

RESOLUTION NO 2024 - 089

CITY OF LAKE CITY, FLORIDA

A RESOLUTION OF THE CITY OF LAKE CITY, FLORIDA APPROVING THAT CERTAIN CONTINUING CONTRACT AGREEMENT BETWEEN THE CITY AND TERRACON CONSULTANTS, INC., A DELAWARE CORPORATION, FOR ENGINEERING ASSESSMENTS, PROJECT DEVELOPMENT, DESIGN, PERMITTING, CONSTRUCTION MONITORING, AND OTHER RELATED SERVICES; MAKING CERTAIN FINDINGS OF FACT IN SUPPORT OF THE CITY APPROVING SAID AGREEMENT; RECOGNIZING THE AUTHORITY OF THE MAYOR TO EXECUTE AND BIND THE CITY TO SAID AGREEMENT; DIRECTING THE MAYOR TO EXECUTE AND BIND THE CITY TO SAID AGREEMENT; REPEALING ALL PRIOR RESOLUTIONS IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 287.055, Florida Statutes, also known as the Consultants Competitive Negotiation Act (the "CCNA"), sets forth a qualifications-based procurement process to be followed by governmental entities for the acquisition of architectural, engineering, landscaping, and surveying/mapping services via continuing contract; and

WHEREAS, the Procurement Policies & Procedures Manual (the "City Purchasing Policies") of the City of Lake City ("City") provides certain items may be purchased based upon competitively solicited contracts awarded by other governmental entities; and

WHEREAS, the City has an ongoing need for certain engineering services that include engineering assessments, project development, design, permitting, construction monitoring, and other related services (the "Scope of Work"); and

WHEREAS the City desires to add additional engineering firms to those already having contracts with the City to give the City the greatest range of options in obtaining engineering services; and

WHEREAS; the Suwannee River Water Management District is finalizing the negotiation of continuing contracts (as defined by the CCNA) with engineering firms to provide services within the Scope of Work pursuant to its RFQ 22/23-030 solicitation (the "SRWMD RFQ"); and

WHEREAS, the City Manager has determined for purposes of economy in procurement, to conserve resources, and pursuant to the City Purchasing Policies, the City will rely on the competitively solicited contracts awarded by the Suwannee River Water Management District arising from the SRWMD RFQ; and

WHEREAS, the City has contacted all vendors awarded invited to negotiate a contract with the Suwannee River Water Management District for the purpose of extending to each of them an invitation to enter into a continuing contract with the City on the same terms and conditions as such vendors contracted with the Suwannee River Water Management District; and

WHEREAS, one such vendor is Terracon Consultants, Inc., a Delaware corporation (the "Vendor"); and

WHEREAS, the Vendor desires to enter into with the City a continuing contract to provide to the City such services as are set forth in the Scope of Work on such terms and conditions as the Vendor has contracted with the Suwannee River Water Management District; and

WHEREAS, the City similarly desires to enter into such a continuing contract with the Vendor in the form of the Exhibit attached hereto (the "Agreement"); and

WHEREAS, engaging the Vendor's services is in the public interest and in the interests of the City; now therefore

BE IT RESOLVED by the City Council of the City of Lake City, Florida:

1. Engaging the Vendor via a continuing contract to provide the products and services in the Agreement is in the public or community interest and for public welfare; and
2. In furtherance thereof, the Agreement in the form of the Exhibit attached hereto should be and is approved by the City Council of the City of Lake City; and
3. The Mayor of the City of Lake City is the officer of the City duly designated by the City's Code of Ordinances to enforce such rules and regulations as are adopted by the City Council of the City of Lake City; and

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4. The Mayor of the City of Lake City is authorized to execute on behalf of and bind the City to the terms of the Agreement; and
 5. The Mayor of the City of Lake City is directed to execute on behalf of and bind the City to the terms of the Agreement; and
 6. All prior resolutions of the City Council of the City of Lake City in conflict with this resolution are hereby repealed to the extent of such conflict; and
 7. This resolution shall become effective and enforceable upon final passage by the City Council of the City of Lake City.

APPROVED AND ADOPTED, by an affirmative vote of a majority of a quorum present of the City Council of the City of Lake City, Florida, at a regular meeting, this ____ day of August, 2024.

BY THE MAYOR OF THE CITY OF LAKE CITY,
FLORIDA

Stephen M. Witt, Mayor

ATTEST, BY THE CLERK OF THE CITY COUNCIL
OF THE CITY OF LAKE CITY, FLORIDA:

Audrey E. Sikes, City Clerk

APPROVED AS TO FORM AND LEGALITY:

Clay Martin, City Attorney

CONTRACT BETWEEN THE
CITY OF LAKE CITY AND
TERRACON CONSULTANTS, INC. FOR
PROFESSIONAL SERVICES

THIS CONTRACT (a piggyback contract of the Suwannee River Water Management District 23/24-161 Contract) is made and entered into by and between the CITY OF LAKE CITY (as defined below) and the CONTRACTOR (as defined below) who in consideration of the mutual terms, covenants and conditions set forth herein, agree as follows:

1. DEFINITIONS. As used herein, the following terms shall have the following meanings unless the context clearly requires otherwise.
 - 1.1 *CONTRACT* shall mean this contract between the CITY and the CONTRACTOR.
 - 1.2 *CONTRACTOR* shall mean Terracon Consultants, Inc., a Foreign Profit Corporation licensed to do business in the State of Florida F04000000114, whose address is 8001 Baymeadows Way, Suite 1, Jacksonville, Florida 32256, and whose Federal Tax ID No. is 42-1249917.
 - 1.3 *DELIVERABLE ACCEPTANCE AND PERFORMANCE EVALUATION CRITERIA* shall mean the criteria to be used by the CITY in performing work product and performance evaluations of the CONTRACTOR as shown on Attachment "A", attached hereto.
 - 1.4 *CITY* shall mean the City of Lake City, whose address is 205 N Marion Avenue, Lake City, Florida 32055.
 - 1.5 *CITY REPRESENTATIVE* shall mean Don Rosenthal, whose contact information is 630.742.6817, RosenthalD@lcfra.com or such other person as may be designated by the CITY, from time to time, upon written notice to CONTRACTOR.
 - 1.6 *FEE SCHEDULE* shall mean the CONTRACTOR's hourly rates and unit pricing for providing the SERVICES as shown on Attachment "B", attached hereto.
 - 1.7 *KEY PERSONNEL* shall mean those certain persons listed by name in the FEE SCHEDULE as shown on Attachment "B", attached hereto.
 - 1.8 *PROJECT MANAGER* shall mean Kyle Hayes, whose contact information is 904.900.6494, kyle.hayes@terracon.com, or such other person as may be approved, in advance and in writing, by the CITY.
 - 1.9 *SERVICES* shall mean those professional services which shall be provided by the CONTRACTOR pursuant to this CONTRACT as shown on Attachment "C", attached hereto.
 - 1.10 *SPECIAL CONDITIONS FOR FEDERAL EMERGENCY MANAGEMENT*

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AGENCY CONTRACTS shall mean those certain requirements applicable to projects for which Federal Emergency Management Agency (FEMA) funds or other federal funds are appropriated and used as shown on Attachment "D", attached hereto.

