

**THE GOVERNING BOARD OF THE
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
CRANE CREEK / M-1 CANAL FLOW RESTORATION
REQUEST FOR QUALIFICATIONS 32116**

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., October 6, 2017. Further information is available through Onvia DemandStar at *Demandstar.com* [(800) 711-1712], Vendor Registry at *Vendorregistry.com*, or the District’s website at *sjrwm.com*. Solicitation packages may be obtained from Onvia DemandStar, Vendor Registry, or the District by calling or emailing Pamela Paulk, Senior Procurement Specialist, at 386-329-4469 or ppaulk@sjrwm.com. Responses will be opened in the Procurement Conference Room, Administration Building, Palatka Headquarters, 4049 Reid Street, Palatka, Florida 32177-2571.

This Work is for design, permitting, bid assistance and potentially construction management associated with the Crane Creek / M-1 Canal Flow Restoration project. The estimated budget for the project is \$990,000.

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:

- 8:30 AM and 1:30 PM, on October 12, 2017, to
 - Discuss the responses
 - Finalize the initial ranking
 - Determine a shortlist of Respondents and/or
 - Decide if oral presentations (by some or all of the Respondents) are necessary to assist in facilitating the evaluation process in determining a final recommendation and discuss negotiation strategies
- 9:00 a.m., October 19, 2017, to
 - Conduct oral presentations, if needed, at the District’s headquarters, immediately followed by an evaluation meeting to establish the final rankings
 - Respondents selected for oral presentations will be notified in advance of the time established for their presentation
- 9:00 AM, November 16, 2017 to
 - Negotiate final details and costs with the top-ranked Respondent (if oral presentations are required to determine a final recommendation) — after negotiations have been completed, all Respondents will be notified in writing of the staff’s intended recommendation to the Governing Board
 - Negotiate professional fees and project costs with the top-ranked Respondent as authorized by the District’s Governing Board at its November 14, 2017, 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.

Contents

INSTRUCTIONS TO RESPONDENTS	3
1. DEFINITIONS.....	3
2. CONTRACT ADMINISTRATION	3
3. WHERE TO DELIVER PROPOSAL.....	3
4. OPENING OF PROPOSALS	4
6. INQUIRIES AND ADDENDA	7
7. BUDGET	7
8. MINIMUM QUALIFICATIONS	7
9. SUBCONTRACTS	8
10. SIGNATURE AND CERTIFICATION REQUIREMENTS	8
11. DISQUALIFICATION OF RESPONDENTS.....	8
12. REJECTION OF PROPOSAL.....	9
13. WITHDRAWAL OF PROPOSALS.....	9
14. EVALUATION AND AWARD PROCEDURES	9
15. FLORIDA SALES TAX.....	10
16. DIVERSITY	10
17. PUBLIC ENTITY CRIMES/DISCRIMINATORY VENDORS.....	11
18. EVALUATION CRITERIA	11
19. EXECUTION OF AGREEMENT	12
20. EXAMINATION OF AGREEMENT DOCUMENTS AND WORK AREA.....	12
21. NOTICES AND SERVICES THEREOF	13
22. USE BY OTHER FLORIDA GOVERNMENTAL ENTITIES	13
23. PROTEST PROCEDURES	13
FORMS.....	15
PROPOSAL FORM	15
PROPOSED SUBCONTRACTORS.....	16
CERTIFICATE AS TO CORPORATION.....	17
AFFIDAVIT AS TO NON-COLLUSION AND CERTIFICATION OF MATERIAL CONFORMANCE WITH SPECIFICATIONS.....	18
QUALIFICATIONS — GENERAL	19
QUALIFICATIONS — SIMILAR PROJECTS	20
QUALIFICATIONS — CLIENT REFERENCES.....	22
DRUG-FREE WORKPLACE FORM.....	23
NO RESPONSE FORM.....	24
DRAFT AGREEMENT.....	25

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 Proposal submitted by Respondent (the “Proposal”), and all required certifications and affidavits.

2. CONTRACT ADMINISTRATION

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

Pam Paulk
 Phone: 386-329-4469
 Fax: 386-329-4546
 E-mail: ppaulk@sjrwm.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 PROPOSAL

All Proposals must be submitted to:

Pam Paulk, Sr. Procurement Specialist
 Attn: Office of Financial Services
 St. Johns River Water Management District
 4049 Reid Street, Palatka, Florida 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 PROPOSAL — DO NOT OPEN

Respondent’s Name: _____

Proposal #32116

Opening Time: 2:00PM

Opening Date: October 6, 2017

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 PROPOSALS

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

October 6, 2017
 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 Proposals 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 Proposals, whichever is earlier. This exemption is not waived by the public opening of the Proposals.

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 Proposal 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 32116 ABC Company 10-5-17)
4. The Proposal submittal must include a separator page between each "Tabbed" section:
Example: **Tab 1 – Qualifications and abilities of professional personnel**
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 electronic 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: Firm's and subconsultants' capabilities to conduct work as presented in the Statement of Work

- 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) Subconsultants Form
- f) Drug-Free Workplace Form (not evaluated unless there is a tie)
- g) Respondent a certified minority business enterprise as defined by the Florida Small and Minority Business Assistance Act
- h) Knowledge of subjects contained within project description
- i) Understanding of the problems and objectives
- j) Past and present experience on projects of this type
- k) Ability to meet needs and perform work
- l) Expertise of firm(s) related to similar projects
- m) Ability and capabilities of firm and subconsultants to perform services of this type
- n) Previous work experience within Florida

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.

Tab 2: Qualifications 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) Specific names and functions of personnel assigned to work on this project including current and project workloads.
- b) Qualifications, resumes, licenses, certifications or industry recognitions in areas relevant to project tasks
- c) Hours committed to project
- d) Special expertise of personnel and specific linkages to identified project objectives
- e) Organization profile and management methods.

- f) Qualifications and work histories of proposed key personnel including proposed project management and design engineer on this project of this type.

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

Provide a description of past and present work on projects of this type (include firm and key personnel's experience and performance) with emphasis on two of the three projects completed within the state of Florida. Not limited to past work with the District. Experience in projects with environmental conditions similar to those found in Florida is heavily favored.

Submittal Requests:

- A, Minimum of three projects including the design and permitting of similar projects in the past ten years, with a least one of the projects in the past five years. A minimum of two of the projects must be located in the state of Florida. Each project including the design and construction must have had a project value of at least \$2,500,000.
- b. Narrative describing understanding and the approach to the proposed Crane Creek / M-1 flow Restoration objectives in the Statement of Work and concepts with emphasis on knowledge and experience with the items listed below:
- Stormwater pumping and piping systems
 - Operable weir/gate structures for canal systems
 - Floodplain mitigation requirements
 - Stormwater treatment areas
 - H&H event and long term modeling
 - Base flow establishment and aquatic vegetation management
 - Permitting requirements for similar projects
 - Survey requirements for similar projects;
 - Geotechnical work related to similar projects.
 - Construction management of similar projects.

Tab 4: Project Management / Willingness to meet time and budget requirements (No forms)

Submit information regarding the Respondent has exceeded the 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 10 years.

Tab 5: Location of Consultant Project Manager's office relative to the District's Palm Bay Office,

Location of Respondent's project manager shall be judged in relation to the project area and higher consideration will be given to those that are in closer. The District has selected District's Palm Bay office located at 525 Community College Parkway, Palm Bay, FL 32909 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 site = 10 points
- Over 200 miles from the Project site = 0 points

Tab 6: Volume of 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 October 6, 2014, 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 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.

