

CLAY COUNTY AGREEMENT/CONTRACT NO. 2021/2022-8 RN1

FIRST RENEWAL TO AGREEMENT FOR CONTINUING GENERAL ENGINEERING CONSULTING SERVICES FOR CONSTRUCTION ENGINEERING INSPECTION

This First Renewal to Agreement for Continuing General Engineering Consulting Services for Construction Services for Construction Engineering Inspection (“First Renewal”) is made and entered into this ____ day of September, 2023, by and between England, Thims & Miller, Inc., a Florida Profit Corporation (“Consultant”), and Clay County, a political subdivision of the State of Florida (“County”).

RECITALS

WHEREAS, on October 12, 2021, the parties entered into the Agreement for Continuing General Engineering Consulting Services for Construction Services for Construction Engineering Inspection, Clay County Agreement/Contract No. 2021/2022-8 (“Agreement”), attached hereto as **Exhibit A** and incorporated herein by reference, wherein Consultant agreed to provide general engineering consulting services for a variety of County projects and residential land subdivision and development projects; and

WHEREAS, the Agreement provides for an initial two year term beginning on October 12, 2021 and continuing through October 11, 2023, with the option to renew the Agreement for two additional one year periods upon written renewal executed by the parties; and

WHEREAS, the parties wish to enter into this First Renewal to renew the Agreement for an additional one year period commencing October 12, 2023 and continuing through October 11, 2024 as set forth herein.

NOW THEREFORE, in consideration of the foregoing Recitals, the mutual covenants and promises set forth herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged and all objections to the sufficiency and adequacy of which are hereby waived, the parties agree as follows:

1. The above recitals are true and correct and are incorporated herein by reference.
2. The Agreement is hereby renewed for an additional one year period commencing on October 12, 2023 and continuing through October 11, 2024.
3. The Consultant hereby certifies that all executed certifications which are attached and/or made a part of the Agreement are still valid.
4. Except as expressly provided herein, all other terms and conditions of the Agreement not affected by this First Renewal are incorporated herein and shall remain in full force and effect.
5. The parties agree to utilize electronic signatures and that the digital signatures of

the parties set forth below are intended to authenticate this First Renewal and have the same force and effect as manual written signatures. Each person signing on behalf of the parties represents and warrants that he/she has full authority to execute this First Renewal on behalf of such party and that the First Renewal will constitute a legal and binding obligation of such party.

IN WITNESS WHEREOF, the parties hereto have executed this First Renewal as of the date and year first written above.

ENGLAND, THIMS, & MILLER, INC.

By: _____

Print Name: _____

Print Title: _____

CLAY COUNTY, a political subdivision of the State of Florida

By: _____

Betsy Condon
Its Chairman

ATTEST:

Tara S. Green
Clay County Clerk of Court and Comptroller
Ex Officio Clerk to the Board

EXHIBIT A

Clay County Agreement/Contract No. 2021/2022 – 8

AGREEMENT FOR CONTINUING GENERAL ENGINEERING CONSULTING SERVICES FOR CONSTRUCTION ENGINEERING INSPECTION

This Agreement for Continuing General Engineering Consulting Services for Construction Engineering Inspection (“Agreement”) is made and entered into as of the 12th day of October, 2021 (“Effective Date”) between England, Thims & Miller, Inc., a Florida Profit Corporation (“Consultant”) and Clay County, a political subdivision of the State of Florida (the “County”).

RECITALS

WHEREAS, the County issued a Request for Qualifications, RFQ No. 20/21-48 (“RFQ”) to solicit and engage multiple licensed and qualified consultants to provide general engineering consulting services for a variety of County projects and residential land subdivision projects involving construction engineering and inspection of transportation, drainage, site development, facilities and other related services; and

WHEREAS, the Consultant responded to the RFQ with a proposal to offer the requested services (“Consultant’s Response”); and

WHEREAS, the County evaluated and ranked the qualifications submitted in accordance with Section 287.055, Florida Statutes, and the County selected the Consultant as one of the four selected consultants based on the Consultant’s Response and approved ranking; and

WHEREAS, the Consultant is licensed and qualified to provide professional services in engineering and design; and

WHEREAS, the parties hereby acknowledge and expressly agree that the terms and conditions of the RFQ, including all addendums and clarifications thereto, and the Contractor’s Response apply to this Agreement and are incorporated herein by reference; and

WHEREAS, the Consultant desires to provide and perform the services as requested and assigned by the County in accordance with the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the foregoing Recitals, the mutual covenants and promises set forth herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged and all objections to the sufficiency and adequacy of which are hereby waived, the parties agree as follows:

SECTION 1. PROJECT DESCRIPTION

1.1. Projects shall be assigned by the County to the Consultant on an as needed and as requested basis as set forth in Section 2 during the term of this Agreement and shall consist of a variety of County projects and residential land subdivision and development projects. The required Services will vary from project to project and will include, but are not limited to, construction engineering

and inspection (CEI), construction inspectors, construction plan reviews during project design by other consultants, land subdivision and development inspectors, project budget and schedule management, reporting, engineering and inspection of transportation, drainage, site development, facilities, and other general engineering consulting services. The Consultant may be requested to perform Services for any County Department or Division.

1.2. For purposes of this Agreement, the County Representative will be Howard Wanamaker, County Manager, and the Project Manager will be Stephen Koteris, Senior Construction Project Manager with the County's Engineering Department or his designated representative.

