

**AGREEMENT BETWEEN LAKE
COUNTY, FLORIDA, AND
THE HOWARD E. NYHART COMPANY, INC.
FOR ACTUARY SERVICES FOR THE GOVERNMENTAL ACCOUNTING
STANDARD BOARD (GASB) ISSUED STATEMENT 45**

RFP #16-0020

This is an Agreement between Lake County, Florida, a political subdivision of the State of Florida, herein referred to as the COUNTY, by and through its Board of County Commissioners, and The Howard E. Nyhart Company, Inc. a foreign for profit corporation, its successors and assigns, herein referred to as the CONTRACTOR.

WHEREAS, the COUNTY publicly submitted a Request for Proposals (RFP), #16-0020, seeking firms or individuals to retain an actuary for the reporting required for GASB 45, *Accounting and financial Reporting for Postemployment Benefits Other Than Pension*, in conjunction with the County's needs; and

WHEREAS, the CONTRACTOR desires to perform such services subject to the terms of this Agreement; and

WHEREAS, the provision of such services will benefit the parties and the residents of Lake County, Florida.

NOW, THEREFORE, IN CONSIDERATION of the mutual terms, understandings, conditions, promises, covenants and payment hereinafter set forth, and intending to be legally bound, the parties hereby agree as follows:

Article 1. Recitals

1.1 The foregoing recitals are true and correct and incorporated herein by reference.

Article 2. Purpose

2.1 The purpose of this Agreement is for the CONTRACTOR to provide actuarial services for the reporting required for GASB 45, *Accounting and financial Reporting for Postemployment Benefits Other Than Pension*, in conjunction with the COUNTY's needs

Article 3. Scope of Professional Services

3.1 On the terms and conditions set forth in this Agreement, the COUNTY hereby engages the CONTRACTOR to perform the services set forth herein in **Attachment A**, known as the Scope of Services attached hereto and incorporated herein by reference. The CONTRACTOR shall be governed by the Price Summary set forth in **Attachment B**, attached hereto and incorporated herein by reference, unless such schedule is amended by mutual, written agreement of each party's project manager.

3.2 This Agreement shall commence upon the date of execution by the COUNTY, unless otherwise stipulated in the Notice of Award Letter distributed by the COUNTY's Office of Procurement Services and contingent upon the completion and submittal of all required pre-award documents. The initial term of this Agreement shall be twelve (12) months. The prices set forth in **Attachment B** shall prevail for the full duration of the initial term unless otherwise indicated elsewhere in this Agreement. Any proposed services

that are not included in this Agreement shall not exceed what is reasonable and customary rate for this area. The CONTRACTOR shall maintain, for the entirety of this Agreement, if any, the same prices, terms, and conditions included within this Agreement.

3.3 The COUNTY shall have the option to renew this Agreement for two (2) additional twenty-four (24) month period(s). Prior to completion of each exercised contract term, the COUNTY may consider an adjustment to price based on changes in the Consumer Price Index CPI, Urban Wage Earners and Clerical Workers, CWURO300SAO, not seasonally adjusted, South Urban, All Items, 1982-84=100. It is the CONTRACTOR's responsibility to request any pricing adjustment in writing under this provision. The CONTRACTOR's written request for adjustment should be submitted one hundred and eighty days (180) calendar days prior to expiration of the then current contract term. The CONTRACTOR adjustment request must clearly substantiate the requested increase. The written request for adjustment should not be in excess of the relevant pricing index change. If no adjustment request is received from the CONTRACTOR, the COUNTY will assume that the CONTRACTOR has agreed that the optional term may be exercised without pricing adjustment. Any adjustment request received after the commencement of a new option period shall not be considered.

The COUNTY will be required to implement GASB 75 for fiscal year 2018, beginning October 1, 2017, which will require modification of the contract to fulfill requirements during the renewal periods. Continuation of the contract beyond the initial period, and any option subsequently exercised, is a COUNTY prerogative, and not a right of the CONTRACTOR. This prerogative may be exercised only when such continuation is clearly in the best interest of the COUNTY.

3.4 The CONTRACTOR shall coordinate and work with any other consultants retained by the COUNTY. The CONTRACTOR acknowledges that nothing herein shall be deemed to preclude the COUNTY from retaining the services of other persons or entities undertaking the same or similar services as those undertaken by the CONTRACTOR or from independently developing or acquiring materials or programs that are similar to, or competitive with, the services provided under this Agreement.

Article 4. Payment

4.1 Payment shall be made in accordance with the Price Summary as attached in **Attachment B**. This is an indefinite quantity contract with no guarantee services will be required. There is no guaranteed minimum or maximum dollar amount or volume to be expended. A copy of the COUNTY's Purchasing Policy and Procedures shall be made available to the CONTRACTOR upon request.

4.2 The CONTRACTOR may submit invoices to the COUNTY user department(s) based on the schedule specified in the scope of work. Payment of all such invoices shall be subject to formal acceptance of the related work by the COUNTY. In addition to the general invoice requirements set forth below, the invoices shall reference, as applicable, the corresponding work assignment and related acceptance document that was signed by an authorized representative of the COUNTY user department at the time the service and /or work product were delivered and accepted. Submittal of these periodic invoices shall not exceed thirty (30) calendar days from the delivery of the goods or services. Under no circumstances shall the invoices be submitted to the COUNTY in advance of the delivery and acceptance of the items.