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 Proposal 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 Proposals in order to be considered. Requests may be submitted by fax at (386) 329-4848 or by e-mail at ppaulk@sjrwm.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 Proposals.

Submission of a Proposal constitutes acknowledgment of receipt of all addenda. Proposals 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 Proposal, as submitted. All addenda become part of the Agreement.

7. BUDGET

The estimated budget for the Work is \$990,000.00. This amount is an estimate only 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 Proposals 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 Proposal may be considered non-responsive.

- c. Respondent must have completed the design and permitting of at least three (3) similar projects in the past ten (10) years with one of the projects in the last 5 years. A minimum of two out of the three projects must be from the state of Florida. Each project must have had a construction project value of a minimum of **\$2,500,000**.
- d. Respondent shall be a professional engineering firm who is registered in the state of Florida to conduct engineering services. Respondent shall also employ a professional engineer (PE) registered in the state of Florida to be in responsible charge of all services under this agreement.

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 Proposal 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. SUBCONTRACTS

Respondent must identify all portions of the Work Respondent intends to perform through subcontractors for each portion of the Work exceeding ten percent of the Work on the attached "Proposed Subcontractors" form. Respondent must submit with its Proposal a list of all known subcontractors who will participate in more than ten percent of the Work. Acceptance of the Proposal does not constitute approval of the subcontractors identified with the bid.

10. SIGNATURE AND CERTIFICATION REQUIREMENTS

An individual submitting a Proposal must sign his/her name therein and state his/her address and the name and address of every other person interested in the Proposal as principal. If a firm or partnership submits the Proposal, state the name and address of each member of the firm or partnership. If a corporation submits the Proposal, an authorized officer or agent must sign the Proposal, 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 of the Proposal or in substantial performance of the Work have been identified in the Proposal forms.

11. DISQUALIFICATION OF RESPONDENTS

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

- 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 Proposal 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 Proposal;
- e. Information gained through checking of references or other sources which indicates that Respondent may not successfully perform the Work;

- f. Incomplete contractual commitment(s) to other persons or entities, which, in the sole judgment of the District, may hinder or prevent the prompt completion of the Work if awarded to Respondent;
- g. Respondent is failing to adequately perform on any existing contract with the District;
- h. Respondent has defaulted on a previous contract with the District;
- i. 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;
- j. 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.

12. REJECTION OF PROPOSAL

Proposals must be delivered to the specified location and received before the Proposal opening in order to be considered. Untimely Proposals will be returned to the Respondent unopened. Proposals 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 Proposal 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 Proposal.

The District reserves the right to reject any and all Proposals 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.

13. WITHDRAWAL OF PROPOSALS

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

14. EVALUATION AND AWARD PROCEDURES

- a. Proposals 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 Proposals and their individual evaluations. Each committee member completes an evaluation form, from which the overall ranking of Proposals 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 Proposal 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 Proposals 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 Proposals.
- d. Following the evaluation process, the District will submit the final ranking of Proposals 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 Proposals.
- e. The Committee will meet to evaluate and rank the Proposals 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 Proposal. 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 Proposal, 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 Proposals 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."

15. 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.

16. 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.

17. 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.

18. 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	Written Submittal Raw Score	Written Submittal Weighted Total	Oral Presentation Raw Score	Oral Presentation Weighted Score
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/firm and subconsultants qualifications and capabilities as presented in the statement of work. a. Expertise of firm(s) related to similar projects b. Ability and capabilities of firm and subconsultants to perform services of this type c. Certified minority business enterprise as defined by the Florida Small and Minority Business Assistance Act.	15%				
2 Qualifications and abilities of professional personnel a) Qualifications and work histories of proposed key personnel including proposed project management and design engineer on this project 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 project workloads. d) Evidence of current professional registrations applicable to project work.	30%				
3 Past and present experience on projects of this type Provide a description of past and present work on projects of this type (include firm and key personnel's experience and performance) with emphasis on two of the three projects completed within the state of Florida. Not limited to past work with the District. Experience in projects with environmental conditions similar to those found in Florida is heavily favored. Submittal Requests: A. Minimum of three projects including the design and permitting of similar projects in the past ten years, with a least one of the projects in the past five years. A minimum of two of the projects must be located in the state of Florida. Each project including the design and construction must have had a project value of at least \$2,500,000. B. Narrative describing understanding and the approach to the proposed Crane Creek / M-1 flow Restoration objectives in the Statement of Work and concepts with emphasis on knowledge and experience with the items listed below: <ul style="list-style-type: none"> • Stormwater pumping and piping systems • Operable weir/gate structures for canal systems • Floodplain mitigation requirements • Stormwater treatment areas • H&H event and long term modeling • Base flow establishment and aquatic vegetation management • Permitting requirements for similar projects • Survey requirements for similar projects; • Geotechnical work related to similar projects. • Construction management of similar projects. 1.	40%				
4 Willingness to meet time and budget requirements Submit information as to whether the Respondent has exceeded the 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 10 years.	5%				

5	Location of managing firm's project manager relative to the project site Higher consideration will be given to firms whose Project Manager is located nearest to the Project site. The Project site is an estimated 10 miles from the District's Palm Bay office located at 525 Community College Parkway, Palm Bay, FL 32909, which will be used to calculate the distance to the Project site. The website https://maps.google.com/ using the "Shortest" Route Type, will be utilized by District to determine mileage. <ul style="list-style-type: none"> • Within 0-200 miles of the Project site = 10 points • Over 200 miles from the Project site = 0 points 	5%				
6	Volume of District work previously awarded to Respondent 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 October 6, 2017, 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.	5%				
SUBTOTAL (Written Submittal and Oral Presentation)		100%				
WEIGHTED MULTIPLIER				x 80%		x 20%
WEIGHTED SUBTOTAL (Written Submittal and Oral Presentation)						
WEIGHTED SUBTOTAL (Written Submittal Score)						
TOTAL (Weighted Subtotal of both the Written Submittal and Oral Presentation)						
TOTAL		100%				

19. EXECUTION OF AGREEMENT

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

Unless all Proposals 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 Proposal guaranty, not as a penalty, but in liquidation of and compensation for damages sustained.

20. 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 Proposal. 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.

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 *Floridaswater.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 e-mail 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. 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.

23. 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

PROPOSAL FORM

This form to be included in Proposal submittal

RESPONDENT:

The undersigned, as Respondent, hereby declares and certifies that the only person(s) or entities interested in this Proposal 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 Proposal or in the Agreement to be entered into; that this Proposal is made without connection with any other person, company, or parties submitting a Proposal; and that this Proposal 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 Proposal 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 Proposal is accepted and an Agreement negotiated with the District, 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

E-mail address

Signature _____
Telephone number

Typed name and title _____
Fax number

Respondent's Name: _____

PROPOSED SUBCONTRACTORS

This form to be included in Proposal submittal

Respondent intends to use the following subcontractors on this project (if none, write "None"): _____

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: _____

CERTIFICATE AS TO CORPORATION

This form to be included in submittal

The below Corporation is organized under the laws of the State of _____; is authorized by law to respond to this Request for Qualifications 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 Proposal 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

This form to be included in Submittal

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 bid.
- 2. The attached bid is genuine. It is not a collusive or sham bid.
- 3. I am fully informed respecting the preparation and contents of, and knowledgeable of all pertinent circumstances respecting the attached bid.
- 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 bid in connection with the Agreement for which the attached bid has been submitted, or to refrain from bidding 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 bid of any other Respondent, or to fix any overhead, profit, or cost element of the bid prices or the bid 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 bid 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 bid, 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)

Respondent's Name: _____

QUALIFICATIONS — GENERAL

This form to be included in Proposal submittal

As part of the Proposal, 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 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 Proposal 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 Proposal. 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.