SECTION 2. SCOPE OF SERVICES

2.1. When Services are needed by the County for a particular Project, the County will request Services from the Consultant. The Consultant shall develop and provide to the Project Manager for review and approval a Scope of Services that includes a time schedule for the Project along with a Fee Summary for the Services to be performed by the Consultant and any subconsultants and a Lump Sum or Not-to-Exceed amount for the Project based on the Schedule of Hourly Rates attached hereto as **Attachment 1** and incorporated herein by reference. If the Scope of Services, Fee Summary, and Lump Sum or Not-to-Exceed amount for the Project are mutually agreeable, the County will prepare a Work Order in the general form attached hereto as **Attachment 2** for the particular Project. A Project is not officially assigned to the Consultant and the Consultant shall not commence Services on any Project under this Agreement until a Work Order is executed by the County Manager and the Consultant and the Project Manager issues a Purchase Order/Notice to Proceed to the Consultant for the assigned Project. The fully executed Work Order shall become a part of this Agreement.

2.2. The Contractor shall perform all Services for each assigned Project in accordance with the RFQ Scope of Services attached hereto as **Attachment 3** and incorporated herein by reference, the Scope of Services developed by the Consultant for each assigned Project, and the Work Order issued by the County for the assigned Project (the "Services"). The County will provide available information regarding existing facilities, such as drawings, as-built drawings, legal description, easements, rights of way, agreements with any utilities, or any other information in County's possession which is necessary or useful in connection with an assigned Project.

2.3. In performing the Services, the Consultant will provide all professional, technical, clerical, subconsultant, subcontracting, and other services necessary to completely perform the Services for each assigned Project. The Consultant will function as an extension or augmentation of the County's staff by providing qualified technical and professional personnel to perform the duties and responsibilities, when specifically assigned by authorized County staff under the terms of the Agreement, in a quality, timely and expeditious manner.

2.4. Once a Project is assigned to the Consultant, the Consultant shall meet with the Project Manager as arranged by the Project Manager to review the status of the Services, the progress of the assigned Project, upcoming critical activities, and overall performance. In addition to the meetings, the Consultant must also provide to the Project Manager thorough and accurate monthly

progress reports with each Invoice detailing the status of the assigned Project and overall progress, identifying forecasted Services to be performed, and timeframe of the Services.

2.5. The Consultant shall perform the Services using the degree of care and skill ordinarily exercised by like professionals performing the same services under the same conditions in the same geographic area and in compliance with all applicable laws (“Standard of Care”). The Consultant shall be responsible for the quality, technical accuracy, completeness, and coordination of all designs, drawings, specifications and other services furnished by the Consultant and its subconsultants and/or vendors under this Agreement.

2.6. In entering into this Agreement, the Consultant represents that it now has or will secure all personnel required to perform all Services under this Agreement. The Consultant shall assign such personnel as are necessary to assure faithful prosecution and timely delivery of the Services for each assigned Project pursuant to the requirements of this Agreement. Consultant shall ensure that the personnel assigned to perform the Services shall comply with the terms of this Agreement. Consultant shall ensure that all personnel assigned to perform the Services are fully qualified and capable to perform their assigned tasks. The Consultant shall submit in writing to the Project Manager the names of key personnel proposed for assignment to each assigned Project. The Consultant shall be responsible for ensuring that all personnel and any subconsultants performing any Services under this Agreement have current licenses and permits required to perform the Services. The County reserves the right to interview all proposed or assigned personnel. If Consultant’s personnel or one of its subconsultant personnel is deemed unsatisfactory by the County for any reason, the Consultant will remove the unsatisfactory personnel from performing Services on the assigned Project(s) and replace them as soon as possible without cost to the County or impact to the assigned Project(s) in any way. Removal of the personnel is the sole decision of the County.

2.7. In performance of the Services, the Consultant is bound by and shall comply with all applicable federal, state, and local laws and regulations. Additionally, the Consultant is bound by and shall comply with all applicable administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards and permits, including, but not limited to, those of the Florida Department of Transportation (FDOT), St. Johns River Water Management District, Florida Department of Environmental Protection, Florida Department of Health, and Florida Fish and Wildlife Conservation Commission.

2.8. The County, by virtue of this Agreement, gives the Consultant no guarantee of any services or any specific amount of services or Work Orders that may be issued or assigned during the term of this Agreement.

2.9. The Services will be provided by the Consultant on a non-exclusive basis. The County reserves the right to add to, substitute or delete from time-to-time, depending on the County’s actual project workload and schedules, and to make project assignments based solely on its judgment as to which consultant, if any, is the best most qualified consultant to provide the desired services for a specific project or portion of a project. In making project assignments, the County may consider the consultants’ capabilities and resources, record in providing qualified and

experienced personnel, expertise of the personnel to be provided, record of providing services in a timely manner, and the performance of the consultants and their personnel on County projects.

2.10. A performance evaluation of the Consultant will be conducted periodically by the County and at the completion of each assigned Project.

2.11. Neither party shall be liable for any failure of or delay in performance of its obligations under this Agreement to the extent such failure or delay is due to a “Force Majeure”. For purposes of this Agreement, the term “Force Majeure” means any cause, action or agency delaying or preventing the performance of a party’s obligation(s) under this Agreement which is beyond the reasonable control or foreseeability of such party including, but not limited to, natural disasters, wars, power failures, fires, floods, explosion, internet outages and other acts of God. Upon notice of a Force Majeure event, the party whose performance under this Agreement is affected thereby shall: (i) promptly notify the other party by the quickest means available, explaining the nature and expected duration thereof; and (ii) use reasonable efforts to diligently remedy the interruption or delay, provided that the interruption or delay is reasonably capable of being remedied by that party.

