

**THE GOVERNING BOARD OF THE
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
CONTINUING GEOTECHNICAL ENGINEERING SERVICES
REQUEST FOR QUALIFICATIONS 36813**

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., June 18, 2021. Further information is available through DemandStar at *Demandstar.com* [(800) 711-1712], Vendor Registry at *Vendorregistry.com*, or the District’s website at *sjrwmd.com*. Solicitation packages may be obtained from DemandStar, Vendor Registry, or the District by calling or emailing Gerald Cahalane, Associate Procurement Specialist, at 386-326-3034 or *Gcahalane@sjrwmd.com*. Responses will be opened in the Procurement Conference Room, Administration Building, Palatka Headquarters, 4049 Reid Street, Palatka, Florida 32177-2571.

*Pursuant to the State of Florida Office of the Governor, Executive Order 20-52 (Emergency Management – COVID-19 Public Health Emergency) and the St. Johns River Water Management District Order 2020-05 (SJRWMD F.O.R. No. 2020-10) (Emergency Authorization For Continuity of Operations, Procurement, and Certain Other Measures Made Necessary By COVID-19), public meetings that are a part of District solicitations will be conducted by electronic means (webinar or telephone) during the terms of these orders. These meetings include, but are not limited to, solicitation openings, meetings for evaluation committees, presentations, negotiations, and pre-bid/pre-proposal meetings. **For this solicitation, interested respondents may participate in these meetings via teleconference by calling tollfree at 1-888-585-9008 or 657-220-3242 and entering the conference room number 673-692-503#.***

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

The estimated budget for the project is \$450,000.00.

Special accommodations for disabilities may be requested through Gerald Cahalane, Associate Procurement Specialist, at 386-326-3034 or by calling (800) 955-8771 (TTY), at least five business days before the date needed.

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

- 10:00 a.m. and 2:00 p.m., on July 1, 2021, to
 - Discuss the responses
 - Finalize the initial ranking
 - Determine a shortlist of Respondents and/or discuss negotiation strategies
- 10:00 a.m., August 12, 2021 to
 - Negotiate professional fees and project costs with the top-ranked Respondent as authorized by the District’s Governing Board at its August 10, 2021 meeting

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

INSTRUCTIONS TO RESPONDENTS	- 3 -
1. DEFINITIONS	- 3 -
2. CONTRACT ADMINISTRATION	- 3 -
3. WHERE TO DELIVER SUBMITTAL	- 3 -
4. OPENING OF SUBMITTALS	- 3 -
5. PREPARATION AND ORGANIZATION OF SUBMITTALS	- 4 -
6. INQUIRIES AND ADDENDA	- 7 -
7. BUDGET	- 7 -
8. MINIMUM QUALIFICATIONS	- 7 -
9. SIGNATURE AND CERTIFICATION REQUIREMENTS	- 8 -
10. DISQUALIFICATION OF RESPONDENTS	- 8 -
11. REJECTION OF SUBMITTALS	- 9 -
12. WITHDRAWAL OF SUBMITTAL	- 9 -
13. EVALUATION AND AWARD PROCEDURES	- 9 -
14. EVALUATION CRITERIA	- 11 -
15. EXECUTION OF AGREEMENT	- 12 -
16. EXAMINATION OF AGREEMENT DOCUMENTS AND WORK AREA	- 12 -
17. DIVERSITY	- 12 -
18. FLORIDA SALES TAX	- 12 -
19. PUBLIC ENTITY CRIMES/DISCRIMINATORY VENDORS	- 13 -
20. USE BY OTHER FLORIDA GOVERNMENTAL ENTITIES	- 13 -
21. NOTICES AND SERVICES THEREOF	- 13 -
22. PROTEST PROCEDURES	- 13 -
FORMS	- 15 -
SUBMITTAL 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 REFERENCE	- 22 -
DRUG-FREE WORKPLACE FORM	- 23 -
NO RESPONSE FORM.....	- 24 -
AGREEMENT	- 25 -
ATTACHMENTS.....	- 47 -

INSTRUCTIONS TO RESPONDENTS

1. DEFINITIONS

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

2. CONTRACT ADMINISTRATION

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

Gerald Cahalane, Associate Procurement Specialist
 Phone: 386-326-3034
 Fax: 386-329-4546
 Email: Gcahalane@sjrwmd.com

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

3. WHERE TO DELIVER SUBMITTAL

The Submittal must be submitted in a sealed envelope to:

Gerald Cahalane, Associate Procurement Specialist
 Attn: Office of Financial Services
 St. Johns River Water Management District
 4049 Reid St, Palatka, FL 32177-2571

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

SEALED SUBMITTAL — DO NOT OPEN
 Respondent’s Name: _____
 Request for Qualifications: 36813
 Opening Time: 2:00 p.m.
 Opening Date: June 18, 2021

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

4. OPENING OF SUBMITTALS

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

2:00 p.m., June 18, 2021
Please see special instructions on page 1 regarding necessary teleconferencing information to attend bid opening.

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

§120.57(3)(a), Fla. Stat., or until 30 days after opening of bids, proposals, submittals, or final replies, whichever is earlier. This exemption is not waived by the public opening of the Submittals.

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

5. PREPARATION AND ORGANIZATION OF SUBMITTALS

Respondent must submit its response in "digital" format. Instructions for submitting are provided below.

1. Respondents must submit the following fully completed documents on reproduced copies of the attached forms provided in FORMS:
 - a. Submittal Form
 - b. Certificate as to Corporation
 - c. Affidavit as to Non-collusion and Certification of Material Conformance with Specifications
 - d. Qualifications (General, Similar Projects, Client References, Subcontractors, and other required qualification forms)
 - e. Drug-Free Workplace Form (not required unless there is a tie)
2. Copy of Professional Engineering License
3. All blank spaces on the Submittal Form shall be typed or legibly printed in ink.
4. Respondents shall provide and complete the following forms and questionnaires, and include them in their Submittal under the tabs identified below (responses to the forms and questionnaires can be submitted on reproduced copies):

Tab 1: Company's/Firm's and Subcontractors'/Subconsultants' capabilities to conduct work as presented in the Statement of Work with relevant qualifications and experience

- a) Certificate as to Corporation Form
- b) Affidavit as to Non-Collusion and Certification of Material Conformance with Specifications
- c) Qualifications Form — General
- d) Qualifications Form — Similar Projects
- e) Subcontractors Form
- f) Drug-Free Workplace Form (not required unless there is a tie)
- g) Qualification Form — Client References
- h) Has Respondent been certified by the state of Florida's Office of Supplier Diversity as a woman-, veteran-, or minority-owned business enterprise?
- i) Has the applicant been certified as a small business, and if so, who provided the certification?
- j) Number of employees currently employed by Respondent and its subconsultants; and Respondent's and its subconsultant's average annual volume of work for the past three years

In addition to the above forms, the Respondent is responsible for providing evaluative documentation that it and its subcontractors (if any) possesses the qualifications, background, and experience necessary to perform the Work, including but not limited to:

- a) Detail experience in geotechnical investigation projects, ability and capability of firm and subconsultants to perform services of this type.
- b) Detail experience of the firm and key personnel (assigned to this project), and any subcontractors, in similar projects. Describe current and completed work performed by firm and key personnel on similar projects or projects that have utilized alternative methodologies, specifically:
 - 1) Details on experience in obtaining, processing and delivering end products
 - 2) Details on experience in obtaining, processing and delivering end products
 - 3) Etc.....
- c) With regard to similar completed and current work, provide a written synopsis on
 - 1) Problems encountered
 - 2) Solutions employed to resolve problems, and
 - 3) Lessons learned and how to avoid these issues in the future

Tab 2: Qualifications and abilities of professional personnel

No forms are provided for this criterion — however, the Respondent is responsible for providing information to document its and its subcontractors' past and present experience

- 1) Qualifications and work histories of proposed key personnel including proposed project management and geotechnical engineers on this project of this type.
- 2) Organization profile and management methods.
- 3) Specific names and functions of personnel assigned to work on this project including current and project workloads.
- 4) Evidence of current professional registrations applicable to project work.