QUALIFICATIONS — SIMILAR PROJECTS

This form to be included in Proposal submittal

Respondent must have completed the design and permitting of at least three (3) similar projects in the past ten (10) years with one of the projects in the last 5 years. A minimum of two out of the three projects must be from the state of Florida. Each project must have had a construction project value of a minimum of **\$2,500,000**. Each of the Project's contact person shall be used as a reference. immediately preceding the date set for receipt of the response, as described in the INSTRUCTIONS TO RESPONDENTS. (Add additional sheet for optional additional completed projects.)

Completed Project 1:

Agency/company: _____

Current contact person at agency/company: _____

Telephone: _____ Fax: _____ E-mail: _____

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: _____ E-mail: _____

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: _____ E-mail: _____

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: _____

Respondent's Name: _____

QUALIFICATIONS — CLIENT REFERENCES

This form to be included in Proposal submittal

Respondent shall provide three client references, which shall include two of the similar projects listed on the prior page. No more than two references shall be from the District. If a District project is cited, do not request a letter from District staff. The District will use the project's closeout documents in lieu of a letter of reference and may consult with the District project manager. Respondent shall include a letter from two of the client references attesting to their abilities as it relates to the Statement of Work in the Agreement. (For similar projects listed above, simply state "Similar Project No. ____.")

Client Reference 1:

Agency/company: _____

Current contact person at agency/company: _____

Telephone: _____ Fax: _____ E-mail: _____

Agency/Company Address: _____

Name of project: _____

Description: _____

Project value: _____ Project manager: _____

Client Reference 2:

Agency/company: _____

Current contact person at agency/company: _____

Telephone: _____ Fax: _____ E-mail: _____

Agency/Company Address: _____

Name of project: _____

Description: _____

Project value: _____ Project manager: _____

Client Reference 3:

Agency/company: _____

Current contact person at agency/company: _____

Telephone: _____ Fax: _____ E-mail: _____

Agency/Company Address: _____

Name of project: _____

Description: _____

Project value: _____ Project manager: _____

DRUG-FREE WORKPLACE FORM

This form to be included in submittal

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 QUALIFICATION 32116
DESIGN OF PUMP STATION AT THE C-10 WATER MANAGEMENT AREA

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 Bureau of Procurement Management no later than the date set for receipt of Proposals. Thank you for your cooperation.

Please check (as applicable):

- Specifications too "general" (explain below)
- Insufficient time to respond to the Request for Qualifications
- Do not provide this type of work for this project
- Schedule would not permit us to perform
- Unable to meet Request for Qualifications requirements
- 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

**DRAFT AGREEMENT
ENGINEERING SERVICES AGREEMENT
BETWEEN THE
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
AND**

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, 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 the Design and Permitting of the Crane Creek / M-1 Canal Flow Restoration (“the Work”). In accordance with RFQ, Number 32116, 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; (4) 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 OF AGREEMENT

- (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. Notwithstanding specific mention that certain provisions survive termination or expiration of this Agreement, 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 18 months from the Effective Date_[Completion 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 fourteen (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 calendar 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

- (a) For satisfactory performance of the Work, the District agrees to pay Contractor a sum not to exceed \$ 990,000.00 (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.

Fiscal Year: October 1, 2017 – September 30, 2018Amount: \$ 700,000.00

Fiscal Year: October 1, 2018 – September 30, 2019Amount: \$ 290,000.00

Funding for each applicable fiscal year is subject to District Governing Board budgetary appropriation.

- (b) **Annual budgetary limitation.** For multi-fiscal year agreements, the District must budget the amount of funds that will be expended during each fiscal year as accurately as possible. The Statement of Work, Attachment A, includes the parties' current schedule for completion of the Work and projection of expenditures on a fiscal year basis (October 1 – September 30) ("Annual Spending Plan"). If Consultant anticipates that expenditures will exceed the budgeted amount during any fiscal year, Consultant shall promptly notify the District's Project Manager and provide a proposed revised work schedule and Annual Spending Plan that provides for completion of the Work without increasing the Total Compensation. The last date for the District to receive this request is August 1 of the then-current fiscal year. The District may in its sole discretion prepare a District Supplemental Instruction Form incorporating the revised work schedule and Annual Spending Plan during the then-current fiscal year or subsequent fiscal year(s).

7. PAYMENT OF INVOICES

- (a) Consultant shall submit Monthly itemized invoices 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, or (2) by e-mail 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 10 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 (10) 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, if applicable; (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, if applicable; (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; for 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. Payment shall be made within forty-five (45) 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 (if applicable) 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 withheld.** The District may withhold or, on account of subsequently discovered evidence, nullify, in whole or in part, any payment to such an extent as may be necessary to protect the District from loss as a result of: (1) defective Work not remedied; (2) failure of Consultant to make payments when due to subcontractors or suppliers for materials or labor; (3) failure to maintain adequate progress in the Work; (4) damage to another contractor; or (5) any other material breach of this Agreement. Amounts withheld shall not be considered due and shall not be paid until the ground(s) for withholding payment have been remedied.
- (h) **Payments.** The District shall pay Consultant one hundred percent (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. Acceptance of the final payment shall constitute a release in full of all claims against the District arising from or by reason of the Work, 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 the District and its public officers, employees, agents, representatives, successors and assigns from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of Consultant and other persons employed or utilized by Consultant 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 (5) 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. PROJECT MANAGEMENT AND PERSONNEL

- (a) The Project Managers listed below shall be responsible for overall coordination and management of the Work. Either party may change its Project Manager upon three (3) business days prior written notice to the other party. Written notice of change of address shall be provided within five (5) business days. All notices shall be in writing to the Project Managers at the addresses below and shall be sent by one of the following methods: (1) hand delivery; (2) U.S. certified mail; (3) national overnight courier; (4) e-mail or, (5) fax. Notices via certified mail are deemed delivered upon receipt. Notices via overnight courier are deemed delivered one (1) business day after having been deposited with the courier. Notices via e-mail or fax are deemed delivered on the date transmitted and received.

DISTRICT

Bill Tredik
St. Johns River Water Management District
4049 Reid Street
Palatka, Florida 32177
Phone: (386) 329-4433
E-mail: wtredik@sjrwmd.com

CONTRACTOR

Project Manager

,
Phone:
E-mail:

- (b) District's Project Manager shall have sole responsibility for transmitting instructions, receiving information, and communicating District policies and decisions regarding all matters pertinent to performance of the Work. For Work Order-based contracts, the District may designate a "Work Order Manager" on the Work Order, who will serve as the Project Manager for that Work Order and shall have the same responsibilities as the District's Project Manager.
- (c) Consultant shall provide efficient supervision of the Work, using its best skill and attention. shall keep on Consultant the worksite during its progress a competent superintendent, satisfactory to the District. The superintendent shall not be changed except with the District's consent, unless the superintendent proves to be unsatisfactory to Consultant and/or ceases to be in its employ. The superintendent shall represent Consultant in the absence of Consultant's Project Manager. All directions given to him shall be as binding as if given to Consultant. If the District produces documented evidence and informs the Consultant that any person on the job is incompetent, disorderly, or is working contrary to the Agreement or the District's instructions, that person shall thereupon be immediately dismissed from the project and shall not be given employment on any work connected with this Agreement. The District may request Consultant replace its Project Manager if said manager fails to carry the Work forward in a competent manner, follow instructions or specifications, or for other reasonable cause.
- (d) Consultant shall maintain an adequate and competent professional staff. Consultant's employees, subcontractors, or agents shall be properly trained to meet or exceed any specified licensing, training and/or certification applicable to their profession. Upon request, Consultant shall furnish proof thereof.