All invoices shall contain the contract and/or purchase order number, date and location of delivery or service, and confirmation of acceptance of the goods or services by the appropriate COUNTY representative. Failure to submit invoices in the prescribed manner will delay payment, and the vendor may be considered in default of contract and its contract may be terminated. Payments shall be tendered in accordance with the Florida Prompt Payment Act, Part VII, Chapter 218, Florida Statutes.

4.3 Other than the common expenses, travel expenses, administrative and technical support expenses and computer expenses, if any, shall be paid as set forth in **Attachment B**, attached hereto and incorporated herein by reference. The CONTRACTOR shall not be entitled to payment for any expenses, fees, or other costs it may incur at any time and in any connection with its performance hereunder.

4.4 In the event a specific project is to be funded by federal, state, or other local agency monies, the CONTRACTOR hereby agrees to comply with all requirements of the funding entity applicable to the use of the monies, including receiving no payment until all required forms are completed and submitted. A copy of the requirements shall be supplied to the CONTRACTOR by the COUNTY.

Article 5. County Responsibilities

5.1 The COUNTY shall promptly review the deliverables and other materials submitted by the CONTRACTOR and provide direction to the CONTRACTOR as needed. The COUNTY shall designate one County staff member to act as COUNTY's Project Coordinator.

5.2 The COUNTY shall reimburse CONTRACTOR, in accordance with the Pricing Summary listed in Article 4 above for required services timely submitted and approved and accepted by COUNTY in accordance with the terms of this Agreement.

5.3 The COUNTY will provide to the CONTRACTOR all necessary and available data, photos and documents the COUNTY possesses that would be useful to the CONTRACTOR in the completion of the required services.

Article 6. Consultant's Responsibilities

6.1 The CONTRACTOR shall perform the work described in the Scope of Services and the Scope of Work, attached and incorporated by reference herein as **Attachment A**.

6.2 The CONTRACTOR shall assign the project personnel proposed in its submittal to the COUNTY's RFP to fulfill this Scope of Services unless the COUNTY agrees to substitutions.

6.3 The CONTRACTOR shall coordinate and lead all meetings necessary to accomplish the Scope of Services, including preparation of all agendas, advertising, meeting minutes and sign-in sheets as necessary.

6.4 The CONTRACTOR shall manage all sub-consultants to fulfill the Scope of Services.

6.5 The CONTRACTOR shall provide all deliverables in format(s) as specified by the COUNTY.

6.6 The CONTRACTOR shall provide any requested progress or status reports necessary for grant administration.

Article 7. Special Terms and Conditions

7.1 Qualifications. All firms or individuals will be registered with the State of Florida and have obtained at least the minimum thresholds of education and professional experience required by the statutes to perform the work required under this Agreement.

7.2 Termination. The COUNTY reserves the right to terminate this contract, in part, or in whole, or affect other appropriate remedy in the event the CONTRACTOR fails to perform in accordance with the terms and conditions stated herein. The COUNTY further reserves the right to suspend or debar the CONTRACTOR in accordance with County ordinances, resolutions, and/or administrative orders. The

CONTRACTOR will be notified by a written letter of the COUNTY's intent to terminate with a fifteen (15) days' notice and an appropriate time period to cure any such breach. In the event of termination for default, the COUNTY may procure the required goods and/or services from any source and use any method deemed in its best interest.

A. Termination for Convenience. In the event this Agreement is terminated or cancelled upon the request and for the convenience of the COUNTY with the required advance written notice, the COUNTY shall reimburse the CONTRACTOR for actual work satisfactorily completed.

B. Termination for Cause. Termination by COUNTY for cause, default, or negligence on the part of the CONTRACTOR shall be excluded from the foregoing provision. Termination costs, if any, shall not apply. The advance notice requirement is waived in the event of termination for cause.

C. Termination Due to Unavailability of Funds in Succeeding Fiscal Years. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year, this Agreement shall be canceled and the CONTRACTOR shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies or services/Tasks delivered under this Agreement.

7.3 Subletting of Contract. This Agreement shall not be sublet except with the written consent of the COUNTY's Procurement Services Director. No such consent shall be construed as making the COUNTY a party to the subcontract or subjecting the COUNTY to liability of any kind to any subcontractor. No subcontract shall under any circumstances relieve the CONTRACTOR of liability and obligations under this Agreement and all transactions with the COUNTY must be through the CONTRACTOR.

7.4 Indemnity. The CONTRACTOR agrees for good and valuable consideration in the amount of ten dollars (\$10.00) to indemnify and hold harmless the COUNTY, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the CONTRACTOR and other persons employed or utilized by the professional in the performance of the contract.

