

**THE GOVERNING BOARD OF THE
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
GEOTECHNICAL AND CONSTRUCTION ENGINEERING SERVICES
REQUEST FOR QUALIFICATIONS 32363**

The Governing Board of the St. Johns River Water Management District (the “District”), requests that interested parties respond to the solicitation below by 2:00 p.m., January 25, 2018. Further information is available through Onvia DemandStar at *Demandstar.com* [(800) 711-1712], or the District’s website at *sjrwmd.com*. Solicitation packages may be obtained from Onvia DemandStar or the District by calling or emailing Pamela Paulk, Senior Procurement Specialist, at 386-329-4469 or ppaulk@sjrwmd.com. Responses will be opened in the Procurement Conference Room, Administration Building, Palatka Headquarters, 4049 Reid Street, Palatka, Florida 32177-2571.

Consultant shall have the ability to interpret soil survey maps; interpret and evaluate general subsurface conditions; perform Standard Penetration Test (SPT) borings; measure groundwater levels; install well screen piezometers; perform field permeability tests; recover thin-walled tube samples; perform muck probing; and conduct laboratory tests to aid in classification of soils and measure strength of materials.

Special accommodations for disabilities may be requested through Pamela Paulk, Senior Procurement Specialist, at 386-329-4469 or by calling (800) 955-8771 (TTY), at least five business days before the date needed.

The District’s Evaluation Committee will meet at District headquarters at 4049 Reid Street, Palatka, Florida 32177-2571, to evaluate and rank Submittals as follows:

- 10:00 a.m. on to February 2nd and 9th, 2018 (as necessary)
 - Discuss the responses
 - Finalize the initial ranking
 - Determine a shortlist of Respondents and/or discuss negotiations strategies

- 10:00 a.m., March 22, 2018 and March 29 to
 - Negotiate professional fees with the top-ranked Respondent as authorized by the District’s Governing Board at its March 13, 2018, meeting

Special accommodations for disabilities may be requested through Pamela Paulk, or by calling (800) 955-8771 (TTY), at least five business days before the date needed.

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INSTRUCTIONS TO RESPONDENTS**1. DEFINITIONS**

The definitions of capitalized terms used in this solicitation that are not otherwise defined herein can be found in the sample contract document (the "Agreement") that is at the end of these instructions. The Agreement includes these Instructions to Respondents, any addenda published by the District, the submittal provided by Respondent (the "Submittal"), and all required certifications and affidavits.

2. CONTRACT ADMINISTRATION

All inquiries related to this solicitation may only be directed to the Procurement Specialist:

Pamela Paulk, Senior Procurement Specialist Phone: 386-329-4469 Fax: 386-329-4848 Email: ppaulk@sjrwmd.com

Between the release of this solicitation and the posting of the notice of intended decision, Respondents to this solicitation or persons acting on their behalf may not contact any employee or officer of the District concerning any aspect of this solicitation, except the procurement employee listed above. Violation of this provision is grounds for rejecting a response.

3. WHERE TO DELIVER SUBMITTAL

All Submittals must be submitted in sealed envelopes to:

Pamela Paulk, Senior Procurement Specialist Attn: Office of Financial Services St. Johns River Water Management District 4049 Reid St, Palatka, FL 32177-2571

Respondents must clearly label the Submittal envelope with **large bold, and/or colored lettering (place label on inner envelope if double sealed)** as follows:

SEALED SUBMITTAL — DO NOT OPEN Respondent's Name: _____ Request for Qualifications: 32363 Opening Time: 2:00 p.m. Opening Date: January 25, 2018

Please note that the United States Postal Service does not deliver regular mail or express mail to the above address. The District's experience is that Federal Express and United Parcel Service will.

4. OPENING OF SUBMITTALS

Respondents or their authorized agents are invited to attend the opening of the Submittals at the following time and place:

Pamela Paulk, Senior Procurement Specialist St. Johns River Water Management District Headquarters 4049 Reid Street, Palatka, Florida 32177-2571

The Florida Public Records Act, §119.071(1)(b), Fla. Stat., exempts sealed Submittals from inspection and copying until such time as the District provides notice of an intended decision pursuant to §120.57(3)(a), Fla. Stat., or until 30

days after opening of Submittals, whichever is earlier. This exemption is not waived by the public opening of the Submittals.

Unless otherwise exempt, Respondent's Submittal is a public record that is subject to disclosure upon expiration of the above exemption. If any information submitted with the Submittal is a trade secret as defined in §812.081, Fla. Stat., and exempt from disclosure pursuant to §815.04, Fla. Stat., Respondent must clearly identify any such material as "CONFIDENTIAL TRADE SECRET" in its Submittal and explain the basis for such exemption. The District reserves the right, in its sole judgment and discretion, to reject a Submittal for excessive or unwarranted assertion of trade secret confidentiality and return the Submittal to Respondent.

5. PREPARATION AND ORGANIZATION OF SUBMITTALS

Respondent must submit its Proposal in an electronic format.

Instructions for Submitting Responses in Electronic Format

1. Respondent must follow all procedures for electronic submission or the Respondent's Proposal may be determined as "non-responsive" and rejected.
2. Unless directed otherwise, all information required by the solicitation, including the forms and questionnaires must be completed (typed or hand written) and included in the submission in electronic format (forms must be completed and converted/scanned to PDF format (Adobe).
 - a. All of the forms and questionnaires in the Request for Qualifications package are available upon request in Microsoft® Word to aid the Respondent in submitting its Proposal in electronic format.
3. The file-naming conventions for the Proposal submittal shall include:
 - a. Proposal submittal: RFQ # Respondent's name (abbreviated) Due Date
(Example: RFQ 28919 ABC Company 3-13-17)
4. The Proposal submittal must include a separator page between each "Tabbed" section:
 - a. Example: Tab 1 – Background and Qualifications
5. All electronically submitted files shall be saved to a single CD or pin/thumb/jump drive. The CD or pin/thumb/jump drive ***MUST*** be placed in a sealed envelope pursuant to the instructions under Item 3 for sealed responses – ***DO NOT SUBMIT YOUR RESPONSE BY E-MAIL — THIS WILL RESULT IN THE SUBMITTAL BEING REJECTED AS NON-RESPONSIVE.***
6. Only one copy of the submission is required.
7. **If you need assistance or have any questions about submitting an electronic format, please e-mail or contact Pam Paulk at ppaulk@sjrwmd.com or (386) 329-4469.**

Submittal Information (at a minimum):

1. In order to assist the District's Proposal review process, Respondents shall provide and complete the forms and questionnaires, and include them in their Proposal submittal under the tabs identified below (responses to the forms and questionnaires must be submitted on reproduced copies):
2. All blank spaces on the Proposal Form shall be typed or legibly printed in ink.
3. Respondent is encouraged to include as much pertinent data and information under each section as necessary to ensure proper evaluation of its qualifications. Each section shall be evaluated separately on its own merit.

In the event you decline to submit a Proposal, the District would appreciate submittal of the "No Response Form" provided at the end of the "FORMS" section to describe the reason for not submitting a Proposal, which may be submitted in a paper format.

Tab 1: Company's Firm's and subconsultants' qualifications and experience

- a) Certificate as to Corporation Form
- b) Affidavit as to Non-Collusion and Certification of Material Conformance with Specifications
- c) Qualifications Form — General
- d) Qualifications Form — Similar Projects
- e) Subcontractors Form
- f) Drug-Free Workplace Form (not evaluated unless there is a tie)

In addition to the above forms, the Respondent is responsible for providing evaluative documentation that it and its subconsultants (if any) possesses the capabilities, qualifications, background, and experience necessary to perform the Work.

- g) Has Respondent been certified by the state of Florida's Office of Supplier Diversity as a woman-, veteran-, or minority-owned business enterprise
- h) Has the applicant been certified as a small business, and if so, who provided the certification?
- i) Number of employees currently employed by Respondent and its subconsultants; and Respondent's and its subconsultant's average annual volume of work for the past three years
- j) Expertise of firm(s) related to geotechnical investigation projects.
- k) Ability and capabilities of firm and subconsultants to perform services of this type

Tab 2: Qualification and abilities of professional personnel (No forms)

Respondent is responsible for providing information to document its and its subconsultants' qualifications and abilities of professional personnel proposed

- a) Qualifications and work histories of proposed key personnel including proposed project management and geotechnical engineers on projects of this type.
- b) Organization profile and management methods.
- c) Specific names and functions of personnel assigned to work on this project including current and projected workloads.
- d) Evidence of current professional registrations applicable to this type work.
- e) Qualifications, resumes, licenses, certifications or industry recognitions in areas relevant to this work

Tab 3: Past and present experience and performance on projects of this type

- a. Respondent (or a combination of the firm, individual, or project manager assigned to the work) must have successfully completed at least three projects of a similar nature (geotechnical and construction engineering services as described in the Statement of Work) in the five years immediately preceding the date set for receipt of submittals. These three projects shall be used as client references. At least two of the projects must be located within the state of Florida. Each project shall include a minimum of standard penetration tests, installation of piezometers, or field permeability tests and a project value of at least \$25,000 (use the SIMILAR PROJECTS FORM).
- b) Provide a description of past and present work on projects of this type (include firm's key personnel's experience and performance) with emphasis on three projects. No more than 1 project may be from the District. Should a District project be included do not request a reference from the District, as the close out documents for that work and the project manager's evaluation will be utilized.

Tab 4: Willingness to meet time and budget requirements

Respondent shall include information on projects where final costs or time has exceeded the initial time or budget on a project by 25% or more, been terminated, and/or has engaged in litigation disputing the contract amount within the last five years.

Respondent shall provide a list of past projects completed within the five years immediately preceding the date set for receipt of submittals, where the final costs or time has exceeded the initial time or budget on a project by 25% or more of the initial contract amount, been terminated, and/or has engaged in litigation. The list must include:

- i. Project names, descriptions, awarding firm/agencies, contract numbers, and the initial and final contract amounts
- ii. Firm/agency contacts with phone numbers and email addresses
- iii. Accompanying documentation that confirms whether the increased amount was the result of contractor-generated claims for additional compensation or client-generated increases for additional work – include the initial contract amounts, final contract amounts, and a basic description of each change order/amendment

Tab 5: Volume of District work previously awarded to Respondent

No forms are provided for this criterion — however, the Respondent is responsible to submit documentation as to the volume of work (in dollars) awarded by the District to firm in the past three years, including contracts, work orders and purchase orders. Points will be allocated from 0 to 10 with Respondents with higher previous awarded contract totals since January 21, 2015, through the Submittal date of this RFQ, receiving fewer award points. Respondents with no previous work awards may receive the highest allocation of points (10), while the Respondent with the highest previous work awarded will receive zero points. The District shall rely on its official financial records to resolve any discrepancies. Checks issued by the District on or prior to the date submittals are received shall be included in this total even if Respondent has not yet received the payment. The formula for allocation of previous work award points will be calculated as follows: The Respondent with the highest total of previous work awarded represents the Allocation Basis Total (ABT); then, the ABT less the Previous Work Awarded divided by the ABT will be multiplied by 10 (the highest number of points awarded); the result will be rounded to tenths of a point.

Tab 6: Location of Consultant Project Manager’s office relative to the Project Site

Location of Respondent’s project manager shall be judged in relation to the potential project areas and higher consideration will be given to those that are closer to the District’s Palm Bay Office at 525 Community College Parkway, Palm Bay, Florida 32909. The office will be used as the reference point for distance calibration purposes. The website *www.mapsgoogle.com* (using the “Shortest” route type) should be utilized to determine mileage. The District will award points as follows:

- Within 0-200 miles of the project area = **10 points**
- ≤ 200 miles from of the project area = **0 points**

Tab 7: Additional Information:

Information included under this tab will not receive a score. Standard brochures and specifications may be submitted as additional material, but shall not be submitted as the primary qualification data.

In the event you decline to submit a Submittal, the District would appreciate Submittal of the “No Response Form” provided at the end of the “FORMS” section to describe the reason for not submitting a Submittal.

6. INQUIRIES AND ADDENDA

District staff are not authorized to orally interpret the meaning of the specifications or other Agreement documents, or correct any apparent ambiguity, inconsistency, or error therein. In order to be binding upon the District, the interpretation or correction must be given by the Procurement Specialist and must be in writing. The Procurement Specialist may orally explain the District’s procedures and assist Respondents in referring to any applicable provision in the Request for Qualifications documents, but the Respondent is ultimately responsible for submitting the Submittal in the appropriate form and in accordance with written procedures.

Every request for a written interpretation or correction must be received at least nine days prior to opening of Submittals in order to be considered. Requests may be submitted by fax at 386-329-4848 or by email at ppaulk@sjrwmd.com. Interpretations, corrections, and supplemental instructions will be communicated by written addenda to this solicitation posted by Onvia DemandStar to all prospective Respondents (at the respective addresses furnished for such purposes) not later than five days prior to the date fixed for the opening of Submittals.

Submission of a Submittal constitutes acknowledgment of receipt of all addenda. Submittals will be construed as though all addenda had been received. Failure of the Respondent to receive any addenda does not relieve Respondent from any and all obligations under the Submittal, as submitted. All addenda become part of the Agreement.

7. BUDGET

The estimated budget for the Work is a maximum of \$450,000 for a 3 year period. This amount is only an estimate and does not limit the District in awarding the Agreement. Respondents are cautioned to not make any assumptions from the budget estimate as to the total funds available for the Work. The District retains the right to adjust the estimated budget in awarding the Agreement. The District also reserves the right to reject all Submittals if subsequent negotiations with qualified Respondents result in costs over this estimated budget amount. In addition, the District reserves the right to increase, decrease, or delete any class, item, or part of the Work in order to reduce costs for any reason. The District may discuss alternatives for reducing the cost of the Work with Respondents and make such modifications as it determines to be in its best interest.