13. SCHEDULING AND WORK PLANNING; PROGRESS REPORTING

- (a) **Pre-work Conference.** Within ten (10) days after execution of this Agreement, Consultant shall schedule a pre-work conference with the District's Project Manager to discuss scheduling and other matters. Consultant shall provide a work plan for the District's approval not less than five (5) days prior to the pre-work conference. The District shall have ten (10) days to review the work plan. Not less than five (5) days prior to the pre-work conference, Contractor shall provide the District a list of each subcontract exceeding ten percent (10%) of the Total Compensation. The list shall include: (1) name, address, contract, phone number and email address of subcontractor, (2) description of subcontract work, and (3) estimated value of work.

(b) **Progress Reports.** Contractor shall provide to the District the project schedule and update/status reports as provided in the Statement of Work for each work order. 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 Contractor, and may include emails, memos, and letters.

- (c) **Critical Path Management.** The District may require Consultant to provide a Critical Path Management (CPM) network for the Work, which shall be provided within fifteen (15) days of request or when the work plan is submitted, whichever occurs last. Consultant shall utilize Microsoft Project 2000 software for the CPM, with a separate line for each major section of work or operation. The CPM shall show: (1) the first workday of each week; (2) the complete sequence of construction by activity, identifying the Work in separate stages and other logically grouped activities; (3) the early and late start and the early and late finish, and (4) the submittal dates required for shop drawings, product data, samples, and product delivery dates, including those furnished by the District. The District shall have ten (10) days to review the work plan. If deemed necessary by the District, Consultant shall revise and resubmit the CPM. Consultant shall submit an updated CPM schedule with each invoice, identifying any changes since the previous submission and indicating the estimated percentage of completion for each item of the Work. The District owns all float.
- (d) **Daily Reporting.** The District may require Consultant to provide a daily report regarding the progress of the Work. The need for a daily report shall be determined at the pre-work conference. If required, a form shall be completed for each day any Work is performed until the project is accepted by the District. Completed forms shall be submitted to the District's Project Manager or other authorized representative by 9:00 a.m. of the following day.
- (e) **Progress Meetings.** The District may elect to conduct on-site progress meetings with Consultant on a frequency to be determined by the District. In such event, Consultant shall make available its Project Manager and/or superintendent and other appropriate personnel to discuss matters pertinent to the Work.
- (f) **Failure to Meet Schedule.** If progress of the Work falls five percent (5%) 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 (10%) 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.

14. **DELAYS.** Consultant shall not be compensated for delays in the Work 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 (10) 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 (10) days after inception of the delay shall only be effective as to additional costs or delay incurred during the ten (10) day period preceding receipt of such notice. In the case of continuing delay for the same cause, only one notice of delay is necessary. If the delay is due to causes beyond Consultant's control, as determined by the District in its sole judgment and discretion, the District may grant a time extension in the form of a written amendment signed by both parties.

15. **MODIFICATION OF SPECIFICATIONS; CHANGE ORDERS; EMERGENCY CHANGES IN WORK**

- (a) **Modification of Specifications.** No verbal agreement or conversation with any officer, agent, or employee of the District after execution of this Agreement shall affect or modify any of its terms. No one is authorized to change any provision of the specifications without written authorization of the District. The presence or absence of a District inspector shall not relieve Consultant from any requirements of this Agreement. The District's Project Manager may authorize or direct minor changes in the Work not affecting the Total Compensation or the Completion Date, and not inconsistent with the purpose of the Work, upon issuance of the District's Supplemental Instructions (DSI) form (Attachment C). The DSI shall indicate that: (1) both parties agree that the changes in the Work will not affect the Total Compensation or the Completion Date, or

(2) that Consultant believes that the proposed supplemental instructions will involve extra cost or extend the Completion Date. **Failure of Consultant to provide such written notice waives any claims for extra cost.** If the District continues to direct that the DSI be implemented, Consultant shall implement said instructions and may submit a Change Order, subject to the dispute resolution procedure. In an emergency condition, the parties shall follow the procedure for “Emergency Changes in the Work.”

(b) Change Orders

- (i) The District may alter, add to, or deduct from the Work by executing a Change Order without liability to Consultant, except for the reasonable cost of any additional Work. All such Work within Consultant’s capacity to perform shall be performed pursuant to the Change Order. Any associated claim for extension of time will be adjusted when the Change Order is issued. The parties shall negotiate the cost of the Change Order on an equitable basis, which may be determined in one or more of the following ways: (1) estimate and acceptance of a lump sum, (2) unit prices named in the contract or subsequently agreed upon, (3) costs and percentage or by (4) cost and a fixed fee. If the parties cannot agree upon cost, Consultant shall implement the Change Order and shall maintain and present in such form as the District Project Manager may direct the correct amount of the net cost of labor and materials, together with vouchers. The Project Manager will certify the amount due Consultant, including reasonable allowances for overhead and profit. Pending a final determination of value, payments will be based upon the District Project Manager’s certification. Final resolution of the amount due to Consultant shall be pursuant to the dispute resolution procedure.
- (ii) For any Change Order requests submitted by Consultant, the District may determine that District instructions to correct deficient Work, to stop the Work due to deficiencies in the Work, or any other matters that impose additional costs upon Consultant, do not warrant an increase in the Total Compensation or extension of the Completion Date. If Consultant disputes this determination, final resolution shall be pursuant to the dispute resolution procedure.

- (c) **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 (5) days. Within fifteen (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 fifteen (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.

16. TERMINATION AND SUSPENSION

- (a) **District Termination For Cause.** This Agreement may be terminated by the District for cause on ten (10) days written notice in the event of any breach hereof, including, but not limited to, Consultant’s: (1) failing to carry forward and complete the Work; (2) failing to comply with applicable laws, regulations, permits, or ordinances; (3) failing to timely commence or continuously and vigorously pursue correction of defective Work; (4) failing to make payments when due to subcontractors, vendors, or others for materials or labor used in the Work; or (5) making a material misrepresentation to the District regarding the Work. Upon termination, the District may take possession of the Work and finish the Work by whatever method(s) the District deems expedient. The remedy enumerated herein is non-exclusive. The District may avail itself of any statutory and/or common law remedy not specifically set forth herein.
- (b) **District Termination for Convenience.** Notwithstanding any other provision hereof, the District may at any time terminate this Agreement, or any portion of the Work, without cause, upon thirty (30) days written notice to Consultant. In such event, Consultant 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, Consultant 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. Consultant shall also make every reasonable effort to cancel, upon terms satisfactory to the District, all orders or subcontracts related to the terminated Work. Consultant may not claim any compensation not specifically provided for herein, including, but not limited to: loss of anticipated profits; idle equipment, labor, and facilities; and any additional claims of subcontractors and vendors.