1.11 TWA shall mean Task Work Assignment as provided in this CONTRACT.

2. REPRESENTATION OF QUALIFICATION. CONTRACTOR represents that: (1) the CONTRACTOR is presently, and throughout the term of the CONTRACT shall continue to be, qualified and capable of providing the SERVICES and fulfill the requirements as set forth in the CONTRACT; (2) CONTRACTOR presently has, and throughout the term of the CONTRACT shall maintain, all professional licenses and other licenses and permits necessary to provide the SERVICES and fulfill the requirements as set forth in the CONTRACT; (3) if the CONTRACTOR is a business entity, the CONTRACTOR is the business entity set out in the definition of the term CONTRACTOR; (4) if the CONTRACTOR is a foreign business entity, the CONTRACTOR is duly registered and authorized to do business in the State of Florida; and, (5) the name, address, contact information, Federal Tax ID number and all other identifying information for the CONTRACTOR set out in the definition of the term CONTRACTOR is correct. It shall be the continuing duty of the CONTRACTOR to immediately notify the CITY should any of the above represented information change in any way during the term of the CONTRACT.
3. ENGAGEMENT. Based on the representations in paragraph 1 above, CITY hereby engages CONTRACTOR to provide the SERVICES under the terms of this CONTRACT. Provided that the CONTRACTOR shall not provide any of the SERVICES unless and until a TWA for such SERVICES is issued as provided in this CONTRACT.
4. CONTRACT TO BE A "CONTINUING CONTRACT" UNDER THE CONSULTANTS COMPETITIVE NEGOTIATION ACT. This CONTRACT is intended to be a "continuing contract" as such term is defined in Section 287.055, Florida Statutes, the Consultants Competitive Negotiation Act ("CCNA"). Therefore, the CONTRACTOR shall not provide any of the SERVICES for projects or study activities that exceed the statutory thresholds set out in such definition, as such statutory thresholds may be amended from time to time. Presently, the statutory thresholds allow for the provision of services under a continuing contract, (1) for projects in which the estimated construction cost of the individual project does not exceed \$7.5 million; and, (2) for study activity if the fee for professional services for the individual study does not exceed \$500,000. For projects and study activities which exceed the statutory thresholds, the CITY will issue a separate Request for Proposal or similar solicitation pursuant to the provisions of the CCNA. Notwithstanding anything else herein to the contrary, the CITY reserves the right to, in the CITY's sole discretion, issue a separate solicitation for any professional services it requires. Nothing herein shall be construed to guarantee the CONTRACTOR that it will receive any particular project or study activity or any particular dollar value of business from the CITY during the term of this CONTRACT. Beginning July 1, 2025, and each July 1 thereafter, the Department of Management Services shall adjust the maximum amount allowed on the preceding June 30 for each individual project in a continuing contract by using the change in the June-to-June Consumer Price Index for All Urban Consumers issued by

the Bureau of Labor Statistics of the United States Department of Labor. The Department of Management Services shall publish the adjusted amount on its website.

5. INDEPENDENT CONTRACTOR. Neither the CITY nor any of its employees shall have any control over the conduct of the CONTRACTOR or any of CONTRACTOR'S employees, subcontractors or agents, except as set forth in this CONTRACT, and CONTRACTOR expressly warrants not to represent at any time or in any manner that CONTRACTOR or CONTRACTOR'S employees, subcontractors or agents, are in any manner agents or employees of the CITY. It is understood and agreed that CONTRACTOR is and shall at all times remain as to the CITY, a wholly independent contractor and that CONTRACTOR'S obligations to the CITY are solely as prescribed by this CONTRACT.
6. PROJECT MANAGER TO BE AGENT OF CONTRACTOR. CONTRACTOR agrees that the PROJECT MANAGER is to have direct, primary, and continuing responsibility for the SERVICES provided under this CONTRACT. While other individuals and specialists will be involved, the PROJECT MANAGER shall be available to CITY on a timely basis throughout the duration of this CONTRACT. The PROJECT MANAGER shall have complete authority to transmit instructions, receive information, and interpret and define CONTRACTOR's obligations with respect to the SERVICES provided under this CONTRACT and otherwise bind CONTRACTOR under this CONTRACT.
7. CITY REPRESENTATIVE TO BE REPRESENTATIVE OF THE CITY. CITY agrees that the CITY REPRESENTATIVE is to have direct, primary, and continuing responsibility for the WORK under this CONTRACT.
8. NOTICES. All notices required to be given under this CONTRACT shall be in writing and addressed, in the case of CITY, to the CITY REPRESENTATIVE and in the case of CONTRACTOR, to the PROJECT MANAGER. All such notices shall be effective on the date received by the addressee or the addressee's office.
9. TASK WORK ASSIGNMENTS AND SCOPES OF WORK. Should the CITY wish the CONTRACTOR to perform any of the SERVICES, the CITY shall provide the CONTRACTOR with a proposed Scope of Work and general project schedule describing the professional services the CITY requires the CONTRACTOR to perform. Upon receipt of said Scope of Work, the CONTRACTOR shall provide the CITY with a proposal that includes a detailed Scope of Work to be performed, including deliverables, a detailed level of effort, and a project and staffing schedule that conforms to the CITY's specific project and schedule requirements. A firm fixed price will be negotiated based on the FEE SCHEDULE. Depending on the nature of the project, some TWAs may be billable on an hourly basis with a not to exceed amount subject to completion of designated milestones and documentation of hours expended. Final payment in all cases will be subject to successful completion of TWAs and the CITY'S acceptance of deliverables and project milestones, in accordance with the terms of this CONTRACT and the TWAs.
 - 9.1 Upon written approval of the Scope of Work, cost, deliverables, and performance schedule, a TWA will be issued to the CONTRACTOR. A TWA

must be approved in writing by the CITY REPRESENTATIVE, OFFICE CHIEF and/or EXECUTIVE DIRECTOR, based on CITY contract approval procedures. The CONTRACTOR shall commence work on a TWA upon receipt of a Notice to Proceed and shall satisfactorily complete all work in accordance with the performance schedule. Any TWA modification must be approved in writing by the CITY REPRESENTATIVE and his or her Division Director and the CONTRACTOR prior to performance by the CONTRACTOR.

- 9.1.1 The parties agree that time is of the essence in the performance of each TWA.
- 9.2 The CITY and CONTRACTOR hereby recognize the specialized expertise of the KEY PERSONNEL and that this CONTRACT has been entered into with the CITY expecting that the KEY PERSONNEL will be performing the SERVICES. CONTRACTOR shall not replace any of the persons listed as KEY PERSONNEL with other employees, agents or subcontractors without the prior written approval of the CITY REPRESENTATIVE.
- 9.3 In addition to the work set forth in individual TWAs, CONTRACTOR shall perform the following:
 - 9.3.1 CONTRACTOR shall secure at its own expense, all personnel, facilities and equipment required to perform the work necessary to complete each TWA. At the CITY'S discretion, on a case-by-case basis, work associated with TWAs may be performed at CITY offices. In these cases, CONTRACTOR will be provided with space and equipment (computer, software, etc.) at a CITY office and the price negotiated for the TWA will be based on the Fee Schedule for on-site work set forth in the FEE SCHEDULE.
 - 9.3.2 CONTRACTOR shall maintain an adequate and competent staff licensed and operating within the State of Florida.
 - 9.3.3 CONTRACTOR shall secure all licenses and permits required by law for the completion of assigned TWAs and shall be in compliance with all federal, state and local law, statutes, rules, regulations, ordinances, orders and decisions in effect at the time of the execution of this CONTRACT and during the time of performance of each TWA.
 - 9.3.4 CONTRACTOR shall at all times, keep the CITY advised as to the status of each TWA including but not limited to the progress on individual tasks within the Scope of Work. The CITY and its authorized representatives shall have the right to visit any work site and the office of CONTRACTOR at any reasonable time for purposes of inspection. The documents and drawings obtained or generated under this CONTRACT shall be maintained by CONTRACTOR and made available to the CITY upon request by the CITY at all times during the term of this CONTRACT and for five (5) years thereafter. In addition to the documents and reports set forth in the TWAs, CONTRACTOR shall deliver to the CITY, at cost, copies of such documents or reports the CITY may request from time to time.

9.3.5 CONTRACTOR shall cooperate with other engineers, consultants, construction contractors and suppliers retained by the CITY as needed.

9.3.6 If applicable, any list of items required to render complete, satisfactory and acceptable the work provided to the CITY for a TWA must be completed pursuant to Section 218.735, Florida Statutes.

10. COMPENSATION. The CITY agrees to pay the CONTRACTOR for work performed under a TWA in accordance with the Local Government Prompt Payment Act, Part VII of Chapter 218, Florida Statutes, upon receipt of a proper invoice, as defined herein and the applicable TWA. Invoices shall be submitted by the CONTRACTOR to the CITY at:

City of Lake City
205 N Marion Avenue
Lake City, Florida 32055

or via email to accountspayable@lcfla.com

10.1 All invoices must include the following information: (1) CONTRACTOR'S name, address and phone number (include remit address, if different than principal address in the introductory paragraph of this CONTRACT); (2) CONTRACTOR'S invoice number and date of invoice; (3) CITY TWA number; (4) Dates of service; (5) PROJECT MANAGER; (6) CITY REPRESENTATIVE; (7) Progress Report with the PROJECT MANAGER's assessment of the PROJECT'S actual progress as compared to the performance schedule in the TWA (details must include any deficiencies and the recovery actions completed and planned); and (8) Supporting documentation necessary to satisfy auditing purposes, for cost and project completion (based upon the cost and performance schedule in the TWA). The final invoice will include information relating to the amount of expenditures made to disadvantaged business enterprises (based on the requirements contained herein). Invoices that do not conform with this provision and any contained in a TWA that further defines a proper invoice, will not be considered a proper invoice.