Tab 3: Past and present experience on projects of this type as well as qualifications and abilities of professional personnel

No forms are provided for this criterion — however, the Respondent is responsible for providing information to document its and its subcontractors' past and present experience

- a) Provide a description of past and present work on projects of this type (include firm's and key personnel's experience and performance) with emphasis on three projects conducted within the five years immediately preceding the date set for receipt of submittals.
- b) A minimum of two of the projects included as a client reference, must be located in the state of Florida. Each project shall include at least one or a combination of the following: standard penetration tests, concrete strength test, installation of piezometers, soil compaction tests or field permeability tests. The total project value for each of the projects provided should be at least \$25,000.

Tab 4: Willingness to meet time and budget requirements:

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

Tab 5: Volume of District work previously awarded to Respondent

- a) 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 June 1, 2016, through the advertisement 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.

- b) The formula for allocation of previous work award points will be calculated as follows: the Respondent with the highest total of previous work awarded represents the Allocation Basis Total (ABT); then, the ABT less the Previous Work Awarded divided by the ABT will be multiplied by 10 (the highest number of points awarded); the result will be rounded to tenths of a point.

Tab 6: Location of managing firm/project manager relative to:

Higher consideration will be given to firms whose Project Manager is located nearest to the Maitland Service Center at 601 South Lake Destiny Road, Suite 200, Maitland, FL 32751, which will be used to calculate the distance to the Project site. The website Maps.google.com (using the “Shortest” route type) should be utilized to determine mileage. The District will award points as follows:

- Within 50 miles of the District Maitland office = 10 points
- Within 100 miles of the District Maitland office = 5 points
- Greater than 100 miles of the District Maitland office = 0 points

Tab 7: Additional Information:

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

5. 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.
6. Respondent must follow all procedures for electronic submission or the Respondent’s Submittal may be determined as “non-responsive” and rejected.
7. Unless directed otherwise, all information required by the solicitation, including the forms and questionnaires listed under Item “A” above 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).
8. All of the forms and questionnaires in the Request for Qualifications package are available upon request in Microsoft® Word to aid the Respondent in providing its Submittal in electronic format.
9. The file-naming conventions for the Submittal shall include:
 - a) Submittal: RFQ # Respondent’s name (abbreviated) Due Date
(Example: RFQ _____ ABC Company 11-11-15)
10. The Submittal must include a separator page between each “Tabbed” section:
 - a) Example: Tab 1 – Background and Qualifications
11. 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 EMAIL — THIS WILL RESULT IN THE SUBMITTAL BEING REJECTED AS NON-RESPONSIVE.**
12. **Please do NOT password protect your files.** The District recommends that Respondents confirm their Submittal will open correctly on a non-company owned computer. Any electronic submittal received by the District that does not open on a District-owned computer is subject to rejection as a defective response.

If you need assistance or have any questions about the format, please email or call Gerald Cahalane at Gcahalane@sjrwmd.com or 386-326-3034.

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

6. INQUIRIES AND ADDENDA

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

Every request for a written interpretation or correction must be received at least nine days prior to opening of Submittals in order to be considered. Requests may be submitted by fax at 386-329-4546 or by email at Gcahalane@sjrwmd.com. Interpretations, corrections, and supplemental instructions will be communicated by written addenda to this solicitation posted by DemandStar and Vendor Registry to all prospective Respondents (at the respective addresses furnished for such purposes) no later than five days before the opening of Submittals.

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

7. BUDGET

The estimated budget for the Work is \$450,000.00 for a 3-year period with two (2) 12-month renewals. Renewals will only be applicable if funding remains from initial 3-year period. The above 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 about the total funds available for the Work. The District retains the right to adjust the estimate in awarding the Agreement. The District also reserves the right to reject all Submittals if subsequent negotiations with qualified Respondents result in costs over this estimated budget amount. In addition, the District reserves the right to increase, decrease, or delete any class, item, or part of the Work in order to reduce costs for any reason. The District may discuss alternatives for reducing the cost of the Work with Respondents and make such modifications as it determines to be in its best interest.

8. MINIMUM QUALIFICATIONS

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

- a. Respondent (or a combination of the firm, individual, or project manager assigned to the work) must have successfully completed at least three projects of a similar nature (geotechnical and construction engineering services as described in the Statement of Work) in the five (5) years immediately preceding the date set for receipt of submittals. At least two (2) of the projects must be located within the state of Florida. Each project must also have a value of at least \$25,000 (use the SIMILAR PROJECTS FORM).

- b. Respondent must be Florida professional engineer or a duly qualified professional engineering corporation or partnership holding a current and active professional engineering license provided by the Florida Board of Professional Engineers (provide copy of license with submittal).
- c. Respondent's engineer or engineers of record will be the responsible charge for the preparation, signing, dating, sealing and issuing of any engineering documents for any engineering service or creative work provided under this contract, must hold a current and active professional engineering license provided by the Florida Board of Professional Engineers (provide copy of license with submittal).
- d. Respondent must have no less than ten years of experience on projects of the nature specified above.
- e. Respondent must provide three client references. Up to two of the client references may be from the similar projects listed in response to subparagraph (a), above. No more than one of the references may be from completed District projects. If a District project is cited, do not request a reference from District staff. Only a listing of references with accurate contact information is required so that District staff may contact references if necessary.

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

9. SIGNATURE AND CERTIFICATION REQUIREMENTS

An individual submitting a Response must sign his/her name therein and state his/her address and the name and address of every other person interested in the Submittal as principal. If a firm or partnership submits the Submittal, state the name and address of each member of the firm or partnership. If a corporation submits the Submittal, an authorized officer or agent must sign the Submittal, subscribing the name of the corporation with his or her own name and affixing the corporate seal. Such officer or agent must also provide the name of the state under which the corporation is chartered, and the names and business addresses of the President, Secretary, and Treasurer. Corporations chartered in states other than Florida must submit evidence of registration with the Florida Secretary of State for doing business in the State of Florida. Respondent must certify that all persons or entities having an interest as principal in the Submittal or in substantial performance of the Work have been identified in the Submittal forms.

10. DISQUALIFICATION OF RESPONDENTS

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

- a. Contacting a District employee or officer other than the procurement employee named in this solicitation about any aspect of this solicitation before the notice of intended decision is posted.
- b. Submission of more than one Submittal for the same subject matter by an individual, firm, partnership, or corporation under the same or different names;
- c. Evidence of collusion among Respondents;
- d. Submission of materially false information with the Submittal;
- e. Information gained through checking of references or other sources which indicates that Respondent may not successfully perform the Work;
- f. Respondent is failing to adequately perform on any existing contract with the District;
- g. Respondent has defaulted on a previous contract with the District;

- h. The evidence submitted by Respondent, or the District’s investigation of Respondent, fails to satisfy the District that Respondent is properly qualified to carry out the obligations of the Agreement in a manner acceptable to the District and within the time period specified;
- i. Any other cause that is sufficient to raise doubt regarding the ability of a Respondent to perform the Work in a manner that meets the District’s objectives for the Work.