- (c) **District Suspension for Convenience.** The District may direct Consultant to stop Work, in whole or in part, whenever the District, in its sole judgment and discretion, determines that 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 Consultant not less than five (5) days written notice, except in an emergency. Consultant shall immediately comply with such notice. Should such stoppage increase Consultant'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.
- (d) **Consultant's Right to Terminate Agreement.** Consultant may terminate this Agreement if the District fails to pay undisputed and adequately documented sums when due hereunder. In such event, Consultant shall provide the District no less than ten (10) days prior written notice of its intention to terminate this Agreement and afford the District an opportunity to cure the grounds for termination within said period. In any other event, dispute, or other matter arising under this Agreement, Consultant 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)

17. DEFINITIONS

ADDENDA: Written or graphic instruments issued prior to the opening of Bids, 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.

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.

COMMENCEMENT DATE: The date upon which the Work is authorized to proceed.

COMPLETION DATE: The date by which the Work under each work order is required to be completed.

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

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

CPM or CRITICAL PATH METHOD: The use of a calculated task duration with no regard for probabilities. A path has no float and is the longest path through the project. A critical path encompasses those project activities that are crucial and cannot be shifted, having a calculated task duration. They are the important activities driving the project. Float belongs to the District.

DAY: Each day shown on the calendar.

DELIVERABLES: All Work that is to be performed pursuant to the Statement of Work, in whole or in part, including, but not limited to, all equipment or materials that are incorporated within the Work.

DISTRICT: The St. Johns River Water Management District, its Governing Board, officers, agents, and employees.

DISTRICT'S PROJECT MANAGER: The District employee designated by the District to be responsible for overall coordination, oversight, and management of the Work for the District.

DISTRICT'S SUPPLEMENTAL INSTRUCTION: Instructions issued by the District's Project Manager to make minor changes in the Work not affecting the Total Compensation or the Completion Date, and consistent with the purpose of the Work.

INSPECTOR: The District's Project Manager or an authorized representative of the District who is assigned to inspect the Work.

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.

PRINCIPAL: When used in a Bid, Performance and Payment Bond, the word "principal" means the same as the word "Consultant."

RESPONDENT: Any person who submits a Bid in response to an Invitation for Bids or a proposal in response to a Request for Proposals.

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.

SURETY: The person bound by the Agreement bond with and for Consultant, and who is primarily liable and engages to be responsible for Consultant's satisfactory performance of the Work and for its payment of all debts pertaining thereto.

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.

18. 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.

19. **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.

20. **AUDIT; ACCESS TO RECORDS.** Contractor 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, Contractor must continue to maintain all required records until such audit has been completed and all questions arising from it are resolved. Contractor 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. **COMPUTER CODES**

- (a) **Consultant Computer Codes.** Should Consultant incorporate proprietary software, methods or computer models ("Proprietary Software") developed by Consultant in the Work, such development not having been funded by the District pursuant to this Agreement or any prior agreement, Consultant may retain the proprietary rights to such Proprietary Software. Consultant shall identify in writing any such Proprietary Software to the extent it is incorporated in the Work. As part of the consideration for this Agreement, Consultant hereby grants the District a perpetual, non-exclusive license to the use of such Proprietary Software, including, but not limited to, its incorporation into a web-based computer model application that may be utilized by the general public. Documentation of Consultant's proprietary rights shall be provided to the District upon request. If a third party seeks access to the Proprietary Software as public records pursuant to section 119.07, Fla. Stat., the District shall notify Consultant in writing of the request so that Consultant may assert its proprietary interest. Consultant agrees to indemnify and hold the District harmless from all costs, damages, and expenses, including attorney's fees, arising from any suit by a third party claiming an interest in the Proprietary Software or a right to inspect the Proprietary Software as a public record. This obligation shall survive termination of this Agreement.
- (b) **District Computer Codes.** Consultant shall not be entitled to claim any proprietary right to computer codes that are developed by Consultant in fulfilling the requirements of the Work, which shall be considered a "work for hire" under applicable copyright and/or patent law. Such computer codes, which constitute a Deliverable hereunder, are the sole and exclusive property of the District. The District may copyright or patent such computer codes in its own name to the full extent authorized by law.

23. **CONFLICTING EMPLOYMENT.** By entering into this Agreement, Consultant represents and warrants that, as of the effective date of the Agreement, Consultant has no conflicting employment. “Conflicting employment” means instances in which the Consultant’s Project Manager or professional Consultant employee assigned to the project team involved in performance of this Agreement, or the professional employee of any sub-contractor of Consultant involved in performance of this Agreement, provides services to any person or entity whose interests are adverse to those of the District, including, but not limited to, representing or providing consulting services to parties involved in permit applications that are pending before the District. In the event such conflicting employment exists or develops during the performance of this Agreement, Consultant shall eliminate the conflict by terminating or modifying its business relationship with the non-District person or entity from which the conflict arises, or making changes in personnel to eliminate the conflict; provided, however, that changes in key personnel involved in performance of this Agreement must be approved by the District. Consultant further represents that, until the Work has been completed in accordance with the terms hereof, Consultant shall have no undisclosed conflict of interest between the services to be provided under this Agreement and services being provided by Consultant to any other clients. Should Consultant or the District become aware of any such conflict, that party will promptly notify the other party thereof, which shall include timely notice from Consultant’s Project Manager to the District’s Project Manager of all permit applications submitted to the District where the applicant is being represented or assisted by a Consultant professional employee involved in the performance of this Agreement. Consultant and the District shall negotiate in good faith to resolve any conflict. Notwithstanding the foregoing, Consultant may accept retainers from or be employed by third parties whose interest may conflict or appear to conflict or be inconsistent with that of the District if, after full written disclosure of the facts to the District, the District determines, in its sole discretion and judgment, that such actual or apparent conflict shall not interfere with the performance of the Work by Consultant or otherwise be significantly adverse to the interests of the District. No Consultant Employee who, through this Agreement or its renewals, receives training or experience in the regulatory operations of the District by acting in the capacity of a permit reviewer may, during the term of this Agreement, including renewals, perform any work or provide any assistance, either directly or indirectly, to any applicant or anticipated applicant for a District permit.
24. **CONTINGENCY FEES.** Pursuant to section 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.
25. **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.
26. **DISPUTE RESOLUTION.**
- (a) **During the course of work.** In the event any dispute arises during the course of the Work, Contractor shall fully perform the Work in accordance with the District’s written instructions and may claim additional compensation. Contractor 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 fifteen (15) calendar days after the precipitating event. If not resolved by the Project Manager within five (5) business days, the Project Manager shall forward the request to the District's Office of General Counsel, which shall issue a written decision within fifteen (15) calendar 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. **Contractor shall proceed with the Work in accordance with said determination. This shall not waive Contractor's position regarding the matter in dispute.**

(b) **Invoices.** In the event the District rejects an invoice as improper, and the Contractor declines to modify the invoice, the Contractor must notify the District in writing within ten (10) calendar days of receipt of notice of rejection that the Contractor will not modify the invoice and state the reason(s) therefor. Within five (5) 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 Contractor's written response to the District's Office of General Counsel. The matter shall then proceed as described in subsection (a), above.

27. **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.

28. **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 and is available upon request. Consultant must either seek clarification concerning the data or assume responsibility for its interpretation.

(b) If Consultant in the course of the Work finds any defect in the statement of work, plans and specifications, as applicable, 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

29. **EMPLOYMENT ELIGIBILITY.** Contractor 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 Contractor during the term of this Agreement to work in Florida. Additionally, if Contractor uses subcontractors to perform any portion of the Work (under this Agreement) valued in excess of \$3,000, Contractor 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, Contractor must provide the District with evidence that Contractor 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.

