

e-Builder
Task Order For:
Indian River County
July 18, 2018

GSA Contract Number: GS-35F-408AA
Period Covered by Contract: May 31, 2013-May 30, 2023
General Services Administration

This Investment Summary is considered valid until August 27th, 2018. Non-approval of the Task Order within this timeframe will result in the redefinition of the Investment Summary.



1800 NW 69th Ave., Suite 201 | Plantation, Florida 33313 | 800-580-9322

This Task Order, is between e-Builder, Inc. (“e-Builder”) and Indian River County (“Customer”). This Task Order Form shall be governed by the GSA e-Builder Service Agreement between e-Builder and Customer found on page 2 and 3 of this document (the “MSA”).

The Effective Date shall be the date of the last signature of the MSA. The term of this Task Order Form and Annual Software Subscription shall commence on the Effective Date and shall expire on the twelve (12) month anniversary of the Effective Date (“Initial Term”.) Upon the expiration of the Initial Term this Task Order Form shall automatically renew for additional one (1) year terms (i.e., each, a Renewal Term), unless e-Builder or Customer provides written notice of non-renewal at least sixty (60) days prior to expiration of the then-current term. Upon renewal, e-Builder has a right to increase license fees up to the greater of CPI plus 2% or five percent (5%).

Disclosure Statement

Subject to the Florida Public Records Act, the information provided in this document shall not be disclosed outside the recipient’s organization and shall not be disclosed in whole or in part for any purpose other than to evaluate the information. During the evaluation process, the recipient may duplicate this document only for distribution to evaluators within the recipient’s organization. If a contract is awarded to e-Builder as a result of or in connection with the submission of this information, the recipient shall have the right to duplicate, use or disclose the information to the extent provided in the contract. This restriction does not limit the right of the recipient to use information contained if it is obtained from another source without restriction.

In the event that the recipient is served with a request to disclose any or all of e-Builder’s confidential information pursuant to the requirements of applicable law, a judicial or governmental request, requirement or order or otherwise, e-Builder asks to be promptly notified in order to provide sufficient time to object to such request, understanding that the recipient will take reasonable steps to cooperate with and assist e-Builder in contesting such request, requirement ,or order or in otherwise protecting e-Builder’s rights prior to disclosure.

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E-BUILDER SERVICE AGREEMENT

e-Builder, Inc. whose address is 1800 NW 69th Avenue, Suite 201, Plantation, FL 33313 ("e-Builder") and Ordering Activity, as defined in GSA Order ADM4800.2G and as revised from time to time ("Customer"), enter into this e-Builder Service Agreement (the "Service Agreement"). In the event of a conflict between any terms and conditions in this Service Agreement and the terms and conditions of the GSA Schedule 70 contract, the terms and conditions of the Schedule 70 contract shall control. The work to be performed for an "Ordering Activity" may be contained in one or more "Task Orders."

1. **TERM.** This Agreement shall continue for the period purchased by the Ordering Activity as set forth in the relevant task order.

2. **SERVICES.**

2.1 Services. e-Builder agrees to provide the services described in the relevant Task Order (the "Services") to Customer subject to the terms and conditions of this Agreement, in consideration for the payments set out therein. Customer acknowledges that e-Builder Enterprisetm software may be modified or upgraded from time to time, and that "Services" and "Customer Support" provided to Customer shall only include the use of the most recent version of e-Builder Enterprisetm.

2.2 License of Software. Customer's right to use the Services (including, without limitation, the limited license to use e-Builder Enterprisetm software), is limited to the restrictions contained herein, including those related to the number of users, projects, annual capital program expenditures and/or period of use. The Customer acknowledges that title to and copyright in the software applications supplied by e-Builder (including e-Builder Enterprisetm) are reserved by e-Builder. Customer acquires no right in any software, copyrights, patents or any other intellectual property belonging to or licensed by e-Builder, other than the specific limited rights to the Services. e-Builder is and shall remain the sole owner of all copyrights, trademarks, patents and other proprietary rights in and to all aspects of the Services (including, without limitation, all software, code and designs used in providing the Services).

