclaim arising out of this or any other of COUNTY'S purchase orders with the CONTRACTOR, or for any other liquidated debt from the CONTRACTOR to the COUNTY, whether or not any such assignment is made, and whether such set-off or counterclaim arose before or after any such assignment by the CONTRACTOR.

#### I.12 NON-INFRINGEMENT

To the extent that the services are provided relating to detailed designs not originated and furnished by the COUNTY, or by a process or method the use of which is not specifically directed by the COUNTY, the CONTRACTOR guarantees that the sale or use of such services or the use of such process or method hereunder will not infringe any United States or foreign patents, trademarks, trade names, copyrights, or trade secrets, and shall indemnify and save the COUNTY and its customers harmless from any expenses, loss, cost, damage, or liability which may be incurred on account of infringement or alleged infringement of patent rights, trademarks, trade names, copyrights, or trade secrets with respect to such services. The CONTRACTOR shall defend, at its own expense, any action or claim in which such infringement is alleged, provided the CONTRACTOR is notified within a reasonable time of such action or claim against the COUNTY. Indemnification shall not apply to infringements arising from use in combination with other items where infringement would not have occurred from the normal use of which the article supplied by CONTRACTOR was designed.

#### I.13 BANKRUPTCY

In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against the CONTRACTOR or in the event of the appointment, with or without the CONTRACTOR'S consent, of an assignee for the benefit of creditors or of a receiver, the COUNTY shall be entitled to cancel any unfilled part of this AGREEMENT without any liability whatsoever.

#### I.14 GOVERNING LAW AND VENUE; NO ARBITRATION OR MEDIATION

This AGREEMENT between the PARTIES evidenced hereby, shall be deemed made in the State of Florida, and shall be construed and interpreted solely in accordance with the laws of the State of Florida. Venue for any action arising hereunder shall be in the state courts for Nassau County, Florida. Nothing under this AGREEMENT shall be subject to arbitration or mediation, and any references to arbitration or mediation are expressly deleted from this AGREEMENT. The CONTRACTOR and COUNTY hereby waive any and all rights to arbitration under the laws of the State Florida, the United States, or otherwise.

#### I.15 INDEMNIFICATION

The CONTRACTOR shall save, defend, hold harmless and indemnify the COUNTY, and all of its officers, departments, agencies, agents, and employees from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorneys' fees), charges, liability, or exposure, by reason of property damage or personal injury to any person, including the CONTRACTOR'S employees, of whatsoever nature or kind to the proportionate extent arising out of, as a result of, or in connection with such performance caused by the negligent actions or omissions of the CONTRACTOR, its employees, agents, subcontractors, or representatives. Without in any way limiting the foregoing, the CONTRACTOR and its subcontractors shall maintain public liability and property damage insurance as provided in Exhibit 2, and shall maintain Worker's Compensation insurance as required by law covering all employees performing under this AGREEMENT.

#### I.16 LIMITATION OF LIABILITY

The COUNTY'S liability shall be limited to the unpaid balance of amounts due under this AGREEMENT, and in no event shall the COUNTY be liable to CONTRACTOR for indirect, incidental, consequential or special damages.

#### I.17 DEFAULT

The COUNTY may, subject to the provisions below, by written notice of default to the CONTRACTOR, terminate the whole or any part of this AGREEMENT in any one of the following circumstances:



I.17.1

If the CONTRACTOR fails to make delivery of the supplies or to perform the work within the time specified here or any written extension; or

I.17.2

If the CONTRACTOR fails to perform any of the other provisions of this AGREEMENT, or so fails to make progress so as to endanger performance of this AGREEMENT in accordance with its terms, and in either of these two circumstances does not cure the failure within a period of ten (10) days (or other such period as COUNTY may authorize in writing) after receipt of notice from COUNTY specifying the failure.

In the event the COUNTY terminates this AGREEMENT in whole or in part is provided herein, the COUNTY may procure, upon the terms and in the manner as COUNTY may deem appropriate, supplies or services similar to those terminated, and the CONTRACTOR shall be liable to the COUNTY for any excess costs for such similar supplies or service: provided, that the CONTRACTOR shall continue the performance of this AGREEMENT to the extent not terminated under the provisions of this clause.

The CONTRACTOR shall not be liable for any excess costs if acceptable evidence has been submitted to and is deemed sufficient by COUNTY to establish that failure to perform the AGREEMENT was due to causes beyond the control and without the fault or negligence of the CONTRACTOR.

I.18 TERMINATION FOR THE CONVENIENCE OF THE COUNTY

This AGREEMENT may be terminated by Nassau County in whole or in part whenever the COUNTY shall determine that such termination is in the COUNTY'S best interest. Any such termination shall be effected by the delivery to the CONTRACTOR of a written notice of termination at least fifteen (15) days before the date of termination, specifying the extent to which performance under the AGREEMENT is terminated and the date upon which such termination becomes effective.