SECTION 3. ADDITIONAL SERVICES AND FEES

If the County identifies or the Consultant recommends any additional services to be provided by the Consultant that are not covered under the Agreement but are beneficial to the County or an assigned Project, such additional services, including scope, timing, and fees of any additional services must be mutually agreeable between the County and the Consultant and authorized in writing by the County.

SECTION 4. TERM AND TIMELY PERFORMANCE

4.1. The term of this Agreement shall commence on the Effective Date and shall remain in effect for a period of two (2) years from this date, unless otherwise terminated as provided herein. The County has the sole option to renew the Agreement for two (2) additional one (1) year periods if it is deemed to be in the County’s best interest to do so.

4.2. The parties hereto mutually understand and agree that time is of the essence in the performance and completion of the Services associated with an assigned Project. The Contractor agrees to timely perform all necessary Services to complete an assigned Project in accordance with this Agreement, the Work Order for the assigned Project, and the Purchase Order/Notice to Proceed issued for the Work Order.

SECTION 5. SUBCONSULTANTS

5.1. The Consultant shall obtain prior written authorization from the County for the utilization of any subconsultants in connection with the Services to be performed under this Agreement. Such written authorization may be obtained from the Project Manager on behalf of the County.

5.2. Any subconsultant utilized by the Consultant shall be supervised and compensated by the Consultant.

5.3. The Consultant shall be fully responsible to the County for the (i) acts and omissions (ii) satisfactory performance and (iii) timeliness of Services of its subconsultants and of persons directly or indirectly employed by them.

5.4. The Consultant shall cause appropriate provisions under this Agreement to be inserted in all subconsultant agreements relative to the Services giving the Consultant the same powers that the County may exercise over the Consultant under any provision of this Agreement.

5.5. Nothing in the Agreement shall be construed as providing any subconsultant with any rights or remedies against the County or any of its employees, principals, officers, or agents for nonpayment or otherwise.

SECTION 6. PAYMENT FOR SERVICES

6.1. Payments will be made by the County to the Consultant for all Services actually, timely and satisfactorily rendered for an assigned Project on a Lump Sum or Not-to-Exceed basis in accordance with the Work Order for the assigned Project upon presentation of an Invoice submitted to the County on a monthly basis in accordance with Section 7. The mutually agreed upon Lump Sum or Not-to-Exceed amount for each assigned Project will be based on the hourly rates located in **Attachment 1**.

6.2. The Schedule of Hourly Rates in **Attachment 1** includes the Services performed by the Consultant and its subconsultants, travel, overtime, man-hours, materials, equipment, supplies, labor, overhead, profit, and all other costs, expenses and reimbursables associated with the Consultant's performance of the Services.

SECTION 7. PAYMENT PROCEDURES

7.1. As used in this Section, the term "Act" means the Local Government Prompt Payment Act set forth in Part VII of Chapter 218, Florida Statutes; the term "Invoice" means a statement, invoice, bill, draw request or payment request submitted by the Consultant under the Agreement; and the term "Submittal Date" means, with respect to an Invoice, the submittal date thereof to the Project Manager. All payments for the Services shall be made by the County in accordance with the Act. Upon receipt of a proper Invoice, the County shall have 45 days in which to make payment.

7.2. The Consultant shall submit an Invoice to the Project Manager no more than once per month based on the amount of Services done or completed for an assigned Project. The amount of the monthly payment shall be the total value of the Services rendered for an assigned Project to the date of the Invoice, in accordance with the allocations and Lump Sum or Not-to-Exceed amount set forth in the Work Order for the assigned Project based on the hourly rates in **Attachment 1**, less requests previously submitted and payments made.

7.3. Invoices shall be signed by the Consultant and must include the following information and items:

- 1) The Consultant's name, address and phone number, including payment remittance address.
- 2) The name, address and phone number of the Consultant's employee or agent to whom notices and inquiries regarding the Invoice may be directed.
- 3) The Invoice number and date.
- 4) Reference to the Agreement by its title and number as designated by the County.
- 5) Reference to the Work Order and Purchase Order/Notice to Proceed authorizing performance of the Services.
- 6) The period of the Services covered by the Invoice.
- 7) The total amount of payment requested broken down by the Services performed for the assigned Project, the Lump Sum or Not-to-Exceed for the assigned Project, the total amount previously requested, and the total amount paid to date.
- 8) A progress report detailing the Services performed for which payment is requested in sufficient detail to permit the Project Manager to evaluate whether the Services have been properly performed in full accordance with this Agreement and Work Order for the assigned Project.
- 9) Supporting documentation necessary to satisfy auditing requirements, for cost and Services completion.
- 10) Contain a certification that the Services for the assigned Project have been performed and have progressed to the level for which payment is requested, that the Services have been properly performed in full accordance with the Agreement and Work Order for the assigned Project, that all amounts have been paid by the Consultant for Services for which previous Invoices were issued and payments received from the County, and that the Consultant knows of no reason why payment should not be made as requested.
- 11) The Consultant must provide any additional documents, records, updates, or information as needed to support or document the Invoice as may be requested by the County.