3.

4. **WARRANTIES**

4.1 Representations. Customer represents, warrants and covenants the following to e-Builder: (i) Customer currently possesses all necessary licenses, permits, insurance and approvals required validly to execute, deliver and perform its duties under this Agreement and is qualified to do business in all jurisdictions where such qualification is required for Customer's performance of its duties under this Agreement, (ii) To the best of its knowledge and ability, Customer will comply with, and will use its best efforts to cause each subcontractor it may engage to comply with all applicable federal and state laws and regulations in performing its and their respective responsibilities under this Agreement and any subcontracts, and (iii) No information provided to e-Builder or disseminated through its software or systems shall infringe on or violate any trademark, copyright, trade secret, right of publicity or privacy (including but not limited to defamation), patent or other proprietary right of any third party.

4.2 Disclaimer of Warranty and Limitations of Liability. **E-BUILDER DOES NOT AND CANNOT CONTROL THE FLOW OF DATA TO OR FROM E-BUILDER'S NETWORK AND OTHER PORTIONS OF THE INTERNET. SUCH FLOW DEPENDS IN LARGE PART ON THE PERFORMANCE OF INTERNET SERVICES PROVIDED OR CONTROLLED BY THIRD PARTIES. AT TIMES, ACTIONS OR INACTIONS OF SUCH THIRD PARTIES CAN IMPAIR OR DISRUPT CUSTOMER'S CONNECTIONS TO THE INTERNET (OR PORTIONS THEREOF). ALTHOUGH E-BUILDER WILL USE COMMERCIALY REASONABLE EFFORTS TO TAKE ALL ACTIONS IT DEEMS APPROPRIATE TO REMEDY AND AVOID SUCH EVENTS, E-BUILDER CANNOT GUARANTEE THAT SUCH EVENTS WILL NOT OCCUR. ACCORDINGLY, E-BUILDER DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO SUCH EVENTS.**

EXCEPT FOR THE WARRANTIES SPECIFICALLY AND EXPRESSLY MADE HEREIN AND ANY WARRANTIES SPECIFICALLY PROVIDED IN THE GSA SCHEDULE 70 CONTRACT, E-BUILDER MAKES NO WARRANTIES EITHER EXPRESS OR IMPLIED, AND ALL SUCH WARRANTIES ARE DISCLAIMED.

FOR ANY ONE OR MORE BREACH OF THIS AGREEMENT OR DEFAULT HEREUNDER, THE ENTIRE LIABILITY OF THE PARTY IN BREACH OR DEFAULT, AND THE EXCLUSIVE REMEDY OF THE OTHER PARTY, SHALL BE PAYMENT OF THE ACTUAL DAMAGES PROXIMATELY CAUSED BY SUCH BREACH OR DEFAULT, WHICH SHALL NOT EXCEED THE AMOUNT OF ONE (1) MONTH'S FEES PAID BY CUSTOMER HEREUNDER. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, LOSSES, OR EXPENSES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, FAILURE TO REALIZE EXPECTED SAVINGS OR ANY OTHER COMMERCIAL OR ECONOMIC LOSS OF ANY KIND ARISING OUT OF OR RELATED TO THIS AGREEMENT. THESE LIMITATIONS ON THE LIABILITY OF EITHER PARTY SHALL APPLY TO ANY AND ALL CAUSES OF ACTION THAT EITHER PARTY MAY HAVE AGAINST THE OTHER, IRRESPECTIVE OF THE NATURE OF THE CAUSE OF ACTION UNDERLYING A CLAIM, DEMAND OR ACTION, INCLUDING, WITHOUT LIMITATION, WHETHER IT SOUNDS IN CONTRACT OR TORT, BUT SHALL NOT APPLY TO OR LIMIT SUMS DUE HEREUNDER TO E-BUILDER FOR SERVICES. This clause shall not impair the U.S. Government's right to recover for fraud or crimes arising out of or related to this Contract under any federal fraud statute, including the False Claims Act, 31 U.S.C. §§ 3729-3733. Furthermore, this clause shall not impair nor prejudice the U.S. Government's right to express remedies provided in the GSA Schedule 70 contract (e.g., clause 552.238-75 – Price Reductions, clause 52.212-4(h) – Patent Indemnification, and GSAR 552.215-72 – Price Adjustment – Failure to Provide Accurate Information).