8. MINIMUM QUALIFICATIONS

Respondent must use the "Qualification" forms (General and Similar Projects) provided in these documents to document the minimum qualifications listed below. Failure to include these forms with the Submittal may be considered non-responsive.

- a. Respondent (or a combination of the firm, individual, or project manager assigned to the work) must have successfully completed at least three projects of a similar nature (geotechnical and construction engineering services as described in the Statement of Work) in the five years immediately preceding the date set for receipt of submittals. These three projects shall be used as client references. At least two of the projects must be located within the state of Florida. Each project shall include a minimum of standard penetration tests, installation of piezometers, or field permeability tests and a project value of at least \$25,000 (use the SIMILAR PROJECTS FORM).

No more than one (1) project may be from the District. Should a District project be included do not request a reference from the District, as the close out documents for that work and the project manager's evaluation will be utilized.

- b. Respondent must be Florida professional engineer or a duly qualified professional engineering corporation or partnership holding a current and active professional engineering license provided by the Florida Board of Professional Engineers (provide copy of license with submittal).
- c. Respondent's engineer of record, the person who will be the responsible charge for the preparation, signing, dating, sealing and issuing of any engineering documents for any engineering service or creative work provided under this contract, must hold a current and active professional engineering license provided by the Florida Board of Professional Engineers (provide copy of license with submittal).

Irrespective of the minimum qualifications stated above, the District may make such investigations as it deems necessary to determine the ability of the Respondent to perform the Work. The District reserves the right to reject any Submittal if the evidence submitted by such Respondent and/or the District's independent investigation of such Respondent fails to satisfy the District that such Respondent is properly qualified to carry out the obligations of the Agreement and complete the Work in a manner acceptable to the District within the time period specified.

9. SIGNATURE AND CERTIFICATION REQUIREMENTS

An individual submitting a Submittal must sign his/her name therein and state his/her address and the name and address of every other person interested in the Submittal as principal. If a firm or partnership submits the Submittal, state the name and address of each member of the firm or partnership. If a corporation submits the Submittal, an

authorized officer or agent must sign the Submittal, subscribing the name of the corporation with his or her own name and affixing the corporate seal. Such officer or agent must also provide the name of the state under which the corporation is chartered, and the names and business addresses of the President, Secretary, and Treasurer. Corporations chartered in states other than Florida must submit evidence of registration with the Florida Secretary of State for doing business in the State of Florida. Respondent must certify that all persons or entities having an interest as principal in the Submittal or in substantial performance of the Work have been identified in the Submittal forms.

10. DISQUALIFICATION OF RESPONDENTS

Any of the following causes will be considered as sufficient grounds for disqualification of a Respondent and rejection of the Submittal:

- a. Contacting a District employee or officer other than the procurement employee named in Provision 2 of this solicitation about any aspect of this solicitation before the notice of intended decision is posted.
- b. Submission of more than one Submittal for the same subject matter by an individual, firm, partnership, or corporation under the same or different names;
- c. Evidence of collusion among Respondents;
- d. Submission of materially false information with the Submittal;
- e. Information gained through checking of references or other sources which indicates that Respondent may not successfully perform the Work;
- f. Respondent is failing to adequately perform on any existing contract with the District;
- g. Respondent has defaulted on a previous contract with the District;
- h. The evidence submitted by Respondent, or the District's investigation of Respondent, fails to satisfy the District that Respondent is properly qualified to carry out the obligations of the Agreement in a manner acceptable to the District and within the time period specified;
- i. Any other cause that is sufficient to raise doubt regarding the ability of a Respondent to perform the Work in a manner that meets the District's objectives for the Work.

11. REJECTION OF SUBMITTALS

Submittals must be delivered to the specified location and received before the Submittal opening in order to be considered. Untimely Submittals will be returned to the Respondent unopened. Submittals will be considered irregular and may be rejected if they show material omissions, alterations of form, additions not called for, conditions, limitations, or other material irregularities. The District may consider incomplete any Submittal not prepared and submitted in accordance with the provisions specified herein, and reserves the right to waive any minor deviations or irregularities in an otherwise valid Submittal.

The District reserves the right to reject any and all Submittals and cancel this request for qualifications when it determines, in its sole judgment and discretion, that it is not in its best interest to award the agreement.

12. WITHDRAWAL OF SUBMITTAL

Respondent may withdraw its Submittal if it submits such a written request to the District prior to the designated date and hour of Submittal opening. Respondent may be permitted to withdraw its Submittal no later than 72 hours after the Submittal opening for good cause, as determined by the District in its sole judgment and discretion.

13. EVALUATION AND AWARD PROCEDURES

- a. Submittals will be evaluated by a staff Evaluation Committee based upon the criteria and weighting set forth in "EVALUATION CRITERIA." The committee members will meet at District headquarters or other location as appropriate to discuss the Submittals and their individual evaluations. Each committee member completes an evaluation form, from which the overall ranking of Submittals is compiled. Evaluation forms may be submitted at or subsequent to the Evaluation Committee meeting. If it is determined that it will assist the committee's evaluation for some or all Respondents to make an oral presentation, such presentations will be scheduled at District headquarters or other location as appropriate.

- b. Section 286.0113, Fla. Stat., exempts from being open to the public, any portion of a meeting at which: (1) a negotiation with a Respondent is conducted pursuant to a competitive solicitation; (2) a Respondent makes an oral presentation as part of a competitive solicitation; (3) a Respondent answers questions as part of a competitive solicitation; or (4) negotiation strategies are discussed. Also, recordings of, and any records presented at, the exempt meeting are exempt from §119.07(1) and §24(a), Art. I of the State Constitution (Public Records) until such time as the District provides notice of an intended decision or until 30 days after opening the Submittal or final replies, whichever occurs earlier. A complete recording shall be made of any portion of an exempt meeting. No portion of the exempt meeting may be held off the record.
- c. Pursuant to §286.0113 Fla. Stat., if the District rejects all Submittals and concurrently provides notice of its intent to reissue the competitive solicitation, any recordings or records presented at any exempt meeting relating to the solicitation shall remain exempt from §119.07(1) and §24(a), Art. I of the State Constitution (Public Records) until such time as the District provides notice of an intended decision concerning the reissued competitive solicitation or until the District withdraws the reissued competitive solicitation. A recording and any records presented at an exempt meeting are not exempt for longer than 12 months after the initial District notice rejecting all Submittals.
- d. Following the evaluation process, the District will submit the final ranking of Submittals to the Governing Board for approval, except for those instances in which the authority to approve and execute the Agreement has been delegated by the Governing Board to the Executive Director, or designee. All Respondents will be notified in writing of the Evaluation Committee’s final ranking of Submittals.
- e. The Committee will meet to evaluate and rank the Submittals in the location(s), time(s) and date(s), stated at the beginning of this Request for Qualifications package.
- f. Contract negotiations will then commence with the Respondent submitting the highest-ranked Submittal. If negotiations fail with the highest-ranked Respondent, negotiations will proceed with the other respondents in ranked order.
- g. The Agreement will be awarded to the Respondent having the highest ranked Submittal, which successfully concludes negotiations with the District (the “Successful Respondent”). The Agreement may be modified based on the District’s acceptance of any alternatives listed in this Request for Qualifications that the District deems in its best interest.
- h. If two or more Submittals are equal in all respects, the Agreement will be awarded as follows: (1) to the Respondent that certifies compliance with §287.087, Fla. Stat., via the Drug-Free Workplace Form; (2) to a Respondent university in the State University System pursuant to §373.63, Fla. Stat.; or (3) by lot.
- i. The District reserves the right to award the Agreement to the next highest ranked and available Respondent in the event the Successful Respondent fails to enter into the Agreement, or the Agreement with said Respondent is terminated within 90 days of the effective date.
- j. All Respondents will be notified of the District's intent to award or decision to award the Agreement. For the purpose of filing a protest under §120.57(3), Fla. Stat., the time period will commence as provided in “NOTICES AND SERVICES THEREOF.”

14. EVALUATION CRITERIA

Responses shall include information or documentation regarding, and will be evaluated using, the evaluation criteria set forth below. The evaluation rating scale is as follows:

More than adequate.....	8 – 10	Less than adequate.....	1 – 4
Adequate.....	5 – 7	Not covered in submittal	0

	Criteria	Weight	Score	Total
	Note: If the Evaluation Committee determines that the written submittals are sufficient to finalize its rankings of the Respondents, then oral presentations will not be required and the total scores for the written submittals will be used to determine the rankings.			
1	Company’s/firm’s and subconsultant’s qualifications and experience a) Expertise of firm(s) related to geotechnical investigation projects. b) Ability and capabilities of firm and subconsultants to perform services of this type c) Certified as a small business or certified by the state of Florida’s Office of Supplier Diversity as a woman-, veteran-, or minority-owned business enterprise	15%		

2	<p>Qualification and abilities of professional personnel</p> <p>a) Qualifications and work histories of proposed key personnel including proposed project management and geotechnical engineers on projects of this type.</p> <p>b) Organization profile and management methods.</p> <p>c) Specific names and functions of personnel assigned to work on this project including current and projected workloads.</p> <p>d) Evidence of current professional registrations applicable to project work.</p>	25%		
3	<p>Past and present experience and performance on projects of this type</p> <p>a) Respondent (or a combination of the firm, individual, or project manager assigned to the work) must have successfully completed at least three projects of a similar nature (geotechnical and construction engineering services as described in the Statement of Work) in the five years immediately preceding the date set for receipt of submittals. These three projects shall be used as client references. Provide a description of past and present work on projects of this type (include firm's key personnel's experience and performance) with emphasis on three projects conducted within the five years immediately preceding the date set for receipt of submittals</p> <p>b) At least two of the projects must be located within the state of Florida. Each project shall include a minimum of standard penetration tests, installation of piezometers, or field permeability tests and a project value of at least \$25,000 (use the SIMILAR PROJECTS FORM). No more than 1 project may be from the District. Should a District project be included do not request a reference from the District, as the close out documents for that work and the project manager's evaluation will be utilized.</p>	40%		
4	<p>Willingness to meet time and budget requirements</p> <p>Respondent shall include information on projects where final costs or time has exceeded the initial time or budget on a project by 25% or more, been terminated, and/or has engaged in litigation disputing the contract amount within the last five years.</p>	5%		
5	<p>Volume of District work previously awarded to Respondent</p> <p>Submit documentation as to the volume of work (in dollars) awarded by the District to firm in the past three years, including contracts, work orders, and purchase orders. Points will be allocated from 0 to 10 with Respondents with higher previous awarded contract totals since January 21, 2015, through the submittal date of this RFQ, receiving fewer award points. Respondents with no previous work awards may receive the highest allocation of points (10), while the Respondent with the highest previous work awarded will receive zero points. The District shall rely on its official financial records to resolve any discrepancies. Checks issued by the District on or prior to the date submittals are received shall be included in this total even if Respondent has not yet received the payment.</p> <p>The formula for allocation of previous work award points will be calculated as follows: The Respondent with the highest total of previous work awarded represents the Allocation Basis Total (ABT); then, the ABT less the Previous Work Awarded divided by the ABT will be multiplied by 10 (the highest number of points awarded); the result will be rounded to tenths of a point.</p>	10%		
6	<p>Location of Respondent's Management Office/Project Manager to the project area (see explanation below)</p> <p>Higher consideration will be given to firms whose Project Manager is located within 200 miles from the District's Palm Bay Office at 525 Community College Parkway, Palm Bay, Florida 32909, which will be used to calculate the distance from the office. The website <i>Maps.google.com</i> (using the "Shortest" route type) should be utilized to determine mileage. The District will award points as follows:</p> <ul style="list-style-type: none"> • Within 0-200 miles of the project area = 10 points • > 200 miles from of the project area = 0 points 	5%		
	TOTAL	100%		

15. EXECUTION OF AGREEMENT

Submittal of a binds the Successful Respondent to perform the Work upon acceptance of the and execution of the Agreement by the District.

Unless all are rejected, a contract substantially in the form included in these documents will be provided to the Successful Respondent, who must execute and return the Agreement to the District within ten days of the date of receipt, along with the following:

- a. A completed Internal Revenue Service Form W-9;

- b. Satisfactory evidence of all required insurance coverage;
- c. Proof satisfactory to the District of the authority of the person or persons executing the Agreement on behalf of Respondent;
- d. All other information and documentation required by the Agreement.

The District will not execute the Agreement until the above documents have been executed and delivered to the District. The Agreement will not be binding until executed by the District. A copy of the fully executed Agreement will be delivered to the Successful Respondent. The District reserves the right to cancel award of the Agreement without liability at any time before the Agreement has been fully executed by all parties and delivered to the Successful Respondent.

Failure upon the part of the Successful Respondent to execute the Agreement or timely submit the required evidence of insurance coverage, or any other matter required by the Agreement, will be just cause, if the District so elects, for the recommended award to be annulled. In such event, the District will be entitled to the full amount of the guaranty, not as a penalty, but in liquidation of and compensation for damages sustained.

16. EXAMINATION OF AGREEMENT DOCUMENTS AND WORK AREA

Respondent is solely responsible for being fully informed of the conditions under which the Work is to be performed in relation to existing conditions. Respondent is responsible for carefully examining the general area of the Work, the requirements of the drawings and other contract documents related to the Work, the time in which the Work must be completed, and any other details of the Work. Respondent must satisfy itself from its own personal knowledge and experience or professional advice as to the character of the Work, the conditions and materials to be encountered, the character, quality, and quantities of the Work, and any other conditions affecting the Work, including surrounding land.

Failure to satisfy the obligations of this paragraph will not relieve a Successful Respondent of its obligation to furnish all material, equipment, and labor necessary to perform the Agreement and to complete the Work for the consideration set forth in its Submittal. Any such failure will not be sufficient cause to submit a claim for additional compensation.

No verbal agreement or conversation with any District officer, agent or employee, either before or after the execution of the Agreement, will affect or modify any of its terms.

