



To: Brook Dannemiller, Glenn Kephart

From: Craig E. Leen, City Attorney for the City of Coral Gables

A handwritten signature in blue ink, appearing to be "C. Leen", is written over the name of the City Attorney.

RE: Legal Opinion Regarding Tree Succession Project Management

Date: May 13, 2016

Please note, section 287.055 of the Florida Statutes addresses “continuing contract[s]” for professional services in three ways: placing a \$2 million limit for “construction” costs for individual projects, a \$200,000 limit for “study” costs for each individual study, and providing no express limit for “work of a specified nature as outlined in the contract required by the agency” as long as the contract is either for a fixed term or for no time limitation but with a termination clause. In my view, based on what is described in the attached letter, this is neither a construction project nor an individual study contract. Instead, this is a list of specific services being provided to the City to support City staff in implementing the tree succession program, including “directing tree staking, tree selections, reviewing contractor work, and other tasks.” Thus, in my opinion, as long as the continuing contract is either for a fixed term or has a termination clause, the City may continue to use the same contractor.

Although not material to this analysis, I would also note that when the contract was originally entered into, it was reasonably projected that the costs would be for less than \$200,000. Thus, even if the individual study category were to apply, the analysis in CAO 2014-019 would allow the contractor to complete the project originally contracted for in good faith under \$200,000, even though it ultimately cost more than \$200,000. As mentioned above, because this contract fits within the third category, however, the \$200,000 limit does not apply as long as the other conditions are met.

Accordingly, the City may continue to use the contractor until the project is complete both as a matter of contract law and under the CCNA. This ruling and opinion is issued pursuant to the City Attorney’s authority under section 2-201(e)(1) and (8) of the City Code and section 2-584 of the Procurement Code.

From: [Leen, Craig](#)
To: [Paulk, Enga](#)
Subject: FW: Tree Succession Project Management: Can we exceed the \$200k state cap for continuing services consultants?
Date: Friday, May 13, 2016 11:22:44 AM
Attachments: [image001.png](#)
[image002.png](#)

Please publish.

Craig E. Leen, City Attorney

*Board Certified by the Florida Bar in
City, County and Local Government Law*
City of Coral Gables
405 Biltmore Way
Coral Gables, Florida 33134
Phone: (305) 460-5218
Fax: (305) 460-5264
Email: cleen@coralgables.com



Celebrating 90 years of a dream realized.

From: Leen, Craig
Sent: Friday, May 13, 2016 11:22 AM
To: Dannemiller, Brook; Kephart, Glenn
Cc: Katsaris, Pamela; Ramos, Miriam; Figueroa, Yaneris; Boberman, Bob; Keller, Jessica; Osgood, John; Pounds, Michael; Pino, Ernesto
Subject: RE: Tree Succession Project Management: Can we exceed the \$200k state cap for continuing services consultants?

[City Attorney Opinion](#)

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Craig E. Leen, City Attorney

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CORAL GABLES
THE CITY BEAUTIFUL

Celebrating 90 years of a dream realized.

From: Dannemiller, Brook
Sent: Tuesday, May 10, 2016 1:43 PM
To: Kephart, Glenn; Leen, Craig
Cc: Katsaris, Pamela; Ramos, Miriam; Figueroa, Yaneris; Boberman, Bob; Keller, Jessica; Osgood, John; Pounds, Michael; Pino, Ernesto
Subject: RE: Tree Succession Project Management: Can we exceed the \$200k state cap for continuing

services consultants?

Craig,

Attached is the approved additional services proposal letter for expanding Curtis + Rogers' scope from the original \$153,984 amount to a not to exceed amount of \$200,000 after our City project manager decided to retire and not continue to manage the project for the City. Please let me know if you have any questions or need any additional information.

Thanks,

Brook

Brook Dannemiller, RLA

Landscape Services Director

City of Coral Gables

2800 S.W. 72nd Avenue

Miami, FL 33155

Office: (305) 460-5130

bdannemiller@coralgables.com



Celebrating 90 years of a dream realized.

From: Kephart, Glenn

Sent: Tuesday, May 10, 2016 9:31 AM

To: Leen, Craig

Cc: Katsaris, Pamela; Dannemiller, Brook; Ramos, Miriam; Figueroa, Yaneris; Boberman, Bob; Keller, Jessica; Osgood, John; Pounds, Michael; Pino, Ernesto

Subject: Re: Tree Succession Project Management: Can we exceed the \$200k state cap for continuing services consultants?

My recollection is that we believed the total cost would be under 290 k based on the good faith estimate, but Brook will have to verify and provide documentation.