After receipt of a notice of termination and except as otherwise directed the CONTRACTOR shall stop all performance, cancel orders for parts and terminate Subcontractor's as of the date specified in the notice; and accept no further orders from the COUNTY. However, any authorized work not delivered as of the date of termination shall be delivered as required herein.

I.19 FORCE MAJEURE

CONTRACTOR is not responsible for damages or delay in performance caused by conditions beyond its control including, but not limited to, Acts of God, wars, and natural

disasters. In any such event, CONTRACTOR'S fee and schedule shall be equitably adjusted.

#### I.20 OWNERSHIP & CONFIDENTIALITY OF GOODS AND SERVICES

CONTRACTOR acknowledges that COUNTY will be sole and exclusive owner of all goods and services produced under this AGREEMENT, including but not limited to tangible items, writing, drawings, plans, images, intellectual property and data compilations of any form whatsoever, shall be the exclusive and sole property of COUNTY and shall not be otherwise reproduced, disclosed or used by CONTRACTOR, elsewhere, for any reason.

Further, CONTRACTOR agrees that all information provided to and by COUNTY pursuant to this AGREEMENT is private, confidential and proprietary and shall be the exclusive and sole property of COUNTY and shall not be otherwise reproduced, disclosed or used by CONTRACTOR, elsewhere, for any reason.

#### I.21 EXCLUSIVITY OF SERVICES/CONFLICT OF INTEREST

During the course of this Project, CONTRACTOR agrees that it will not provide any services, goods and or any other consultation of any kind to any other entity working on this Project, at anytime, including but not limited to the Architects, Engineers, and Builders.

#### I.22 IMMIGRATION REFORM AND CONTROL ACT OF 1986

The contractor does not, and shall not during the performance of the contract for goods and services in the State of Florida, knowingly employ an unauthorized alien as defined in *the federal Immigration Reform and Control Act of 1986. (check the reference in the Florida Statutes.)*

#### I.23 OFFICIAL NOT TO BENEFIT

CONTRACTOR certifies that to the best of his knowledge no COUNTY official or employee having official responsibility for the procurement transaction or member of his/her immediate family has received or will receive any financial benefit of more than nominal or minimal value relating to this AGREEMENT. If such a benefit has been received or will be received, this fact shall be immediately disclosed to the County Contract Manager. Failure to disclose the information prescribed above may result in recession of this AGREEMENT, or affect payment pursuant to the terms of the AGREEMENT.

Whenever there is reason to believe that a benefit of the sort described in the paragraph above has been or will be received in connection with this AGREEMENT that the CONTRACTOR has failed to immediately disclose, or has inadequately disclosed it, COUNTY as a prerequisite to payment pursuant to the CONTRACTOR, or at any time may require the CONTRACTOR to furnish, under oath, answers to any interrogatories related to such possible benefit.

In the event the CONTRACTOR has knowledge of benefits as outlined above, this information shall immediately be submitted to the County Contract Manager.

#### I.24 DISPUTES

Any dispute arising under this Contract shall be addressed by the representatives of the County and the Consultant as set forth herein. Disputes shall be set forth in writing to the County Coordinator with a copy to the Department Head or Consultant, depending on which party initiates the dispute, and provided by overnight mail, UPS, FedEx, or certified mail. A response shall be provided in the same manner prior to the initial meeting with the County Coordinator, the Department Head (or their designee), and a representative of the Consultant. This initial meeting shall take place no more than thirty (30) days from the written notification of the dispute addressed to the County Coordinator.

If the dispute is not settled at the initial meeting, the County Coordinator shall immediately notify the County Attorney. The Department Head (or his/her designee), the County Attorney, the County Coordinator, and the Department Head (or their designee(s)) shall meet with the Consultant's representative(s) within thirty (30) days of the County Coordinator's notification to the County Attorney of the continued dispute.

If there is no satisfactory resolution, the claims, disputes, or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof, shall be submitted to mediation in accordance with mediation rules as established by the Florida Supreme Court. Mediators shall be chosen by the County and the cost of mediation shall be borne by the Consultant. If either party initiates a Court proceeding, and the Court orders, or the parties agree to, mediation, the cost of mediation shall be borne by the Consultant. Consultant shall not stop work during the pendency of mediation or dispute resolution. No litigation shall be initiated unless and until the procedures set forth herein are followed.

Contract No.: CM1557

Bid/Proposal No.: NC09-039

## **EXHIBIT 2**

### **INSURANCE**

The CONTRACTOR will be required to provide evidence of the minimum coverage's described within the attached "Insurance Checklist". No AGREEMENT shall be finalized and no work shall commence until the CONTRACTOR insurance requirements are met.

#### **Insurance Checklist:**

1. Public liability insurance
2. Property damage insurance
3. Worker's Compensation insurance