10.2 Further, to be a proper invoice, a CONTRACTOR invoice must include the following certification, and the CONTRACTOR hereby delegates authority by virtue of this CONTRACT to the PROJECT MANAGER to affirm said certification:

"I hereby certify that the costs requested for payment, as represented in this invoice, are directly related to the performance under TWA number__in accordance with the CONTRACT for Professional Services between the City of Lake City and «firm» are allowable, allocable, properly documented, and are in accordance with the approved project budget."

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- 10.3 If an invoice does not meet the requirements of this CONTRACT, the CITY shall, within ten (10) days after the improper invoice is received, notify the CONTRACTOR in writing that the payment invoice is improper and indicate what corrective action on the part of the CONTRACTOR is needed to make the invoice proper. Prior to providing this notice, the CITY REPRESENTATIVE must consult with and obtain concurrence from his or her Division Director. If a corrected invoice is provided to the CITY that meets the requirements of this CONTRACT, the corrected invoice will be paid within forty-five (45) days after the date the corrected invoice is received by the CITY.
- 10.4 In the event any dispute or disagreement arises during the course of any project authorized by a TWA, the CONTRACTOR shall fully perform the project work in accordance with the CITY's written instructions and may claim additional compensation. The CONTRACTOR is under a duty to seek clarification and resolution of any issue, discrepancy, or dispute by submitting a formal request for additional compensation, schedule adjustment or other proposed dispute resolution to the CITY REPRESENTATIVE no later than ten (10) days after the precipitating event. No project work shall be delayed or postponed pending resolution of any disputes or disagreements. This paragraph shall survive the termination or expiration of this CONTRACT.
- 10.5 Unless otherwise provided in a TWA, the CITY shall withhold ten percent (10%) of each invoice as final payment for the work performed for each TWA. Final payment will be made upon satisfactory completion and acceptance of the CONTRACTOR'S performance by the CITY.
- 10.6 By October 5 of each year of the CONTRACT, the CONTRACTOR must provide the following documentation to the CITY for all work performed through September 30: i) invoices for completed, accepted and billable tasks, and ii) an estimate of the dollar value of work performed, but not yet billable.
- 10.7 The CITY'S performance and payment pursuant to this CONTRACT are contingent upon the CITY'S Governing Board appropriating funds in its approved budget for the PROJECT in each Fiscal Year of this CONTRACT.
- 10.8 The CITY may, in addition to other remedies available at law or equity, retain such monies from amounts due CONTRACTOR as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against the CITY. The CITY may set off any liability or other obligation of the CONTRACTOR or its affiliates to the CITY against any payments due the CONTRACTOR under any agreement with the CITY. This paragraph shall survive the expiration or termination of this CONTRACT.

11. SUSPENSION OF PROJECT – EXTRA WORK.

- 11.1 The CITY shall have the absolute right to terminate or suspend any TWA at any time and for any reason upon reasonable notice, and such action on its part shall not be deemed a default or breach of this CONTRACT. All

suspensions and terminations of a TWA by the CITY, shall be in writing. The parties may modify a TWA upon mutual written agreement.

- 11.2 If CONTRACTOR is of the opinion that any work the CITY directs it to perform substantially increases the work of CONTRACTOR beyond the original Scope of Work for a TWA ("Extra Work"), the CONTRACTOR shall within ten (10) days of such direction, notify the CITY in writing of this opinion. The CITY shall within twenty (20) days after receipt of such notification, fairly judge as to whether or not such work in fact increases the work of CONTRACTOR beyond the Scope of Work in the TWA and constitutes Extra Work. If the CITY determines such service does constitute Extra Work, it shall provide extra compensation to CONTRACTOR negotiated by the CITY and the CONTRACTOR as otherwise provided herein.
- 11.3 In the event a TWA is entirely or partly suspended, delayed, or otherwise hindered by any cause whatsoever, the CONTRACTOR shall make no claim for additional compensation or damages owing to such suspensions, delays or hindrances. Such suspensions, delays or hindrances may only be compensated for by an extension of time, as the CITY may decide, however such extension shall not operate as a waiver of any other rights of the CITY. Upon resumption of the TWA, CONTRACTOR shall resume its service until the Scope of Work is completed in accordance with the TWA, and the time for completion of the work, which was suspended, shall be extended for the duration of the suspension.
- 11.4 If, in the opinion of the CITY, the progress of an assigned TWA during any period is substantially less than the amount which is necessary to meet the project schedule, the CITY may require CONTRACTOR to take whatever action is necessary, in the opinion of the CITY, to put the TWA back on schedule. Such action shall not constitute Extra Work unless the delays were caused by circumstances beyond the control of CONTRACTOR or its agents, employees or subcontractors.
- 11.5 In the event of claims by others against the CITY in connection with the work being conducted under a TWA, the CONTRACTOR shall provide to the CITY such technical assistance that the CITY may request. Such assistance shall constitute Extra Work, unless such claims are caused by the failure of CONTRACTOR, its agents, employees, or subcontractors to comply with the terms and conditions of this CONTRACT, a TWA, or otherwise perform their duties under a TWA.
- 11.6 If the CITY requires the CONTRACTOR to assist with an audit of TWA costs, such assistance shall not be considered Extra Work.
12. CONTRACT PERIOD. This CONTRACT is effective August 1, 2024, and will remain in effect for three (3) years, unless terminated pursuant to the provisions of this CONTRACT, or as amended in writing by the parties. Any TWA issued prior to the effective date (August 1, 2024) shall be under the terms of the existing CONTRACT between the CONTRACTOR and the CITY but shall not exceed the CONTRACT expiration date. Any TWA issued after the effective date (August 1, 2024) shall be

under the terms of this CONTRACT. The CITY shall have the option to extend this CONTRACT for two additional one (1) year periods upon mutual written agreement by both parties and all TWAs must be completed within the five (5) year contract term, unless the TWA is unavoidably delayed. a TWA may not be issued for work that exceeds the contract expiration date.

13. PROJECT RECORDS AND DOCUMENTS. The CONTRACTOR, upon request, shall permit the CITY to examine or audit all records and documents related to this CONTRACT during or following completion of a TWA at no cost to the CITY. Payments made to the CONTRACTOR under this CONTRACT shall be reduced for amounts found to be not allowable under this CONTRACT by an audit. If an audit is undertaken by the CITY, all required records shall be maintained until the audit has been completed and all questions arising from it are resolved. The CONTRACTOR shall maintain all such records and documents for at least three (3) years following completion of a TWA. If a TWA identifies federal or state funding, or environmental data is collected as provided herein, the TWA records and documents must be maintained for at least five (5) years following completion of the work. Each party shall allow public access to all records and documents related to this CONTRACT made or received by either party in accordance with the Public Records Act, Chapter 119, Florida Statutes.

13.1 Pursuant to Section 119.071(3)(b), Florida Statutes, building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, or other structure owned or operated by the CITY are exempt from the inspection, examination and duplication of public records provisions of Section 119.07(1), Florida Statutes, and Article I, Section 24(a), Florida Constitution. Information made exempt by Section 119.071(3)(b), Florida Statutes, may only be disclosed to other governmental entities if disclosure is necessary for the receiving entity to perform its duties and responsibilities; to licensed architects, engineers, or contractors who are performing work on or related to the building or other structure; or upon a showing of good cause before a court of competent jurisdiction. Entities or persons receiving such information are required to maintain the exempt status of the information. The CONTRACTOR agrees to include the above provision in all agreements with subcontractors that are related to the CONTRACTOR'S performance under this CONTRACT, and to which the provisions of Chapter 119, Florida Statutes, also apply.