7.5 Independent Contractor. The CONTRACTOR agrees that it shall be acting as an independent contractor and shall not be considered or deemed to be an agent, employee, joint venturer, or partner of the COUNTY. The CONTRACTOR shall have no authority to contract for or bind the COUNTY in any manner and shall not represent itself as an agent of the COUNTY or as otherwise authorized to act for or on behalf of the COUNTY. Additionally, the CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR 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 the CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

7.6 Ownership of Deliverables. The CONTRACTOR agrees all Tasks and/or deliverables under this Agreement, and other data generated or developed by the CONTRACTOR under this Agreement or furnished by the COUNTY to the CONTRACTOR shall be and remain the property of the COUNTY, including any applicable copyrights. The CONTRACTOR shall perform any acts that may be deemed necessary or desirable by the COUNTY to evidence more fully transfer of ownership of all Tasks and/or deliverables to the COUNTY. Additionally, the CONTRACTOR hereby represents and warrants that it has full right and authority to perform its obligations specified in this Agreement.

7.7 Return of Materials. Upon the request of the COUNTY, but in any event upon termination of this Agreement, the CONTRACTOR shall surrender to the COUNTY all memoranda, notes, records, drawings, manuals, computer software, and other documents or materials pertaining to the services hereunder, that were furnished to the CONTRACTOR by the COUNTY pursuant to this Agreement.

7.8 NO CLAIM FOR DAMAGES OR ANY CLAIM OTHER THAN FOR AN EXTENSION OF TIME SHALL BE MADE OR ASSERTED AGAINST THE COUNTY BY REASON OF ANY DELAYS. No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the work shall relieve the CONTRACTOR of his duty to perform or give rise to any right to damages or additional compensation from the COUNTY. The CONTRACTOR expressly acknowledges and agrees that the CONTRACTOR shall receive no damages for delay. However, this provision shall not preclude recovery or damages by the CONTRACTOR for hindrances or delays due solely to fraud, bad faith or active interference on the part of the COUNTY. Otherwise, CONTRACTOR shall be entitled to extensions of the Contract Time as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above. Should the CONTRACTOR be obstructed or delayed in the prosecution of or completion of the work as a result of unforeseeable causes beyond the control of the CONTRACTOR, the CONTRACTOR shall notify the COUNTY in writing within two (2) regular work days after the commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which the CONTRACTOR may have had to request a time extension.

7.9 Retaining Other Consultants. Nothing herein shall be deemed to preclude the COUNTY from retaining the services of other persons or entities undertaking the same or similar services as those undertaken by the CONTRACTOR or from independently developing or acquiring materials or programs that are similar to, or competitive with, the services provided under this Agreement.

7.10 Accuracy. The CONTRACTOR is responsible for the professional quality, technical accuracy, timely completion and coordination of all the services furnished hereunder. The CONTRACTOR shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in its designs, drawings, reports or other services.

7.1 Codes and Regulations. All work completed under this Agreement shall conform to all applicable federal, state and local statutes, codes, regulations and ordinances.

7.12 Truth in Negotiation Certificate. Pursuant to Section 287.055(5)(a), Florida Statutes, for all lump-sum or cost-plus fixed fee contracts exceeding One Hundred Ninety Five Thousand dollars (\$195,000.00), the firm awarded the contract must execute a truth in negotiation certificate stating that the wage rates and other factual unit costs are accurate, complete and current, at the time of contracting. Any contract requiring this certificate shall contain a provision that the original contract price and any additions 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. All such contract adjustments shall be made within one (1) year following the end of the contract. By executing this Agreement, the CONTRACTOR has executed this certificate.

7.13 Public Entity Crimes. A person or affiliate who has been placed on the convicted vendor list following a conviction of a public entity crime may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity in excess of the threshold amount provided in Florida Statutes, 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.

7.14 Prohibition Against Contingent Fees. The CONTRACTOR warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Agreement, and that they have not paid or agreed to pay any

person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Agreement.

7.15 Right to Audit. The County reserves the right to require the CONTRACTOR to submit to an audit by any auditor of the COUNTY'S choosing. The CONTRACTOR shall provide access to all of its records, which relate directly or indirectly to this Agreement at its place of business during regular business hours. The CONTRACTOR shall retain all records pertaining to this Agreement and upon request make them available to the COUNTY for three (3) years following expiration of the Agreement. The CONTRACTOR agrees to provide such assistance as may be necessary to facilitate the review or audit by the COUNTY to ensure compliance with applicable accounting and financial standards.

7.16 Public Records/Copyrights.

A. All electronic files, audio and/or video recordings, and all papers pertaining to any activity performed by the CONTRACTOR for or on behalf of the COUNTY shall be the property of the COUNTY and will be turned over to the COUNTY upon request. In accordance with Chapter 119, Florida Statutes, each file and all papers pertaining to any activities performed for or on behalf of the COUNTY are public records available for inspection by any person even if the file or paper resides in the CONTRACTOR'S office or facility. The CONTRACTOR shall maintain the files and papers for not less than five (5) complete calendar years after the Project has been completed or terminated, or in accordance with any grant requirements, whichever is longer. Prior to the close out of this Agreement, the CONTRACTOR shall appoint a records custodian to handle any records request and provide the custodian's name and telephone number(s) to the Contracting Officer.