11. REJECTION OF SUBMITTALS

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

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

12. WITHDRAWAL OF SUBMITTAL

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

13. EVALUATION AND AWARD PROCEDURES

- a. Submittals will be evaluated by a staff Evaluation Committee based upon the criteria and weighting set forth in “EVALUATION CRITERIA.” The committee members will meet at District headquarters or other location as appropriate to discuss the Submittals and their individual evaluations. Each committee member completes an evaluation form, from which the overall ranking of Submittals is compiled. Evaluation forms may be submitted at or subsequent to the Evaluation Committee meeting. If it is determined that it will assist the committee’s evaluation for some or all Respondents to make an oral presentation, such presentations will be scheduled at District headquarters or other location as appropriate.
- b. Section 286.0113, Fla. Stat., exempts from being open to the public, any portion of a meeting at which: (1) a negotiation with a Respondent is conducted pursuant to a competitive solicitation; (2) a Respondent makes an oral presentation as part of a competitive solicitation; (3) a Respondent answers questions as part of a competitive solicitation; or (4) negotiation strategies are discussed. Also, recordings of, and any records presented at, the exempt meeting are exempt from §119.07(1) and §24(a), Art. I of the State Constitution (Public Records) until such time as the District provides notice of an intended decision or until 30 days after opening the bids, proposals, submittals, or final replies, whichever occurs earlier. A complete recording shall be made of any portion of an exempt meeting. No portion of the exempt meeting may be held off the record.
- c. Pursuant to §286.0113 Fla. Stat., if the District rejects all Submittals and concurrently provides notice of its intent to reissue the competitive solicitation, any recordings or records presented at any exempt meeting relating to the solicitation shall remain exempt from §119.07(1) and §24(a), Art. I of the State Constitution (Public Records) until such time as the District provides notice of an intended decision concerning the reissued competitive solicitation or until the District withdraws the reissued competitive solicitation. A recording and any records presented at an exempt meeting are not exempt for longer than 12 months after the initial District notice rejecting all Submittals.

- d. Following the evaluation process, the District will submit the final ranking of Submittals to the Governing Board for approval, except for those instances in which the authority to approve and execute the Agreement has been delegated by the Governing Board to the Executive Director, or designee. All Respondents will be notified in writing of the Evaluation Committee’s final ranking of Submittals.
- e. The Committee will meet to evaluate and rank the Submittals in the location(s), time(s) and date(s), stated at the beginning of this Request for Qualifications package.
- f. Contract negotiations will then commence with the Respondent submitting the highest-ranked Submittal. If negotiations fail with the highest-ranked Respondent, negotiations will proceed with the other Respondents in ranked order.
- g. The Agreement will be awarded to the Respondent having the highest ranked Submittal, which successfully concludes negotiations with the District (the “Successful Respondent”). The Agreement may be modified based on the District’s acceptance of any alternatives listed in this Request for Qualifications that the District deems in its best interest.
- h. If two or more Submittals are equal in all respects, the Agreement will be awarded as follows: (1) to the Respondent that certifies compliance with §287.087, Fla. Stat., via the Drug-Free Workplace Form; (2) to a Respondent university in the State University System pursuant to §373.63, Fla. Stat.; or (3) by lot.
- i. The District reserves the right to award the Agreement to the next highest ranked and available Respondent in the event the Successful Respondent fails to enter into the Agreement, or the Agreement with said Respondent is terminated within 90 days of the effective date.
- j. All Respondents will be notified of the District's intent to award or decision to award the Agreement. For the purpose of filing a protest under §120.57(3), Fla. Stat., the time period will commence as provided in “NOTICES AND SERVICES THEREOF.”

14. EVALUATION CRITERIA

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

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

	Criteria	Weight	Score	Total
1	Company’s/firm’s and subconsultant’s qualifications and experience a) Expertise of firm(s) related to geotechnical investigation projects. b) Ability and capabilities of firm and subconsultants to perform services of this type.	20%		
2	Qualification and abilities of professional personnel a) Qualifications and work histories of proposed key personnel including proposed project management and geotechnical engineers 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.	20%		
3	Past and present experience and performance on projects of this type a) Provide a description of past and present work on projects of this type (include firm’s and key personnel’s experience and performance) with emphasis on three projects conducted within the five years immediately preceding the date set for receipt of submittals. b) A minimum of two of the projects included as a client reference, must be located in the state of Florida. Each project shall include a minimum of standard penetration tests, installation of piezometers, or field permeability tests and a project value of at least \$25,000.	40%		
4	Willingness to meet time and budget requirements Respondent shall include information on project where final costs or time has exceeded the initial time or budget on a project by 25% or more, been terminated, and/or has engaged in litigation disputing the contract amount within the last five years.	5%		
5	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 June 1, 2016, through the advertisement 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%		
6	Location of Respondent’s Management Office/Project Manager centrally located in the District (see explanation below) Higher consideration will be given to firms whose Project Manager is located nearest to the Maitland Service Center at 601 South Lake Destiny Road, Suite 200, Maitland, FL 32751, which will be used to calculate the distance to the Project site. The website <i>Maps.google.com</i> (using the “Shortest” route type) should be utilized to determine mileage. The District will award points as follows: <ul style="list-style-type: none"> • Within 50 miles of the District Maitland office = 10 points • Within 100 miles of the District Maitland office District = 5 points • Greater than 100miles of the District Maitland office = 0 points 	10%		
	TOTAL	100%		

15. EXECUTION OF AGREEMENT

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

Unless all Responses 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.

16. EXAMINATION OF AGREEMENT DOCUMENTS AND WORK AREA

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

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

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

17. DIVERSITY

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

18. FLORIDA SALES TAX

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

19. PUBLIC ENTITY CRIMES/DISCRIMINATORY VENDORS

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

20. USE BY OTHER FLORIDA GOVERNMENTAL ENTITIES

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

21. NOTICES AND SERVICES THEREOF

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

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

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

22. PROTEST PROCEDURES

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

Pursuant to §120.57(3), Fla. Stat., and Rule 28-110.003, Fla. Admin. Code, any person adversely affected by a District decision or intended decision to award a contract, or to reject all bids, proposals, or qualifications, must file a Notice of Protest within 72 hours after receipt of the decision or intended decision. Pursuant to §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. 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 estimated contract amount.

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

FORMS

SUBMITTAL FORM

Include this form in the response

RESPONDENT:

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

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

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

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

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

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

Respondent (firm name) _____
Date

Address

Email address

Signature _____
Telephone number

Typed name and title _____
Fax number

PROPOSED SUBCONTRACTORS

Include this form in the response

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

- 1. Name and address of subcontractor: _____

Description of work: _____

Estimated value of Work: _____

- 2. Name and address of subcontractor: _____

Description of work: _____

Estimated value of Work: _____

- 3. Name and address of subcontractor: _____

Description of work: _____

Estimated value of Work: _____

- 4. Name and address of subcontractor: _____

Description of work: _____

Estimated value of Work: _____

- 5. Name and address of subcontractor: _____

Description of work: _____

Estimated value of Work: _____

- 6. Name and address of subcontractor: _____

Description of work: _____

Estimated value of Work: _____

CERTIFICATE AS TO CORPORATION

Include this form in the response

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

Corporation name: _____

Address: _____

Registration No.: _____

Registered Agent: _____

By: _____

(Official title)

(Affix corporate seal)

Attest: _____

(Secretary)

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

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

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

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

Include this form in the response

STATE OF _____

COUNTY OF _____

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

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

_____ the Respondent that has submitted the attached submittal.

2. The attached submittal is genuine. It is not a collusive or sham submittal.

3. I am fully informed respecting the preparation and contents of, and knowledgeable of all pertinent circumstances respecting the attached submittal.

4. Neither Respondent nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, including this affiant, has in any way colluded, conspired, connived, or agreed, directly or indirectly, with any other Respondent, firm, or person to submit a collusive or sham submittal in connection with the Agreement for which the attached response has been submitted, or to refrain from submitting in connection with such Agreement, or has in any manner, directly or indirectly, sought by agreement, collusion, communication, or conference with any other Respondent, firm, or person to fix the price or prices in the attached submittal of any other Respondent, or to fix any overhead, profit, or cost element of the submittal prices or the submittal price of any other Respondent, or to secure through collusion, conspiracy, connivance, or unlawful agreement any advantage against the District or any other person interested in the proposed Agreement.

5. The attached submittal is fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Respondent or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

6. No official or other officer or employee of the District, whose salary or compensation is payable in whole or in part by the District, is directly or indirectly interested in this submittal, or in the supplies, materials, equipment, work, or labor to which it relates, or in any of the profits therefrom.

7. Any materials and equipment proposed to be supplied in fulfillment of the Agreement to be awarded conform in all respects to the specifications thereof. Further, the proposed materials and equipment will perform the intended function in a manner acceptable and suitable for the intended purposes of the District.