13.2 This paragraph shall survive the expiration or termination of this CONTRACT.

13.3 **If the Contractor has questions regarding the application of Chapter 119, Florida Statutes, to the Contractor's duty to provide public records relating to this contract, contact Audrey E. Sikes, City Clerk, City of Lake City custodian of public records at 386-719-5756, SikesA@LCFla.com, 205 North Marion Avenue, Lake City, Florida 32055.**

14. OWNERSHIP OF REPORTS, DOCUMENTS AND OTHER MATERIALS. The CONTRACTOR will provide the CITY with any and all reports, data, models,

studies, maps or other documents resulting from the PROJECT at no cost to the CITY. Additionally, two (2) sets (three (3) if a cooperator copy is required), electronic and hardcopy, of any final reports must be submitted to the CITY as Record and Library copies.

- 14.1 All original documents prepared by CONTRACTOR are instruments of service and shall become property of the CITY. Data gathered under this CONTRACT, excluding the data in the public domain, shall not be used in connection with other contracts or for other clients of CONTRACTOR without the written permission of the CITY. CONTRACTOR will provide the CITY with reproducible copies of all reports and other documents. Documents may also be required in editable format (Word, Excel, etc.). Copies of electronic media used to store data shall be provided to the CITY in a format suitable for hard copy print out. Reports, documents and maps obtained from other agencies in the course of executing the PROJECT will be considered the property of the CITY and will be delivered by CONTRACTOR to the CITY upon the CITY'S request and/or completion of each TWA.
- 14.2 Copies of all technical data and working papers regarding any TWA shall be made available to the CITY as provided herein.
- 14.3 All tracings, plans, specifications, maps, evaluations, reports and technical data including working papers prepared or obtained under this CONTRACT, shall become property of the CITY without restriction or limitation of use, and shall be made available upon request to the CITY at any reasonable time. CONTRACTOR may retain copies thereof for their files and internal use. Any use by the CITY of such materials obtained under this CONTRACT for any purpose not within the Scope of Work of CONTRACTOR pursuant to this CONTRACT or use of incomplete materials obtained from CONTRACTOR by the CITY shall be made at the risk of the CITY and made without liability to CONTRACTOR. However, this does not constitute a disclaimer of the professional competency of the original work as used within a TWA.
- 14.4 All final plans, contract documents and/or such other documents that are required by Florida law to be endorsed and are prepared by CONTRACTOR in connection with a TWA shall bear the certification of a person in the full employment of CONTRACTOR or duly retained by CONTRACTOR, and duly licensed and with current registration in the State of Florida in the appropriate professional category.
- 14.5 CONTRACTOR shall make any patentable product or result of the Scope of Work and all information, design, specifications, data, and findings available to the CITY as provided herein. No material prepared in connection with the PROJECT will be subject to copyright by CONTRACTOR. The CITY shall have the right to publish, distribute, disclose and otherwise use any material prepared by CONTRACTOR pursuant to TWAs. Any use of materials or patents obtained by the CITY under this CONTRACT for any purpose not with the Scope of Work of CONTRACTOR pursuant to this CONTRACT shall be at the risk of the CITY.

- 14.6 For a period of five (5) years after completion of a TWA, CONTRACTOR agrees to provide the CITY with copies of any additional materials in its possession resulting from the performance of this CONTRACT as provided herein, at cost. However, this provision shall not be considered a waiver of any claim of attorney/client privilege to which CONTRACTOR is entitled. CONTRACTOR shall not publish, copyright, or patent any of the data furnished or developed pursuant to any TWA without first obtaining the CITY'S written consent.
- 14.7 If a TWA includes the collection of environmental data, the CONTRACTOR must submit all environmental data collected under the TWA to the CITY for upload to the Florida Department of Environmental Protection's (FDEP) water quality database in accordance with Rule 62-40.540, Florida Administrative Code (F.A.C.).
- 14.7.1 The CONTRACTOR must submit all water quality, biological, and sediment data collected under this CONTRACT to the CITY within six (6) months of collection. Data must be submitted in a standardized electronic format (available from the CITY) in accordance with Rule 62-40.540, F.A.C. and must include the required data elements set forth in Rules 62-160.240 and 62-160.340 F.A.C.
- 14.7.2 Monitoring or collection of environmental data includes all field and laboratory data collected at groundwater or surface water stations. Groundwater includes, but is not limited to, the monitoring or collection of water quality, biological or water level data from private wells, public supply wells, monitoring wells, springs, agricultural wells, or permit compliance wells. Surface water includes, but is not limited to, the monitoring or collection of water quality, biological, sediment, water level, velocity, or discharge data from lakes, streams, rivers, estuarine or offshore marine sites, canals, retention ponds or storm water ponds.
- 14.7.3 Laboratories generating environmental data for submission to the CITY must hold certification from the Department of Health - Environmental Laboratory Certification Program as required under Rule 62-160.300 F.A.C. All field sampling organizations collecting environmental data must follow the applicable field collection, quality control, and record-keeping requirements described in DEP-SOP-001/01 (March 31, 2008), Rule 62-160.800 F.A.C., unless specifically exempted by the CITY.
- 14.7.4 The CONTRACTOR must obtain a Site Identifier (SID) from the CITY REPRESENTATIVE for all sites before collecting data from the sites, so that samples and readings can be correctly tagged and identified.
- 14.7.5 The CONTRACTOR shall permit the CITY, the FDEP, or any consultant operating on behalf of the CITY or FDEP, to conduct periodic audits of field and laboratory procedures or records to determine if approved protocols are being followed in accordance with

Rule 62- 160.650 F.A.C.

14.8 The provisions of this paragraph shall survive the expiration or termination of this contract.

15. STANDARD OF PERFORMANCE. CONTRACTOR shall perform and complete all assigned TWAs in a timely manner in accordance with the standard of care, skill and diligence customarily provided by an experienced professional organization rendering the same services, and in accordance with sound principles and practices. The CITY shall decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of this CONTRACT, the prosecution and fulfillment of the work called for hereunder, or the character, quality, amount, or value thereof. The decision of the CITY upon all such claims, questions, or disputes shall be reasonable and in adherence with sound principles and practices applicable to the professional services.

16. INDEMNIFICATION. CONTRACTOR agrees to, indemnify and hold harmless the CITY and all CITY officers and employees, from liabilities, damages, losses, and costs, either at law or in equity, including, but not limited to reasonable attorney fees and costs and attorney fees and costs on appeal, as a result of any negligent or reckless act or omission or any intentionally wrongful conduct by the CONTRACTOR and other persons employed or utilized by the CONTRACTOR in the performance of this CONTRACT. Provided that notwithstanding anything else herein to the contrary, to the extent the CONTRACT is a "Professional Services Contract" as defined in Section 725.08(3), Florida Statutes and the CONTRACTOR is a "Design Professional" as defined in Section 725.08(4), Florida Statutes, the indemnification provided herein shall be limited to that indemnification allowed under Section 725.08(1-2), Florida Statutes. This paragraph shall survive the expiration or termination of this CONTRACT.

17. INSURANCE REQUIREMENT. CONTRACTOR must maintain during the entire term of this CONTRACT, insurance in the following kinds and amounts or limits with a company or companies authorized to do business in the State of Florida and will not commence work under this CONTRACT until the CITY acknowledges receipt of an acceptable certificate of insurance showing evidence of such coverage. Certificates of insurance must reference the CONTRACT Number and CITY REPRESENTATIVE.