E-BUILDER - SERVICE AGREEMENT

4.3 **Indemnity.** e-Builder agrees to indemnify and hold harmless the Customer (for services rendered under a Task Order, as applicable), , its officers, directors, employees or agents from and against any claims made upon it by any third party, arising out of information or software provided by it or actions of its employees, agents or invitees.

5. **AUDIT RIGHTS.** e-Builder will have the right, during normal business hours and upon at least five (5) days prior written notice, to have an independent audit firm selected by e-Builder audit Customer’s records relating to Customer’s activities pursuant to this Service Agreement in order to verify that Customer has complied with the terms of this Agreement Such audits will be conducted no more than once in any period of twelve (12) consecutive months, and e-Builder will adhere to any security measures required by the Ordering Activity.

6. **CONFIDENTIALITY.** Confidential Information refers to all nonpublic information provided by one party to the other, but it does not include this Service Agreement. The Parties agree that, except to the extent necessary to implement the terms and conditions of this Agreement, when authorized in writing by the other Party or when otherwise required by law: (i) each Party will preserve and protect the confidentiality of the other Party's Confidential Information; (ii) neither Party will disclose to any third party the existence, source, content or substance of the other Party's Confidential Information, or make copies of such Confidential Information except as required by this Agreement; (iii) neither Party will deliver the other Party's Confidential Information to any third party, or permit such information to be removed from the premises of the Party receiving such information; and (iv) each Party shall advise any of its employees or agents working on or having access to the other Party's Confidential Information of the confidentiality of such information.

7. MISCELLANEOUS

7.1 **Governing Law and Venue.** This Agreement shall be governed by and interpreted in all respects in accordance with the laws of the United States.

7.2 **Notices.** All notices required or permitted to be sent pursuant to this Agreement shall, unless otherwise specifically provided, be in writing and shall be deemed given when delivered personally or by facsimile, overnight air courier or certified mail (postage prepaid, return receipt requested), to the addresses shown above or such other substitute address designated in writing.

7.3 **Force Majeure.** Notwithstanding any other provision of this Agreement, if by reason of Force Majeure, any Party is unable to perform certain of its obligations under this Agreement it shall be automatically relieved of those obligations to the extent, and for the period of time, that such Party is prevented from meeting them by Force Majeure.

E-BUILDER, INC.

INDIAN RIVER COUNTY

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Investment Summary

The following details the investment summary for the **Annual Software Subscription** and the **One-Time Implementation Services** for the e-Builder Enterprise™ system. This Task Order Form ties with e-Builder's Worldwide Federal Supply Schedule Contract, GS-35F-408AA.

Annual Software Subscription

Annual Item	Scope Variable	Annual Price
Number of Users	<p>Unlimited Users for up to \$20 Million dollars in Capital Spend.</p> <p>The license investment reflects the GSA/e-Builder agreement under SIN#132-52/Part Number eB-Ent-Gov-20M-Capital_Program.</p> <p>e-Builder Enterprise Government Edition which includes core platform and unlimited users for capital programs up to \$20 million USD. One year Subscription license with auto renewal. Includes e-Builder Enterprise 20M Capital Program, Business Intelligence Add-on, Sandbox, oData API, and BIM.</p>	\$44,459.49
Total Annual Software Subscription		\$44,459.49