Signature: _____

Title: _____

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

Notary Public, state of _____ at Large

My commission expires:

(SEAL)

QUALIFICATIONS — GENERAL

Include this form in the response

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

Name of Respondent: _____

Respondent’s tax identification No.: _____

Year company was organized/formed: _____

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

Total number of years Respondent has experience in similar projects for continuing geotechnical engineering services – please reference the MINIMUM QUALIFICATIONS section of this solicitation packet for additional information in the INSTRUCTIONS TO RESPONDENTS: _____

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

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

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

QUALIFICATIONS — SIMILAR PROJECTS

Include this form in the response

Respondent (or a combination of the firm, individual, or project manager assigned to the work) must have successfully completed at least three similar projects within the five years immediately preceding the date set for receipt of the response, as described in the INSTRUCTIONS TO RESPONDENTS. Each project shall have had a project value of at least \$25,000.00. (Add additional sheet for optional additional completed projects.)

Completed Project 1:

Agency/company: _____

Current contact person at agency/company: _____

Telephone: _____ Fax: _____ Email: _____

Address of agency/company: _____

Name of project: _____

Description: _____

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

Name(s) of assigned personnel:

Project manager: _____

Others: _____

Completed Project 2:

Agency/company: _____

Current contact person at agency/company: _____

Telephone: _____ Fax: _____ Email: _____

Address of agency/company: _____

Name of project: _____

Description: _____

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

Name(s) of assigned personnel:

Project manager: _____

Others: _____

Completed Project 3:

Agency/company: _____

Current contact person at agency/company: _____

Telephone: _____ Fax: _____ Email: _____

Address of agency/company: _____

Name of project: _____

Description: _____

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

Name(s) of assigned personnel:

Project manager: _____

Others: _____

QUALIFICATIONS — CLIENT REFERENCE

Include this form in the response

Respondent shall provide three client references, which may include the similar projects listed above. No more than one reference shall be from the District. (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 required only in the event of a tie response

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

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

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

By: _____

Title: _____

Date: _____/

NO RESPONSE FORM
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
REQUEST FOR QUALIFICATIONS 36813

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

Please check (as applicable):

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

Remarks: _____

DATE _____

RESPONDENT (FIRM NAME) _____

ADDRESS _____

E-MAIL ADDRESS _____

SIGNATURE _____ TYPED NAME AND TITLE _____

TELEPHONE NUMBER _____ FAX NUMBER _____

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

THIS AGREEMENT is entered into by and between the GOVERNING BOARD of the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT (the “District”), whose address is 4049 Reid Street, Palatka, Florida 32177-2571, and _____ (“Engineer”), 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, Engineer agrees to furnish and deliver all materials and perform all labor required for 36813, Continuing Geotechnical Engineering and Construction Services (the “Work”). In accordance with RFQ 36813, Engineer shall complete the Work in conformity with this Agreement, which consists of and incorporates all of the following documents: (1) advertisement for bids, proposals, or qualifications; (2) Instructions to Respondents; (3) addenda; certifications, and affidavits; (4) bid, proposal, or qualifications submittals; (5) Agreement, including the Statement of Work, and any Special Conditions or other attachments. If any provision in the body of this Agreement conflicts with any attachment hereto, the body of this Agreement shall prevail. This Agreement, including attachments, shall take precedence over all solicitation documents (items 1 – 4). The parties hereby agree to the following terms and conditions.

1. TERM

- (a) The term of this Agreement shall be from the Effective Date to the Completion Date. Time is of the essence for each and every aspect of this Agreement. Where additional time is allowed to complete the Work, the new time limit shall also be of the essence. All provisions of this Agreement that by their nature extend beyond the Completion Date survive termination or expiration hereof.
- (b) **Completion Date.** The Completion Date of this Agreement is _____, 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.
- (c) This Agreement may be renewed for two additional 12-month terms by the mutual and written consent of each party.
 - a. Commencement of Work. Engineer shall commence the Work on October 1, 2021. This date shall be known as the “Commencement Date.” Engineer 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. Engineer shall not commence the Work until any required submittals are received and approved.

2. LIQUIDATED DAMAGES

- (a) If Engineer neglects, fails, or refuses to satisfactorily complete the Work by the Completion Date, Engineer shall, as a part of the consideration for this Agreement, pay the District the amount stipulated herein, not as a penalty, but as liquidated damages for such breach, for each day Engineer 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 Engineer for completion of the Work if this Agreement is terminated by the District for non-performance.

- (b) Engineer shall not be charged with liquidated damages or any excess cost when the District determines that Engineer'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.

3. DELIVERABLES

- (a) The Work is specified in the Statement of Work, Attachment A. Engineer 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, Engineer 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) Engineer is responsible for the professional quality, technical accuracy, and timely completion of the Work. Both workmanship and materials shall be of good quality. Engineer shall, if required, furnish satisfactory evidence as to the kind and quality of materials provided. Unless otherwise specifically provided for herein, Engineer 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, Engineer 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.

4. OWNERSHIP OF DELIVERABLES

- (a) All deliverables, including Work not accepted by the District, are District property when Engineer 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. Engineer 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 Engineer, 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 Engineer. Engineer 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. Engineer shall submit all such work products to the District, if requested. Engineer may retain copies of all work products created pursuant to this Agreement.

5. FUNDING OF AGREEMENT

- (a) For satisfactory performance of the Work, the District agrees to pay Engineer a sum not to exceed \$450,000.00 (the “Total Compensation”).

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

6. PAYMENT OF INVOICES

- (a) Engineer shall submit itemized invoices on a monthly basis for the work (as specified in each Work Order) by one of the following two methods: (1) by email to acctpay@sjrwmd.com (preferred) or (2) by mail to the St. Johns River Water Management District, Finance Director, 4049 Reid Street, Palatka, Florida 32177-2571. Each invoice shall be submitted in detail sufficient for proper pre-audit and post-audit review. If necessary for audit purposes, Engineer 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, Engineer 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, Engineer shall submit a description of the Work completed on the project through September 30 and a statement estimating the dollar value of that Work as of September 30.
- (c) **Final Invoice.** The final invoice must be submitted no later than 45 days after the Completion Date; provided, however, that when the Completion Date corresponds with the end of the District’s fiscal year (September 30), the final invoice must be submitted no later than 30 days after the Completion Date. **Final invoices that are submitted after the requisite date shall be subject to a penalty of ten percent of the invoice. This penalty may be waived by the District, in its sole judgment and discretion, upon a showing of special circumstances that prevent the timely submittal of the final invoice. Engineer must request approval for delayed submittal of the final invoice not later than ten days prior to the due date and state the basis for the delay.**
- (d) All invoices shall include the following information: (1) District contract number; (2) Engineer’s name and address (include remit address, if necessary); (3) Engineer’s invoice number and date of invoice; (4) District Project Manager; (5) Engineer’s Project Manager; (6) supporting documentation as to cost and/or project completion (as per the cost schedule and other requirements of the Statement of Work; (7) Progress Report (if required); (8) Diversity Report (if otherwise required herein). Invoices that do not correspond with this paragraph shall be returned

without action, stating the basis for rejection. Payments shall be made within 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 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 Engineer 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, Engineer 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 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 Engineer 100% of each approved invoice.
7. **PAYMENT AND RELEASE.** Upon satisfactory completion of the Work, the District will provide Engineer a written statement accepting all deliverables. Engineer’s acceptance of final payment shall constitute a release in full of all Engineer claims against the District arising from the performance of this Agreement, with the exception of any pending claims for additional compensation that have been documented and filed as required by this Agreement.
 8. **INDEMNIFICATION.** Engineer shall indemnify and hold harmless, release, and forever discharge the District, its public officers, employees, agents, representatives, successors, and assigns, from any and all liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney’s fees, arising from or caused by the Engineer, its employees or subcontractors, in the performance of the Work. Engineer 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 Engineer-employees performing under this contract.
 9. **INSURANCE.** Engineer 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. Engineer waives its right of recovery against the District to the extent permitted by its insurance policies. Engineer’s insurance shall be considered primary, and District insurance shall be considered excess, as may be applicable to Engineer’s obligation to provide insurance.
 10. **CONTRACTUAL LIMITATION OF LIABILITY PURSUANT TO §558.0035 FLA. STAT. PURSUANT TO 558.0035, FLORIDA STATUTES, AN INDIVIDUAL EMPLOYEE OR AGENT OF CONSULTANT MAY NOT**

BE HELD INDIVIDUALLY LIABLE FOR ECONOMIC DAMAGES RESULTING FROM NEGLIGENCE UNDER THIS AGREEMENT IF THE CONDITIONS OF SECTION 558.0035 ARE SATISFIED.