7.4. Promptly upon receipt of an Invoice submitted under this Section, the Project Manager shall date stamp the same as received. Thereafter, the Project Manager shall review the Invoice and may also review the Services as delivered, installed or performed to determine whether the quantity and quality of the Services is as represented in the Invoice and is as required by this

Agreement. If the Project Manager determines that the Invoice does not conform with the applicable requirements of the Agreement or this Section or that the Services within the scope of the Invoice have not been properly delivered, installed or performed in full accordance with the Agreement and Work Order for the assigned Project, the Project Manager shall notify the Consultant in writing within 15 business days after the improper Invoice is received that the Invoice is improper and indicate what corrective action on the part of the Consultant is needed to make the Invoice proper. The County shall pay each proper Invoice in accordance with the applicable provisions of the Act.

7.5. By the submittal of an Invoice hereunder, the Consultant shall have been deemed to have warranted to the County that all Services for which payments have been previously received from the County shall be free and clear of liens, claims, security interests or other encumbrances in favor of the Consultant or any other person or entity for failure to make payment.

7.6. The parties will attempt to settle any payment dispute arising under this Section through consultation and a spirit of mutual cooperation. The dispute will be escalated to appropriate higher-level managers of the parties, if necessary. If the dispute remains unresolved within 30 calendar days following the Submittal Date, then the Project Manager shall schedule a meeting with the County Manager between the Consultant's representative and the Project Manager, to be held no later 45 calendar days following the Submittal Date, and shall provide written notice to the Consultant regarding the date, time and place of the meeting no less than 7 calendar days prior thereto. At the meeting, the Consultant's representative and the Project Manager shall submit to the County Manager their respective positions regarding the dispute, including any testimony and documents in support thereof. The County Manager shall issue a written decision resolving the dispute within 60 calendar days following the Submittal Date, and serve copies thereof on the Consultant's representative and the Project Manager.

7.7. To the extent not otherwise expressly provided in the Agreement, any work or services performed under a subconsultant agreement for which the County has agreed to reimburse the Consultant shall not be marked-up, but shall be payable by the County only in the exact amount reasonably incurred by the Consultant. No other work or services performed under a subconsultant agreement shall be reimbursed.

7.8. Prior to submitting an Invoice, the Consultant shall certify that all subconsultants and suppliers having any interest or performing any of the Services in relation to the assigned Project have received their pro rata share of previous periodic payments to the Consultant for all Services completed and materials supplied. This certification shall be in the form designated by the County. The Consultant shall within 10 days of receipt of progress payments pay all subconsultants and suppliers performing any of the Services or supplying any of the materials with respect to the assigned Project their pro rata shares of the payment for all Services completed and materials supplied. The term "subconsultant", as used herein, shall mean a person(s) or firm(s) that enters into a subconsultant agreement with the Consultant for the performance of any part of the Agreement and also includes persons or firms supplying materials or equipment incorporated into the Services of an assigned Project for which partial payment has been made by the County and work done under equipment rental contracts.

7.9. Final Payment for an assigned Project. Subsequent to completion of the Services for an assigned Project and prior to final payment for that assigned Project, final accounting of the total amount of all payments shall be provided by the Consultant in the form of a detailed cost report showing Invoice number and date of Invoice for all costs sorted by trade division cost code as is maintained by the Consultant in its accounting system. Utilizing the final accounting of costs and the Consultant's records as needed, the County shall, within a reasonable time, conduct a review of all costs presented. The amount of final payment for an assigned Project is to be made subject to the County agreeing with the final accounting of cost and payment of Services of the Consultant. It is agreed and understood that the acceptance of the final payment for an assigned Project by the Consultant shall be considered as a release in full of all claims against the County or any of its officers, principals, employees, members or agents arising out of, or by reason of, Services done or material furnished for an assigned Project under this Agreement. It is further agreed and understood that final payment is not due and payable and the County shall not be obligated to remit final payment for an assigned Project under the Agreement until the Consultant has provided a proper final accounting and any release or waiver of liens and claims or equivalent proof of payments to subconsultants and suppliers.

SECTION 8. CHANGE ORDERS

8.1. Change Orders shall only be used when necessary to clarify the RFQ requirements or Work Order(s) for the assigned Project(s), to provide for differences which result in the Consultant's work effort exceeding the amounts in a Work Order for an assigned Project, to provide for unforeseen services, work, or alterations in the RFQ requirements or a Work Order for an assigned Project which could not reasonably have been contemplated or foreseen, to settle contract claims, and to make an assigned Project functionally operational in accordance with the intent of the Agreement and Work Order. No work or services covered by a Change Order shall be performed before the County gives written authorization. Such written authorization shall set forth the prices or amount agreed upon and other pertinent information and shall be reduced to a written Change Order promptly. No payment shall be made on a Change Order prior to the County's written approval of the Change Order for an assigned Project. In addition, the County shall make no payment for any unauthorized work or services. If authorization is not previously given, the Consultant hereby agrees to waive the claim for such extra compensation. However, such notice or accounting shall not in any way be construed as proving the validity of the claim.

8.2. A Change Order shall also be used when a time extension is required due to any unforeseen circumstances; provided, Change Orders shall not be used for time extensions requested by the Consultant under circumstances or conditions attributable to the Consultant. Such Change Order shall set forth in writing the agreed amount of time for such extension.