B. Any copyright derived from this Agreement shall belong to the author. The author and the CONTRACTOR shall expressly assign to the COUNTY nonexclusive, royalty free rights to use any and all information provided by the CONTRACTOR in any deliverable and/or report for the COUNTY'S use which may include publishing in the COUNTY documents and distribution as the COUNTY deems to be in the COUNTY'S best interests. If anything included in any deliverable limits the rights of the COUNTY to use the information, the deliverable shall be considered defective and not acceptable and the CONTRACTOR will not be eligible for any compensation.

C. Pursuant to Section 119.0701, Florida Statutes, the CONTRACTOR shall comply with the Florida Public Records' laws, and shall:

1. Keep and maintain public records required by the COUNTY to perform the services identified herein.
2. Upon request from the COUNTY'S custodian of public records, provide the COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided for by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the CONTRACTOR does not transfer the records to COUNTY.
4. Upon completion of the contract, transfer, at no cost, to the COUNTY all public records in possession of the CONTRACTOR or keep and maintain public records required by the COUNTY to perform the service. If the CONTRACTOR transfers all public records to the COUNTY upon

completion of the contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the contract, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the COUNTY, upon request from the COUNTY's custodian of public records, in a format that is compatible with the information technology systems of the COUNTY.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT LAKE COUNTY PROCUREMENT SERVICES, 352-343-9839, 315 W. MAIN STREET, TAVARES, FLORIDA 32778, sdugan@lakecountyfl.gov.

7.17 Insurance. The CONTRACTOR shall provide and maintain at all times during the term of this Agreement, without cost or expense to the COUNTY, policies of insurance, with a company or companies authorized to do business in the State of Florida, and which are acceptable to the COUNTY, insuring CONTRACTOR against any and all claims, demands or causes of action whatsoever, for injuries received or damage to property relating to the performance of duties, services and/or obligations of the CONTRACTOR under the terms and provisions of this Agreement. The CONTRACTOR is responsible for timely provision of certificate(s) of insurance to the COUNTY at the certificate holder address evidencing conformance with the requirements under this Agreement at all times throughout the term of the Agreement.

Such policies of insurance, and confirming certificates of insurance, shall insure the CONTRACTOR in accordance with the following minimum limits:

General Liability insurance on forms no more restrictive than the latest edition of the Occurrence Form Commercial General Liability policy (CG 00 01) of the Insurance Services Office or equivalent without restrictive endorsements, with the following minimum limits and coverage:

Each Occurrence/General Aggregate	\$1,000,000/2,000,000
Products-Completed Operations	\$2,000,000
Personal & Adv. Injury	\$1,000,000
Fire Damage	\$50,000
Medical Expense	\$5,000
Contractual Liability	Included

Automobile liability insurance, including owned, non-owned, and hired autos with the following minimum limits and coverage:

Combined Single Limit	\$1,000,000
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Workers' compensation insurance based on proper reporting of classification codes and payroll amounts in accordance with Chapter 440, Florida Statutes, and/or any other applicable law requiring workers' compensation (Federal, maritime, etc). If not required by law to maintain workers compensation insurance, the CONTRACTOR must provide a notarized statement that if he or she is injured; he or she will not hold the COUNTY responsible for any payment or compensation.

Employers Liability insurance with the following minimum limits and coverage:

Each Accident	\$1,000,000
Disease-Each Employee	\$1,000,000
Disease-Policy Limit	\$1,000,000

Professional liability and/or specialty insurance (medical malpractice, engineers, architect, consultant, environmental, pollution, errors and omissions, etc.) insurance as applicable, with minimum limits of \$1,000,000 and annual aggregate of \$2,000,000. **Note: Professional Liability Insurance must be carried at or above the specified level by prime consultant.**

The following additional coverage must be provided if a dollar value is inserted below:

Loss of Use at coverage value:	\$ _____
Garage Keepers Liability at coverage value:	\$ _____

Lake County, a Political Subdivision of the State of Florida, and the Board of County Commissioners, shall be named as additional insured as their interest may appear on all applicable liability insurance policies.

The certificate(s) of insurance shall provide for a minimum of thirty (30) days prior written notice to the COUNTY of any change, cancellation, or nonrenewal of the provided insurance. It is the CONTRACTOR's specific responsibility to ensure that any such notice is provided within the stated timeframe to the certificate holder.

If it is not possible for the CONTRACTOR to certify compliance, on the certificate of insurance, with all of the above requirements, then the CONTRACTOR is required to provide a copy of the actual policy endorsement(s) providing the required coverage and notification provisions.

Certificate(s) of insurance shall identify the applicable solicitation number in the Description of Operations section of the Certificate.

Certificate holder shall be:

LAKE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, AND
THE BOARD OF COUNTY COMMISSIONERS.
P.O. BOX 7800
TAVARES, FL 32778-7800

Certificates of insurance shall evidence a waiver of subrogation in favor of the COUNTY, that coverage shall be primary and noncontributory, and that each evidenced policy includes a Cross Liability or Severability of Interests provision, with no requirement of premium payment by the COUNTY.