17. DIVERSITY

The District is committed to the opportunity for diversity in the award and performance of all procurement activities. The District encourages its Prime Respondents to make a good faith effort to ensure that women and minority-owned business enterprises (W/MBE) are given the opportunity for maximum participation as second and lower tier participants. The District will assist Respondents by sharing information on W/MBEs to encourage their participation.

18. FLORIDA SALES TAX

The District is exempt from payment of State of Florida sales tax pursuant to §212.08(6), Fla. Stat. Any tangible personal property that is the subject of this Request for Qualifications is intended to remain tangible personal property and not become part of a public work owned by the District.

19. PUBLIC ENTITY CRIMES/DISCRIMINATORY VENDORS

In accordance with §287.133 and §287.134, Fla. Stat., a person or affiliate who has been placed on the convicted or discriminatory vendor lists following a conviction for a public entity crime or placement on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in §287.017 for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted or discriminatory vendor lists.

20. USE BY OTHER FLORIDA GOVERNMENTAL ENTITIES

Respondent may provide services to other State of Florida governmental entities pursuant to the terms and conditions of the Agreement. These governmental entities include other water management districts, state of Florida agencies (including members of the state university system and community college system), counties, school boards, municipalities, special districts, and other local public agencies or authorities. References to the St. Johns River Water Management District in the Agreement will be replaced with the purchasing entity and the District will not be a party to any other governmental entity's agreement to purchase. Nor will the District be responsible for payment for any goods or services delivered or performed for any other governmental entity that utilizes Respondent pursuant to this paragraph.

21. NOTICES AND SERVICES THEREOF

The District will publish notice of specifications and criteria, including addenda, intended agency decisions, or other matters pertinent to this solicitation on Onvia DemandStar at *DemandStar.com*. Onvia DemandStar may also be accessed through the District's web site at *sjrwm.com*. In addition, the District will post notices of intended agency decisions at the District's headquarters, 4049 Reid Street, Palatka, Florida, Administration Building, Procurement Bulletin Board, on the date the publication is posted on Onvia DemandStar.

Notices that are posted on Onvia DemandStar are deemed received at 8:00 a.m. on the next business day following the date posted. Notices that are posted at the District's Procurement Bulletin Board are deemed received at 8:00 a.m. on the next business day following the date of posting. Notices will be posted for a minimum of 72 hours following the time at which they are deemed received. The time period for filing a Notice of Protest pursuant to §120.57(3), Fla. Stat., and Rule 28-110.003, Fla. Admin. Code, commences at the time notices are deemed received.

As a courtesy to Respondents, the District may send copies of the notices of intended agency decisions via email or facsimile to the address or phone number provided by Respondent. These courtesy communications neither constitute official notice nor vary the times of receipt set forth above.

22. PROTEST PROCEDURES

Pursuant to §120.57(3), Fla. Stat., and Rule 28-110.003, Fla. Admin. Code, any person adversely affected by the procurement methodology described herein, or the specifications or criteria, including addenda, must file a Notice of Protest within 72 hours after receipt of the solicitation documents or addenda.

Pursuant to §120.57(3), Fla. Stat., and Rule 28-110.003, Fla. Admin. Code, any person adversely affected by a District decision or intended decision to award a contract, or to reject all bids, proposals, or qualifications, must file a Notice of Protest within 72 hours after receipt of the decision or intended decision. Pursuant to §287.042(2)(c), Fla. Stat., any person who files an action protesting the decision or intended decision must post with the District Clerk at the time of filing the formal written protest a bond, cashier's check, or money order made payable to the St. Johns River Water Management District in an amount equal to one percent (1%) of the District's estimated contract amount.

Pursuant to §120.57(3), Fla. Stat., and Rule 28-110.004, Fla. Admin. Code, the protester must also file with the District Clerk a Formal Written Protest within ten days after the date the Notice of Protest is filed with the District. The Formal Written Protest must state with particularity the facts and law upon which the protest is based.

No additional time will be added for mailing. All filings must comply with Rule 28-106.104, Fla. Admin. Code, and must be addressed to and received by the District Clerk at the District Headquarters in Palatka, Florida within the prescribed time periods. The District will not accept as filed any electronically transmitted facsimile pleadings, petitions, Notice of Protest or other documents. Failure to file a protest within the time prescribed in §120.57(3), Fla. Stat., or failure to post the bond or other security required by law within the time allowed for filing a bond will constitute a waiver of proceedings under chapter 120, Fla. Stat. Mediation under §120.573, Fla. Stat., is not available.

FORMS

SUBMITTAL FORM

Include this form in the response

RESPONDENT:

The undersigned, as Respondent, hereby declares and certifies that the only person(s) or entities interested in this submittal as principal(s), or as persons or entities who are not principal(s) of the Respondent but are substantially involved in performance of the Work, is or are named herein, and that no person other than herein mentioned has any interest in this submittal or in the Agreement to be entered into; that this submittal is made without connection with any other person, company, or parties making a submittal; and that this submittal is in all respects fair and in good faith without collusion or fraud.

Respondent represents to the District that, except as may be disclosed in an addendum hereto, no officer, employee or agent of the District has any interest, either directly or indirectly, in the business of Respondent to be conducted under the Agreement, and that no such person shall have any such interest at any time during the term of the Agreement, should it be awarded to Respondent.

Respondent further declares that it has examined the Agreement and informed itself fully in regard to all conditions pertaining to this solicitation; it has examined the specifications for the Work and any other Agreement documents relative thereto; it has read all of the addenda furnished prior to the submittal opening, as acknowledged below; and has otherwise satisfied itself that it is fully informed relative to the Work to be performed.

Respondent agrees that if its submittal is accepted, Respondent shall contract with the District in the form of the attached Agreement, and shall furnish everything necessary to complete the Work in accordance with the time for completion specified in the Agreement, and shall furnish the required evidence of the specified insurance.

Acknowledgment is hereby made of the following addenda (identified by number) received:

Addendum No.	Date	Addendum No.	Date
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Respondent (firm name) _____ Date

Address

Email address

Signature _____ Telephone number

Typed name and title _____ Fax number

Respondent's Name: _____

PROPOSED SUBCONTRACTORS

Include this form in the response

Respondent must identify all portions of the Work Respondent intends to perform through subcontractors.

1. Name and address of subcontractor: _____

Description of work: _____

Estimated value of Work: _____

2. Name and address of subcontractor: _____

Description of work: _____

Estimated value of Work: _____

3. Name and address of subcontractor: _____

Description of work: _____

Estimated value of Work: _____

4. Name and address of subcontractor: _____

Description of work: _____

Estimated value of Work: _____

5. Name and address of subcontractor: _____

Description of work: _____

Estimated value of Work: _____

6. Name and address of subcontractor: _____

Description of work: _____

Estimated value of Work: _____

CERTIFICATE AS TO CORPORATION

Include this form in the response

The below Corporation is organized under the laws of the State of _____; is authorized by law to respond to this Request for Qualification and perform all work and furnish materials and equipment required under the Agreement, and is authorized to do business in the state of Florida.

Corporation name: _____

Address: _____

Registration No.: _____

Registered Agent: _____

By: _____

(Official title)

(Affix corporate seal)

Attest: _____

(Secretary)

The full names and business or residence addresses of persons or firms interested in the foregoing submittal as principals or officers of Respondent are as follows (specifically include the President, Secretary, and Treasurer and state the corporate office held of all other individuals listed):

Identify any parent, subsidiary, or sister corporations involving the same or substantially the same officers and directors that will or may be involved in performance of the Project, and provide the same information requested above on a photocopy of this form.

If applicable, attach a copy of a certificate to do business in the state of Florida, or a copy of the application that has been accepted by the state of Florida to do business in the state of Florida, for the Respondent and/or all out-of-state corporations that are listed pursuant to this form.

AFFIDAVIT AS TO NON-COLLUSION AND CERTIFICATION OF MATERIAL CONFORMANCE WITH SPECIFICATIONS

Include this form in the response

STATE OF _____

COUNTY OF _____

I, the undersigned, _____ being first duly sworn, depose and say that:

1. I am the owner or duly authorized officer, representative, or agent of:

 the Respondent that has submitted the attached submittal.
2. The attached submittal is genuine. It is not a collusive or sham submittal.
3. I am fully informed respecting the preparation and contents of, and knowledgeable of all pertinent circumstances respecting the attached submittal.
4. Neither Respondent nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, including this affiant, has in any way colluded, conspired, connived, or agreed, directly or indirectly, with any other Respondent, firm, or person to submit a collusive or sham submittal in connection with the Agreement for which the attached submittal has been submitted, or to refrain from submitting in connection with such Agreement, or has in any manner, directly or indirectly, sought by agreement, collusion, communication, or conference with any other Respondent, firm, or person to fix the price or prices in the attached submittal of any other Respondent, or to fix any overhead, profit, or cost element of the submittal prices or the submittal price of any other Respondent, or to secure through collusion, conspiracy, connivance, or unlawful agreement any advantage against the District or any other person interested in the proposed Agreement.
5. The price(s) quoted in the attached submittal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Respondent or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.
6. No official or other officer or employee of the District, whose salary or compensation is payable in whole or in part by the District, is directly or indirectly interested in this submittal, or in the supplies, materials, equipment, work, or labor to which it relates, or in any of the profits therefrom.
7. Any materials and equipment proposed to be supplied in fulfillment of the Agreement to be awarded conform in all respects to the specifications thereof. Further, the proposed materials and equipment will perform the intended function in a manner acceptable and suitable for the intended purposes of the District.

Signature: _____

Title: _____

Subscribed and sworn to before me this _____ day of _____, 20 ____.

Notary Public, state of _____ at Large

My commission expires:

(SEAL)

QUALIFICATIONS — GENERAL

Include this form in the response

As part of the submittal, Respondent shall complete the following so that the District can determine Respondent's ability, experience, and facilities for performing the Work.

Name of Respondent: _____

Respondent's tax identification No.: _____

Year company was organized/formed: _____

Number of years Respondent has been engaged in business under the present firm or trade name: _____

Total number of years Respondent has experience in similar herbicide application work described in the INSTRUCTIONS TO RESPONDENTS: _____

Has Respondent previously been engaged in the same or similar business under another firm or trade name? If so, please describe each such instance.

Has Respondent ever been adjudicated bankrupt, initiated bankruptcy, or been the subject of bankruptcy proceedings on behalf of the current entity submitting this submittal or a prior entity that Respondent substantially operated or controlled? If yes, please describe the nature and result of those proceedings and the entity involved.

Describe the background/experience of the person or persons who will be primarily responsible for directing the Work that will be performed pursuant to this submittal. This inquiry is intended to encompass the project manager and/or superintendent who will be engaged on a daily basis in directing performance of the Work.

Respondent's Name: _____

QUALIFICATIONS — SIMILAR PROJECTS

Include this form in the response

Respondent (or a combination of the firm, individual, or project manager assigned to the work) must have successfully completed at least three projects of a similar nature (geotechnical and construction engineering services as described in the Statement of Work in the five years immediately preceding the date set for receipt of submittals. At least two of the projects must be located within the state of Florida. Each project must also have a value of at least \$25,000 (Add additional sheet for optional additional completed projects.)

Completed Project 1:

Agency/company: _____

Current contact person at agency/company: _____

Telephone: _____ Fax: _____ Email: _____

Address of agency/company: _____

Name of project: _____

Description: _____

Project value: _____ Start date: _____ Completion date: _____
(month/year) (month/year)Name(s) of assigned personnel:

Project manager: _____

Others: _____

Completed Project 2:

Agency/company: _____

Current contact person at agency/company: _____

Telephone: _____ Fax: _____ Email: _____

Address of agency/company: _____

Name of project: _____

Description: _____

Project value: _____ Start date: _____ Completion date: _____
(month/year) (month/year)Name(s) of assigned personnel:

Project manager: _____

Others: _____

Completed Project 3:

Agency/company: _____

Current contact person at agency/company: _____

Telephone: _____ Fax: _____ Email: _____

Address of agency/company: _____

Name of project: _____

Description: _____

Project value: _____ Start date: _____ Completion date: _____
(month/year) (month/year)

Name(s) of assigned personnel:

Project manager: _____

Others: _____

DRUG-FREE WORKPLACE FORM

This form utilized only in the event of a tie response

The Respondent, (business name) _____, in accordance with §287.087, Fla. Stat., hereby certifies that Respondent does the following:

1. Informs employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations
2. Publishes a statement notifying employees that
 - a. the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against its employees for violations of such prohibition.
 - b. as a condition of working on the contractual services that are the subject of this solicitation, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893, Fla. Stat., or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five days after such conviction.
3. Gives each employee engaged in providing the contractual services that are the subject of this solicitation a copy of the statement specified in paragraph 2, above.
4. Imposes a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee convicted of a violation listed in sub-paragraph 2.b., above.
5. Makes a good faith effort to continue to maintain a drug-free workplace through implementation of §287.087, Fla. Stat.

As the person authorized to sign this statement, I certify that this firm complies fully with the above requirements.

By: _____

Title: _____

Date: _____ /

NO RESPONSE FORM

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
REQUEST FOR QUALIFICATIONS 30324,

Your reasons for not responding to this Request for Qualifications are valuable to the St. Johns River Water Management District's procurement process. Please complete this form and return it to the Office of Procurement Services no later than the date set for receipt of submittals. Thank you for your cooperation.