SECTION 9. INSURANCE

The Consultant shall maintain throughout the term of this Agreement insurance of the following types and limits:

Insurance Type	Limits
Commercial General Liability (including premises operations, and contractual liability)	\$1,000,000 General Aggregate \$1,000,000 Products/Comp.Ops.Agg. \$1,000,000 Personal/Advertising Injury \$1,000,000 Each Occurrence \$ 50,000 Fire Damage (any one fire) \$ 5,000 Medical Expenses (any one person)
Automobile Liability (all automobiles-owned, hired or non-owned)	\$1,000,000 Combined Single Limit with bodily injury/property damage,
Workers Compensation Employers Liability	Statutory limits \$100,000 Each Accident \$500,000 Disease Policy \$100,000 Disease-Each Employee
Professional Liability	\$1,000,000 per Claim and in the Aggregate

Either prior to, or simultaneously with the execution of this Agreement, the Consultant must deliver certificates of insurance for the required insurance coverage to the County’s Purchasing Department. The certificates of insurance for the required coverages, other than workers compensation, employers liability, and professional liability, shall add **“Clay County, a political subdivision of the State of Florida; and The Board of County Commissioners, Clay County, Florida, its employees, boards and commissions, as their interests may appear” as “Additional Insured.”** Consultant shall provide thirty (30) day prior written notification to the County’s Purchasing Department in the event coverage is cancelled, modified, or non-renewed. If any required insurance coverage is cancelled, terminated or revoked, the Consultant shall immediately suspend its operations until replacement insurance is obtained and verified.

SECTION 10. INDEMNIFICATION; SOVEREIGN IMMUNITY

10.1. To the fullest extent permitted by law and in accordance with Section 725.08, Florida Statutes, the Consultant shall indemnify and hold harmless the County, including its officers and directors from any and all liabilities, damages, losses and costs, including, but not limited to, reasonable attorney’s fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of Consultant or other persons employed or utilized by Consultant in the performance of the Agreement.

10.2. No negligence shall be attributed to Consultant based on any acts or omissions of County’s contractors or other consultants.

10.3. The County does not agree to and shall not indemnify the Consultant or any other person or entity, for any purpose whatsoever. To the extent any indemnification by the County may be construed under this Agreement, any such indemnification shall be subject to and within the

limitations set forth in Section 768.28, Florida Statutes, and to any other limitations, restrictions and prohibitions that may be provided by law, and shall not be deemed to operate as a waiver of, or modification to, the County's sovereign immunity protections.

10.4. No officer, employee or agent of the County acting within the scope of his/her employment or function shall be held personally liable in tort or named as a defendant in any action for any damage suffered as a result of any act, event, or failure to act.

10.5. The provisions in this Section shall survive the termination or expiration of this Agreement.

SECTION 11. DEFAULT AND TERMINATION

11.1. Default. If the Consultant fails to satisfactorily perform any provision of this Agreement or a Work Order, fails to make progress so as to endanger performance under the terms and conditions of the Agreement, fails to perform on time, provides false or inaccurate information, fails to comply with the terms, conditions, and obligations of this Agreement or a Work Order, fails to comply with applicable rules, laws and regulations; or whenever the Consultant ceases operation, dissolves its corporation, or otherwise no longer provides the required Services under the terms of this Agreement, the County may consider the Consultant to be in default and may assert a default claim by giving the Consultant a written Notice of Default. Except for a default by the Consultant for failing to comply with applicable laws, rules, and regulations, which must be cured immediately, the Consultant shall have ten (10) days after receipt of the Notice of Default to either cure the default or, if the default is not curable within ten (10) days, provide a written cure plan to the County describing how and when the default will be cured. The Consultant will begin implementing the cure plan immediately after receipt of notice by the County that it approves the plan. If the County does not approve the cure plan, then the County may terminate this Agreement for cause.

11.2. Termination for Cause. Upon the failure or inability of the Consultant to cure the default as provided above, unless otherwise agreed in writing, the County may terminate this Agreement, in whole or in part, for cause immediately upon written Notice of Termination by the County Representative and/or Project Manager to the Contractor. In the event the County terminates the Agreement, in whole or in part, because of default by Consultant, the County may procure goods and/or services similar to those terminated, and the Consultant shall be liable for any excess costs incurred due to this action. If it is determined that the Consultant was not in default or that the default was excusable (e.g. failure due to causes beyond the control of, or without the fault or negligence of the Consultant), the rights and obligations of the parties shall be those as provided in the Section for Termination for Convenience.

11.3. Termination for Convenience. The County may whenever the interests of the County so require, terminate the Agreement, in whole or in part, for the convenience of the County. The County Representative and/or Project Manager shall give thirty (30) days prior written Notice of Termination to the Consultant, specifying when the termination is to become effective. In the event of any such termination, the Consultant shall be paid by the County for all Services actually and timely rendered up to receipt of the notice of termination, and thereafter until the date of

termination, the Consultant shall be paid only for such Services as are specifically authorized in writing by the County.

11.4. Unless directed differently in the Notice of Termination, the Consultant, shall incur no further obligations in connection with the terminated services, and shall stop services to the extent specified and on the date given in the Notice of Termination. Additionally, unless directed differently, the Consultant shall terminate outstanding orders and/or subconsultant agreements related to the terminated services and shall transfer all services/work in progress, completed work, and other materials related to the terminated work to the County. The Consultant must also deliver to the County all documents, including, but not limited to, plans, studies, reports, notes, records, data, summaries, files, and such other information and materials as may have been accumulated by the Consultant and/or prepared on behalf of the County in relation to this Agreement, whether completed or in progress.

11.5. The parties may agree to terminate this Agreement for their mutual convenience through a written amendment of this Agreement. The amendment will state the effective date of the termination and the procedures for proper close-out of this Agreement.

11.6. Termination of this Agreement or a portion hereof under the provisions incorporated herein shall not relieve the Consultant of its responsibilities for the completed portion or concerning any just claims arising out of the Services performed.