The CONTRACTOR shall be responsible for subconsultants and their insurance. Subconsultants are to provide certificates of insurance to the CONTRACTOR evidencing coverage and terms in accordance with the CONTRACTOR's requirements.

All self-insured retentions shall appear on the certificate(s) and shall be subject to approval by the COUNTY. At the option of the COUNTY, the insurer shall reduce or eliminate such self-insured retentions or the CONTRACTOR or subconsultant shall be required to procure a bond guaranteeing payment of losses and related claims expenses.

The COUNTY shall be exempt from, and in no way liable for, any sums of money, which may represent a deductible or self-insured retention in any insurance policy. The payment of such deductible or self-insured retention shall be the sole responsibility of the CONTRACTOR and/or subconsultant providing such insurance.

Failure to obtain and maintain such insurance as set out above will be considered a breach of contract and may result in termination of this Agreement for default.

Neither approval by the COUNTY of any insurance supplied by the CONTRACTOR or Subconsultant(s), nor a failure to disapprove that insurance, shall relieve the CONTRACTOR or Subconsultant(s) of full responsibility for liability, damages, and accidents as set forth herein.

7.18 Federal and/or State Clauses, Terms, and Conditions.

A. Use of the Federal E-Verify System

The CONTRACTOR shall utilize the U.S. Department of Homeland Security's E-Verify system in accordance with the terms governing use of the system to confirm the employment eligibility of:

1. All persons employed by the vendor during the term of the contract to perform employment duties within Lake County; and

2. All persons, including subcontractors, assigned by the vendor to perform work pursuant to the contract.

B. Employment of State Residents:

The CONTRACTOR shall give preference to the employment of state residents in the performance of the work on the project if state residents have substantially equal qualifications to those of nonresidents. The term "substantially equal qualifications" refers to a situation wherein the CONTRACTOR cannot make a reasonable determination that the qualifications held by one person are better than the qualifications of another person. The CONTRACTOR must contact the Department of Economic Opportunity to post its employment needs in the state's job bank system. However, in work involving the expenditure of federal aid funds, this section may not be enforced in such a manner as to conflict with or be contrary to federal law prescribing a labor preference to honorably discharged soldiers, sailors, or marines, or prohibiting as unlawful any other preference or discrimination among the citizens of the United States.

C. Indemnification:

The CONTRACTOR shall indemnify, defend, save and hold harmless the State of Florida, Department of Transportation and all of its officers, agents, or employees from all suits, actions, claims, demands, liability of any nature whatsoever arising out of, because of, or due to any negligent act or occurrence of omission or commission of the CONTRACTOR, its officers, agents or employees.

7.19 Conflict of Interest. The CONTRACTOR hereby certifies that no officer, agent, or employee of the COUNTY has any material interest, as defined in Chapter 112, Florida Statutes, either directly or indirectly in the CONTRACTOR as a business entity, and that no such person shall have any such interest at any time during the term of this Agreement unless approved in writing by the COUNTY upon consultation with its attorney.

7.19 Key Personnel. The CONTRACTOR agrees that each person listed or referenced in the qualifications package shall be available to perform the services described herein for the COUNTY barring illness, accident, or other unforeseeable events of a similar nature in which case the CONTRACTOR must be able to promptly provide a qualified replacement. In the event the CONTRACTOR desires to substitute personnel, the CONTRACTOR shall propose a person with equal or higher qualifications and each replacement person is subject to prior written approval of the COUNTY. In the event the requested substitute is not satisfactory to the COUNTY and the matter cannot be resolved to the satisfaction of the COUNTY, the COUNTY reserves the right to terminate this Agreement.

7.20 Grant Funding. In the event any part of this Agreement is to be funded by federal, state, or other local agency monies, the CONTRACTOR hereby agrees to comply with all requirements of the funding entity applicable to the use of the monies, including full application of requirements involving the use of minority firms, women's business enterprises, and labor surplus area firms. Payments under this Agreement may be withheld pending completion and submission of all required forms and documents required of the CONTRACTOR pursuant to the grant funding requirements.

7.21 Tobacco Products. Due to the acknowledged hazards arising from exposure to tobacco products, and to protect the public and employees' health, safety, comfort and environment, tobacco use is prohibited on any COUNTY owned building and property. Tobacco products include both smoking and smokeless tobacco.

7.22 Certificate of Competency/Licensure, Permits, and Fees. The CONTRACTOR shall, at all times during the term of this Agreement, hold a valid Certificate of Competency or appropriate current license issued by the State or County Examining Board qualifying all persons, firms, corporations or joint ventures performing the work described herein. If work for other trades is required in conjunction with this Agreement and will be performed by a sub-contractor(s) or vendor(s) hired by the CONTRACTOR, an applicable Certificate of Competency/license issued to the sub-contractor(s)/hired vendor(s) shall be submitted by the CONTRACTOR to the COUNTY prior to beginning the relevant work; provided, however, that the COUNTY may at its option and in its best interest allow the CONTRACTOR to supply the subcontractor(s)/hired vendor(s) certificate/license to the COUNTY during the pendency of the work being performed. The CONTRACTOR is responsible to ensure that all required licenses, permits, and fees (to include any inspection fees) required for this Project are obtained and paid for, and shall comply with all laws, ordinances, regulations, and building or other code requirements applicable to the work contemplated herein. Damages, penalties, and/or fines imposed on the COUNTY or the CONTRACTOR for failure to obtain required licenses, permits, inspection or other fees, or inspections shall be borne by the CONTRACTOR.