30. **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.
31. **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 section 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.
32. **INDEPENDENT CONTRACTOR.** Contractor is an independent contractor. Neither Contractor nor Contractor's employees are employees or agents of the District. Contractor controls and directs the means and methods by which the Work is accomplished. Contractor 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. Contractor'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 Contractor's duties hereunder or alter Contractor's status as an independent contractor. This paragraph does not create an affirmative obligation to provide any employee benefits not required by law.
33. **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 or defenses that Consultant may have against the lienor.
34. **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.

35. **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.
36. **PUBLIC ENTITY CRIME.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime 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 s. 287.017 for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted vendor list.
37. **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:
- 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.
- 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.
- 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.
- 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@sjrwmd.com**

38. **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.
39. **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.

40. **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.
41. **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.
42. **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 section 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.
43. **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.
44. **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.
45. **WORK ORDERS.**
- (a) **Type of Work Order.** When services are needed, the District shall schedule a meeting or telephone conference with Consultant's Project Manager to discuss the specifics of the Work Order. A Type 1 (hourly billing) Work Order shall 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. Invoices under a Type 1 Work Order must be documented as to the number of hours worked and/or equipment used sufficient

for District audit and in accordance with the unit costs under this Agreement and the Work Order. If deliverables are specified and sub-contractors are necessary to complete the Work, the WO shall specify the costs of the sub-contractors and the District shall approve the hiring of such sub-contractors in order to ensure that they are qualified to perform the Work and have been competitively procured. A Type 2 (fixed-price) Work Order may be issued when the extent and cost of the Work has been agreed upon. It shall describe with specificity the location, quantity, work limits, time frames, deliverables, progress payments (if any), total cost, and any other matters pertaining to the Work. A Type 3 (hourly billing with not-to-exceed amount) Work Order may be utilized when a not-to-exceed cost is agreed upon. It shall describe the Work with the same specificity as a Type 2 (fixed-price) Work Order. Invoicing for a Type 3 Work Order requires the same documentation as a Type 1 Work Order regarding the number of hours worked and/or equipment used. 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 fourteen (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 and subject to the other terms of this Agreement. 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.

- (e) **Invoicing Procedure.** In addition to the general provisions in **PAYMENT OF INVOICES**, supporting documentation shall include:
- a. **Type 1 Work Orders:** (hourly billing for labor and/or equipment):
 - i. Name of employee and/or type of equipment
 - ii. Employee position title/job classification (if applicable)
 - iii. Hours worked and/or equipment utilized on a daily basis
 - iv. The approved charge rate for each classification of Consultant employee and/or equipment included in Consultant's Fee Schedule, Attachment E, and/or the Work Order authorizing the Work. In the absence of an individual rate in Attachment E, the Consultant employee's general classification rate may be utilized upon the District's approval.
 - v. If billed for use of equipment, documentation of prior authorization for equipment used, including cost and estimated quantities.
 - b. **Type 2 Work Orders** (fixed price):
 - i. Description of the Work that has been completed in accordance with the progress/payment schedule of the Statement of Work for the Work Order.
 - ii. Certification that the Work for which payment is requested has been completed in accordance with the Statement of Work for the Work Order.
- (c) **Diversity Statement:** If W/MBE sub-contractors or suppliers are used, provide company names and amount spent with each. If no W/MBE sub-contractors or suppliers are used, so indicate.

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: _____

Date: _____

Typed Name and Title
Date: _____

ONLY AS TO FORM AND LEGALITY

Attest: _____

Assistant General Counsel

Typed Name and Title

- Attachment A: Statement of Work/Technical Specifications
- Attachment B: Insurance Requirements
- Attachment C: District's Supplemental Instructions (sample)
- Attachment D: Work Order Authorization (sample)

Engineering Services
Last updated: 10-28-13

ATTACHMENT A
STATEMENT OF WORK
CRANE CREEK / M-1 CANAL FLOW RESTORATION

I. INTRODUCTION AND BACKGROUND

This Work is for design, permitting, bid assistance and construction management associated with the Crane Creek / M-1 Canal Flow Restoration project. In the early 20th century the M-1 Canal was excavated, diverting fresh water runoff to the Indian River Lagoon (IRL). The M-1 Canal was excavated to drain existing marsh lands, facilitating agricultural development in the nutrient-rich upper St. Johns River floodplain. As populations increased in Florida, the land transitioned to residential and commercial uses. These new, more intensive uses, rely heavily on the existing canal infrastructure to provide flood protection and stormwater flows.

Though effective at providing flood protection, the M-1 Canal came with an ecological price; increased nutrient, sediment and freshwater loading to the IRL, as well as decreased flows to the St. Johns River. These impacts are further summarized below:

- 1) **Increase in nutrients, sediments and freshwater** - Increased nutrient, sediment, and freshwater loading from the M-1 Canal to the IRL can be detrimental to the health of the estuary, and has an economic impact to the community. Nutrients in appropriate levels are an important component to a healthy estuary. When nutrients levels rise, however, they encourage excessive algal growth, and lead to a difficult environment for seagrasses and other estuary organisms to grow and prosper. Sediment accretion has multiple economic and ecologic impacts, and eventually leads to expensive dredging projects. Finally, excessive freshwater injected into the estuary increases the risk of ecological damage, providing environmental stress to shellfish resources and other marine organisms.
- 2) **Reduction of flow to the St. Johns River** – The C-1 Canal diversion to the IRL has reduced the volume of water flowing into the St. Johns River. These diverted historic flows are, therefore, not currently available to help maintain Minimum Flows and Levels (MFLs) for the St. Johns River. Water needs for Florida are projected to increase over the coming decades, and these diverted flows represent a vital future water resource for the state.

In early 2017, the St. Johns River Water Management District (the District), in partnership with the IRL Council, completed the IRL Stormwater Capture and Treatment Project Development and Feasibility Study (the Study – available for download from the District’s website as follows:

(<ftp.sjrwmd.com/IRL%20Stormwater%20Capture%20and%20Treatment%20Study>) to identify the next generation of large, high-benefit projects to improve the health of the IRL. The Crane Creek / M-1 Flow Restoration Project (the Project) was among the top ranked projects evaluated in the Study, due to its relatively low cost per pound of nutrients removed. The District has thus included the Project in its Strategic Plan and has placed funding in the tentative FY 2017-2018 budget for design and permitting. The Project will help restore historic flows back to the St. Johns River and reduce nutrient and sediment loading to the IRL.

The Project limits encompass the full M-1 Canal watershed. The conceptual plan (Figure 1) includes a stormwater treatment area west of Interstate 95 on a parcel being purchased by Brevard County for St. Johns River floodplain mitigation (N 28.0864° W 80.7167°). The conceptual plan also includes a pump station east of Interstate 95, a stormwater force main, and an operable control structure on the M-1 Canal in the vicinity of Evans Road.