SECTION 12. REMEDIES

The parties will attempt to settle any dispute arising from this Agreement through negotiation and a spirit of mutual cooperation. The dispute will be escalated to appropriate higher-level managers of the parties, if necessary. Each party shall have the right to seek the judicial enforcement and interpretation of this Agreement.

SECTION 13. AUTHORITY TO SUSPEND SERVICES

The County Representative and/or Project Manager shall have the authority to suspend the Services for any assigned Project, wholly or in part, for such period or periods as may be deemed necessary, due to unsuitable weather, other conditions which are considered unfavorable for the prosecution of the Services, or due to circumstances related to the assigned Project. Should the County be prevented or enjoined from proceeding with the Services either before or after the start of an assigned Project by reason of any litigation or other reason beyond the control of the County, the Consultant shall not be entitled to make or assert a claim for damage by reason of said delay, but time for completion of the assigned Project will be extended to such reasonable time as the County may determine and will be set forth in writing. In the event of any such suspension, the Consultant shall be paid for all Services actually and timely rendered up to the date of suspension and for all Services so rendered after cessation of the suspension and resumption of the Services. In no event shall the County be liable to the Consultant whether in contract, warranty, tort (including negligence or strict liability) or otherwise for any acceleration, soft costs, lost profits, special, indirect, incidental, or consequential damages of any kind or nature whatsoever.

SECTION 14. PLANS AND DOCUMENT OWNERSHIP AND RECORDS

14.1. All documents, including, but not limited to, notes, files, evaluations, reports, studies, data, drawings, plans, maps, and other records and data relating to this Agreement (other than working papers) specifically prepared or developed by the Consultant under this Agreement shall be the property of the Consultant until the Consultant has been paid for providing and performing the Services required to produce such documents whereupon they shall become the sole property of the County. Upon completion of this Agreement and/or an assigned Project, to the extent requested, all of the documents shall be delivered by the Consultant to the County within seven (7) days of the County making a request.

14.2. The Consultant shall not, and agrees not to, use any of these documents, data and information contained therein on any other project or for any other client without prior written permission of the County. Any use by the County of the documents, data and information contained therein, obtained by the County under the provisions of this Agreement for any purpose not within the scope of this Agreement shall be at the sole risk of the County, for which the Consultant shall not be liable.

SECTION 15. RETENTION OF RECORDS, ACCESS TO RECORDS AND RIGHT TO AUDIT

15.1. All records, expenditures, and payments under this Agreement are subject to examination and/or audit by the County. The Consultant and any of its subconsultants shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred in the performance of the Services, and the Consultant must make the records available upon request.

15.2. All records connected with this Agreement must be retained for a period of at least five (5) years following the date of final payment and close-out of all pending matters. All records shall be kept in such a way as will permit their inspection pursuant to Chapter 119, Florida Statutes.

15.3. Failure of the Consultant or any of its subconsultants to comply with these requirements may result in disqualification or suspension from quoting and bidding on future projects/contracts or disapproval as a subcontractor at the option of the County.

15.4. The Consultant must require that each of its subconsultants will provide access to the subconsultant's records pertaining to the Service upon request by the County.

15.5. The provisions in this Section shall survive the termination or expiration of this Agreement.

SECTION 16. ACCURACY OF SERVICES

16.1. The Consultant shall be responsible for the accuracy of its Services, including Services by any subconsultants, and shall promptly make necessary revisions or corrections resulting from errors and omissions on the part of the Consultant or subconsultants without additional compensation. Acceptance of the Services by the County shall not relieve the Consultant of the

responsibility for subsequent corrections of any such errors and the clarification of any ambiguities.

16.2. Following completion of Services, if the Services provided hereunder do not conform to the foregoing standards and the same is reported to Consultant by County in writing promptly after recognition thereof, Consultant shall, at no cost to County, furnish all remedial engineering, design or consulting services required in connection therewith as soon as reasonably possible after receipt of such report from County.

16.3. At any time during the construction of any assigned Project, the Consultant shall confer with the County for the purpose of interpreting the information furnished and/or to correct any errors and/or omissions made by the Consultant. The Consultant shall prepare all data to correct its errors and/or omissions without added compensation, even though final payment may have been received therefor.

SECTION 17. PUBLIC RECORDS

17.1. The Consultant acknowledges the County's obligation under Art. 1, Section 24, Florida Constitution, and Chapter 119, Florida Statutes, as from time to time amended (together, the Public Records Laws), to release public records to members of the public upon request. The Consultant acknowledges that the County is required to comply with the Public Records Laws in the handling of the materials created under the Agreement and that the Public Records Laws control over any contrary terms in the Agreement. In accordance with the requirements of Section 119.0701, Florida Statutes, the Consultant covenants to comply with the Public Records Laws, and in particular to:

- a. Keep and maintain public records required by the County to perform the Services required under the Agreement;
- b. Upon request from the County's custodian of public records, provide the County 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, Florida Statutes, or as otherwise provided by law;
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Consultant does not transfer the records to the County; and,
- d. Upon completion of the Agreement, transfer, at no cost, to the County all public records in possession of the Consultant or keep and maintain public records required by the County to perform the Services. If the Consultant transfers all public records to the County upon completion of the Agreement, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the Agreement, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

17.2. The Consultant's failure to comply with the requirements of this Section shall be deemed a material breach of this Agreement, for which the County may terminate the Agreement immediately upon written notice to the Consultant.