7.23 Omission from the Specifications. The apparent silence of any specification and any addendum regarding any details related to the Project, or the omission from any specification of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practices are to prevail, and that only materials and workmanship of first quality are to be used. All interpretations of any specification shall be made upon the basis of this Agreement.

7.24 On Site Project Manager. The CONTRACTOR shall appoint a specific project manager for the overall coordination and communication with the COUNTY. If the assigned project manager cannot be located on-site at all times, the CONTRACTOR will assign a competent on-site operations manager who shall remain on the jobsite at all times during the progress of the work. The term "competent" includes the ability to clearly communicate, orally and in writing, in English. The on-site manager shall be the primary representative under this Agreement for the CONTRACTOR. All authorized communications given to the on-site manager by the COUNTY, and all contract-related decisions made by the on-site manager, shall be

binding to the CONTRACTOR. The on-site manager shall be considered to be, at all times, an employee of the CONTRACTOR under its sole direction and not an employee or agent of the COUNTY.

7.25 Acceptance of Services. Each task order/assignment shall be inspected by an authorized representative of the COUNTY. This inspection shall be performed to determine acceptance of work, appropriate invoicing and warranty conditions. There may be other acceptance requirements which will be outlined at the time each individual task order/assignment is agreed upon.

If the COUNTY staff finds major errors or corrections to a report, those requiring more than one hour of COUNTY staff time, then the COUNTY reserves the right to seek reimbursement for actual time spent.

In the event that the service does not conform to the specifications, the COUNTY reserves the right to terminate the contract and will not be responsible to pay for any such service.

7.26 Task Orders. The COUNTY's authorized representative shall generate and issue a task order, or purchase order, for projects to be performed under this Agreement. The task order/purchase order shall include the location, description and plans, if necessary, covering the scope of work to be completed. The task order/purchase order shall also include a cost estimate calculated by the COUNTY for the work listed on the task order/purchase order. This estimate shall be based on the unit or other pricing established in this Agreement. For purposes of identification and payment, the task order/purchase order shall be numbered and dated. The preliminary task order/purchase order describing the description of work and cost estimates shall be issued to the CONTRACTOR if selected as provided herein.

The CONTRACTOR shall be required to supply the COUNTY's authorized representative with a written price offer within a time frame specified by the COUNTY. If multiple contractors are solicited, the COUNTY shall select the lowest price offer; provided that the price does not exceed the dollar estimate calculated by the COUNTY. If a single contractor is solicited, the price offer shall be evaluated and, if appropriate, accepted; provided that the price does not exceed the dollar estimate calculated by the COUNTY. If selected, the CONTRACTOR shall then be entered on the task order/purchase order and that order will then be issued to the CONTRACTOR. The task order/purchase order shall also direct the CONTRACTOR to commence work on a certain day and it shall specify the amount of time allotted for completion of work covered by the task order/purchase order. All work covered by a task order/purchase order shall constitute a Contract Schedule.

7.27 Force Majeure. The parties will exercise every reasonable effort to meet their respective obligations hereunder, 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 revisions to Government law or regulation, acts of nature, acts or omissions of the other party, fires, strikes, national disasters, wars, riots, transportation problems and/or any other cause whatsoever beyond the reasonable control of the parties. Any such cause may be cause for appropriate extension of the performance period.

Article 8. Miscellaneous Provisions

8.1 This Agreement is made under, and in all respects shall be interpreted, construed, and governed by and in accordance with, the laws of the State of Florida. Venue for any legal action resulting from this Agreement shall lie in Lake County, Florida.

8.2 Neither party may assign any rights or obligations under this Agreement to any other party unless specific written permission from the other party is obtained.

8.3 The captions utilized in this Agreement are for the purposes of identification only and do not control or affect the meaning or construction of any of the provisions hereof.

8.4 This Agreement shall be binding upon and shall inure to the benefit of each of the parties and of their respective successors and permitted assigns.

8.5 This Agreement may not be amended, released, discharged, rescinded or abandoned, except by a written instrument duly executed by each of the parties hereto.

8.6 The failure of any party hereto at any time to enforce any of the provisions of this Agreement will in no way constitute or be construed as a waiver of such provision or of any other provision hereof, nor in any way affect the validity of, or the right thereafter to enforce, each and every provision of this Agreement.

8.7 During the term of this Agreement the CONTRACTOR assures the COUNTY that it is in compliance with Title VII of the 1964 Civil Rights Act, as amended, and the Florida Civil Rights Act of 1992, in that CONTRACTOR does not on the grounds of race, color, national origin, religion, sex, age, disability or marital status, discriminate in any form or manner against CONTRACTOR employees or applicants for employment. The CONTRACTOR understands and agrees that this Agreement is conditioned upon the veracity of this statement of assurance.