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 Engineer and this Agreement shall be deemed terminated for convenience five days after receipt of such notice, or within such additional time as the District may allow. For the purpose of this Agreement, "Fiscal Year" is defined as the period beginning on October 1 and ending on September 30.

12. **PROJECT MANAGEMENT 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 business days' prior written notice to the other party. Written notice of change of address shall be provided within five 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) email or, (5) fax. Notices via certified mail are deemed delivered upon receipt. Notices via overnight courier are deemed delivered one business day after having been deposited with the courier. Notices via email or fax are deemed delivered on the date transmitted and received.

DISTRICT

, Project Manager
St. Johns River Water Management District
4049 Reid Street
Palatka, FL 32177-2571
Phone:
Email:

ENGINEER

TBD, Project Manager
TBD
TBD
TBD
Phone: TBD
Email: TBD

(b) The 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.

(c) Engineer shall provide efficient supervision of the Work, using its best skill and attention. Engineer shall keep, on the worksite during its progress, a competent superintendent that is satisfactory to the District. The superintendent shall not be changed except with the District's consent, unless the superintendent proves to be unsatisfactory to Engineer and/or ceases to be in its employ. The superintendent shall represent Engineer in the absence of Engineer's Project Manager. All directions given to him shall be as binding as if given to Engineer. If the District produces documented evidence and informs the Engineer 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 Engineer

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) Engineer shall maintain an adequate and competent professional staff. Engineer’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, Engineer shall furnish proof thereof.

13. SCHEDULING AND WORK PLANNING; PROGRESS REPORTING

- (a) **Progress Reports.** Engineer shall provide to the District update/status reports as provided in the Statement of Work. Reports will provide detail on progress of the Work and outline any potential issues affecting completion or the overall schedule. Reports may be submitted in any form agreed to by District’s Project Manager and Engineer, and may include emails, memos, and letters.
1. **Progress Meetings.** The District may conduct progress meetings with Engineer on a frequency to be determined by the District. In such event, Engineer shall make available its Project Manager and other appropriate personnel to discuss matters pertinent to the Work.
 2. **Failure to Meet Schedule.** If progress of the Work falls five percent or more behind schedule, except as a result of District-approved delays, Engineer shall take all necessary steps to augment the work effort to get the project back on schedule. Should the progress of the Work fall ten percent or more behind schedule, the District may advise Engineer 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. FORCE MAJEURE; DELAYS

- (a) **Force Majeure.** Engineer shall not be liable for failure to carry out the terms of this Agreement to the extent such failure is due to a Force Majeure event, except for failures that could have been reasonably foreseen and guarded against so as to avoid or reduce the adverse impact thereof. A Force Majeure event is hereby defined as the failure to carry out any of the terms of this Agreement due to any one of the following circumstances beyond the control of Engineer: (a) the operation and effect of rules, regulations, or orders promulgated by any commission, county, municipality, or governmental agency of the State of Florida or the United States, (b) a restraining order, injunction, or similar decree of any court of competent jurisdiction, (c) war, (d) flood, (e) earthquake, (f) fire, (g) severe wind storm, (h) acts of public disturbance, (i) quarantine restrictions, (j) epidemics, (k) strikes, (l) freight embargoes, or (m) sabotage. The times specified herein for performances include delays that can ordinarily be anticipated due to adverse weather conditions. The District is not obligated to grant an extension of time due to adverse weather conditions unless such conditions rise to the level of Force Majeure.
- (b) **Delay.** Engineer shall not be compensated for delays caused by Engineer’s inefficiency, rework made necessary by Engineer’s error, failure to perform the Work as scheduled, or any other corrective or productivity measures made necessary by errors, omissions, or failures to properly perform the Work. Within ten days after the onset of a delay, Engineer shall notify the District in writing of the delay, which shall provide: (1) a detailed description the delay and its probable duration, (2) the specified portion of the Work affected, and (3) an opinion as to the cause of the delay and liability (if any) for the delay. Notices provided more than ten days after the inception of the delay shall only be effective as to additional costs or delay incurred during the ten day period preceding receipt of such notice. In the case of continuing cause delay for the same cause, only one notice of delay is necessary. **Failure to provide this notice waives any claim for extension of time or additional compensation resulting from such delay.** If the delay is due to

the failure of another District contractor to complete its work in a timely manner, changes ordered in the Work, a Force Majeure event, or any other cause which the District, in its sole judgment and discretion, determines to justify the delay, then the Completion Date may be extended as necessary to compensate for the delay. All time extensions shall be in the form of a written amendment signed by both parties.

15. AMENDMENTS; EMERGENCY CHANGES IN WORK

- (a) **Amendments.** The parties may not amend this Agreement except in writing. Modifications that alter, add to, or deduct from the Work, or otherwise modify the terms of this Agreement, shall be implemented through a change order or formal amendment, specifying the nature of the change and any associated change in the Total Compensation and/or Completion Date. The District's Project Manager may also issue a District Supplemental Instruction (DSI) form (Attachment C) to authorize minor adjustments to the Work that are consistent with the purpose of the Work. Both parties must sign the DSI. A DSI may not be used to change the Total Compensation, quantity, quality or the Completion Date of the Work, or to change or modify the Agreement.
- (b) **Emergency Changes in Work.** In the event an emergency endangering life or property requires immediate action, the District may give Engineer an oral instruction to proceed with an emergency change in the Work, which will be confirmed in writing within five days. Within 15 days after commencement of the emergency change in the Work, Engineer shall provide the District with a written estimate of any increased costs or delays as a result thereof. **Failure to so notify the District constitutes a waiver of any right to an extension of time or increase in compensation.** Within 15 days after receipt of Engineer'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 Engineer decline to perform the emergency change in the Work.

16. TERMINATION AND SUSPENSION

- (a) **District Termination for Cause.** The Agreement may be terminated by the District for cause in the event of any breach hereof, including, but not limited to, Engineer's: (1) failing to carry forward and complete the Work as provided herein; (2) failing to comply with applicable laws, regulations, permits, or ordinances; (3) failing to timely correct defective Work; (4) making a general assignment for the benefit of its creditors; (5) having a receiver appointed because of insolvency; (6) filing bankruptcy or having a petition for involuntary bankruptcy filed against it; (7) failing to make payments when due to subcontractors, vendors, or others for materials or labor used in the Work; (8) making a material misrepresentation to the District regarding the Work, or (9) any other material breach of this Agreement. In such event, the District shall provide Engineer with written notice of its intention to terminate this Agreement, stating the nature of the deficiency and the effective date of termination. At the District's sole judgment and discretion, the District may afford Engineer an opportunity to cure said deficiency, in which event the notice shall specify the time allowed. Upon termination, the District may take possession of the premises and of all materials thereon and finish the Work by whatever means it deems expedient. In such event, Engineer shall not receive any further payment until the Work is completed by the District. Engineer shall be liable for all costs involved in completing the Work, including additional managerial and administrative services, which shall be offset against any amount due to Engineer.
- (b) **District Termination for Convenience.** Notwithstanding any other provision hereof, the District may at any time terminate this Agreement or any Work issued under it, in whole or in part, without cause, upon 30 days' written notice to Engineer. In such event, Engineer 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, Engineer 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. Engineer shall also make every reasonable effort to cancel, upon terms satisfactory to the District, all orders or subcontracts related to the terminated Work. Engineer may not claim any compensation not specifically provided for herein, including, but not limited to: loss of anticipated profits; idle equipment, labor, and facilities; any additional claims of subcontractors and vendors.