17.1 Liability insurance on forms no more restrictive than the latest edition of the Commercial General Liability policy (CG 00 01) of the Insurance Services Office without restrictive endorsements, or equivalent, with the following minimum limit and coverage:

Per occurrence	\$1,000,000
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17.2 Vehicle liability insurance, including owned, non-owned and hired autos with the following minimum limits and coverage:

Bodily Injury Liability per Person	\$100,000
Bodily Injury Liability per Occurrence	\$300,000

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Property Damage Liability	\$100,000
	or
Combined Single Limit	\$500,000

- 17.3 The CITY and its employees, agents, and officers must be named as additional insureds on the general liability policy to the extent of the CITY'S interests arising from this CONTRACT.
- 17.4 CONTRACTOR must carry workers' compensation insurance in accordance with Chapter 440, Florida Statutes, and maritime law, if applicable. If CONTRACTOR does not carry workers' compensation coverage, CONTRACTOR must submit to the CITY both an affidavit stating that the CONTRACTOR meets the requirements of an independent contractor as stated in Chapter 440, Florida Statutes and a certificate of exemption from workers' compensation coverage.
- 17.5 Professional liability (errors and omissions) insurance in a minimum amount of One Million Dollars (\$1,000,000).
- 17.6 CONTRACTOR must notify the CITY in writing of the cancellation or material change to any insurance coverage required by this CONTRACT. Such notification must be provided to the CITY within five (5) business days of the CONTRACTOR'S notice of such cancellation or change from its insurance carrier.
- 17.7 The CONTRACTOR must obtain certificates of insurance from any subcontractor otherwise the CONTRACTOR must provide evidence satisfactory to the CITY that coverage is afforded to the subcontractor by the CONTRACTOR'S insurance policies.
18. TERMINATION WITHOUT CAUSE. This CONTRACT may be terminated by the CITY without cause upon written notice to the CONTRACTOR. Termination will be effective on the date provided in the notice. In the event of termination under this paragraph, the CONTRACTOR shall be entitled to compensation for all services provided to the CITY up to the date of termination which are within the Scope of Work, documented in the Budget specified in the TWA, and are allowed under this CONTRACT. If the CONTRACT is so terminated, CONTRACTOR must promptly deliver to the CITY copies of all then completed deliverable items and all tracings, drawings, survey notes and other documents or data that directly support the deliverables prepared by the CONTRACTOR. This paragraph shall survive the termination or expiration of this CONTRACT.
19. DEFAULT. Either party may terminate this CONTRACT upon the other party's failure to comply with any term or condition of this CONTRACT, as long as the terminating party is not in default of any term or condition of this CONTRACT at the time of termination. To effect termination, the terminating party shall provide the defaulting party with a written "Notice of Termination" stating its intent to terminate and describing all terms and conditions with which the defaulting party has failed to comply. If the defaulting party has not remedied its default within thirty (30) days after receiving the Notice of Termination, this CONTRACT shall automatically terminate. In

addition, the initiation, either by CONTRACTOR or against CONTRACTOR, of proceedings in bankruptcy, or other proceedings for relief under any law for the relief of debtors, or CONTRACTOR becoming insolvent, admitting in writing its inability to pay its debts as they mature or making an assignment for the benefit of creditors shall constitute a default by CONTRACTOR entitling the CITY to terminate this CONTRACT as set forth above. The parties agree that this CONTRACT is an executory contract. If, after termination by the CITY, it is determined that the CONTRACTOR was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the CITY. The rights and remedies in this provision are in addition to any other rights and remedies provided by law or this CONTRACT.

20. RELEASE OF INFORMATION. CONTRACTOR agrees not to initiate any oral or written media interviews or issue press releases on or about any matter related to this CONTRACT or the CONTRACTOR's work with the CITY without the prior written consent of the CITY REPRESENTATIVE.
21. ASSIGNMENT. Except as otherwise provided in this CONTRACT, CONTRACTOR may not assign any of its rights or delegate any of its obligations under this CONTRACT without the prior written consent of the CITY.
22. EMPLOYMENT ELIGIBILITY VERIFICATION. CONTRACTOR must utilize the U.S. Department of Homeland Security's Employment Verification (E-Verify) Program to verify the employment eligibility of CONTRACTOR employees performing work directly associated with this CONTRACT in accordance with the terms and conditions applicable to the E-Verify Program. If the CONTRACTOR uses subcontractors to furnish services directly associated with this CONTRACT, performed in the United States, in an amount greater than \$3,000, the CONTRACTOR must include the requirements of this provision (appropriately modified for identification of the parties) in each subcontract. Information on registration for and use of the E-Verify Program can be obtained via the Internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.
23. GOVERNING LAW. This CONTRACT is governed by Florida law, without regard to its conflict of laws and/or rules.
24. VENUE AND JURISDICTION OF LITIGATION. The exclusive venue and jurisdiction for any litigation enforcing, construing or relating to this CONTRACT shall be the Circuit Court or the County Court in and for Columbia County, Florida. If under applicable law exclusive jurisdiction over any such matters is vested in the federal courts, then exclusive jurisdiction and venue shall be in the United States District Court for the Middle District of Florida, Jacksonville Division.
25. WAIVER OF JURY TRIAL. The parties mutually and forever waive any and all right to trial by jury in any legal proceeding arising out of or relating to this CONTRACT or this transaction. The parties agree to have any such actions decided by a judge alone, without a jury.
26. REMEDIES. Unless specifically waived by the CITY, the CONTRACTOR'S failure to timely comply with any obligation in this CONTRACT or TWA shall be deemed a

breach of this CONTRACT and the expenses and costs incurred by the CITY, including attorneys' fees and costs and attorneys' fees and costs on appeal, due to said breach shall be borne by the CONTRACTOR. Additionally, the CITY shall not be limited by the above but may avail itself of any and all remedies under Florida law for any breach of this CONTRACT. The CITY'S waiver of any of the CONTRACTOR'S obligations shall not be construed as the CITY'S waiver of any other obligations of the CONTRACTOR. This paragraph shall survive the termination or expiration of this CONTRACT.

27. ATTORNEY FEES. Should either party employ an attorney or attorneys to enforce any of the provisions of this CONTRACT, or to protect its interest in any matter arising under this CONTRACT, or to recover damages for the breach of this CONTRACT, the party prevailing is entitled to receive from the other party all reasonable costs, charges and expenses, including attorneys' fees, expert witness fees, fees and costs on appeal, and the cost of paraprofessionals working under the supervision of an attorney, expended or incurred in connection therewith, whether resolved by out-of-court settlement, arbitration, pre-trial settlement, trial or appellate proceedings, to the extent permitted under Section 768.28, Florida Statutes. This paragraph does not constitute a waiver of the CITY'S sovereign immunity or extend the CITY'S liability beyond the limits established in Section 768.28, Florida Statutes. This paragraph shall survive the expiration or termination of this CONTRACT.
28. SUBCONTRACTORS. CONTRACTOR shall be solely responsible for the employment, direction, supervision, compensation and control of any and all subcontractors, consultants or other persons employed by the CONTRACTOR. CONTRACTOR shall cause all subcontractors, consultants or other persons employed by CONTRACTOR to abide by the terms and conditions of this CONTRACT and all applicable law as their work or services affect the CITY. Nothing in this CONTRACT will be construed to create, or be implied to create, any relationship between the CITY and any subcontractor of the CONTRACTOR.
29. DISADVANTAGED BUSINESS ENTERPRISES. The CITY expects the CONTRACTOR to make good faith efforts to ensure that disadvantaged business enterprises, which are qualified under either federal or state law, have the maximum practicable opportunity to participate in contracting opportunities under this CONTRACT. Final invoice documentation submitted to the CITY under a TWA must include information relating to the amount of expenditures made to disadvantaged businesses by the CONTRACTOR in relation to the TWA, to the extent the CONTRACTOR maintains such information.
30. THIRD PARTY BENEFICIARIES. Nothing in this CONTRACT shall be construed to benefit any person or entity not a party to this CONTRACT.
31. CONFLICTING EMPLOYMENT. CONTRACTOR certifies that it does not at the time of execution of this CONTRACT have any retainer or employment agreement, oral or written, with any third party that directly conflicts with any interest or position of the CITY relating to the services provided by the CONTRACTOR under this CONTRACT. The CONTRACTOR further agrees that it shall not accept during the term of this CONTRACT any retainer or employment from a third party whose interests are in direct conflict with those of the CITY regarding the work being performed under this

CONTRACT. In the event the CONTRACTOR is faced with an employment opportunity that appears to be a direct conflict with the work the CONTRACTOR is performing under this CONTRACT, the CONTRACTOR shall provide the CITY with notice of the employment opportunity. If the CITY determines that the employment would be a direct conflict with the work the CONTRACTOR is performing under this CONTRACT, the CONTRACTOR and the CITY shall have the opportunity to decide whether or not the CONTRACTOR will decline the employment opportunity or will accept the employment opportunity and terminate this CONTRACT.