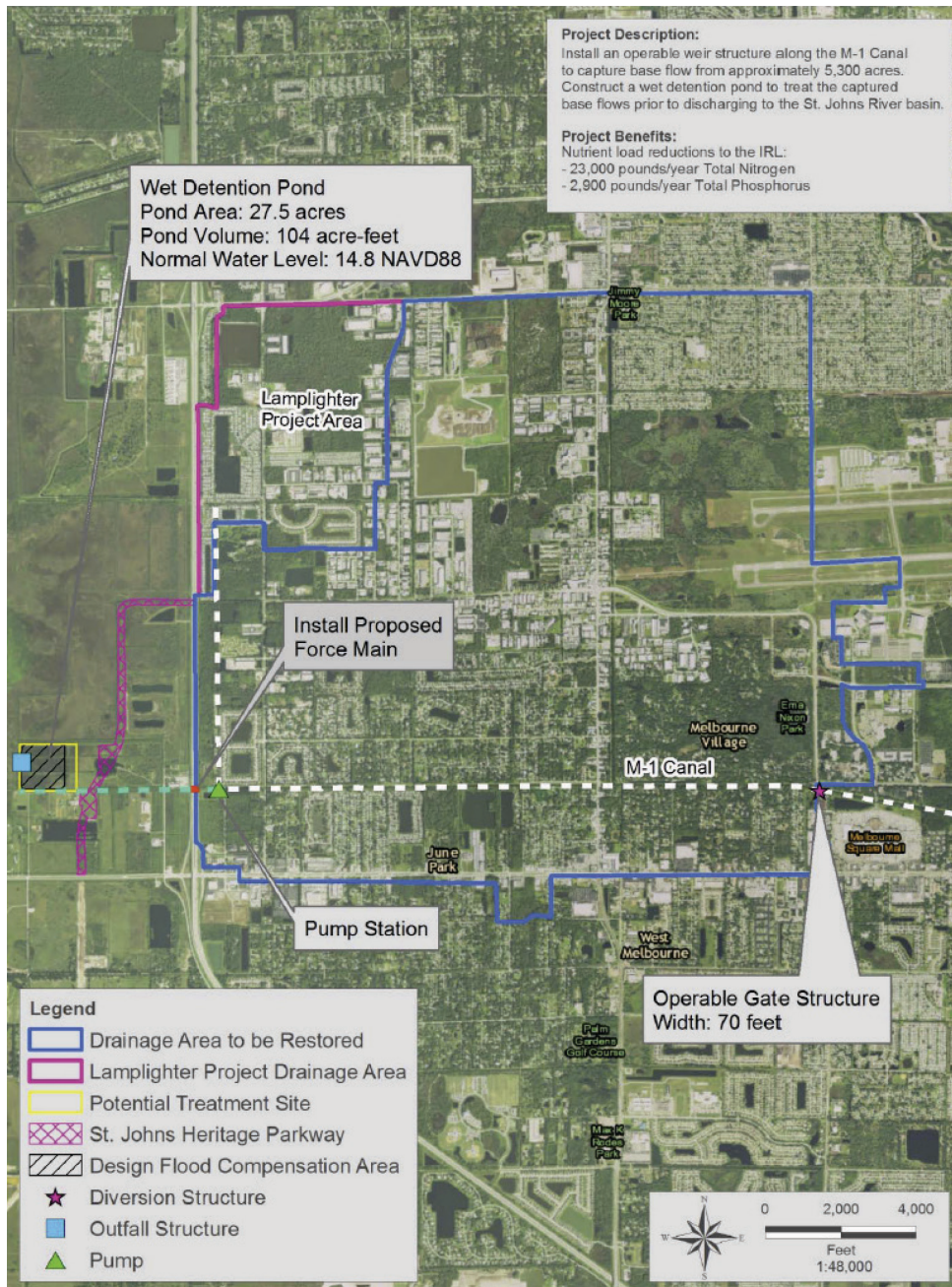


Figure 1 – Crane Creek / M-1 Flow Restoration Project as described in the 2017 IRL Stormwater Capture and Treatment Project Development and Feasibility Study

II. OBJECTIVES

The objective of this Work will be to provide engineering, modeling, geotechnical, surveying, stakeholder coordination, permitting, assistance with project bidding, and post-design engineering. The District reserves the right to negotiate construction management services as necessary to fully construct the Project.

III. SCOPE OF WORK

The Consultant will develop construction plans and specifications, prepare and submit permit applications for regulatory agencies, generate bidding documents, provide bidding assistance and provide post-design engineering and construction management services as necessary to fully implement the Project. The scope of the work generally outlined below will include all work necessary to achieve this objective, including, but not limited to stakeholder meetings, coordination, land acquisition assistance (if required), project coordination and management, H&H modeling, nutrient modeling, complete engineering design, surveying, local, state and federal permitting and/or authorizations, preparation of contract documents and specifications, bidding assistance, post design engineering services, construction observation and inspection, project certification and closeout. Specific tasks are outlined below in the Task Identification section.

IV. TASK IDENTIFICATION

TASK 1: SURVEYING

The Consultant shall be responsible for obtaining all surveying data required for permitting and final design of the Project, including, but not limited to the following proposed facilities:

- Stormwater treatment area
- Pump station location
- Pipeline route
- Operable control structure location
- M-1 Canal
- Potentially impacted areas within the watershed
- Other areas not specifically mentioned, but pertinent to the project.

Existing surveys may be utilized where appropriate and approved by the District, provided they reflect current conditions and are signed and sealed by a licensed Florida Professional Surveyor

TASK 2: GEOTECHNICAL INVESTIGATION

The Consultant shall be responsible for obtaining all geotechnical data required for permitting and final design of the Project.

TASK 3: ENGINEERING DESIGN

The Consultant shall be responsible for providing all design plans and technical specifications required for construction the Project. The design plans shall include, but not be limited to, the following:

- Existing conditions plans
- Stormwater treatment area plans and supporting sheets
- Pump station plans and supporting sheets
- Pipeline plans
- Operable control construction plans and support sheets
- Canal improvement plans (where required)
- Required drainage improvement plans (impacted areas within the watershed)
- Sedimentation and erosion control plan
- Stormwater Pollution Prevention Plan
- Other required design features not specifically identified

The construction plans shall be designed in conformance with all applicable local, State and Federal agency requirements and standards, including, but not limited to local governments, the Florida Department of Environmental Protection (FDEP), State Historic Preservation Office, Florida Department of Transportation (FDOT), U.S. Environmental Protection Agency, U. S. Army Corps of Engineers (USACE), and the Federal Emergency Management Agency.

The Consultant shall be responsible for providing all modeling supporting the design plans, including, but not necessarily limited to:

- Event modeling for the watershed
- Long term H&H modeling for the proposed improvements
- Nutrient reduction modeling to assess project benefit
- Base flow determination for Crane Creek

The Consultant shall assist the District as needed in land and easement acquisition components of the Project (if required). The Consultant shall also provide stakeholder coordination services during the design phase of the project.

TASK 4: PERMITTING

The Project will require permits from some combination of the following: City of Melbourne, City of West Melbourne, County of Brevard, FDEP, FDOT, and the USACE. The Consultant shall prepare permit submittals and seek to obtain permits from all required permitting agencies.

TASK 5: PROJECT SCHEDULING

The Consultant shall provide a detailed project schedule for and shall include all major components of the Project.

TASK 6: PREPARATION AND REVIEW OF BIDS

The Consultant may provide assistance in preparation of the bid package for the Project. Upon receipt of bids, the Consultant may also provide assistance in review of the bid packages.

TASK 7: PROJECT MEETINGS AND COORDINATION

The Consultant's Design Engineer shall be required to hold monthly meetings with District staff to discuss major project issues and progress on the project.

TASK 8: CONSTRUCTION MANAGEMENT

The District reserves the right to negotiate construction management services and construction inspection services as required and provide final project certifications. However, the Consultant shall remain under contract during construction for review of submittals and other items related to construction, as well as review of as-builts.