17.3. The Consultant acknowledges the provisions of Section 119.0701(3)(a), Florida Statutes, which, as applicable to the County and the Consultant, require as follows:

- a. A request to inspect or copy public records relating to the Agreement must be made directly to the County. If the County does not possess the requested records, the County shall immediately notify the Consultant of the request, and the Consultant must provide the records to the County or allow the records to be inspected or copied within a reasonable time.
- b. If the Consultant does not comply with the County's request for records, the County shall enforce the contract provisions in accordance with the Agreement.
- c. If the Consultant fails to provide the public records to the County within a reasonable time, the Consultant may be subject to penalties under Section 119.10, Florida Statutes.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (904) 278-4754, publicrecords@claycountygov.com, POST OFFICE BOX 1366, GREEN COVE SPRINGS, FLORIDA 32043.

SECTION 18. TAXES

In that the County is a governmental agency exempt from sales and use taxes, the County shall pay no such taxes, any other provisions of this Agreement to the contrary notwithstanding. The County shall provide proof of its exempt status upon reasonable request.

SECTION 19. APPROPRIATED FUNDS

The Consultant acknowledges that in the budget for each fiscal year of the County during which the term of the Agreement is in effect a limited amount of funds are appropriated which are available to make payments arising under the Agreement. Any other provisions of the Agreement to the contrary notwithstanding, and pursuant to the provisions of Section 129.07, Florida Statutes, the maximum payment that the County is obligated to make under the Agreement from the budget of any fiscal year shall not exceed the appropriation for said fiscal year.

SECTION 20. SCRUTINIZED COMPANIES CERTIFICATION

In compliance with Section 287.135(5), Florida Statutes, the undersigned hereby certifies that the Consultant is not participating in a boycott of Israel as defined in Section 287.135(1), Florida Statutes; is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List as referred to in Section 287.135(2), Florida Statutes; and does not have business operations in Cuba or Syria as defined in

Section 287.135(1), Florida Statutes. In accordance with Section 287.135(3), Florida Statutes, the County shall have the option of terminating this Agreement if the Consultant is found to have submitted a false certification as provided under Section 287.135(5), Florida Statutes, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria, or to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel as defined in Section 287.135(1), Florida Statutes.

SECTION 21. NOTICE

All notices given under this Agreement shall be in writing and shall be deemed to have been duly given (a) when delivered by hand, (b) two days after having been delivered to Federal Express, UPS, Airborne or another recognized overnight courier or delivery service, or (c) five days after having been deposited into the United States mail, by registered or certified mail, return receipt requested, postage prepaid, to the respective parties at their respective addresses set forth below:

If to Consultant:

England, Thims & Miller
14775 Old St. Augustine Road
Jacksonville, FL 32258
Attention: Buckley K. Williams, Executive
Vice President

If to County:

Clay County
P.O. Box 1366
477 Houston Street
Green Cove Springs, FL 32043
Attention: Howard Wanamaker, County
Manager
Copy to: Stephen Koteris, Project Manager

SECTION 22. PROHIBITION AGAINST CONTINGENT FEES

The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee or subcontractor working solely for the Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this Section, the County shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the lump sum or total not-to-exceed amount, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

SECTION 23. TRUTH-IN-NEGOTIATION CERTIFICATE

The Consultant understands and agrees that execution of this Agreement by the Consultant shall be deemed to be simultaneous execution of a Truth-in-Negotiation Certification to the same extent as if such certificate had been executed apart from this Agreement, such certificate being required by Section 287.055, Florida Statutes. In compliance with Section 287.055(5)(a), Florida Statutes, the Consultant hereby states that the wage rates and other factual unit costs supporting the compensation for the Services hereunder are accurate, complete and current at the time of

negotiating and entering into this Agreement. Further, the Consultant agrees that the compensation specified herein and any additions thereto shall be adjusted to exclude any significant sums by which the County determines the compensation was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs, provided that any and all such adjustments shall be made within one (1) year following the completion date of this Agreement.

SECTION 24. NON-DISCRIMINATION AND AMERICANS WITH DISABILITIES ACT

24.1. The Consultant agrees to comply with the Americans With Disabilities Act (Public Law 101-336, 42 U.S.C. Section 12101 et seq.), which prohibits discrimination by public and private entities on the basis of disability in employment, public accommodations, transportation, State and local government services, and telecommunications.

24.2. The Consultant represents that it has adopted and shall maintain a policy of non-discrimination against employees or applicants for employment on account of race, religion, sex color, national origin, age or handicap, in all areas of employee relations, throughout the term of this Agreement.

SECTION 25. SUSPENSION AND DEBARMENT

By execution of this Agreement, the Consultant certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any State or Federal Department or Agency.

SECTION 26. PUBLIC ENTITIES CRIMES/CONVICTED VENDOR LIST

26.1. A person or affiliate who has been placed on the convicted vendor list following a conviction for 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 of the Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

26.2. By signing this Agreement, the Consultant represents that the execution of this Agreement will not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes). Violation of this Section shall result in termination of this Agreement and recovery of all monies paid hereto and may result in debarment from the County's competitive procurement activities.

26.3. In addition to the foregoing, the Consultant further represents that there has been no determination, based on an audit, that it or any subcontractor has committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of

money involved or whether the Consultant has been placed on the convicted vendor list.

26.4. The Consultant will promptly notify the County if it or any subconsultant of the Consultant is formally charged with an act defined as a “public entity crime” or has been placed on the convicted vendor list.