32. PUBLIC ENTITY CRIMES. Pursuant to Sections 287.133(2) and (3), Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two, for a period of 36 months following the date of being placed on the convicted vendor list. By signing this CONTRACT, CONTRACTOR warrants that it is not currently on a suspended vendor list and that it has not been placed on a convicted vendor list in the past 36 months. CONTRACTOR further agrees to notify the CITY if placement on either of these lists occurs.
33. DISCRIMINATION. When State of Florida funding is involved in a TWA, pursuant to Section 287.134(2)(a), Florida Statutes, an entity or affiliate who has been placed 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. By signing this CONTRACT, the CONTRACTOR warrants that it is not currently on the discriminatory vendor list and that it has not been placed on the discriminatory vendor list in the past 36 months. The CONTRACTOR further agrees to notify the CITY if placement on this list occurs.
34. SCRUTINIZED COMPANIES. Pursuant to Section 287.135, Florida Statutes, a company that, at the time of bidding or submitting a proposal for a new contract or renewal of an existing contract, is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes, is ineligible for, and may not bid on, submit a proposal for, or enter into or renew a contract with an agency or local governmental entity for goods or services of \$1 million or more. By signing this CONTRACT, CONTRACTOR certifies that it is not currently on either of the aforementioned lists and agrees to notify the CITY if placement on either list occurs. If CONTRACTOR submits a false certification, the CITY may terminate this CONTRACT and bring a civil action against the CONTRACTOR, which may result in

a penalty equal to the greater of \$2 million or twice the amount of the TWAs resulting from this CONTRACT and all reasonable attorney's fees and costs.

35. CONTINGENT FEES. The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this CONTRACT 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 the CONTRACTOR any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this CONTRACT. For breach or violation of this provision, the CITY shall have the right to terminate this CONTRACT without liability and, at its discretion, to deduct from the CONTRACT price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.
36. TRUTH-IN-NEGOTIATIONS. The CONTRACTOR certifies that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. The FEE SCHEDULE, TWA price and any additions thereto shall be adjusted to exclude any significant sums by which the CITY determines the FEE SCHEDULE or TWA price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. Any such adjustments will be made within one (1) year following the end of this CONTRACT.
37. PERFORMANCE EVALUATION. It is understood and agreed to by the CITY and the CONTRACTOR that the CITY shall perform work product evaluations during the course of a TWA and will provide a Performance Evaluation after the completion of each TWA, in accordance with the DELIVERABLE ACCEPTANCE AND PERFORMANCE EVALUATION CRITERIA.
38. COMPLIANCE WITH FEDERAL TERMS AND CONDITIONS. In the event Federal Emergency Management Agency (FEMA) funds or other federal funds are appropriated and used for any project or study under this CONTRACT, the CONTRACTOR shall comply with the SPECIAL CONDITIONS FOR FEDERAL EMERGENCY MANAGEMENT AGENCY CONTRACTS. The CONTRACTOR shall be notified of its obligation to comply with the SPECIAL CONDITIONS FOR FEDERAL EMERGENCY MANAGEMENT AGENCY CONTRACTS in TWAs issued by the CITY.
39. ENTIRE AGREEMENT. This CONTRACT and the attached exhibits listed below constitute the entire agreement between the parties and, unless otherwise provided herein, may be amended only in writing, signed by all parties to this CONTRACT.
40. SEVERABILITY. If any provision or provisions of this CONTRACT shall be held to be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
41. CONTRACT DOCUMENTS. The following documents are attached or incorporated herein by reference and made a part of this CONTRACT. In the event of a conflict of contract terminology, priority shall be given to the language in the body of this CONTRACT.

Attachment "A"	<i>DELIVERABLE ACCEPTANCE AND PERFORMANCE EVALUATION CRITERIA</i>
Attachment "B"	<i>FEE SCHEDULE</i>
Attachment "C"	<i>SERVICES</i>
Attachment "D"	<i>SPECIAL CONDITIONS FOR FEDERAL EMERGENCY MANAGEMENT AGENCY CONTRACTS</i>

IN WITNESS WHEREOF, the parties hereto have executed this CONTRACT, as of the day and year first specified.

EXECUTED this ____ day of August, 2024 by CONTRACTOR.

TERRACON CONSULTANTS, INC.

By: EXHIBIT-NOT FOR EXECUTION
Kyle E. Hayes
Senior Associate

EXECUTED this ____ day of August, 2024 by CITY.

CITY OF LAKE CITY, FLORIDA

By: EXHIBIT-NOT FOR EXECUTION
Stephen M. Witt
Mayor

**EXHIBIT TO
RESOLUTION**

**NOT FOR
EXECUTION**

ATTACHMENT "A"
DELIVERABLE ACCEPTANCE AND PERFORMANCE
EVALUATION

- A. DELIVERABLE ACCEPTANCE DETERMINATION. Project deliverables are outlined in the CITY'S TWA. The CITY REPRESENTATIVE shall evaluate the CONTRACTOR's deliverables and determine if the deliverables are acceptable. Deliverables shall only be accepted when they are in compliance with the TWA and approved by the CITY REPRESENTATIVE at the pre-submittal meeting. Deliverables that are not acceptable shall be returned to the CONTRACTOR to address deficiencies. If an acceptable deliverable cannot be provided within an identified time frame, other action shall be taken as deemed necessary by the CITY REPRESENTATIVE including TWA stoppage or termination of the CONTRACT.
- B. TASK WORK ASSIGNMENT PERFORMANCE EVALUATION. The CITY shall evaluate the CONTRACTOR's performance throughout each TWA in four performance categories: Performance Schedule, Communications, Staff Assignments and Technical Quality, and Project Management. Performance evaluation ratings of Exceptional, Very Good, Satisfactory, Marginal and Unsatisfactory shall be assigned to the CONTRACTOR for each performance category at the completion of each TWA. Each invoice submission must include a TWA progress report with the PROJECT MANAGER's assessment of the project's actual progress as compared to the approved performance schedule. Details must include any deficiencies and the recovery actions completed and planned.

The performance evaluations shall be furnished to the CONTRACTOR. A Marginal or Unsatisfactory rating in any of the areas may result in re-evaluation of eligibility for future assignments, cancellation of the TWA and termination of this CONTRACT.

The performance evaluation criteria are broadly defined as follows:

1. Performance Schedules - The CONTRACTOR is expected to adhere to the performance schedule negotiated in the TWA.
2. Communications - The PROJECT MANAGER is expected to respond in a timely manner to inquiries and requests made by the CITY REPRESENTATIVE and is expected to set aside time for review and discussion of deliverables. The parties should engage in free and open discussion of project issues to insure expeditious resolution of such issues.
3. Staff Assignments and Technical Quality - KEY PERSONNEL and other team members are expected to be utilized in such a manner as to result in efficient workflow, quality deliverables and on-time performance. Reassignments should be minimal and positively influence performance. Staffing adjustments to address turnovers or performance deficiencies are to be handled expeditiously, maintaining on-time performance. Replacement of KEY PERSONNEL is subject to the terms and conditions of this CONTRACT.
4. Project Management - A TWA that is completed on time, within budget, and with consistently acceptable deliverables is demonstration of a well-managed project.

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ATTACHMENT
"B" FEE
SCHEDULE

Employee Hourly Rate Schedule

Billable hourly rates are furnished for all CONTRACTOR and subcontractor staff as identified in response to RFQ 22/23-030. Subcontractor charges shall be included as part of the fixed price negotiated for completing a task listed in an authorized TWA.

The billable rates are firm for the first year of this Agreement, beginning from the date of execution, and may increase or decrease annually thereafter by no more than 5% as determined by the CITY in its sole discretion. The CONTRACTOR shall provide a written request for any increase and such request shall be subject to the CITY'S written approval in accordance with the CITY'S Signature Authority. Any changes to this Fee Schedule, including any increases to the billable rates, must be approved through a formal written amendment signed by both parties to this Agreement.

Expenditures by CONTRACTOR and subcontractors for travel, telecommunications, courier services, bulk mailings, photographs, materials for map and report generation, or any other project expenditures are to be included in the project budget of each TWA. The CITY shall not pay for CONTRACTOR surcharges added to third party charges. Travel expenses authorized under this Agreement shall be paid in accordance with the CITY'S travel procedures and Section 112.061, Florida Statutes, as both may be amended from time to time.