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

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

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

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

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

ENGINEER: Engineer, its officers, employees, agents, successors, and assigns.

ENGINEER’S PROJECT MANAGER: The individual designated by the Engineer to be responsible for overall coordination, oversight, and management of the Work for Engineer.

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

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

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

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

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

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

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

18. ACCESS; WORK AREA; GATES

- (a) **Access.** The District will provide sufficient access to accomplish Work performed on District property. Engineer 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. Engineer is responsible for improvements and repairs to access routes required during construction. All access routes shall be

used for the purpose of construction only. Engineer 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). Engineer shall obtain written approval from the District before making any adjustments.
- (c) **Gates.** Engineer 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, Engineer shall be responsible for providing lock(s) to District properties.

19. **ASSIGNMENT AND SUBCONTRACTS.** Engineer shall not sublet, assign, or transfer any Work involving more than 15% of the total cost of the Work, or assign any monies due hereunder, without the District's prior written consent; provided, however, that in all cases, if the proposed subcontractor is different than the team specified by Engineer in the contract award process, Consultant shall notify the District's Project Manager in writing and obtain the District's prior approval. Neither District approval of a subcontractor nor any other provision of this Agreement creates a contractual relationship between any subcontractor and the District. Engineer is responsible for fulfilling all work elements in any subcontracts and payment of all monies due. Engineer 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.** Engineer 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, Engineer must continue to maintain all required records until such audit has been completed and all questions arising from it are resolved. Engineer 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., Engineer shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, pregnancy, or national origin, age, handicap, or marital status.
22. **CLEANUP; EQUIPMENT REMOVAL.** Upon expiration or termination of this Agreement, Engineer shall restore the worksite to its original condition, except for replacement of vegetation, unless otherwise required by this Agreement. Engineer shall remove from District property and all public and private property all machinery, equipment, supplies, surplus materials, temporary structures, rubbish, and waste materials resulting from its activities. After 20 days, the District may sell or dispose of any materials left at the worksite as it sees fit and deduct the cost of sale or disposal from any amounts due to Engineer. Any revenues obtained shall be applied toward costs incurred by the District, with excess revenues paid to Engineer.
23. **COOPERATION WITH THE INSPECTOR GENERAL, PURSUANT TO §20.055(5) FLA. STAT.** Engineer and any subcontractors understand and will comply with their duty, pursuant to §20.055(5), Fla. Stat., to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing.
24. **COORDINATION WITH THE DISTRICT AND OTHER DISTRICT CONTRACTORS**
- (a) The District may let other contracts in connection with the Work. Wherever work done by the District or another District contractor is contiguous to Engineer's Work, the respective rights of

the various interests shall be established by the District so as to secure completion of the Work. Engineer shall arrange its Work so as not to interfere with the District or other District contractors and join its Work to that of others in a proper manner, and in accordance with the intent of the Statement of Work. Engineer shall perform its Work in the proper sequence in relation to that of other District contractors, as may be directed by the District. Engineer shall afford other District contractors reasonable opportunity for introduction and storage of their materials and execution of their work, and shall properly conduct and coordinate its Work with theirs. Engineer shall take into account all contingent work to be done by others and shall not plead its want of knowledge of such contingent work as a basis for delay or non-performance. Engineer shall be liable for any damage it causes to the work performed by other District contractors.

- (b) If any part of the Work depends for proper execution or results upon the work of other District contractors, Engineer shall inspect and promptly report any defects in the other contractors' work that render it unsuitable for Engineer's Work. Failure to so inspect and report shall constitute an acceptance of the other contractors' work as fit and proper for the reception of its Work, except as to defects which may develop in the other contractors' work after execution of the Work.

25. **CONTINGENCY FEES.** Pursuant to §287.055(6)(a), Fla. Stat., Engineer warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Engineer, 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 Engineer, any fee, commission, percentage, or other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of these provisions, the District may terminate this Agreement without liability and, at its discretion, deduct from the contract price or otherwise recover the full amount of any such fee, commission, percentage, gift, or other consideration.

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

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

27. **DISPUTE RESOLUTION**

- (a) **During the course of work.** In the event any dispute arises during the course of the Work, Engineer shall fully perform the Work in accordance with the District's written instructions and may claim additional compensation. Engineer is under a duty to seek clarification and resolution of any issue, discrepancy, or dispute by submitting a formal request for additional compensation, schedule adjustment, or other dispute resolution to the District's Project Manager no later than 15 days after the precipitating event. If not resolved by the Project Manager within five business days, the Project Manager shall forward the request to the District's Office of General Counsel, which shall issue a written decision within 15 days of receipt. This determination shall constitute final action of the District and shall then be subject to judicial review upon completion of the

Work. Engineer shall proceed with the Work in accordance with said determination. This shall not waive Engineer's position regarding the matter in dispute.

- (b) **Invoices.** In the event the District rejects an invoice as improper, and the Engineer declines to modify the invoice, the Engineer must notify the District in writing within ten days of receipt of notice of rejection that the Engineer will not modify the invoice and state the reason(s) therefor. Within five business days of receipt of such notice, if not informally resolved through discussion with the District Project Manager, the Project Manager shall forward the disputed invoice and the Engineer's written response to the District's Office of General Counsel. The matter shall then proceed as described in subsection (a), above.

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

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

- (a) For any Work that is dependent upon conditions at the worksite, Engineer's acceptance of contract award represents and warrants that Engineer 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. Engineer'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 Engineer or is available upon request. Engineer must either seek clarification concerning the data or assume the responsibility for its interpretation.
- (b) If Engineer discovers hidden or subsurface conditions that differ materially from those normally expected or indicated in the technical specifications, Engineer shall immediately, and before such conditions are disturbed, notify the District in writing of: (1) subsurface or latent physical conditions differing materially from those indicated in the technical specifications, or (2) unknown physical conditions of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for herein. The District shall promptly investigate the conditions and determine whether they materially differ so as to cause an increase or decrease in Engineer's cost. Where the differing site conditions materially impact Engineer's cost, an equitable adjustment shall be made and the Agreement modified accordingly. No claim will be allowed if Engineer fails to provide the required notice.
- (c) If Engineer in the course of the Work finds any defect in the plans and specifications, including, but not limited to, any discrepancy between the drawings and the physical conditions at the worksite, or any errors or omissions in the drawings or in the layout, as given by points and instructions, it shall immediately inform the District in writing, which shall be promptly verified by the District. Any Work done after such discovery, until authorized, will be done at Engineer's risk as to cost overruns and modifications necessary to correct deficiencies in the Work. To

ensure the proper execution of its subsequent Work, Engineer shall measure Work already in place or completed and shall immediately report any discrepancy between the executed Work and the drawings or other specifications.

30. **EMPLOYMENT ELIGIBILITY.** Engineer 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 Engineer during the term of this Agreement to work in Florida. Additionally, if Engineer uses subcontractors to perform any portion of the Work (under this Agreement) valued in excess of \$3,000, Engineer 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, Engineer must provide the District with evidence that Engineer is enrolled in the E-Verify system. Answers to questions regarding E-Verify as well as instructions on enrollment may be found at the E-Verify website: www.uscis.gov/e-verify.
31. **GOVERNING LAW, VENUE, ATTORNEY’S FEES, WAIVER OF RIGHT TO JURY TRIAL.** This Agreement shall be construed according to the laws of Florida and shall not be construed more strictly against one party than against the other because it may have been drafted by one of the parties. As used herein, “shall” is always mandatory. In the event of any legal proceedings arising from or related to this Agreement: (1) venue for any state or federal legal proceedings shall be in Orange County; (2) each party shall bear its own attorney’s fees, including appeals; (3) for civil proceedings, the parties hereby consent to trial by the court and waive the right to jury trial.
32. **INTEREST IN THE BUSINESS OF CONTRACTOR; NON-LOBBYING.** Engineer 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 Engineer to be conducted under this Agreement, and that no such person shall have any such interest at any time during the term of this Agreement. Pursuant to §216.347, Fla. Stat., monies received from the District pursuant to this Agreement shall not be used to lobby the Florida Legislature or any other state agency.
33. **INDEPENDENT CONTRACTOR.** Engineer is an independent contractor. Neither Engineer nor Engineer’s employees are employees or agents of the District. Engineer controls and directs the means and methods by which the Work is accomplished. Engineer 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. Engineer’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 Engineer’s duties hereunder or alter Engineer’s status as an independent contractor. This paragraph does not create an affirmative obligation to provide any employee benefits not required by law.