Please check (as applicable):

- Specifications too "general" (explain below)
- Insufficient time to respond to the Invitation for Bids
- Do not provide this type of work for this project
- Schedule would not permit us to perform
- Unable to meet bid specifications
- Specifications unclear (explain below)
- Disagree with solicitation or Agreement terms and conditions (explain below)
- Other (specify below)

Remarks: _____

DATE _____

RESPONDENT (FIRM NAME) _____

ADDRESS _____

E-MAIL ADDRESS _____

SIGNATURE

TYPED NAME AND TITLE

TELEPHONE NUMBER

FAX NUMBER

**AGREEMENT
BETWEEN THE
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
AND _____ FOR
GEOTECHNICAL AND CONSTRUCTION ENGINEERING SERVICES**

THIS AGREEMENT is entered into by and between the GOVERNING BOARD of the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT (the "District"), whose address is 4049 Reid Street, Palatka, Florida 32177-2571, and _____ ("Consultant"), whose address is _____. All references to the parties hereto include the parties, their officers, employees, agents, successors, and assigns.

In consideration of the payments hereinafter specified, Consultant agrees to furnish and deliver all materials and perform all labor required for 32363, Geotechnical and Construction Engineering Services (the "Work"). In accordance with RFQ 30324, Consultant shall complete the Work in conformity with this Agreement, which consists of and incorporates all of the following documents: (1) advertisement for bids, proposals, or qualifications; (2) Instructions to Respondents; (3) addenda; certifications, and affidavits; (4) bid, proposal, or qualifications submittals; (5) Agreement, including the Statement of Work, and any Special Conditions or other attachments. If any provision in the body of this Agreement conflicts with any attachment hereto, the body of this Agreement shall prevail. This Agreement, including attachments, shall take precedence over all solicitation documents (items 1 – 4). The parties hereby agree to the following terms and conditions.

1. TERM

- (a) The term of this Agreement shall be from the Effective Date to the Completion Date. Time is of the essence for each and every aspect of this Agreement. Where additional time is allowed to complete the Work, the new time limit shall also be of the essence. All provisions of this Agreement that by their nature extend beyond the Completion Date survive termination or expiration hereof.
- (b) **Effective Date.** The Effective Date is the date upon which the last party to this Agreement has dated and executed the same.
- (c) **Completion Date.** The Completion Date of this Agreement is _____, three years from the Effective Date, unless extended by mutual written agreement of the parties. The Completion Date for specific work orders shall be the time for completion stated in the work order; which shall be agreed upon by both parties.

- 2. COMMENCEMENT OF WORK.** Consultant shall commence the Work within 14 days of issuance of a Work Order by the District. This date shall be known as the "Commencement Date." Consultant shall prosecute the Work regularly, diligently, and uninterruptedly so as to complete the Work ready for use in accordance with the Statement of Work and the time for completion stated therein. Consultant shall not commence the Work until any required submittals are received and approved.

3. LIQUIDATED DAMAGES

- (a) If Consultant neglects, fails, or refuses to satisfactorily complete the Work by the Completion Date, Consultant shall, as a part of the consideration for this Agreement, pay the District the amount stipulated herein, not as a penalty, but as liquidated damages for such breach, for each day Consultant is in default thereafter. This amount is fixed and agreed upon between the parties due to the impracticability and extreme difficulty of ascertaining the actual damages the District would sustain in such event. The amount of liquidated damages shall be one half of one percent (.5%) of the total contract amount per day. Liquidated damages shall be deducted from payments as they become due and may be deducted from the retainage due upon completion. They constitute an agreed-upon liquidated sum solely for consequential damages attributable to delay and are not a substitute for any other consequential damages incurred by the District, such as the cost of finding a replacement Consultant for completion of the Work if this Agreement is terminated by the District for non-performance.
- (b) Consultant shall not be charged with liquidated damages or any excess cost when the District determines that Consultant's reasons for the time extension are acceptable in accordance with **FORCE MAJEURE; DELAYS;**

EXTENSION OF COMPLETION DATE. A written extension of the Completion Date constitutes a waiver of liquidated damages to the new Completion Date unless expressly provided therein to the contrary.

4. DELIVERABLES

- (a) The Work is specified in the Statement of Work, Attachment A. Consultant shall deliver all products and deliverables as stated therein, and shall correct errors or omissions without additional compensation. In addition to hard copies, all written deliverables (reports, papers, analyses, etc.) shall be submitted in machine readable form in formats consistent with the District's standard software products, which include the Microsoft® Office Suite (Word, Excel, Access, and PowerPoint). Other formats may be accepted if approved by the District's Project Manager. If the Statement of Work does not include assistance in litigation undertaken or defended by the District, Consultant agrees to testify and assist the District in any such litigation that is dependent upon or related to the Work, except suits or claims between the parties, at the hourly rate provided in the Statement of Work. This obligation shall survive termination or expiration of this Agreement.
- (b) Consultant is responsible for the professional quality, technical accuracy, and timely completion of the Work. Both workmanship and materials shall be of good quality. Consultant shall, if required, furnish satisfactory evidence as to the kind and quality of materials provided. Unless otherwise specifically provided for herein, Consultant shall provide and pay for all materials, labor, and other facilities and equipment necessary for performance of the Work. The District's Project Manager shall make a final acceptance inspection of the deliverables when completed and finished in all respects.
- (c) If not otherwise addressed in the Statement of Work, upon written request, Consultant shall submit written progress reports to the District's Project Manager at the frequency requested in a form approved by the Project Manager at no additional cost to the District. The progress report shall provide an updated progress schedule, taking into account all delays and approved changes in the Work. Failure to provide a progress report will be cause to withhold payment.

5. OWNERSHIP OF DELIVERABLES

- (a) All deliverables, including Work not accepted by the District, are District property when Consultant has received compensation therefor, in whole or in part. For any Work subject to patent, copyright, such Work is a "work made for hire" as defined by the patent and copyright laws of the United States. Consultant shall not make any representation otherwise and, upon request, shall sign any documents so affirming. Any District source documents or other District or non-District documents, specifications, materials, reports, or accompanying data developed, secured, or used in the performance of the Work, excluding proprietary materials, as outlined in the Statement of Work, are District property and shall be safeguarded and provided to the District upon request. District plans and specifications shall not be used on other work and, with the exception of the original plans and specifications, shall be returned to the District upon request. This obligation shall survive termination or expiration of this Agreement.
- (b) The District shall have the unrestricted right to use and disseminate all of the above-referenced documents without payment of further compensation to Consultant, provided that any future use for other than the purpose intended by this Agreement shall be at the District's sole risk and without liability to Consultant. Consultant shall include language in all subcontracts clearly indicating that ownership and copyright to all materials produced pursuant to this Agreement remains with the District, as provided herein. All original sketches, tracings, drawings, computation details, calculations, field books and plans that result from the Work shall become the sole property of the District. Consultant shall submit all such work products to the District, if requested. Consultant may retain copies of all work products created pursuant to this Agreement.

6. FUNDING OF AGREEMENT

For satisfactory performance of the Work, the District agrees to pay Consultant a not-to-exceed amount of \$450,000 (the "Total Compensation"). The total amount of all Work Orders under this Agreement shall not exceed the Total Compensation. The compensation for each Work Order shall be set forth in the Work Order and billed in accordance

with the terms of the Work Order. Funding for each applicable fiscal year is subject to District Governing Board budgetary appropriation.

7. PAYMENT OF INVOICES

- (a) Consultant shall submit itemized invoices on a monthly by one of the following two methods: (1) by mail to the St. Johns River Water Management District, Finance Director, 4049 Reid Street, Palatka, Florida 32177-2571, or (2) by email to acctpay@sjrwmd.com. Each invoice shall be submitted in detail sufficient for proper pre-audit and post-audit review. If necessary for audit purposes, Consultant shall provide additional supporting information as required to document invoices.
- (b) **End of District Fiscal Year Reporting.** The District's fiscal year ends on September 30. Irrespective of the invoicing frequency, the District is required to account for all encumbered funds at that time. When authorized under the Agreement, submittal of an invoice as of September 30 satisfies this requirement. The invoice shall be submitted no later than October 30. If the Agreement does not authorize submittal of an invoice as of September 30, Consultant shall submit, prior to October 30, a description of the additional Work completed between the last invoice and September 30, and an estimate of the additional amount due as of September 30 for such Work. If there have been no prior invoices, Consultant shall submit a description of the Work completed on the project through September 30 and a statement estimating the dollar value of that Work as of September 30.
- (c) **Final Invoice.** The final invoice must be submitted no later than 45 days after the Completion Date; provided, however, that when the Completion Date corresponds with the end of the District's fiscal year (September 30), the final invoice must be submitted no later than 30 days after the Completion Date. **Final invoices that are submitted after the requisite date shall be subject to a penalty of ten percent of the invoice. This penalty may be waived by the District, in its sole judgment and discretion, upon a showing of special circumstances that prevent the timely submittal of the final invoice. Consultant must request approval for delayed submittal of the final invoice not later than ten days prior to the due date and state the basis for the delay.**
- (d) All invoices shall include the following information: (1) District contract number; (2) District encumbrance number; (3) District work-order number; (4) Consultant's name and address (include remit address, if necessary); (5) Consultant's invoice number and date of invoice; (6) District Project Manager or Work Order Manager; (7) Consultant's Project Manager; (8) supporting documentation as to cost and/or project completion (as per the cost schedule and other requirements of the Statement of Work and work orders, see special requirements under WORK ORDERS); (9) Progress Report (if required); (10) Diversity Report (if otherwise required herein). Invoices that do not correspond with this paragraph shall be returned without action, stating the basis for rejection. Payments shall be made within 20 business days of receipt of an approved invoice. Disputes regarding invoice sufficiency are resolved pursuant to the dispute resolution procedure of this Agreement.
- (e) **Travel expenses.** If the cost schedule for this Agreement or project estimate for a Work Order includes a line item for travel expenses, travel expenses shall be drawn from the project budget and are not otherwise compensable. If travel expenses are not included in the cost schedule, they are a cost of providing the service that is borne by Consultant and are only compensable when specifically approved by the District as an authorized District traveler. In such instance, travel expenses must be submitted on District or State of Florida travel forms and shall be paid pursuant to District Administrative Directive 2000-02.
- (f) **Payments.** Absent exceptional circumstances, Consultant is required to sign up and receive payment(s) electronically from the District via Automated Clearing House (ACH) payment.
- (g) **Payments.** The District shall pay Consultant 100% of each approved invoice.

8. **PAYMENT AND RELEASE.** Upon satisfactory completion of the Work, the District will provide Consultant a written statement accepting all deliverables. Consultant's acceptance of final payment shall constitute a release in full of all Consultant claims against the District arising from the performance of this Agreement, with the exception of any pending claims for additional compensation that have been documented and filed as required by this Agreement.

9. **INDEMNIFICATION.** Consultant shall indemnify and hold harmless, release, and forever discharge the District, its public officers, employees, agents, representatives, successors, and assigns, from any and all liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, arising from or caused by the Consultant, its

employees or subcontractors, in the performance of the Work. Consultant shall further indemnify the District for all costs and penalties the District incurs related to any failure to offer Patient Protection and Affordable Care Act compliant health care coverage to Consultant-employees performing under this contract.

10. **INSURANCE.** Consultant shall acquire and maintain all insurance required by Attachment B, Insurance Requirements, and shall not commence Work until it has provided Certificates of Insurance to the District as per Attachment B. Receipt of Certificates of Insurance indicating less coverage than required does not constitute a waiver of the Insurance Requirements. Consultant waives its right of recovery against the District to the extent permitted by its insurance policies. Consultant's insurance shall be considered primary, and District insurance shall be considered excess, as may be applicable to Consultant's obligation to provide insurance.
11. **FUNDING CONTINGENCY.** This Agreement is at all times contingent upon funding availability, which may include a single source or multiple sources, including, but not limited to: (1) ad valorem tax revenues appropriated by the District's Governing Board; (2) annual appropriations by the Florida Legislature, or (3) appropriations from other agencies or funding sources. Agreements that extend for a period of more than one Fiscal Year are subject to annual appropriation of funds in the sole discretion and judgment of the District's Governing Board for each succeeding Fiscal Year. Should the Work not be funded, in whole or in part, in the current Fiscal Year or succeeding Fiscal Years, the District shall so notify Consultant and this Agreement shall be deemed terminated for convenience five days after receipt of such notice, or within such additional time as the District may allow. For the purpose of this Agreement, "Fiscal Year" is defined as the period beginning on October 1 and ending on September 30.
12. **SCHEDULING AND WORK PLANNING; PROGRESS REPORTING**
- (a) **Progress Reports.** Consultant shall provide to the District update/status reports as provided in the Statement of Work. Reports will provide detail on progress of the Work and outline any potential issues affecting completion or the overall schedule. Reports may be submitted in any form agreed to by District's Project Manager and Consultant, and may include emails, memos, and letters.
1. **Progress Meetings.** The District may conduct progress meetings with Consultant on a frequency to be determined by the District. In such event, Consultant shall make available its Project Manager and other appropriate personnel to discuss matters pertinent to the Work.
 2. **Failure to Meet Schedule.** If progress of the Work falls five percent or more behind schedule, except as a result of District-approved delays, Consultant shall take all necessary steps to augment the work effort to get the project back on schedule. Should the progress of the Work fall ten percent or more behind schedule, the District may advise Consultant through a "cure" notice that this Agreement is subject to termination for cause if the failure is not cured within the time frame specified in said notice.
13. **FORCE MAJEURE; DELAYS**
- (a) **Force Majeure.** Consultant shall not be liable for failure to carry out the terms of this Agreement to the extent such failure is due to a Force Majeure event, except for failures that could have been reasonably foreseen and guarded against so as to avoid or reduce the adverse impact thereof. A Force Majeure event is hereby defined as the failure to carry out any of the terms of this Agreement due to any one of the following circumstances beyond the control of Consultant: (a) the operation and effect of rules, regulations, or orders promulgated by any commission, county, municipality, or governmental agency of the State of Florida or the United States, (b) a restraining order, injunction, or similar decree of any court of competent jurisdiction, (c) war, (d) flood, (e) earthquake, (f) fire, (g) severe wind storm, (h) acts of public disturbance, (I) quarantine restrictions, (j) epidemics, (k) strikes, (l) freight embargoes, or (m) sabotage. The times specified herein for performances include delays that can ordinarily be anticipated due to adverse weather conditions. The District is not obligated to grant an extension of time due to adverse weather conditions unless such conditions rise to the level of Force Majeure.
- (b) **Delay.** Consultant shall not be compensated for delays caused by Consultant's inefficiency, rework made necessary by Consultant's error, failure to perform the Work as scheduled, or any other corrective or productivity measures made necessary by errors, omissions, or failures to properly perform the Work. Within ten days after the onset of a delay, Consultant shall notify the District in writing of the delay, which shall provide: (1) a detailed

description the delay and its probable duration, (2) the specified portion of the Work affected, and (3) an opinion as to the cause of the delay and liability (if any) for the delay. Notices provided more than ten days after the inception of the delay shall only be effective as to additional costs or delay incurred during the ten day period preceding receipt of such notice. In the case of continuing cause delay for the same cause, only one notice of delay is necessary. **Failure to provide this notice waives any claim for extension of time or additional compensation resulting from such delay.** If the delay is due to the failure of another District contractor to complete its work in a timely manner, changes ordered in the Work, a Force Majeure event, or any other cause which the District, in its sole judgment and discretion, determines to justify the delay, then the Completion Date may be extended as necessary to compensate for the delay. All time extensions shall be in the form of a written amendment signed by both parties.