The following CONTRACTOR billable rates are subject to the Truth-in-Negotiation provisions of this CONTRACT.

<u>TERRACON CONSULTANTS INC.</u>	<u>PRIMARY FIRM</u>
<u>Professional Services Rates</u>	<u>BILLABLE RATEⁱⁱ</u>
Principal Scientist /Ecologist /Engineer/Geologist/ Contract Manager	\$240.00/Per Hour
Licensed Asbestos Consultant	\$220.00/ Per Hour
Certified Industrial Hygienist	\$220.00/ Per Hour
Senior Engineer/Geologist/Scientist	\$220.00/ Per Hour
Senior Project Manager Engineer/Geologist/Scientist	\$200.00/ Per Hour
Project Manager Engineer/Geologist/Scientist	\$180.00/ Per Hour
Senior Staff Engineer/Geologist/Scientist	\$160.00/ Per Hour
Senior GIS Specialist	\$160.00/ Per Hour
Archaeologist/Historical Preservationist	\$160.00/ Per Hour
Staff Engineer/Geologist/Scientist	\$145.00/ Per Hour
Asbestos/Industrial Hygiene Technician	\$95.00/ Per Hour
Field Engineer/Geologist/Scientist	\$95.00/ Per Hour
GIS/CAD Technician	\$90.00/ Per Hour
Senior Technician Engineer/Geologist/Scientist	\$90.00/ Per Hour
Archaeological/Historical Preservationist Field Technician	\$90.00/ Per Hour
Administrative Assistant ⁶	\$90.00/ Per Hour
Engineer/Geologist/Scientist Technician	\$90.00/ Per Hour
Subcontractor Fees and Direct Costs	15% Markup

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Vehicle Charge (local area, within 25 miles of office)	\$200.00/ Per Day
Vehicle Charge (local area, within 25 miles of office, less than 4 hours)	\$125.00/ Per Day
Vehicle Charge (outside the local area)	\$1.45/Per Mile
Per-diem, Lodging, and Food	\$260.00/ Per Day

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ATTACHMENT "C" SERVICES

Projects may be located in any of the City and areas outside of the City boundaries that may influence waters of the City, Projects are subject to the availability of funding as approved by the City's Governing Board for each fiscal year period.

To support City programs/projects, the City performs a multitude of projects involving: hydrologic analysis and computer modeling; environmental assessment; technical peer review; engineering design; construction monitoring; and other related services for water resources projects.

The anticipated work is broken down into the following Chapters.

- C. **Engineering assessments, project development, design, permitting, construction monitoring, and other related services.** Particular emphasis is needed for anticipated projects involving stormwater, wastewater, water supply, including alternative water supply, and natural systems restoration. They primarily pertain to work managed by the Office of Minimum Flows and Minimum Water Levels, the Office of Water Supply, the Office of Water Resources, the Resource Management Division, and the Office of Agriculture and Environmental Projects. Services shall include, but not be limited to:

Types of Chapter Tasks:

- Engineering assessments, environmental site assessments, project benefits calculations, project development, project effectiveness, cost benefit calculations, and engineering economic reviews for projects.
- Preliminary Design Reports – Preparing construction cost estimates; preparing work plans, construction sequencing and schedules; ten percent design and project feasibility
- Permitting – Applying for and obtaining project permits with all related permit work such as environmental assessments, drawings and calculations
- Design Services – Design drawings, project specifications, operational manuals contract documents along with closeout documentation
- Project Controls – Topographic, boundary, and hydrographic surveys to include field data acquisition, data processing, mapping, and establishing field control monuments
- Geotechnical – Conducting exploration and evaluation of general subsurface conditions, subsurface borings and classification of soils, laboratory testing of materials, engineering analysis of soil conditions, slope stability and seepage analyses
- Construction Services – Conducting bid review; providing project quality assurance and construction inspection and interpretation of contract documents; providing construction and as-built certifications and surveys.

Time Frames and Deliverables. Specific time frames as they apply to completion of tasks, milestones, and deliverables shall be included in the Task Work Assignment provided for each task.

Consultant shall be responsible for delivering various work products as assigned by each Task Work Assignment. Schedules and procedures for review and acceptance of reports shall be determined at the times when such reports are assigned and shall be provided in Task Work Assignment issued by the City's Project Manager.

Consultant shall have an established Quality Assurance procedure for internal review of deliverables prior to release of said deliverables to the City to ensure only high quality, complete, and correct products are provided to the City. Deliverables prepared by the Consultant shall be clear, concise, thorough, and grammatically correct. For technical products, Consultant shall present data in a well-organized format and findings should be based on a logical derivation from the facts and data.

In general, all deliverables shall be submitted in both electronic (as a portable document format (PDF) file) and paper versions, as specified in the Work Order. Reports and other deliverables shall be clear, concise, thorough, and grammatically correct; and shall be in a form agreed to by Consultant and City's Project Manager. Final reports and all associated materials shall become property of the City.

All documents must be submitted electronically and must be accessible according to 282.603 Florida Statutes and Section 508 of the Rehabilitation Act of 1973 relating to the creation and use of electronic documents. This requirement applies to editable formats, such as Microsoft Word, as well as portable document formats (PDF). The Consultant must provide an accessibility check report to prove the document was made accessible. The report can include the internal accessibility feature in Word, Adobe Acrobat or other software or completed by a third-party. Reports are required for each final file submitted.

ATTACHMENT "D"
SPECIAL CONDITIONS
FOR
FEDERAL EMERGENCY MANAGEMENT AGENCY CONTRACTS

1. Patent, Copyright and Intellectual Property. The work performed by the CONTRACTOR under the award shall be considered work for hire. All deliverables including, but not limited to, original data collected, manuals, documentation, Digital Elevation Models, Digital Flood Insurance Rate Maps, information technology, software or any patentable or copyrightable materials(s) developed, in whole or in part, by the CONTRACTOR in the performance of this CONTRACT is and shall become the property of the CITY and may not be the subject of an application for copyright or patent by or on behalf of the CONTRACTOR, its officers, employees, agents or assigns.
 - 1.1 The CONTRACTOR shall also be required to comply with any and all policies and regulations of the Federal Emergency Management Agency (FEMA), as updated from time to time, pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under the CONTRACT. (44 CFR § 13.36 (i)(8))
 - 1.2 Furthermore, the Federal awarding agency (FEMA) and the CITY as grantee, shall reserve a royalty-free, nonexclusive, perpetual, paid-up and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal or state or local government purposes, the copyright in any work developed by the CONTRACTOR and any rights of copyright in which the CONTRACTOR purchases ownership as part of completion of the work outlined in this CONTRACT. (44 CFR § 13.34) (CTP Agreement Art. IX)
 - 1.3 The CONTRACTOR, at his or her own expense, must defend any action brought against the CITY or FEMA to the extent that such action is based upon a claim that any deliverable supplied by the CONTRACTOR infringes upon a United States patent or copyright, violates a third party's trade secret or violates any other law relating to intellectual property. The CONTRACTOR must pay any costs and damages awarded against the CITY or FEMA in any such action.
2. Certification Regarding Debarment and Suspension. The CITY cannot make any award or permit any award or agreement at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension," which requires that executive departments and agencies participate in a government wide system for non-procurement debarment and suspension.
 - 2.1 The CONTRACTOR therefore must certify that he or she, or the firm or business he or she is associated with has not been:
 - 2.1.1 Debarred or suspended;
 - 2.1.2 Proposed for debarment under 48 CFR part 9, subpart 9.4; or
 - 2.1.3 Ineligible for or voluntarily excluded from the covered transaction.