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

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

40. **PUBLIC RECORDS**

- (a) Engineer 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 Engineer 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 Engineer, 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, Engineer 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) Engineer 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. Engineer shall keep and maintain public records required by the District to perform the services under this Agreement.
- (c) If Engineer meets the definition of "Contractor" found in §119.0701(1)(a), Fla. Stat.; [i.e., an individual, partnership, corporation, or business entity that enters into a contract for services with a public agency and is acting on behalf of the public agency], then the following requirements apply:
- (i) Pursuant to §119.0701, Fla. Stat., a request to inspect or copy public records relating to this Agreement for services must be made directly to the District. If the District does not possess the requested records, the District shall immediately notify the Engineer of the request, and the Engineer must provide the records to the District or allow the records to be inspected or copied within a reasonable time. If Engineer fails to provide the public records to the District within a reasonable time, the Engineer may be subject to penalties under s. 119.10, Fla. Stat.
 - (ii) Upon request from the District's custodian of public records, Engineer shall provide the District with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Fla. Stat., or as otherwise provided by law.
 - (iii) Engineer 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 Engineer does not transfer the records to the District.
 - (iv) Upon completion of the Agreement, Engineer shall transfer, at no cost to District, all public records in possession of Engineer or keep and maintain public records required by the District to perform the services under this Agreement. If the Engineer transfers all public records to the District upon completion of the Agreement, the Engineer shall destroy any duplicate public records that are exempt or confidential and exempt from public disclosure requirements. If the Engineer keeps and maintains public records upon completion of the

Agreement, the Engineer 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 ENGINEER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLA. STAT., TO THE ENGINEER’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@sjrwm.com**

41. **RELEASE OF INFORMATION.** Engineer shall not publish or release any information related to performance of this Agreement, or prepare, publish, or release any news or press release in any way related to this Agreement, without prior District review and written consent.

42. REMEDIES FOR NON-PERFORMANCE

- (a) **District Remedies.** The remedies enumerated herein are non-exclusive. In addition to the remedies set forth below, the District may avail itself of any statutory and/or common law remedies not set forth herein. In the event of a breach, the District may terminate this Agreement for cause. Alternatively, the District may allow Engineer 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) **Engineer Correction of Deficiencies.** The District shall provide Engineer 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 Engineer disputes that a failure of performance has occurred, Engineer 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. Engineer 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 Engineer to correct incomplete or damaged Work caused by Engineer’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 Engineer in order to complete satisfactory performance of the Work. If the District is performing a function that Engineer 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 Engineer 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. Engineer shall not be entitled to reject technical assistance when the District determines that such assistance is necessary to complete the Work.
43. **ROYALTIES AND PATENTS.** Engineer certifies that, to the best of its information and belief, the Work does not infringe on any patent rights. Unless provided otherwise herein, Engineer 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 Engineer obtains information that the process or article so specified is a patent infringement, it shall be responsible for such loss unless it promptly so notifies the District.
44. **SAFETY.** For any Work that is to be performed on premises that are owned or controlled by the District (the Premises), Engineer has the sole and exclusive duty for the safety of the premises. Engineer 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. Engineer 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 Engineer 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. Engineer 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. Engineer 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 Engineer.
45. **SCRUTINIZED COMPANIES.** Engineer certifies that it is not on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel. Pursuant to §287.135, Fla. Stat., the District may terminate this Agreement at its sole option if the Engineer is found to have submitted a false certification; or if the Contractor is placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
46. **TRUTH IN NEGOTIATIONS.** This provision applies only to lump sum or cost-plus-a-fixed-fee contracts entered into in excess of \$195,000 (see §287.055(5)(a), Fla. Stat.). Engineer 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.
47. **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, Engineer 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.

48. WORK ORDERS

- (a) The District reserves the right to award Work Orders based on the ability to perform in a timely manner, availability of required equipment, cost of required equipment, past performance on similar work, availability of qualified staff, and other factors deemed critical to the performance of each Work Order. The District may, at its sole discretion, request a “not to exceed” cost for any Work Order as a method of determining award. The District makes no guarantees of any amount of work to be awarded under the Agreement. The District reserves the right to directly purchase and provide to Engineer all or part of the equipment or materials to be incorporated in the Work.
- (b) Engineer shall not proceed with any Work prior to the receipt of a written Work Order and shall commence the Work under each Work Order within 14 days of receipt, unless an alternate date is stated in the Work Order. All Work shall be done to the satisfaction of the District’s Project Manager or Work Order Manager and subject to the other terms of this Agreement. The Engineer must agree to the terms of the Work Order. Commencement of Work pursuant to a Work Order constitutes acceptance of all of the terms and conditions of the Work Order. A representative Work Order is attached as Attachment D.
- (c) **Type of Work Order.** When services are needed, the District and Engineer shall agree upon the type of Work Order and the specifics of the Work Order.
 - (i) Generally, a Type 1 (time and materials) Work Order involves projects where field conditions, environmental or cultural resource preservation issues, subsurface and other physical conditions, or other aspects of the Work cannot be accurately defined. This often results in work being modified in the field by the District. Identification of the Work involved is typically concept level drawings with minimal details. A Type 1 Work Order will describe the general nature of the Work, including specific deliverables, if applicable, along with the total number of hours, days, or weeks estimated for each task; the materials to be incorporated into the Work, and the total authorized expenditure amount. If deliverables are specified and materials, equipment, or subcontractors are necessary to complete the Work, the Work Order shall specify the estimated costs thereof. The District must approve the hiring of subcontractors in order to ensure they are qualified to perform the Work and have been competitively procured. Engineer is compensated for equipment and labor based upon the unit costs of this Agreement, and “Other Direct Costs” as defined in sub-paragraph (d)(iv), below. Invoices must be documented as to the number of hours worked and equipment and materials used sufficient for District audit in accordance with the unit costs of this Agreement and the Work Order. The District reserves the right to determine the means and methods of performing the Work and supplying materials.
 - (ii) A Type 2 (fixed-price) Work Order is issued when the extent and cost of the Work is agreed upon. It will describe with specificity the location, quantity, work limits, timeframes, deliverables, progress payments (if any), total cost, and any other matters pertaining to the Work. The fixed price includes all applicable permits, bonds, labor, equipment, supplies, project support, overhead and materials necessary to complete the Work. It is used when the scope of work can be clearly determined, such as when detailed design drawings and/or specifications and supporting documents are available and site conditions are known. It may include a detailed schedule of values, construction schedule, and any other necessary documents.