8.8 The CONTRACTOR shall at all times comply with all Federal, State and local laws, rules and regulations.

8.9 The CONTRACTOR shall act as the prime CONTRACTOR for all required items and services and shall assume full responsibility for the procurement and maintenance of such items and services. The CONTRACTOR shall be considered the sole point of contact with regards to all stipulations, including payment of all charges and meeting all requirements of this Agreement. All sub-consultants will be subject to advance review by the COUNTY in terms of competency and security concerns. No change in sub-consultants shall be made without consent of the COUNTY. The CONTRACTOR shall be responsible for all insurance, permits, licenses and related matters for any and all sub-contractors. Even if the sub-contractor is self-insured, the COUNTY may require the CONTRACTOR to provide any insurance certificates required by the work to be performed.

8.10 The CONTRACTOR shall either be registered or have applied for registration with the Florida Department of State in accordance with the provisions of Chapter 607, Florida Statutes.

8.11 The CONTRACTOR shall not assign or transfer this Agreement, including any rights, title or interest therein, or its power to execute such contract to any person, company or corporation without the prior written consent of the COUNTY. This provision specifically includes any acquisition or hostile takeover of the awarded vendor. Failure to comply in this regards may result in termination of this Agreement for default.

8.12 Any individual, corporation or other entity that attempts to meet its contractual obligations through fraud, misrepresentation or other material misstatement, may be debarred for up to five (5) years. The COUNTY as a further sanction may terminate or cancel any other contracts with such individual, corporation or entity with such vendor held responsible for all direct or indirect costs associated with termination or cancellation, including attorney's fees.

8.13 The COUNTY reserves the right to perform, or cause to be performed, all or any of the work and services herein described in the manner deemed to represent its best interests. In no case will the COUNTY be liable for billings in excess of the quantity of goods or services actually provided under this contract.

8.14 This Agreement may be modified by mutual consent of duly authorized parties, in writing through the issuance of a modification to this Agreement and/or purchase order as appropriate. This presumes the modification itself is in compliance with all applicable COUNTY procedures.

8.15 The COUNTY has the unilateral option to extend this Agreement for up to ninety (90) calendar days beyond the current contract period. In such event, the COUNTY will notify the vendor(s) in writing of such extensions. This Agreement may be extended beyond the initial ninety (90) day extension upon mutual agreement between the COUNTY and the CONTRACTOR. Exercise of the above options requires the prior approval of the Procurement Services Manager.

8.16 The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

8.17 Wherever provision is made in this Agreement for the giving, service or delivery of any notice, statement or other instrument, such notice shall be in writing and shall be deemed to have been duly given, served and delivered, if delivered by hand or mailed by United States registered or certified mail or sent by facsimile, addressed as follows:

If to CONTRACTOR:

Randy Gomez
Chief Healthcare Actuary
8415 Allison Point Boulevard, Suite 300
Indianapolis, IN 46250

If to COUNTY:

County Manager
Lake County Administration Bldg.
Post Office Box 7800
Tavares, Florida 32778-7800

Each party hereto may change its mailing address by giving to the other party hereto, by hand delivery, United States registered or certified mail notice of election to change such address.

Article 9. Scope of Agreement

9.1 This Agreement is intended by the parties hereto to be the final expression of their Agreement, and it constitutes the full and entire understanding between the parties with respect to the subject hereof, notwithstanding any representations, statements, or agreements to the contrary heretofore made.

9.2 This Agreement contains the following Attachments:

Attachment A	Scope of Services
Attachment B	Pricing Summary

Agreement between Lake County, Florida and Howard E. Nyhart Company, Incorporated for Actuary Services for the GASB Issued Statement 45 , RFP #16-0020.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: COUNTY through its Board of County Commissioners, signing by and through its Chair and by CONTRACTOR through its duly authorized representative.

CONTRACTOR



Thomas L. Totten
The Howard E. Nyhart Company, Inc.

This 16th day of September, 2016.

COUNTY

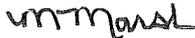
Lake County, Florida



Barnett Schwartzman, Procurement Services Manager

This 27th day of September, 2016

Approved as to form and legality:



Melanie Marsh, County Attorney

ATTACHMENT A

SCOPE OF SERVICES

Section 2.1 Introduction

In 2004, the Governmental Accounting Standards Board (GASB) issued Statement 45, "Accounting and Financial Reporting by Employers for Post-Employment Benefits (OPEB) Other than Pensions", which requires public agencies to report their costs and obligations pertaining to health and other benefits of current and future retired employees. OPEB refers to medical, dental, vision and other healthcare-related benefits provided to retired employees and their dependents and beneficiaries. The County provides eligible employees and retirees the choice between an HMO or PPO Medical plan. Coverage under the Self-insured Group Health Plan is a benefit available to employees of the Lake County Board of County Commissioners and other entities as detailed below. Such coverage provides comprehensive health benefits to the employees and their dependents. Employees who retire from Lake County are eligible for benefit continuation at the full premium cost for medical and dental care. Lake County currently provides health benefits to approximately 1115 active employees and 36 retired employees as of October 1, 2015.