14. AMENDMENTS; EMERGENCY CHANGES IN WORK

- (a) **Amendments.** The parties may not amend this Agreement except in writing. Modifications that alter, add to, or deduct from the Work, or otherwise modify the terms of this Agreement, shall be implemented through a change order or formal amendment, specifying the nature of the change and any associated change in the Total Compensation and/or Completion Date. The District's Project Manager may also issue a District Supplemental Instruction (DSI) form (Attachment C) to authorize minor adjustments to the Work for a specific Work Order that are consistent with the scope of the Work Order. Both parties must sign the DSI. A DSI may not be used to change the Total Compensation, quantity, quality or the Completion Date of the Work Order, or to change or modify the Agreement.
- (b) **Emergency Changes in Work.** In the event an emergency endangering life or property requires immediate action, the District may give Consultant an oral instruction to proceed with an emergency change in the Work, which will be confirmed in writing within five days. Within 15 days after commencement of the emergency change in the Work, Consultant shall provide the District with a written estimate of any increased costs or delays as a result thereof. **Failure to so notify the District constitutes a waiver of any right to an extension of time or increase in compensation.** Within 15 days after receipt of Consultant's estimate, the parties shall negotiate a Change Order. If unable to reach agreement, disputed issues shall be resolved pursuant to the dispute resolution procedure. In no event shall Consultant decline to perform the emergency change in the Work.

15. TERMINATION AND SUSPENSION

- (a) **District Termination for Cause.** The Agreement may be terminated by the District for cause in the event of any breach hereof, including, but not limited to, Vendor ID's: (1) failing to carry forward and complete the Work as provided herein; (2) failing to comply with applicable laws, regulations, permits, or ordinances; (3) failing to timely correct defective Work; (4) making a general assignment for the benefit of its creditors; (5) having a receiver appointed because of insolvency; (6) filing bankruptcy or having a petition for involuntary bankruptcy filed against it; (7) failing to make payments when due to subcontractors, vendors, or others for materials or labor used in the Work; (8) making a material misrepresentation to the District regarding the Work, or (9) any other material breach of this Agreement. In such event, the District shall provide Vendor ID with written notice of its intention to terminate this Agreement, stating the nature of the deficiency and the effective date of termination. At the District's sole judgment and discretion, the District may afford Vendor ID an opportunity to cure said deficiency, in which event the notice shall specify the time allowed. Upon termination, the District may take possession of the premises and of all materials thereon and finish the Work by whatever means it deems expedient. In such event, Vendor ID shall not receive any further payment until the Work is completed by the District. Vendor ID shall be liable for all costs involved in completing the Work, including additional managerial and administrative services, which shall be offset against any amount due to Vendor ID.
- (b) **District Termination for Convenience.** Notwithstanding any other provision hereof, the District may at any time terminate this Agreement or any Work issued under it, in whole or in part, without cause, upon 30 days' written notice to Vendor ID. In such event, Vendor ID shall be compensated for any Work performed prior to the date of termination and for materials that were ordered prior to receipt of notice of termination that cannot be returned to the vendor, which shall become District property. Upon receipt of notice, Vendor ID shall discontinue the Work on the date and to the extent specified therein and shall place no further orders for materials, equipment, services, or facilities, except as needed to continue any portion of the Work not terminated. Vendor ID shall also make every reasonable effort to cancel, upon terms satisfactory to the District, all orders or subcontracts related to the

terminated Work. Vendor ID may not claim any compensation not specifically provided for herein, including, but not limited to: loss of anticipated profits; idle equipment, labor, and facilities; any additional claims of subcontractors and vendors.

- (c) **District Suspension for Cause.** The District may issue a written partial or full Stop Work Notice in the event Vendor ID fails to comply with or is negligent in performing any provision hereof. All performance shall immediately cease as per such notice and no further billable costs shall be incurred. The District may terminate this Agreement if Vendor ID fails or refuses to comply with a Stop Work Notice.
- (d) **District Suspension for Convenience.** The District may direct Vendor ID to stop Work, in whole or in part, whenever, in the District's sole judgment and discretion, such stoppage is necessary to ensure proper completion of the Work, avoid injury to third persons, or otherwise meet the District's objectives. The District shall provide Vendor ID not less than five days' written notice, except in emergency circumstances. Vendor ID shall immediately comply with such notice. Should such stoppage increase Vendor ID's cost, an equitable adjustment will be made by Change Order. The notice shall be effective until rescinded in writing, unless the period of suspension is stated in the notice.
- (e) **Vendor ID's Right to Stop Work or Terminate Agreement**
- (i) **Stop Work.** Vendor ID may stop work only under the following circumstances: (1) the Work is ordered temporarily discontinued by a court or other public authority; (2) it is necessary to stop work in order to protect the safety of Vendor ID or third persons; or (3) the District fails to pay Vendor ID when due any undisputed and adequately documented sum certified for payment by the District Project Manager. In such event, Vendor ID shall provide the District not less than seven days prior written notice of its intention to stop work, except in emergency circumstances or when necessary to prevent injury to persons or property.
- (ii) **Termination.** Vendor ID may terminate this Agreement under only the following circumstances: (1) the Work is ordered discontinued by a court or other public authority, through no act or fault of Vendor ID, for a period of not less than three months; (2) the District fails to pay Vendor ID when due any undisputed and adequately documented sum certified for payment by the District Project Manager. In such event, Vendor ID shall provide not less than 20 days written notice of its intention to terminate and afford the District the opportunity to cure said deficiency within said time period.
- (iii) **Duty to Perform.** Except as expressly provided above, in the event of any event, dispute, or other matter arising under this Agreement, Vendor ID shall fully perform the Work in accordance with the District's written instructions and may claim additional compensation as a Change Order, subject to the dispute resolution procedure.

ADDITIONAL PROVISIONS (In Alphabetical Order)

16. DEFINITIONS

ADDENDA: Written or graphic instruments issued prior to the opening of responses, which make additions, deletions, or revisions to the solicitation or contract documents.

ADDENDA: Written or graphic instruments issued prior to the opening of responses, which make additions, deletions, or revisions to the solicitation or contract documents.

AGREEMENT: The written contract between the District and Consultant covering the Work, which includes all documents attached to this Agreement or incorporated herein by reference. The words "contract" and "Agreement" are synonymous in these documents.

AMENDMENT: Any written change made to the terms and conditions of the Agreement.

BUSINESS DAY: Monday through Friday, excepting those holidays observed by the District – New Years Day, Martin Luther King Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving (and Friday), and Christmas Day.

CHANGE ORDER: A written agreement of the parties after the Commencement Date to amend this Agreement so as to modify the Statement of Work or the Total Compensation or provide for an extension of time.

CONSULTANT: Consultant, its officers, employees, agents, successors, and assigns.

CONSULTANT's PROJECT MANAGER: The individual designated by the Consultant to be responsible for overall coordination, oversight, and management of the Work for Consultant.

PERSON: Any individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, or capacity, whether appointed by a court or others, and any combination of individuals.

REQUEST FOR QUALIFICATIONS: An advertised solicitation for sealed Submittals, with the title, date, and hour of the public opening designated. It includes a detailed description of the services sought, the date for submittal of the response, and all contractual terms and conditions.

RESPONDENT: Any person who submits a response to a solicitation.

STATEMENT OF WORK: The District's written directions, requirements and technical specifications for completing the Work. Standards for specifying materials or testing that are incorporated therein by reference shall have the same force and effect as if fully set forth therein.

SUBCONTRACTORS: Those persons having a direct contract with Consultant relating to performance of the Work, including one who furnishes material worked into a special design in accordance with the plans or specifications of the Work, but not including one who merely furnishes material.

TOTAL COMPENSATION: The total funds to be expended pursuant to this Agreement upon satisfactory completion of the Work.

WORK: All labor, materials, equipment, transportation, supporting documentation, and other products, services, or facilities necessary for complete performance of the Agreement.

17. ACCESS; WORK AREA; GATES

- (a) **Access.** The District will provide sufficient access to accomplish Work performed on District property. Consultant shall maintain all on-site roadways and paved and unpaved access roadways to and from the worksite in an acceptable and passable condition at no additional cost to the District, which shall, upon conclusion of the Work, be returned to their original condition. Land access to construction sites is restricted to the route designated by the District. Consultant is responsible for improvements and repairs to access routes required during construction. All access routes shall be used for the purpose of construction only. Consultant shall not disturb lands or waters outside the area of construction, except as may be found necessary and authorized by the District.
- (b) **Work Area.** All Work shall be confined to the designated work area(s). Consultant shall obtain written approval from the District before making any adjustments.
- (c) **Gates.** Consultant shall keep all gates to District lands or easements closed and locked in accordance with District specifications when not in use, and shall immediately notify the District when a gate has become impaired due to vandalism or other cause. Unless otherwise stated in the specifications, Consultant shall be responsible for providing lock(s) to District properties.

18. ASSIGNMENT AND SUBCONTRACTS

- (a) Consultant shall not sublet, assign, or transfer any Work involving more than 15% of the total cost of the Work, or assign any monies due hereunder, without the District's prior written consent. As soon as practicable after signing this Agreement, but not less than seven business days prior to the effective date of any subcontracts, Consultant shall notify the District's Project Manager in writing of the name of any subcontractor that has not been previously disclosed in the procurement process. Within five business days the District shall indicate its approval or disapproval, which shall not be unreasonably withheld. Failure to timely provide such approval or disapproval shall constitute approval. Neither District approval of a subcontractor nor any other provision of this Agreement creates a contractual relationship between any subcontractor and the District.
- (b) Consultant is responsible for fulfilling all work elements in any subcontracts and payment of all monies due. Consultant is fully responsible to the District for the acts and omissions of its subcontractors and persons directly or indirectly employed by them, and shall hold the District harmless from any liability or damages resulting from any subcontract to the extent allowed by law.

19. **ASSIGNMENT AND SUBCONTRACTS.** Consultant shall not sublet, assign, or transfer any Work involving more than 15% of the total cost of the Work, or assign any monies due hereunder, without the District's prior written consent; provided, however, that in all cases, if the proposed subcontractor is different than the team specified by Consultant in the contract award process, Consultant shall notify the District's Project Manager in writing and obtain the District's prior approval. Neither District approval of a subcontractor nor any other provision of this Agreement creates a contractual relationship between any subcontractor and the District. Consultant is responsible for fulfilling all work elements in any subcontracts and payment of all monies due. Consultant is fully responsible to the District for the acts and omissions of its subcontractors and persons directly or indirectly employed by them, and shall hold the District harmless from any liability or damages resulting from any subcontract to the extent allowed by law.
20. **AUDIT; ACCESS TO RECORDS.** Consultant must preserve its books and other records involving transactions related to this Agreement and provide the District, or its duly authorized representatives, access and necessary facilities to inspect and audit those records for five years after the receipt of funds. If an examination or audit is performed, Consultant must continue to maintain all required records until such audit has been completed and all questions arising from it are resolved. Consultant shall refund any payment(s) that are found to not constitute allowable costs based upon an audit examination.
21. **CIVIL RIGHTS.** Pursuant to chapter 760, Fla. Stat., Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, age, handicap, or marital status.
22. **CLEANUP; EQUIPMENT REMOVAL.** Upon expiration or termination of this Agreement, Consultant shall restore the worksite to its original condition, except for replacement of vegetation, unless otherwise required by this Agreement. Consultant shall remove from District property and all public and private property all machinery, equipment, supplies, surplus materials, temporary structures, rubbish, and waste materials resulting from its activities. After 20 days, the District may sell or dispose of any materials left at the worksite as it sees fit and deduct the cost of sale or disposal from any amounts due to Consultant. Any revenues obtained shall be applied toward costs incurred by the District, with excess revenues paid to Consultant.
23. **COOPERATION WITH THE INSPECTOR GENERAL, PURSUANT TO §20.055(5) FLA. STAT.** Consultant and any subcontractors understand and will comply with their duty, pursuant to §20.055(5), Fla. Stat., to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing.
24. **COORDINATION WITH THE DISTRICT AND OTHER DISTRICT CONTRACTORS**
- (a) The District may let other contracts in connection with the Work. Wherever work done by the District or another District contractor is contiguous to Consultant's Work, the respective rights of the various interests shall be established by the District so as to secure completion of the Work. Consultant shall arrange its Work so as not to interfere with the District or other District contractors and join its Work to that of others in a proper manner, and in accordance with the intent of the Statement of Work. Consultant shall perform its Work in the proper sequence in relation to that of other District contractors, as may be directed by the District. Consultant shall afford other District contractors reasonable opportunity for introduction and storage of their materials and execution of their work, and shall properly conduct and coordinate its Work with theirs. Consultant shall take into account all contingent work to be done by others and shall not plead its want of knowledge of such contingent work as a basis for delay or non-performance. Consultant shall be liable for any damage it causes to the work performed by other District contractors.
- (b) If any part of the Work depends for proper execution or results upon the work of other District contractors, Consultant shall inspect and promptly report any defects in the other contractors' work that render it unsuitable for Consultant's Work. Failure to so inspect and report shall constitute an acceptance of the other contractors' work as fit and proper for the reception of its Work, except as to defects which may develop in the other contractors' work after execution of the Work.
25. **CONTINGENCY FEES.** Pursuant to §287.055(6)(a), Fla. Stat., Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Consultant, 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 Consultant, any fee, commission, percentage, or other consideration,

contingent upon or resulting from the award or making of this Agreement. For breach or violation of these provisions, the District may terminate this Agreement without liability and, at its discretion, deduct from the contract price or otherwise recover the full amount of any such fee, commission, percentage, gift, or other consideration.