- (iii) A Type 3 (time and materials with not-to-exceed amount) Work Order is utilized when a not-to-exceed cost is agreed upon for a time and materials (Type 1) Work Order. All of the terms of a Type 1 Work Order apply, subject to the not-to-exceed amount. In addition, the deliverables must be described with the specificity of a Type 2 Work Order.
- (d) Additional Provisions Applicable to Type 1 and Type 3 Work Orders
 - (i) Additional equipment and services
 - a. The District may issue a Work Order requiring the use of additional or specialized equipment not identified in the unit costs of the Agreement. The cost of such equipment may be identified separately and included in the specific Work Order to which it applies, or the Agreement may be amended through a Change Order with an amended cost schedule that includes such equipment. If deliverables are specified and sub-contractors are necessary to complete the Work, the Work Order shall specify the costs of the materials, equipment, and sub-contractors.
 - b. After a Work Order is issued, the District may require the use of material, equipment and/or subcontracted services not included in the original Work Order. A Change Order will be issued if the cost exceeds the “not to exceed” amount of the Work Order, or if the additional cost exceeds \$100,000.
 - c. If due to an emergency, the District determines that material, equipment and/or subcontracted services that were not included in the original Work Order are required, the District may authorize procurement thereof in a manner that most efficiently and effectively minimizes public risk and economic loss.
 - (ii) **Equipment substitution.** No provision hereof prohibits substitution of rented or leased equipment for unit cost equipment under the Agreement, or addition of rented or leased equipment not included in the Work Order or cost estimates, provided any such substitution or addition complies with the competitive procurement provisions of this paragraph and has been approved in advance in writing by the District. Should the Work require the use of individual equipment for longer than 30 days or 30 hours per week, the District may compare equipment weekly or monthly rental rates on the open market with the rates in the Cost Schedule and require Engineer to rent the equipment on the open market if the cost is lower than the Cost Schedule. The District will reimburse Engineer this rental cost (with allowable percentage markup in the Cost Schedule) plus the hourly rate for operator with fuel and operation and maintenance.
 - (iii) Other Direct Costs
 - a. Subject to prior written District approval, the District will reimburse Engineer for materials purchased by Engineer and incorporated into the Work, non-contract equipment, leases/rentals, subcontract work, bonds, and permits obtained by Engineer, including applicable sales tax (“Other Direct Costs”), plus the allowable percentage markup in the Cost Schedule, provided Engineer adheres to the following the competitive procedures:
 - b. Cost is \$2,500.01 – \$15,000 – three documented quotes – verbal, written, or on line; or a written explanation to District procurement staff and approval from the District’s Procurement Director for not receiving three quotes.
 - c. Cost is greater than \$15,000 – at least three written quotes, reviewed and approved by District procurement staff, or a written explanation to and approval from the District’s Procurement Director for not receiving three quotes.

- d. Documentation of solicitations where cost exceeds \$2,500 shall be submitted with the Engineer's cost estimate. If a cost exceeds \$15,000, documentation shall include a complete bidders list and the request for quotes that was sent to each prospective bidder.
 - e. Temporary facilities and temporary use materials required for erosion control and dewatering operations may be considered as Other Direct Costs upon approval by the District.
 - f. Only equipment or materials that are incorporated into the Work and contracted services directly related to the Work qualify for compensation as Other Direct Costs. Compensation shall not be provided for any other costs associated with the Work not identified on the Cost Schedule or Work Order.
- (iv) The District reserves the right to reject any proposed subcontractors.
- (e) **Invoicing.** In addition to the general provisions in **PAYMENT OF INVOICES**, supporting documentation shall include:
- (i) **Type 1 Work Orders:** (hourly billing for labor and/or equipment and materials):
 - a. Name of employee and/or type of equipment
 - b. Employee position title/job classification (if applicable)
 - c. Hours worked and/or equipment utilized on a daily basis, as documented by Engineer's Daily Record of Hours, signed by Engineer and District staff (attached hereto as revised by the District from time to time).
 - d. The approved charge rate for each classification of Engineer employee and/or equipment included in Cost Schedule, Attachment A, and/or the Work Order authorizing the Work. In the absence of an individual rate in the Cost Schedule, the Engineer employee's general classification rate may be utilized.
 - e. If billed for use of equipment not in the Cost Schedule, documentation of prior authorization for equipment used, including cost and estimated quantities.
 - f. Documentation of any required competitive procurement for equipment, subcontractors, or materials.
 - g. Engineer's notarized affidavit shall be provided with the first invoice for those Work Orders not requiring a Payment Bond, stating that payment of subcontractors and materialmen shall be made pursuant to §218.735, Fla. Stat.
 - h. Proof of payment of subcontractors and materialmen for which Engineer has already received payment from the District. Proof may be in the form of (1) a cancelled check; (2) a receipt marked paid by subcontractor or materialman; (3) a waiver of claim executed by the subcontractor or materialman; (4) Engineer's sworn affidavit that all subcontractors and materialmen for which payment has been received from the District have been paid by the Engineer; or (5) any other form that has been pre-approved in writing by the District. For the final invoice purposes, proof of payment must be submitted not only as to amounts previously paid by the District, but also as to amounts included in the final invoice.
 - i. A copy of the original vendor invoice(s) for Other Direct Costs. Altered or amended vendor invoices shall be rejected. If a vendor's invoice is from a supplier other than the one providing the lowest quote, Engineer shall explain the reason for not using the lowest cost supplier. The District reserves the right to reduce the amount reimbursed if

a competitive market analysis clearly demonstrates that the invoice exceeds market value. In no event shall Engineer charge the District for any subcontractor's work that exceeds the approved Cost Schedule.

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

49. **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, Engineer'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.

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 Engineer 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

ENGINEER

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

By: _____

Typed Name and Title

Date: _____

Date: _____

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

ATTACHMENT A — STATEMENT OF WORK

I. INTRODUCTION

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

II. OBJECTIVE

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

III. SCOPE OF WORK

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

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

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

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

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

IV. TASK IDENTIFICATION

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

V. TIME FRAMES AND DELIVERABLES

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

VI. BUDGET

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

ATTACHMENT B — INSURANCE REQUIREMENTS

shall acquire and maintain until completion of the Work the insurance coverage listed below, which constitutes primary coverage. Engineer shall not commence the Work until the District receives and approves Certificates of Insurance documenting required coverage. Engineer’s General Liability policy shall include Endorsement CG 20 10 04 13, or equivalent, naming the St. Johns River Water Management District (the “District”) as Additional Insured. All required policies shall include: (1) endorsement that waives any right of subrogation (Endorsement CG 24 04 05 09, or equivalent) against the District for any policy of insurance provided under this requirement or under any state or federal worker’s compensation or employer’s liability act; (2) endorsement to give the District no less than 30 days’ notice in the event of cancellation or material change. Certificates of Insurance must be accompanied by copies of the requested endorsements.

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

- (a) **Workers’ Compensation Insurance.** Workers’ compensation and employer’s liability coverage, including maritime workers’ compensation, if applicable, in not less than the minimum limits required by Florida law. If Engineer claims an exemption from workers’ compensation coverage, Engineer 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, Engineer must provide a completed District “Affidavit (Non-Construction)” for non-construction contracts.
- (b) **General Liability.** Commercial General Liability Insurance on an “Occurrence Basis,” with limits of liability for each occurrence of not less than \$1,000,000 for personal injury, bodily injury, and property damage, with a project aggregate of \$2,000,000. 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 Engineer. Extensions shall be added or exclusions deleted to provide the necessary coverage.
- (c) **Automobile Liability.** Minimum limits of \$100,000/\$300,000/\$100,000.
- (d) **Umbrella Policy.** Minimum limits of \$1,000,000 per occurrence.
- (e) **Professional Liability.** (Per claim) \$1,000,000 single limit and \$2,000,000 annual project aggregate limit. Continuous coverage shall be in place for four years after the contract is completed.

ATTACHMENT C — DISTRICT’S SUPPLEMENTAL INSTRUCTIONS (sample)

DISTRICT SUPPLEMENTAL INSTRUCTIONS #

DATE:

TO: _____

FROM: _____, Project Manager

CONTRACT NUMBER: 36813

CONTRACT TITLE: Continuing Geotechnical Engineering and Construction Services

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

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

Engineer’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: _____

(Engineer 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: _____
Gerald Cahalane, District Associate Procurement Specialist

c: Contract file
Financial Services

**ATTACHMENT D — SAMPLE WORK ORDER
WORK ORDER AUTHORIZATION**

Contract number: _____ **Contract name:** _____

Work Order No.: _____ **Project name:** _____

Work Order encumbrance number: _____

Work Order funding limit: \$ _____

To:

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 A. Invoices shall reference the Contract number, Work Order number, and Work Order Encumbrance number; include the information required; and be submitted _____ to the Director, Office of Financial Services.

Special note: _____

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

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

 District Date

Acceptance of terms and conditions:

 Engineer Date