The County self-insures its Medical Health Benefit and maintains stop loss coverage with a \$200,000 specific deductible and a corridor deductible of \$83,000.

The GASB standards for OPEB plan accounting require public sector employees, such as Lake County Board of County Commissioners (LCBCC) to begin to accrue the costs of retiree health benefits. Employers must calculate an "Annual Required Contribution" (ARC), consisting of two components and interest on those components:

- A. Normal costs (the portion of the present value of total projected benefits assigned to the current year by the actuarial cost method used by the employer);
- B. An amortization component (the amount necessary to amortize the total unfunded actuarial accrued liability for its OPEB obligations.)

The actuarial study performed by the Contractor shall provide information to enable Lake County BCC to identify and manage the costs and liabilities associated with its retiree health and dental benefits.

The following agencies are covered under Lake County's benefits plan:

- Board of County Commissioners
- Property Appraiser
- Supervisor of Elections
- Water Authority (not included in the County OPEB Calculation)
- Lake Sumter Metropolitan Planning Organization (not included in the County OPEB Calculation)
- Lake Emergency Medical Services, Inc. (not subject to County retiree benefits)
- Lake County Clerk of Court
- Lake County Tax Collector

Section 2.2 Scope of Service

Each proposal shall be made on the basis of and shall meet or exceed each of the requirements contained herein. The actuary will assist the County in complying with the GASB 45 requirement that will establish standards for the measurement, display and recognition of OPEB expenses and liabilities. The minimum requirement of the actuarial study shall include the following, as of September 30, 2016, in a written report:

- A. Develop age-specific per capita costs on an actuarial basis for medical and prescription drug benefits (pre-65 and post-65), and other "benefit types" necessary for projecting long-term costs (for at least 5 years).
- B. Actuarial value of benefits, separately identifying amounts for actives and retirees including:
 1. Present Value of Future Benefits
 2. Actuarial Accrued Liability (AAL)
 3. Plan Assets and Unfunded Actuarial Accrued Liability (UAAL)
 4. Normal Cost
- C. GASB 45 accounting information required for financial statement disclosure (with information by entity for items 1-3) including:
 1. Annual Required Contribution (ARC), as dollar amount and percentage of contributions identifying (1) Normal Costs and (2) the outstanding balance and amortization amount for each component of the UAAL; and (3) interest;
 2. Annual OPEB Cost (AOC), as a dollar amount and percentage of contributions;
 3. Reconciliation of Net OPEB obligation (NOO) during the current year, and projected NOO at end of year;
 4. Schedule of funding progress; and
 5. Key actuarial assumptions
- D. Information to assist the County in future budgeting, including;
 1. The ten year "pay-as-you-go" cost;
 2. Annual Required Contribution (ARC) to fund retiree benefits over the working lifetime of eligible employees; and
 3. Recommendations (as appropriate) on managing the liability.

All costs and liabilities should be separated between active employees and current retirees between pre-65 and post-65 where applicable. In addition, it may be necessary for the actuary to further breakdown results internally to facilitate calculation, such as to separate current and future retirees.
- E. The consultant will be required to consult and recommend to Lake County a methodology for and impact of funding OPEB. All recommendations must comply with all applicable State and Federal laws.
- F. The selected consultant will be expected to assist with oral presentations (to include handouts) to the Board of County Commissioners or others as deemed necessary. The consultant should also provide ongoing and open communications over the course of the study.

- G. Consultant will be required to review the plan after the first year of implementation and then every other year thereafter, during the term of the contract.

Section 2.3 Completion Schedule

Provide written report, per fiscal year, sixty (60) days after receipt of data requested.

Section 2.4 Additional Work

Although this solicitation and resultant contract identifies specific services to be provided, it is hereby agreed and understood that additional work may be added to this contract at the option of the County. When required, the contractor will be invited to submit price quotes for these additional services. If these quotes are determined to be fair and reasonable, then the additional work will be awarded to the current contract. The additional work shall be added to this contract by former modification.

Section 2.5 Minimum Qualifications

Minimally, the qualifications of the firm performing the actuarial analysis shall include the following:

- A. Firm shall have been engaged in the business of health and pension actuarial analysis and have proven quantifiable ability in this area for a period of no less than five (5) years.
- B. The individual who will be performing the work must be a Fellow of the Casualty Actuarial Society and a Member of the American Academy of Actuaries.
- C. The firm shall be an independent entity.
- D. An insurance company, third party claims administrator or similar organization shall not be considered qualified. Additionally, if the majority ownership of the proposing organization is an insurance company or similar organization referenced in this item, then the proposing organization will not be considered qualified.

ATTACHMENT B

PRICING SUMMARY

Item No.	Description	Blended Hourly Rate to Complete the Effort	Price
1	Actuary Study for the first year of the initial contract term per the terms, conditions and scope of services listed herein.	\$ 227.50 _____	Year 1(FY 2015-2016) \$ 6,800 _____
2	Actuary Study Update for the second year of the initial contract term per the terms conditions and scope of services listed herein.	\$ 227.50 _____	Year 2(FY 2016-2017) \$ 1,500** _____

**Assuming no significant design changes.

Total Lump Sum Fee \$8,300