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- 2.2 The CONTRACTOR shall be required to complete the form entitled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Federally Funded Transactions."
- 2.3 Furthermore, the CONTRACTOR must agree not to contract for goods or services or knowingly conduct business with any individual, firm, or business that is:
 - 2.3.1 Debarred or suspended;
 - 2.3.2 Proposed for debarment under 48 CFR part 9, subpart 9.4; or
 - 2.3.3 Ineligible for or voluntarily excluded from the covered transaction.
- 2.4 Violation of this restriction may result in disallowance of costs, annulment or termination of the CONTRACT, issuance of a stop work order, debarment or suspension, or other remedies as appropriate. (44 CFR §§17.100, 17.225, 17.115)
- 2.5 The CONTRACTOR must provide immediate written notice to the CITY if at any time the CONTRACTOR learns that its certification, or the certification of its contractors, was erroneous when submitted or has become erroneous by reason of changed circumstances. (44 CFR §17.510)
- 3. Non-solicitation and Conflicts of Interest. The CITY and the CITY'S officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. The CONTRACTOR shall comply with any CITY rules and policies relating to real, apparent, or potential conflicts of interest. (44 C.F.R. §13.36)
- 4. Contracting with Small and Minority Firms, Women's Business Enterprise and Labor Surplus Area Firms. The CONTRACTOR shall take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible. The affirmative steps shall include:
 - 4.1 Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - 4.2 Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - 4.3 Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises
 - 4.4 Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; and
 - 4.5 Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

(44
C.F.R. §13.36(e))

5. Equal Employment Opportunity. The CONTRACTOR must comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations. (41 CFR Chapter 60) (44 C.F.R. §13.36)
6. Access to Records. The CONTRACTOR must be prepared to permit access by the Federal Emergency Management Agency, the CITY, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records which are directly pertinent to the performance of work under the proposal for the purpose of audits, examinations, excerpts, and transcriptions. (44 C.F.R. §13.36)
 - 6.1 The CONTRACTOR must be prepared to retain all required records for three years after the CITY makes final payments and all other pending matters are closed. (44 C.F.R. §13.36)
7. Clean Air Act/Clean Water Act. The CONTRACTOR must comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 32). (44 C.F.R. §13.36)
8. Adherence to State Energy Conservation Plan. The CONTRACTOR shall recognize and adhere to the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act Pub.L. 94-163, 89 Stat. 871). (44 C.F.R. §13.36)
9. Nondiscrimination. The CONTRACTOR shall recognize and adhere to all Federal statutes relating to nondiscrimination. These include, but are not limited to:
 - 9.1 Title VI of the Civil Rights act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color or national origin;
 - 9.2 Title 44, Chapter I, Part 7, Nondiscrimination in Federally-Assisted Programs (FEMA Reg. 5), which effectuates the provisions of Title VI of the Civil Rights Act of 1964 to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Federal Emergency Management Agency. CONTRACTOR shall also be responsible for submitting such compliance reports to the CITY as may be necessary to carry out its obligations under this regulation;
 - 9.3 Title IV of the Education Amendments of 1972, as amended (20 U.S.C.

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Sections 1681–1683, and 1685-1686), which prohibits discrimination on the basis of sex);

- 9.4 Section 504 of the Rehabilitation Act of 1973, as amended (29. U.S.C. Section 794), which prohibits discrimination on the basis of handicaps;
- 9.5 The Age Discrimination Act of 1975, as amended (42. U.S.C. Sections 6101-6107) and Title 44, Chapter I, Part 7, which prohibits discrimination on the basis of age;
- 9.6 The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255); as amended, relating to nondiscrimination on the basis of drug abuse;
- 9.7 The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
- 9.8 Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290- dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse records;
- 9.9 Title VIII of the Civil Rights Acts of 1968 (42 U.S.C. Section 3601 et. seq.) as amended, relating to nondiscrimination in the sale, rental or financing of housing;
- 9.10 The requirements of any other nondiscrimination statute(s), which may apply, to the CONTRACT.

(grant assurance provision) (44 CFR § 7.1) (44 CFR § 7.10) (44 CFR § 7.7) (44 CFR § 7.931)

- 10. Adherence to Hatch Act. The CONTRACTOR shall recognize and adhere to the provisions of the Hatch Act (5 U.S.C. Sections 1501-1508 and 7324-7328), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
- 11. Environmental Standards. The CONTRACTOR shall recognize and adhere to the environmental standards, which may be prescribed pursuant to the following:
 - 11.1 Institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended (hereinafter NEPA) (P.L. 91-190, 42 U.S.C. 4321 et. seq.), Executive Order (EO) 11514 and Executive Order 11991, 42 FR 26967 (1977), and the procedural provisions for the implementation of NEPA found in the Council on Environmental Quality (CEQ) Regulations (National Environmental Policy Act Regulations, 43 FR 55978 (1978);
 - 11.2 Notification of violating facilities pursuant to EO 11738;
 - 11.3 Protection of wetlands pursuant to EO 11990;

- 11.4 Evaluation of flood hazards in floodplains in accordance with EO 11988;
 - 11.5 Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. Sections 1451 et. seq.);
 - 11.6 Conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176 (c) of the Clean Air Act of 1955, as amended (42 U.S.C. Section et. seq.);
 - 11.7 Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and
 - 11.8 Protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Flood Protection. CONTRACTOR shall comply, if applicable, with the flood insurance purchase requirements of Section 102a of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000.00 or more. (grant assurance provision)
13. Compliance with the Wild and Scenic Rivers Act. CONTRACTOR shall recognize and adhere, if applicable, with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 470) relating to protection of components or potential components of the national wild and scenic rivers system, EO 11593 (identification and protection of historic properties), and the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469a et. seq.). (grant assurance provision)
14. Lobbying Restrictions. The CONTRACTOR must certify, to the best of his or her knowledge and belief, that:
- 14.1 No federal appropriated funds have been paid or shall be paid on his or her behalf, or on behalf of the business he or she is associated, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - 14.2 If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federally funded contract, grant, loan, or cooperative agreement, the CONTRACTOR shall be required to make disclosure by completing Standard Form SF-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

- 14.3 Submission of this certification is a prerequisite for the award of the CONTRACT, as imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification may be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure. Pursuant to Section 216.347, Florida Statutes, and applicable federal law, the CONTRACTOR further must agree that no funds allotted under the award from the CITY shall be expended for the purpose of lobbying the Florida Legislature, state agency employees, Members of Congress, officers or employees of Congress, or an employee of a Member of Congress.
15. Drug-Free Workplace Certification Requirements. The CONTRACTOR must comply with the applicable provisions of the Drug-Free Workplace Federal requirements as set forth in 44 C.F.R., Subpart A, Part 17. The unlawful manufacture, distribution, dispensing, possession or use of a controlled is prohibited. CONTRACTORS who are directly engaged in the performance of work under the CONTRACT as part of a FEMA grant must abide by the terms of the CONTRACTOR'S Drug-Free Workplace policies, and notify the CITY in writing of a conviction for a violation of a criminal drug statute no later than five calendar days after such conviction. (44 CFR Part 17, Appendix C) (grant assurance provision).
16. Audit Requirements. The CONTRACTOR shall comply with any CITY policies related to compliance with provisions of OMB Circular No. A-133, as revised (issued pursuant to the Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act Amendments of 1996, P.L. 104-156), which sets forth the standards for obtaining consistency and uniformity among Federal agencies for the audit of States, local governments, and non-profit organizations expending Federal awards. CONTRACTOR'S records may be reviewed for compliance with the Single Audit Act, and CONTRACTOR'S records may also be included within the scope of an audit in order to determine compliance with applicable laws, regulations, and grant provisions. (CTP Agreement Art. X) (OMB Circular A-133, as revised, §_____.210)
17. General Provisions. CONTRACTOR shall comply with any applicable provisions and requirements of any and all other state and Federal laws, executive orders, regulations and policies, as amended from time to time, governing the FEMA Cooperating Technical Partners program, including, but not limited, to applicable provisions that may be found within the following:
- 17.1 Title 44, Chapter 1, Subchapter B - Federal Emergency Management and Assistance, Federal Emergency Management Agency - Insurance and Hazard Mitigation, National Flood Insurance Program
- 17.2 Title 44, Chapter 1, Subchapter C - Federal Emergency Management and Assistance, Federal Emergency Management Agency - Fire Prevention and Control
- 17.3 Title 44, Chapter 1, Subchapter D - Federal Emergency Management and Assistance, Federal Emergency Management Agency - Disaster Assistance
- 17.4 Title 44, Chapter 1, Subchapter F - Federal Emergency Management

and Assistance, Federal Emergency Management Agency –
Preparedness

iList all CONTRACTOR and subcontractor staff as identified in response to the solicitation issued by the CITY. Other support staff may be listed by title/job description only.
iiInclude an additional on-site column or a separate fee schedule for staff or title/job description that may work full time at CITY offices.