26. CORRELATION AND INTENT OF DOCUMENTS; QUESTIONS OR ISSUES REGARDING PERFORMANCE OF THE WORK

- (a) This Agreement and all attachments are complementary. What is called for by one is as binding as if called for by all. The intent is to include all labor and materials, equipment, transportation, and incidentals necessary for the proper and complete execution of the Work. Materials or work described in words, which so applied have a well-known technical or trade meaning, shall be held to refer to such recognized standards.
- (b) It is the District's intention to fully assist Consultant in the successful performance of the Work and to respond in a timely manner to questions or issues that arise. Consultant should discuss any questions or issues with the District's Project Manager and communicate such questions or issues in writing when required by this Agreement. The District shall respond through its Project Manager.

27. DISPUTE RESOLUTION

- (a) **During the course of work.** In the event any dispute arises during the course of the Work, Consultant shall fully perform the Work in accordance with the District's written instructions and may claim additional compensation. Consultant is under a duty to seek clarification and resolution of any issue, discrepancy, or dispute by submitting a formal request for additional compensation, schedule adjustment, or other dispute resolution to the District's Project Manager no later than 15 days after the precipitating event. If not resolved by the Project Manager within five business days, the Project Manager shall forward the request to the District's Office of General Counsel, which shall issue a written decision within 15 days of receipt. This determination shall constitute final action of the District and shall then be subject to judicial review upon completion of the Work. **Consultant shall proceed with the Work in accordance with said determination. This shall not waive Consultant's position regarding the matter in dispute.**
- (b) **Invoices.** In the event the District rejects an invoice as improper, and the Consultant declines to modify the invoice, the Consultant must notify the District in writing within ten days of receipt of notice of rejection that the Consultant will not modify the invoice and state the reason(s) therefor. Within five business days of receipt of such notice, if not informally resolved through discussion with the District Project Manager, the Project Manager shall forward the disputed invoice and the Consultant's written response to the District's Office of General Counsel. The matter shall then proceed as described in subsection (a), above.

28. **DIVERSITY REPORTING.** The District is committed to the opportunity for diversity in its procurement activities, and encourages its prime vendors (contractors and suppliers) to make a good faith effort to ensure that women and minority-owned business enterprises (W/MBE) are given the opportunity for maximum participation as sub-contractors. The District will assist Consultant by sharing information on W/MBEs. Consultant shall provide with each invoice a report describing the company names for all W/MBEs, the type of minority, and the amount spent with each at all levels. The report will also denote if there were no W/MBE expenditures.

29. DUTY TO INSPECT AND REPORT DEFICIENCIES IN PLANS AND SPECIFICATIONS

- (a) For any Work that is dependent upon conditions at the worksite, Consultant's acceptance of contract award represents and warrants that Consultant has inspected and satisfied itself concerning the nature and location of the Work and general and local conditions, including, without limitation: (1) conditions affecting transportation, disposal, handling, and storage of materials; (2) availability and quality of labor; (3) availability and condition of roads; (4) climatic conditions and seasons; (5) hydrology of the terrain; (6) topography and ground surface conditions; (7) nature and quantity of surface materials to be encountered; (8) equipment and facilities needed preliminary to and during the Work; and (9) all other matters that can affect the Work and the cost thereof. Consultant's failure to acquaint itself with such conditions will not relieve it from its responsibility for properly estimating the time required or cost of performing the Work. Where the District has investigated subsurface conditions, this data may be provided to Consultant or is available upon request. Consultant must either seek clarification concerning the data or assume the responsibility for its interpretation.

(b) If Consultant discovers hidden or subsurface conditions that differ materially from those normally expected or indicated in the technical specifications, Consultant shall immediately, and before such conditions are disturbed, notify the District in writing of: (1) subsurface or latent physical conditions differing materially from those indicated in the technical specifications, or (2) unknown physical conditions of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for herein. The District shall promptly investigate the conditions and determine whether they materially differ so as to cause an increase or decrease in Consultant's cost. Where the differing site conditions materially impact Consultant's cost, an equitable adjustment shall be made and the Agreement modified accordingly. No claim will be allowed if Consultant fails to provide the required notice.

(c) If Consultant in the course of the Work finds any defect in the plans and specifications, including, but not limited to, any discrepancy between the drawings and the physical conditions at the worksite, or any errors or omissions in the drawings or in the layout, as given by points and instructions, it shall immediately inform the District in writing, which shall be promptly verified by the District. Any Work done after such discovery, until authorized, will be done at Consultant's risk as to cost overruns and modifications necessary to correct deficiencies in the Work. To ensure the proper execution of its subsequent Work, Consultant shall measure Work already in place or completed and shall immediately report any discrepancy between the executed Work and the drawings or other specifications.

30. **EMPLOYMENT ELIGIBILITY.** Consultant must use the United States Department of Homeland Security's E-Verify system ("E-Verify") to verify the employment eligibility of all persons hired by Consultant during the term of this Agreement to work in Florida. Additionally, if Consultant uses subcontractors to perform any portion of the Work (under this Agreement) valued in excess of \$3,000, Consultant must include a requirement in the subcontractor's contract that the subcontractor use E-Verify to verify the employment eligibility of all persons hired by subcontractor to perform any such portion of the Work. Within 30 days of this Agreement's Effective Date, Consultant must provide the District with evidence that Consultant is enrolled in the E-Verify system. Answers to questions regarding E-Verify as well as instructions on enrollment may be found at the E-Verify website: www.uscis.gov/e-verify.

31. **GOVERNING LAW, VENUE, ATTORNEY'S FEES, WAIVER OF RIGHT TO JURY TRIAL.** This Agreement shall be construed according to the laws of Florida and shall not be construed more strictly against one party than against the other because it may have been drafted by one of the parties. As used herein, "shall" is always mandatory. In the event of any legal proceedings arising from or related to this Agreement: (1) venue for any state or federal legal proceedings shall be in Orange County; (2) each party shall bear its own attorney's fees, including appeals; (3) for civil proceedings, the parties hereby consent to trial by the court and waive the right to jury trial.

32. **INTEREST IN THE BUSINESS OF CONTRACTOR; NON-LOBBYING.** Consultant certifies that no officer, agent, or employee of the District has any material interest, as defined in chapter 112, Fla. Stat., either directly or indirectly, in the business of Consultant to be conducted under this Agreement, and that no such person shall have any such interest at any time during the term of this Agreement. Pursuant to §216.347, Fla. Stat., monies received from the District pursuant to this Agreement shall not be used to lobby the Florida Legislature or any other state agency.

33. **INDEPENDENT CONTRACTOR.** Consultant is an independent contractor. Neither Consultant nor Consultant's employees are employees or agents of the District. Consultant controls and directs the means and methods by which the Work is accomplished. Consultant is solely responsible for compliance with all labor and tax laws pertaining to it, its officers, agents, and employees, and shall indemnify and hold the District harmless from any failure to comply with such laws. Consultant's duties include, but not be limited to: (1) providing Workers' Compensation coverage for employees as required by law; (2) hiring employees or subcontractors necessary to perform the Work; (3) providing any and all employment benefits, including, but not limited to, annual leave, sick leave, paid holidays, health insurance, retirement benefits, and disability insurance; (4) payment of all federal, state and local taxes, income or employment taxes, and, if Contractor is not a corporation, self-employment (Social Security) taxes; (5) compliance with the Fair Labor Standards Act, 29 U.S.C. §§ 201, et seq., including payment of overtime as required by said Act; (6) compliance with the Patient Protection and Affordable Care Act 42 U.S.C. §§ 18001, et seq.; and (7) providing employee training, office or other facilities, equipment and materials for all functions necessary to perform the Work. In the event the District provides training, equipment, materials, or facilities to meet specific District needs or otherwise facilitate performance of the Work, this shall not affect Consultant's duties hereunder or alter Consultant's

status as an independent contractor. This paragraph does not create an affirmative obligation to provide any employee benefits not required by law.

34. **LAND AND WATER RESOURCES.** Consultant shall not discharge or permit the discharge, directly or indirectly, of any fuels, oils, calcium chloride, acids, insecticides, herbicides, wastes, toxic or hazardous substances, or other pollutants or harmful materials, onto any lands or into any surface or ground waters, including, but not limited to, streams, lakes, rivers, canals, ditches, or reservoirs. Consultant shall investigate and comply with all applicable federal, state, county, and municipal laws concerning toxic wastes, hazardous substances, and pollution of surface and ground waters. If any waste, toxic or hazardous substance, or other material that can cause pollution, as defined in §403.031, Fla. Stat., is dumped or spilled in unauthorized areas, Consultant shall notify the District thereof within one workday and thereafter shall remove the material and restore the area to its original condition. If necessary, contaminated ground shall be excavated and disposed of as directed by the District and replaced with suitable fill material, compacted and finished with topsoil, and planted as required to re-establish vegetation. All cleanup and disposal costs shall be borne by Consultant.
35. **LIENS.** Neither final payment nor payment of any part of the retainage shall become due until Consultant delivers to the District releases of all labor and material cost liens arising from Consultant's performance of the Work, including Consultant and any subcontractor(s), and an affidavit by Consultant stating that the releases and receipts include all labor and material costs for which a lien could be filed. If any subcontractor refuses to furnish Consultant a release or a receipt in full, Consultant may furnish to the District a bond satisfactory to the District, indemnifying the District against any such potential lien. If any lien or potential lien remains unsatisfied, the District may discharge the same forthwith and deduct the cost thereof from any amounts due to Consultant. In the event Consultant has been fully paid or the amount of such lien exceeds the amount due to Consultant, Consultant shall refund to the District all monies that the District paid in discharging such lien, including all costs and a reasonable attorney's fee. The discharging of such a lien by the District shall not constitute a waiver of any claims of defenses that Consultant may have against the lienor.
36. **NUISANCE.** Consultant shall exercise every reasonable means to avoid creating or continuing a public or private nuisance resulting from the Work, including, but not limited to: (1) excessive noise associated with radio or other forms of electronic entertainment for persons at the worksite; (2) dust from construction operations, and (3) the uncontrolled flow of surface waters.
37. **ORGANOCHLORINE PESTICIDES.** The Lake Apopka North Shore Restoration Area (NSRA) is former agricultural property. Soil samples from the NSRA indicate organochlorine pesticide levels that exceed Florida Department of Environmental Protection's Industrial/Commercial soil cleanup target levels. Consultants working in the NSRA are responsible for taking all appropriate measures to provide for the safety of their employees. Recommended measures should be designed to minimize contact with the soil through engineering controls, which may include: (1) wearing waders or rubber boots and gloves to minimize contact with soil and sediments, (2) washing thoroughly with soap and water after contact with soils or sediments, (3) decontaminating any equipment in contact with soil or sediment through washing with soap and water and (4) using enclosed cabs or dust masks to minimize exposure to dust created by Consultant's activities.
38. **PERMITS AND LICENSES; COMPLIANCE WITH LAW.** Consultant shall comply with all applicable federal, state and local laws and regulations, including those pertaining to health and safety. All materials used and work performed must conform to the laws of the United States, the state of Florida and county and municipal ordinances. Consultant represents and warrants that it is duly licensed to perform the Work in accordance with the laws of the state of Florida and the county or municipality in which the Work is to be performed. Unless otherwise specifically provided for herein, Consultant shall give to the proper authorities all required notices relative to the Work in its charge; obtain and pay for all official permits or any other licenses, including any and all professional licenses required by the nature of the Work; and furnish any bonds, security, or deposits required to permit performance of the Work. Consultant is responsible for the resolution of any issues resulting from a finding of noncompliance by any regulatory agencies, due to the Consultant's failure to comply with applicable regulatory requirements, including all costs for delays, litigation, fines, or other costs.

39. **PETROLEUM STORAGE TANKS.** Any petroleum storage tanks with a capacity of 55 gallons or greater that Consultant brings onto District property must be either double-walled or kept within secondary containment that will contain 110% of the tank volume.