One-Time Implementation Services

Item	Scope Variable	Hours	Price
e-Builder Enterprise Implementation, Setup, Deployment & Training	Per One-Time Implementation Services Scope section below	633	\$106,033.83
Total One-Time Implementation Services		633	\$106,033.83

Labor Proposal GSA Detail

SIN	Labor Category	Rate	Hours	Price
132-51	Project Manager	\$167.51	633	\$106,033.83
GSA Implementation Proposal				\$106,033.83

Total e-Builder Enterprise Investment – Initial Term

Item	Price
Total Annual Software Subscription	\$44,459.49
Total One-Time Implementation Services	\$106,033.83
Total Initial Term Investment	\$150,493.32

Payment Terms

- **Payment of the first (1st) year's Annual Software Subscription term** is due upon the Effective Date of this Task Order.
- **Payment for One-Time Implementation Services** is as follows: fees shall be invoiced, and be due and payable, as follows: (i) fifteen (15%) percent upon delivery of Kick-Off; (ii) twenty-five (25%) percent upon completion of Design and acceptance of design documentation; (iii) thirty-five (35%) upon completion of Configuration and User Acceptance Testing; and (iv) twenty-five (25%) percent upon commencement of training on use of the SaaS Service.
- **Travel and Expenses** - Travel expenses and course material reproduction (if requested) are not included in the above investment. These expenses are considered Open Market and are billed as incurred as actuals in conjunction with GSA per diem rates. The Not to Exceed ("NTE") amount for the travel and expenses is \$13,800.00. This NTE amount assumes only three onsite trips. If the Customer requires additional onsite trips, an amendment to this Task Order will be required to add additional funding for added scope and an increase to the T&E NTE. NOTE: Travel expenses which are approved for reimbursement by the Customer shall be subject to the limitations set forth in Section 112.061, Florida Statutes.

Annual Subscription Includes

- Unlimited Projects
- Unlimited Document Storage
- 24x7 Technical Support
- Quarterly Enhancement/Upgrades
- Maintenance Releases
- Business Intelligence Add-on*
- Sandbox*
- oData API*
- BIM*

*The configuration and training of the Business Intelligence Add-on, Sandbox, oData API and BIM included in the GSA SIN 132-52 is not included in the one-time implementation scope of work and will require additional professional service fees if activation is required.

Unlimited User License

The proposed annual subscription fees for unlimited e-Builder Enterprise Users is based on the Indian River County's estimated average annual capital construction spending of up to \$20,000,000.00. e-Builder reserves the right to adjust the fee accordingly to align with the Customer's actual average annual capital construction spending.

Insurance

1. e-Builder shall not commence work on this Task Order Form until it has obtained all insurance required under this clause and such insurance has been approved by the Customer's Risk Manager.

2. e-Builder shall procure and maintain, for the duration of this Task Order Form, the minimum insurance coverage as set forth herein. The cost of such insurance shall be included in fee provided in this Task Order Form:

2.1. Workers' Compensation: Workers' Compensation as required by the State of Florida Employers' Liability of \$100,000 each accident, \$500,000 disease policy limit, and \$100,000 disease each employee.

2.2. General Liability: commercial general liability coverage, including contractual liability and independent contractor, with a minimum combined single limit of \$300,000 per occurrence.

2.3. Business Automobile Liability: owned, hired, and non-owned vehicles at a minimum combined single limit of \$300,000 per occurrence.

3. e-Builder's insurance coverage shall be primary.

4. All required insurance policies shall be placed with insurers licensed to do business in Florida and with a Best's rating of A-VII or better.

5. The insurance policies procured shall be occurrence forms, not claims made policies with the exception of professional liability.