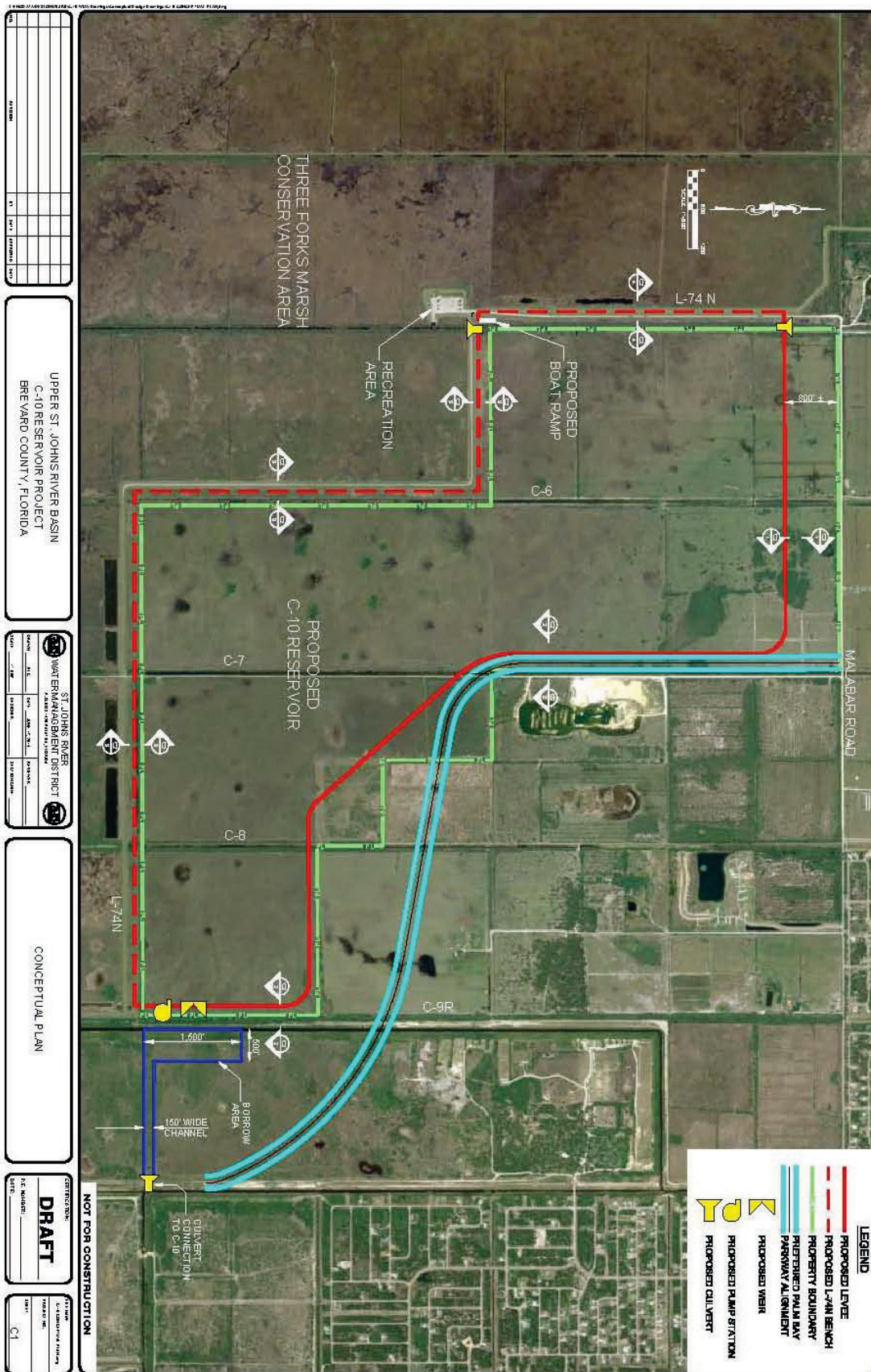
IV. DELIVERABLES

- Survey documents and geotechnical documents required for permitting and final design of the Project.
- Stormwater models and signed and sealed modeling reports
- All design documents and plans required for permitting and final design of the Project.
- Engineering Technical Specifications required for final design and bidding of the dredging project.
- Presentations as required for stakeholder meetings
- Meeting agendas and minutes
- Inspection logs and reports
- Final Project certifications

VI. SCHEDULE AND BUDGET

Work shall begin in Fall 2017. The estimated time for design and permitting of the Project is approximately one year. Work shall be negotiated and performed in accordance with District-issued Work Orders. Funding for each applicable fiscal year is subject to District Governing Board budgetary appropriation.

EXHIBIT 1 — PROJECT AREA MAP



ATTACHMENT B - INSURANCE REQUIREMENTS

Contractor shall acquire and maintain until completion of the Work the insurance coverage listed below, which constitutes primary coverage. Contractor shall not commence the Work until the District receives and approves Certificates of Insurance documenting required coverage. Contractor's General Liability policy shall include Endorsement CG 20101185, or equivalent, naming the St. Johns River Water Management District ("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 thirty (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. Contractor 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) **"Builder's Risk" Property Insurance.** Coverage amount shall be sufficient to insure the completed value of new project construction.
- (b) **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 Contractor claims an exemption from workers' compensation coverage, Contractor 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, Contractor must provide a completed District "Affidavit (Non-Construction)" for non-construction contracts. Contractor 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.
- (c) **General Liability.** Commercial General Liability Insurance on an "Occurrence Basis," with limits of liability not less than \$1,000,000/\$2,000,000, 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 Contractor. Extensions shall be added or exclusions deleted to provide the necessary coverage.
- (d) **Automobile Liability.** Minimum limits of \$100,000/\$300,000/\$50,000
- (d) **Professional Liability.** (per claim) \$1,000,000 single limits.

ATTACHMENT C — DISTRICT’S SUPPLEMENTAL INSTRUCTIONS (sample)

DISTRICT SUPPLEMENTAL INSTRUCTIONS #

DATE:

TO:

FROM: _____, Project Manager

CONTRACT/PURCHASE ORDER NUMBER:

CONTRACT TITLE:

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 changes to the work as consistent with the Contract Documents and return to the District’s Project Manager.

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

Contractor’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: _____

(Contractor 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: _____
_____, District Project Manager

Acknowledged: _____ Date: _____
_____, District Contracts Administrator

cc: Contract/Purchasing file
Financial Management

**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: \$_____ (CAs - Insert amount for Type 1; for Type 2 and 3, the funding limit should be the same as the fixed or not-to-exceed price stated below.)

To:	Annual funding limit (FY)		\$
	Prior total	\$	
	Current W.O. amount	\$	
	Total amt. to date	\$ 0.00	
	Balance available		\$ 0.00

From: _____, 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 “ ” – . Invoices shall reference the Contract number, Work Order number, and Work Order Encumbrance number; include the information required; and be submitted (insert frequency) to the Director, Division of Financial Management.

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 Contractor constitutes acceptance of all terms and conditions of this Work Order.** Payment will not be made until this Work Order has been signed by Contractor 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 10% penalty if submitted later than October 30, 20 .

District Approval: _____
Date

Acceptance of terms and conditions:

Date

ATTACHMENT E
CONSULTANT'S FEE SCHEDULE

“The Contractor-employee rate charged to the District includes Contractor costs over and above salaries. Specifically, the burdened rate charged the District is higher because of Contractor’s cost of offering Patient Protection and Affordable Care Act compliant health care coverage to Contractor-employees performing work under this contract.”