40. PUBLIC RECORDS

- (a) Consultant is responsible for identifying confidential trade secret information as such upon submittal to the District. Notwithstanding any other provision hereof, the District shall not be liable to Consultant for release of confidential information not identified as such upon submittal. If the District receives a public records request that requests information claimed to be confidential by Consultant, the District shall take such steps as are necessary to comply with chapter 119, Fla. Stat., while protecting the confidentiality of trade secret information. In the event of a dispute as to whether the requested information is a trade secret, Consultant shall be liable for all costs incurred by the District resulting from the dispute, including any court costs and attorney's fees. The calculation of those costs shall not include costs that are charged to the public records requestor.
- (b) Consultant shall comply with Florida Public Records law under Chapter 119, Fla. Stat. Records made or received in conjunction with this Agreement are public records under Florida law, as defined in §119.011(12), Fla. Stat. Consultant shall keep and maintain public records required by the District to perform the services under this Agreement.
- (c) If Consultant meets the definition of "Contractor" found in §119.0701(1)(a), Fla. Stat.; [i.e., an individual, partnership, corporation, or business entity that enters into a contract for services with a public agency and is acting on behalf of the public agency], then the following requirements apply:
- (i) Pursuant to §119.0701, Fla. Stat., a request to inspect or copy public records relating to this Agreement for services must be made directly to the District. If the District does not possess the requested records, the District shall immediately notify the Consultant of the request, and the Consultant must provide the records to the District or allow the records to be inspected or copied within a reasonable time. If Consultant fails to provide the public records to the District within a reasonable time, the Consultant may be subject to penalties under s. 119.10, Fla. Stat.
 - (ii) Upon request from the District's custodian of public records, Consultant shall provide the District 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 in Chapter 119, Fla. Stat., or as otherwise provided by law.
 - (iii) Consultant shall identify and ensure that all 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 Agreement term and following completion of the Agreement if the Consultant does not transfer the records to the District.
 - (iv) Upon completion of the Agreement, Consultant shall transfer, at no cost to District, all public records in possession of Consultant or keep and maintain public records required by the District to perform the services under this Agreement. If the Consultant transfers all public records to the District upon completion of the Agreement, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public disclosure requirements. If the Consultant keeps and maintains public records upon completion of the Agreement, the Consultant shall meet all applicable requirements for retaining public records. All records that are stored electronically must be provided to the District, upon request from the District's custodian of public records, in a format that is accessible by and compatible with the information technology systems of the District.
- (d) IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLA. STAT., TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE DISTRICT'S CUSTODIAN OF PUBLIC RECORDS AT:**

**District Clerk
St. Johns River Water Management District
4049 Reid Street**

Palatka, Florida 32177-2571
(386) 329-4127
clerk@sjrwnd.com

41. **RELEASE OF INFORMATION.** Consultant shall not publish or release any information related to performance of this Agreement, or prepare, publish, or release any news or press release in any way related to this Agreement, without prior District review and written consent.
42. **REMEDIES FOR NON-PERFORMANCE**
- (a) **District Remedies.** The remedies enumerated herein are non-exclusive. In addition to the remedies set forth below, the District may avail itself of any statutory and/or common law remedies not set forth herein. In the event of a breach, the District may terminate this Agreement for cause. Alternatively, the District may allow Consultant to correct the deficiency, or may take such action as is necessary to correct such deficiency through District action or that of a third party. Delay or failure by the District to enforce any right or remedy hereunder shall not impair, or be deemed a waiver of, any such right or remedy, or impair the District's rights or remedies for any subsequent breach of this Agreement.
- (b) **Consultant Correction of Deficiencies.** The District shall provide Consultant with written notice of deficiency. At the District's sole judgment and discretion, the District may afford an opportunity to correct said deficiency, in which event the notice shall specify the time allowed to cure. If Consultant disputes that a failure of performance has occurred, Consultant shall, nevertheless, perform the corrective action and may submit a request for a Change Order subject to the dispute resolution procedure. Unless authorized through a Change Order, the Completion Date shall not be extended in order to correct deficiencies. Consultant shall bear the cost of correcting all work of other contractors that is destroyed, damaged, or otherwise negatively impacted by its corrective action. Failure to take timely corrective action may result in termination for cause or the District pursuing alternative remedies, as provided herein.
- (c) **Alternative Remedies to Correct Deficiency.** If the District determines that it is not in its best interest for Consultant to correct incomplete or damaged Work caused by Consultant's failure of performance, the District may pursue any or all of the following remedies, in whole or in part: (1) accept the Work as is and deduct the reasonable value of the deficient Work from the Total Compensation; (2) complete the Work through the utilization of District employees and deduct the cost thereof from the Total Compensation; (3) contract with a third party to complete the deficient Work and deduct the cost thereof from the Total Compensation.
- (d) **District Technical Assistance.** The District may elect to provide technical assistance to Consultant in order to complete satisfactory performance of the Work. If the District is performing a function that Consultant is required to perform, the District may deduct the cost of providing such technical assistance from the Total Compensation. Prior to providing any such technical assistance, the District shall notify Consultant that it considers such assistance to be above and beyond its duties under this Agreement and that it intends to deduct the cost of providing such assistance from the Total Compensation. Consultant shall not be entitled to reject technical assistance when the District determines that such assistance is necessary to complete the Work.
43. **ROYALTIES AND PATENTS.** Consultant certifies that, to the best of its information and belief, the Work does not infringe on any patent rights. Unless provided otherwise herein, Consultant shall: (1) pay all royalties, patent, and license fees necessary for the Work; (2) defend all suits or claims for infringement of any patent rights, and (3) save and hold the District harmless from loss on account thereof; provided, however, that the District shall be responsible for any such losses when the utilization of a particular process or product of a particular manufacturer is specified by the District. If Consultant obtains information that the process or article so specified is a patent infringement, it shall be responsible for such loss unless it promptly so notifies the District.
44. **SAFETY.** For any Work that is to be performed on premises that are owned or controlled by the District (the Premises), Consultant has the sole and exclusive duty for the safety of the premises. Consultant shall provide and maintain sufficient protection for the safety of its employees and other persons who may utilize the Premises, and prevent damage to District property, materials, and equipment. Consultant shall at all times enforce strict discipline and good order among its employees and shall not employ any unfit person or anyone not skilled in the work assigned. Neither Consultant nor its subcontractors shall allow or cause to be allowed any hunting or any weapons,

animals, alcohol, or drugs, on or from the Premises or adjacent property. Consultant employees shall not park their vehicles or store equipment or materials adjacent to roads where it may be a hazard to traffic. A clear distance of at least 30 feet from the edge of the pavement or right-of-way shall be kept free of any obstacles unless otherwise authorized by the District. Consultant shall ensure that only authorized personnel are allowed on the worksite and shall post notices warning both employees and the public of all safety hazards created by Consultant.

45. **TRUTH IN NEGOTIATIONS.** This provision applies only to lump sum or cost-plus-a-fixed-fee contracts entered into in excess of \$195,000 (see §287.055(5)(a), Fla. Stat.). Consultant certifies that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. The original contract price and any additions shall be adjusted to exclude any significant sums by which the District determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other actual unit costs.
46. **USE OF COMPLETED PORTIONS OF THE WORK.** The District shall have the right to take possession of and use any completed or partially completed portions of the Work, notwithstanding the fact that the time for completing the entire Work or such portions may not have expired. Such taking of possession and use will not be deemed an acceptance of any Work not completed. If such possession and use increases the cost of or delays the Work, Consultant shall be entitled to a Change Order for extra compensation, or extension of time, as necessary, to offset the effect of such prior possession and use.
47. **WORK ORDERS**
- (a) The District reserves the right to award Work Orders based on the ability to perform in a timely manner, availability of required equipment, cost of required equipment, past performance on similar work, availability of qualified staff, and other factors deemed critical to the performance of each Work Order. The District may, at its sole discretion, request a “not to exceed” cost for any Work Order as a method of determining award. The District makes no guarantees of any amount of work to be awarded under the Agreement. The District reserves the right to directly purchase and provide to Consultant all or part of the equipment or materials to be incorporated in the Work.
- (b) Consultant shall not proceed with any Work prior to the receipt of a written Work Order and shall commence the Work under each Work Order within 14 days of receipt, unless an alternate date is stated in the Work Order. All Work shall be done to the satisfaction of the District’s Project Manager or Work Order Manager and subject to the other terms of this Agreement. The Consultant must agree to the terms of the Work Order. Commencement of Work pursuant to a Work Order constitutes acceptance of all of the terms and conditions of the Work Order. A representative Work Order is attached as Attachment D.
- (c) **Type of Work Order.** When services are needed, the District and Consultant shall agree upon the type of Work Order and the specifics of the Work Order.
- (i) Generally, a Type 1 (time and materials) Work Order involves projects where field conditions, environmental or cultural resource preservation issues, subsurface and other physical conditions, or other aspects of the Work cannot be accurately defined. This often results in work being modified in the field by the District. Identification of the Work involved is typically concept level drawings with minimal details. A Type 1 Work Order will describe the general nature of the Work, including specific deliverables, if applicable, along with the total number of hours, days, or weeks estimated for each task; the materials to be incorporated into the Work, and the total authorized expenditure amount. If deliverables are specified and materials, equipment, or subcontractors are necessary to complete the Work, the Work Order shall specify the estimated costs thereof. The District must approve the hiring of subcontractors in order to ensure they are qualified to perform the Work and have been competitively procured. Consultant is compensated for equipment and labor based upon the unit costs of this Agreement, and “Other Direct Costs” as defined in sub-paragraph (d)(iv), below. Invoices must be documented as to the number of hours worked and equipment and materials used sufficient for District audit in accordance with the unit costs of this Agreement and the Work Order. The District reserves the right to determine the means and methods of performing the Work and supplying materials.
- (ii) A Type 2 (fixed-price) Work Order is issued when the extent and cost of the Work is agreed upon. It will describe with specificity the location, quantity, work limits, timeframes, deliverables, progress payments (if

any), total cost, and any other matters pertaining to the Work. The fixed price includes all applicable permits, bonds, labor, equipment, supplies, project support, overhead and materials necessary to complete the Work. It is used when the scope of work can be clearly determined, such as when detailed design drawings and/or specifications and supporting documents are available and site conditions are known. It may include a detailed schedule of values, construction schedule, and any other necessary documents.

- (iii) A Type 3 (time and materials with not-to-exceed amount) Work Order is utilized when a not-to-exceed cost is agreed upon for a time and materials (Type 1) Work Order. All of the terms of a Type 1 Work Order apply, subject to the not-to-exceed amount. In addition, the deliverables must be described with the specificity of a Type 2 Work Order.

(d) Additional Provisions Applicable to Type 1 and Type 3 Work Orders

(i) Additional equipment and services

- a. The District may issue a Work Order requiring the use of additional or specialized equipment not identified in the unit costs of the Agreement. The cost of such equipment may be identified separately and included in the specific Work Order to which it applies, or the Agreement may be amended through a Change Order with an amended cost schedule that includes such equipment. If deliverables are specified and sub-contractors are necessary to complete the Work, the Work Order shall specify the costs of the materials, equipment, and sub-contractors.
- b. After a Work Order is issued, the District may require the use of material, equipment and/or subcontracted services not included in the original Work Order. A Change Order will be issued if the cost exceeds the “not to exceed” amount of the Work Order, or if the additional cost exceeds \$100,000.
- c. If due to an emergency, the District determines that material, equipment and/or subcontracted services that were not included in the original Work Order are required, the District may authorize procurement thereof in a manner that most efficiently and effectively minimizes public risk and economic loss.

- (ii) **Equipment substitution.** No provision hereof prohibits substitution of rented or leased equipment for unit cost equipment under the Agreement, or addition of rented or leased equipment not included in the Work Order or cost estimates, provided any such substitution or addition complies with the competitive procurement provisions of this paragraph and has been approved in advance in writing by the District. Should the Work require the use of individual equipment for longer than 30 days or 30 hours per week, the District may compare equipment weekly or monthly rental rates on the open market with the rates in the Cost Schedule and require Consultant to rent the equipment on the open market if the cost is lower than the Cost Schedule. The District will reimburse Consultant this rental cost (with allowable percentage markup in the Cost Schedule) plus the hourly rate for operator with fuel and operation and maintenance.

(iii) Other Direct Costs

- a. Subject to prior written District approval, the District will reimburse Consultant for materials purchased by Consultant and incorporated into the Work, non-contract equipment, leases/rentals, subcontract work, bonds, and permits obtained by Consultant, including applicable sales tax (“Other Direct Costs”), plus the allowable percentage markup in the Cost Schedule, provided Consultant adheres to the following the competitive procedures:
- b. Cost is \$2,500.01 – \$10,000 – three documented quotes – verbal, written, or on line; or a written explanation to District procurement staff and approval from the District’s Procurement Director for not receiving three quotes.
- c. Cost is greater than \$10,000 – at least three written quotes, reviewed and approved by District procurement staff, or a written explanation to and approval from the District’s Procurement Director for not receiving three quotes.
- d. Documentation of solicitations where cost exceeds \$2,500 shall be submitted with the Consultant’s cost estimate. If a cost exceeds \$10,000, documentation shall include a complete bidders list and the request for quotes that was sent to each prospective bidder.

- e. Temporary facilities and temporary use materials required for erosion control and dewatering operations may be considered as Other Direct Costs upon approval by the District.
 - f. Only equipment or materials that are incorporated into the Work and contracted services directly related to the Work qualify for compensation as Other Direct Costs. Compensation shall not be provided for any other costs associated with the Work not identified on the Cost Schedule or Work Order.
- (iv) The District reserves the right to reject any proposed subcontractors.
- (e) **Invoicing.** In addition to the general provisions in **PAYMENT OF INVOICES**, supporting documentation shall include:
- (i) **Type 1 Work Orders:** (hourly billing for labor and/or equipment and materials):
 - a. Name of employee and/or type of equipment
 - b. Employee position title/job classification (if applicable)
 - c. Hours worked and/or equipment utilized on a daily basis, as documented by Consultant's Daily Record of Hours, signed by Consultant and District staff (attached hereto as revised by the District from time to time).
 - d. The approved charge rate for each classification of Consultant employee and/or equipment included in Fee Schedule, Attachment H, and/or the Work Order authorizing the Work. In the absence of an individual rate in the Cost Schedule, the Consultant employee's general classification rate may be utilized.
 - e. If billed for use of equipment not in the Cost Schedule, documentation of prior authorization for equipment used, including cost and estimated quantities.
 - f. Documentation of any required competitive procurement for equipment, subcontractors, or materials.
 - g. Consultant's notarized affidavit shall be provided with the first invoice for those Work Orders not requiring a Payment Bond, stating that payment of subcontractors and materialmen shall be made pursuant to §218.735, Fla. Stat.
 - h. Proof of payment of subcontractors and materialmen for which Consultant has already received payment from the District. Proof may be in the form of (1) a cancelled check; (2) a receipt marked paid by subcontractor or materialman; (3) a waiver of claim executed by the subcontractor or materialman; (4) Consultant's sworn affidavit that all subcontractors and materialmen for which payment has been received from the District have been paid by the Consultant; or (5) any other form that has been pre-approved in writing by the District. For the final invoice purposes, proof of payment must be submitted not only as to amounts previously paid by the District, but also as to amounts included in the final invoice.
 - i. A copy of the original vendor invoice(s) for Other Direct Costs. Altered or amended vendor invoices shall be rejected. If a vendor's invoice is from a supplier other than the one providing the lowest quote, Consultant shall explain the reason for not using the lowest cost supplier. The District reserves the right to reduce the amount reimbursed if a competitive market analysis clearly demonstrates that the invoice exceeds market value. In no event shall Consultant charge the District for any subcontractor's work that exceeds the approved Cost Schedule.
 - j. Diversity Statement. If W/MBE subcontractors or suppliers are used, provide company names and amount spent with each. If no W/MBE sub-contractors or suppliers are used, so indicate.
 - k. Consultant may provide a detailed invoice with supporting information, or alternatively, may provide a summary invoice with the information provided from Consultant's payroll or other records as supporting backup material.