Sent from my iPhone

On May 10, 2016, at 6:25 AM, Leen, Craig <cleen@coralgables.com> wrote:

Thanks, Pam. I am aware. Please provide me a copy of the contract and any estimates from the time the contract was entered into.

Sent from my iPhone

On May 10, 2016, at 8:19 AM, Katsaris, Pamela <pkatsaris@coralgables.com> wrote:

This contract falls under CCNA pursuant to Florida Statute.
Thank you

Sent from my iPhone

On May 10, 2016, at 1:32 AM, Leen, Craig
<cleen@coralgables.com> wrote:

Good evening, Brook. My office addressed a similar issue in CAO 2014-009. The outcome turns on what was the good faith estimate for the contract services when the contract was entered into and became binding? Was the good faith estimate under \$200,000 and did the City enter into the contract on that basis? Please advise, and please send me a copy of the contract.

Craig E. Leen, City Attorney

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Email: cleen@coralgables.com

<image001.png>

From: Dannemiller, Brook
Sent: Tuesday, May 10, 2016 1:18 AM
To: Leen, Craig; Ramos, Miriam; Figueroa, Yaneris
Cc: Boberman, Bob; Keller, Jessica; Osgood, John; Katsaris, Pamela; Pounds, Michael; Kephart, Glenn
Subject: Tree Succession Project Management: Can we exceed the \$200k state cap for continuing services consultants?

Hi Craig,

We are using one of our continuing services consultants, Curtis + Rogers, to be the project manager for the Tree Succession Project. We will hit the \$200k state cap for continuing services contracts in June, which is at least 3-months prior to the project being completed. Are there any provisions in the state law that would allow us to exceed the \$200k per project state cap for continuing services consultants? If not, we will need to contract directly with the project manager, Espe Kelly, who is currently a sub-consultant to Curtis + Rogers.

Thanks,

Brook

Brook Dannemiller, RLA
Landscape Services Director
City of Coral Gables

2800 S.W. 72nd Avenue
Miami, FL 33155
Office: (305) 460-5130
bdannemiller@coralgables.com

From: Kephart, Glenn
Sent: Thursday, May 05, 2016 10:03 AM
To: Dannemiller, Brook; Pounds, Michael; Katsaris, Pamela
Cc: Boberman, Bob; Keller, Jessica; Osgood, John; Leen, Craig
Subject: RE: PROPOSAL OPEN AND PROCESS NOW

Michael and Pamela, This may be worth discussing with the City Attorney. If Brook can make a solid case that the 200k threshold needs to be exceeded due to unforeseen conditions, I think CA may opine that we can proceed. In any case, I think its worth a discussion.

From: Dannemiller, Brook
Sent: Tuesday, May 03, 2016 10:15 PM
To: Pounds, Michael; Katsaris, Pamela
Cc: Boberman, Bob; Keller, Jessica; Osgood, John; Kephart, Glenn
Subject: Fwd: PROPOSAL OPEN AND PROCESS NOW

Hi Pamela and Mike,

Attached is the proposal from the consultant project

manager for the tree succession project, Espe Kelly, to contract directly with her since she is currently a sub-consultant to Curtis + Rogers, and we will hit the \$200k state cap for continuing services contracts prior to the project being completed. Ruben Colon is also working on the tree succession project, but he is a Curtis + Rogers employee and will continue to work on the project until the \$200k fee cap is reached or the project is completed.

Please let me know what type of contract you would like to execute with Espe. i.e. Letter agreement, short-form, or whatever route you think best.

Thanks,

Brook

Begin forwarded message:

From: Espe Kelly
<Espe@espearezkelly.com>
Date: April 21, 2016 at 8:33:50 PM EDT
To: Brook Dannemiller
<BDannemiller@coralgables.com>
**Subject: PROPOSAL OPEN AND
PROCESS NOW**

Esperanza Kelly
ESK Design, Inc.
7110 SW 63 Avenue
Miami, FL 33143
786-529-6389
espe@espearezkelly.com
www.espearezkelly.com

Want to make a difference? Why not donate to Best Buddies by following this link:

<https://www.bestbuddieschallenge.org/miami/support/#espe>

or to St. Jude Children's Hospital by following this link:

<http://heroes.stjude.org/ekelly>

Begin forwarded message:

From: Espe Kelly
<espe@espesuarezkelly.com>
Subject: Proposal
Date: April 12, 2016 at 8:14:16 PM EDT
To: Brook Dannemiller
<BDannemiller@coralgables.com>

Hi Brook:

Here is my proposal.

Thanks