6. A certificate of insurance shall be provided to the Customer's Risk Manager for review and approval, ten (10) days prior to commencement of any work under this Agreement. The Customer shall be named as an additional insured on all policies except workers' compensation and professional liability. The Additional Insured stated on the certificate of insurance shall read:

Indian River County
1800 27th Street
Vero Beach, FL 32960

One-Time Implementation Services Scope

Phase & Deliverables	Scope	Comments
Project Kickoff & Discovery		
Kick-off Meeting	Included	2-4 weeks after contract execution
Implementation Goals	Included	Defined during Kickoff
Success Matrix	Included	Defined during Kickoff
Initial Project Schedule	Included	Defined during Discovery
Data Gathering Guide	Included	Defined during Discovery
Project Design & Requirements		
Solution Document	Included	Requirements & Solution Design
Project Configuration & Testing		
Core Modules	Home Projects Calendar Contacts Setup	
Planning Module	1-Template	
Cost & Funding Module	1-Template	
Account (Portfolio) Level Cost	Standard	
Process Module	3-Processes	Structured Workflow(s). Specific Processes: <ul style="list-style-type: none"> • Invoice/Pay App Approval • Potential Change Order • Change Order
Forms Module	3-Forms	<ul style="list-style-type: none"> • 3-Forms are to be defined during Discovery +60 Standard Forms
Schedule Module	1-Template	
Document Module	1-Template	
Dashboard Module	2-Dashboards	<ul style="list-style-type: none"> • Program/Portfolio Dashboard • Project Dashboard • +1 Admin Dashboard
Reports Module	3-Reports	Includes three (3) Process Log Reports. +120 Standard Reports.
Submittal Module	Standard	
Import Toolkit	+Use Training	
Project Training & Adoption		
Admin Training	1- Session Onsite	3 days Duration/ 5 Users Maximum

End User Training	1- Session Onsite	2 days Duration Each/15 Users Maximum
Train-the-Trainer	1- Session Onsite	3-days Duration/8 Users Maximum
Adoption Calls	4-Calls	Weekly call for 4-Weeks – Scheduled and Conducted by e-Builder Professional Services.

Customer Responsibilities & Implementation Assumptions

The following responsibilities and assumptions are necessary for the successful completion of this implementation. In the event that an item below does not occur in the manner or time frame defined, e-Builder may request to meet with the Customer and mutually agree upon an adjustment to the schedule, work activities and fees.

- The Customer will make best efforts to ensure the committed participation of all appropriate technical and user personnel throughout the project, including but not limited to periodic status reviews. Customer resources provided during the technical and functional sessions must be empowered to make decisions on project direction.
- The e-Builder implementation team will work jointly with the Customer team to resolve all issues including those impacting the scope and timeline. Issues that may impact the progress and the schedule will be documented. If the issue is critical, e-Builder will present the issue to the Customer in writing as quickly as possible. Once the issue is presented in writing the Customer is expected to respond within two (2) business days. If the issue cannot be resolved within two days, they will notify e-Builder and arrange a meeting with all relevant personnel to resolve this issue. Failure to do so could impact the cost and schedule of the e-Builder implementation project.
- All necessary content (data, text and graphics) will be provided to e-Builder prior to the creative processes (if applicable).
- The Customer will reimburse reasonable travel expenses for any travel associated with the engagement.
- Unless specifically identified as deliverables within this document, Customer will enter any historical data from past projects to enable historical analysis.
- Unless specifically identified as deliverables within this document, data migration, system integrations or custom development of any kind is not included within the scope of the e-Builder implementation project. These items can be included through the change management process if identified as required items.
- All change requests received and approved will be listed on a contract Addendum or Work Order. Each Addendum or Work Order must be signed and accepted prior to initiating additional work by e-Builder.



e-Builder is the leading provider of integrated, cloud-based construction program management software for top facility owners and the companies that act on their behalf. The company's flag-ship product, e-Builder Enterprise™, improves capital project execution, resulting in increased productivity and quality, reduced cost, and faster project delivery. Since 1995, e-Builder's technology leadership and construction industry focus has provided thousands of global companies, government agencies, and healthcare and educational institutions managing billions of dollars in capital programs with solutions to improve the plan, build, and operate lifecycle. For more information, visit www.e-Builder.net.