- (ii) Type 2 Work Orders (fixed price):
 - a. Description of the Work that has been completed in accordance with the progress/payment schedule of the Statement of Work for the Work Order.
 - b. Certification that the Work for which payment is requested has been completed in accordance with the Statement of Work for the Work Order, in a format approved by the District Project Manager.
 - c. Proof of payment of subcontractors and materialmen as described above for Type 1 Work Orders.
 - d. Diversity Statement. If W/MBE subcontractors or suppliers are used, provide company names and amount spent with each. If no W/MBE sub-contractors or suppliers are used, so indicate.
- (iii) Type 3 Work Orders (time and materials with not-to-exceed amount):
 - a. Description and certification of completion of the work as described above for Type 2 Work Orders.
 - b. Hourly billing information for Type 1 Work Orders, as described above.
 - c. Proof of payment of subcontractors and materialmen as described above for Type 1 Work Orders.

48. **WORK SCHEDULE.** For construction or other services upon District property, no Work shall be accomplished on official holidays or weekends unless approved in advance by the District Project Manager. Unless otherwise approved by the District Project Manager, Consultant's work hours on District property shall not commence before 7:00 a.m. and shall conclude on or before 6:00 p.m. All requests to change the schedule shall be coordinated with the District a minimum of 24 hours in advance of the change and confirmed in writing.

The rest of this page is intentionally left blank.

IN WITNESS WHEREOF, the St. Johns River Water Management District has caused this Agreement to be executed on the day and year written below in its name by its Executive Director, or duly authorized designee, and Consultant has caused this Agreement to be executed on the day and year written below in its name by its duly authorized representatives, and, if appropriate, has caused the seal of the corporation to be attached. This Agreement may be executed in separate counterparts, which shall not affect its validity. Upon execution, this Agreement constitutes the entire agreement of the parties, notwithstanding any stipulations, representations, agreements, or promises, oral or otherwise, not printed or inserted herein. This Agreement cannot be changed by any means other than written amendments referencing this Agreement and signed by all parties.

ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT

CONSULTANT

By: _____
Ann B. Shortelle, Ph.D., Executive Director (or designee)

By: _____

Typed Name and Title

Date: _____

Date: _____

ONLY AS TO FORM AND LEGALITY

Attest: _____

Assistant General Counsel

Typed Name and Title

Attachments:

- Attachment A - Statement of Work/Technical Specifications
- Attachment B — Insurance Requirements
- Attachment C — District’s Supplemental Instructions (sample)
- Attachment D — Work Order Authorization (sample)
- Attachment E — Contract Payment Requirement for State-Funded Cost Reimbursement Contracts
- Attachment F - Consultant’s Fee Schedule

**ATTACHMENT A
STATEMENT OF WORK
GEOTECHNICAL AND CONSTRUCTION ENGINEERING SERVICES**

I. INTRODUCTION

The District will issue work orders for geotechnical services in support of planning, design, or construction of various projects. Projects may be located in any of the 18 counties that comprise the District and are subject to the availability of funds, as approved by the District's Governing Board for each fiscal year period.

II. OBJECTIVE

The objective of this Work is to provide the District's staff with soil exploration and laboratory testing capabilities, supplemental engineering expertise, or services beyond the workload capacity of the District's staff.

III. SCOPE OF WORK

Consultant shall have the ability to interpret soil survey maps; interpret and evaluate general subsurface conditions; perform Standard Penetration Test (SPT) borings; measure groundwater levels; install well screen piezometers; perform field permeability tests; recover thin-walled tube samples; perform muck probing; and conduct laboratory tests to aid in classification of soils and measure strength of materials. Laboratory testing services may be provided by a subconsultant that is a certified laboratory.

Consultant may be required to provide engineering analyses of soils to include allowable soil bearing pressures; estimated settlement; allowable pile capacity (tension and compression); lateral earth pressure coefficients for flexible and rigid retaining walls; slope stability analyses; seepage analyses; filter requirements and gradation; recommendations for site preparation and earthwork; and review of construction plans and specifications. The findings of the field explorations, laboratory test results, and applicable engineering analyses shall be presented in an engineering report for review and acceptance by the District.

Consultant shall also have the ability to provide construction inspection and testing of soils and concrete for earthwork and structures either on a full-time or as-call basis. Services may also include, as a minimum, on-site observation and monitoring of earthwork; sheet pile installations; pipe bedding and backfill operations; shallow spread footings; penetrometer probing of prepared subgrade; field density testing by nuclear method (ASTM D 2922) or drive cylinder method (ASTM D 2937) for soils; laboratory Proctor testing for maximum dry density; and preparing, collecting, curing, and testing of concrete for compressive strength. Observations, findings, and results shall be documented in an engineering report for review and acceptance by the District.

Consultant may also perform peer review, represent the District at public meetings, or act as an expert witness as defined in each Work Order.

All services shall be performed under the direction and supervision of a Registered Professional Engineer licensed in the State of Florida. All letters and reports containing findings, evaluations, and recommendations shall be signed and sealed by the Engineer in responsible charge.

IV. TASK IDENTIFICATION

All associated tasks for the Work will be detailed in each Work Order.

V. TIME FRAMES AND DELIVERABLES

All associated timeframes and deliverables for the Work will be detailed in each Work Order.

VI. BUDGET

The budget for the Work will be detailed in each Work Order.

ATTACHMENT B — INSURANCE REQUIREMENTS

Consultant shall acquire and maintain until completion of the Work the insurance coverage listed below, which constitutes primary coverage. Consultant shall not commence the Work until the District receives and approves Certificates of Insurance documenting required coverage. Consultant's General Liability policy shall include Endorsement CG 20101185, or equivalent, naming the St. Johns River Water Management District (the "District") as Additional Insured. All required policies shall include: (1) endorsement that waives any right of subrogation against the District for any policy of insurance provided under this requirement or under any state or federal worker's compensation or employer's liability act; (2) endorsement to give the District no less than 30 days' notice in the event of cancellation or material change. Certificates of Insurance must be accompanied by copies of the requested endorsements.

Any deductibles or self-insured retentions above \$100,000 must be declared to and approved by the District. Approval will not be unreasonably withheld. Consultant is responsible for any deductible or self-insured retention. Insurance must be placed with insurers having an A.M. Best rating of A-V or greater. District receipt of insurance certificates providing less than the required coverage does not waive these insurance requirements.

- (a) **Workers' Compensation Insurance.** Workers' compensation and employer's liability coverage, including maritime workers' compensation, if applicable, in not less than the minimum limits required by Florida law. If Consultant claims an exemption from workers' compensation coverage, Consultant must provide a copy of the Certificate of Exemption from the Florida Division of Workers' Compensation for all officers or members of an LLC claiming exemption who will be participating in the Work. In addition, Consultant must provide a completed District "Affidavit (Non-Construction)" for non-construction contracts. Consultant is solely responsible for compliance with any Federal workers' compensation laws such as Jones Act and USL&H Act, including any benefits available to any workers performing work on this project.
- (b) **General Liability.** Commercial General Liability Insurance on an "Occurrence Basis," with limits of liability not less than \$500,000 for personal injury, bodily injury, and property damage. Coverage shall include: (1) contractual liability, (2) products and completed operations, (3) independent contractors, and (4) property in the care, control, or custody of the Consultant. Extensions shall be added or exclusions deleted to provide the necessary coverage.
- (c) **Automobile Liability.** Minimum limits of \$100,000/\$300,000/\$500,000
- (d) **Watercraft Liability.** \$300,000 for bodily injury and property damage.
- (e) **Pollution/Environmental Impairment Liability Coverage**
 - (i) Consultant is responsible to provide this coverage through its automobile liability, general liability or a separate policy if it transports or stores fuel on a vehicle, trailer or piece of equipment.
 - (ii) Consultant is responsible to provide this coverage through its general liability or a separate policy if it has a fuel storage tank stationed on the worksite.

Policy Limits. Not less than \$500,000 per occurrence and/or aggregate combined single limit, personal injury, bodily injury, and property damage and remediation costs.

ATTACHMENT C — DISTRICT’S SUPPLEMENTAL INSTRUCTIONS (sample)

DISTRICT SUPPLEMENTAL INSTRUCTIONS #

DATE:

TO: _____

, _____

FROM: Robert Naleway, Project Manager

CONTRACT NUMBER: 30324

CONTRACT TITLE: Lake Apopka Lakewide SAV Enhancement and Recovery

The Work shall be carried out in accordance with the following supplemental instruction issued in accordance with the Contract Documents without change in the Contract Sum or Contract Time. Prior to proceeding in accordance with these instructions, indicate your acceptance of these instructions for minor adjustments to the work as consistent with the Contract Documents and return to the District’s Project Manager.

1. Consultant’S SUPPLEMENTAL INSTRUCTIONS:
2. DESCRIPTION OF WORK TO BE CHANGED:
 - DESCRIPTION OF SUPPLEMENTAL INSTRUCTION REQUIREMENTS:

Consultant’s approval: (choose one of the items below):

Approved: _____ Date: _____

(It is agreed that these instructions shall not result in a change in the Total Compensation or the Completion Date.)

Approved: _____ Date: _____

(Consultant agrees to implement the Supplemental Instructions as requested, but reserves the right to seek a Change Order in accordance with the requirements of the Agreement.)

Approved: _____ Date: _____
Robert Naleway, District Project Manager

Acknowledged: _____ Date: _____
Pamela Paulk, District Senior Procurement Specialist

c: Contract file
Financial Services

ATTACHMENT D — SAMPLE WORK ORDER
WORK ORDER AUTHORIZATION

Contract number: _____ Contract name: _____

Work Order No.: _____ Project name: _____

Work Order encumbrance number: _____

Work Order funding limit: \$ _____

To:

From: Robert Naleway, Project Manager

Type of Work Order:

- Type 1 (hourly)
- Type 2 (fixed price) \$ _____
- Type 3 (not to exceed) \$ _____

Work Order Manager (if appropriate):

Name: _____
 Phone: _____
 Email: _____

Description of Work: _____ All work shall be accomplished in accordance with the attached Statement of Work, Attachment A. Invoices shall reference the Contract number, Work Order number, and Work Order Encumbrance number; include the information required; and be submitted _____ to the Director, Office of Financial Services.

Special note: _____

Commencement Date: Work is authorized to proceed (CA: use one of the following) on the date this Work Order is executed by the District on _____. **Commencement of the work authorized herein prior to execution of this Work Order by Consultant constitutes acceptance of all terms and conditions of this Work Order.** Payment will not be made until this Work Order has been signed by Consultant and received by the District.

Completion Date: All work pursuant to this Work Order shall be completed by _____ (Completion Date). The Completion Date, if extended pursuant to the above-referenced contract governing this Work Order, shall not be extended beyond the current District fiscal year, ending on September 30, 20___. All invoices shall be submitted pursuant to the above-referenced contract and are subject to a ten percent penalty if submitted later than October 30, 20__.

District

Date

Acceptance of terms and conditions:

Consultant

Date

**ATTACHMENT E – CONTRACT PAYMENT REQUIREMENTS
FOR STATE-FUNDED COST REIMBURSEMENT CONTRACTS**

Invoices for state-funded cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation must be provided for each amount for which reimbursement is being claimed, indicating that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation shall clearly reflect the dates of service. Only expenditures for categories in the approved contract budget will be reimbursed.

Listed below are examples of the types of documentation representing the minimum requirements by cost category:

- Salaries: Submit a payroll register or similar documentation showing gross salary charges, fringe benefits, other deductions, and net pay. If an individual is paid by the hour, a document reflecting the hours worked times the rate of pay is acceptable.
- Fringe Benefits: Fringe benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage, rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.
- Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.
- Travel: Reimbursement for travel must be in accordance with §112.061, Fla. Stat., which includes submission of the claim on the approved State of Florida (State) or District travel voucher.
- Other direct costs: Reimbursement is based upon paid invoices/receipts. If nonexpendable property is purchased using State funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with Department of Management Services Rule 60A-1.017, F.A.C., regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in §273.02, Fla. Stat., for subsequent transfer to the State.
- In-house charges: Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units, times the rate being charged. The rates must be reasonable.
- Indirect costs: If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown.

The “Reference Guide for State Expenditures” prepared by the Florida Department of Financial Services can be found at this web address: http://www.fldfs.com/aadir/reference_guide.htm.

**ATTACHMENT F
CONSULTANT'S FEE SCHEDULE**

(To be inserted after award)