SECTION 27. INDEPENDENT CONTRACTOR

Nothing herein shall constitute or be construed to create or suggest any type or kind of employment, partnership, joint venture, or other legal relationship, express or otherwise, between the parties. The Consultant is an independent contractor and is not an employee, agent, joint-venture, or partner of the County.

SECTION 28. NO ASSIGNMENT

The Consultant shall not assign any of its rights or duties under this Agreement to any other party without the prior written consent of the County, which consent may be withheld by the County for any or no reason. Any such assignment attempted by the Consultant without such prior written consent shall be null and void. If the Consultant attempts to assign any such rights or duties without securing such prior written consent, this Agreement may be declared in default and terminated by the County as provided herein.

SECTION 29. NO THIRD-PARTY BENEFICIARIES

Any other provisions of this Agreement to the contrary notwithstanding, no third-party beneficiaries are intended or contemplated under this Agreement, and no third-party shall be deemed to have rights or remedies arising under this Agreement or such documents against either party to this Agreement.

SECTION 30. CONFLICT OF INTEREST

Throughout the term of this Agreement, the Consultant must not accept nor perform any other employment, assignments of contracts nor obligations that would conflict with the Consultant’s duties and obligations provided under this Agreement.

SECTION 31. AMENDMENT OR MODIFICATION OF AGREEMENT

The Agreement may only be modified or amended upon mutual written agreement of the County and the Consultant. No oral agreements or representation shall be valid or binding upon either party.

SECTION 32. FURTHER ASSURANCES

Each of the parties shall cooperate with one another, shall do and perform such actions and things, and shall execute and deliver such agreements, documents and instruments, as may be reasonable

and necessary to effectuate the purposes and intents of this Agreement. The Consultant further agrees to execute such documents as the County may reasonably require.

SECTION 33. GOVERNING LAW AND VENUE

The terms and conditions hereof, and the subsequent performance hereunder, shall be construed and controlled exclusively in accordance with the laws of the State of Florida, that jurisdiction shall be limited to the courts of the State of Florida, and that venue shall lie exclusively in Clay County, Florida.

SECTION 34. ATTORNEYS' FEES

In the event either party shall retain an attorney to litigate on its behalf against the other party regarding the enforcement or interpretation of this Agreement or regarding the rights, remedies, or obligations of the parties arising under this Agreement, the party prevailing on the majority of its claims, or which successfully defends against a majority of the other party's claims, shall be entitled to an award of reasonable attorney's fees, costs, and expenses against the other party, including fees, costs, and expenses incurred from the date of referral of the dispute to the prevailing party's attorney through the conclusion of litigation, or incurred in bankruptcy or on appeal. Nothing contained herein is intended to serve as a waiver of sovereign immunity and extend the County's liability beyond the limits established in Section 768.28, Florida Statutes.

SECTION 35. WAIVER

No waiver by the County of any breach of any provision of this Agreement by the Consultant shall constitute a waiver of any other breach of either the same provision or of any other provision by the Consultant. The failure of the County to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof or any other provisions.

SECTION 36. SEVERABILITY

If any provision of this Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Agreement, and this Agreement shall be enforced as if such invalid and unenforceable provision had not been contained herein.

SECTION 37. HEADINGS

The headings contained in this Agreement are for reference purposes only and shall not be deemed to expand, limit or change any or all the provisions hereof.

SECTION 38. COUNTERPARTS

The Agreement may be executed in one or more counterparts and by the separate parties in separate counterparts, each of which shall be deemed to constitute an original and all of which shall be deemed to constitute the one and the same agreement.

SECTION 39. ENTIRE AGREEMENT

This Agreement represents the entire agreement between the parties for the provision of the Services and supersedes all prior written agreements or understandings between the parties. No understanding, statement, representation, writing, agreement, course of conduct or course of action by the parties or the authorized representatives of the parties, which is not expressed in this Agreement shall be valid.

SECTION 40. ATTACHMENTS

All attachments to this Agreement are incorporated by reference as if set out fully herein:

- Attachment 1** Schedule of Hourly Rates
- Attachment 2** Work Order form
- Attachment 3** RFQ Scope of Services

SECTION 41. AUTHORITY

The parties to this Agreement agree to utilize electronic signatures and that the digital signatures of the parties set forth below are intended to authenticate this Agreement and have the same force and effect as manual written signatures. Each person signing on behalf of the parties to the Agreement represents and warrants that he/she has full authority to execute this Agreement on behalf of such party and that the Agreement will constitute a legal and binding obligation of such party. The parties are aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject them to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise (U.S. Code Title 18, Sections 3729-3730 and 3801-3812).

[Signatures appear on the following page.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first written above.

ENGLAND, THIMS & MILLER, INC.

By: 
Buckley Williams (Oct 21, 2021 13:54 EDT)

Print Name: Buckley Williams

Print Title: Executive Vice President



CLAY COUNTY, a political subdivision of the State of Florida

By: *Mike Cella*
Mike Cella (Oct 20, 2021 14:43 EDT)

Mike Cella
Its Chairman

ATTEST:



Tara S. Green
Clay County Clerk of Court and Comptroller
Ex Officio Clerk to the Board

ATTACHMENT 1
SCHEDULE OF
HOURLY RATES



VISION • EXPERIENCE • RESULTS

www.etminc.com

tel 904-642-8990 • fax 904-646-9485

14775 Old St. Augustine Road • Jacksonville, Florida 32258

**ENGLAND-THIMS & MILLER, INC.
HOURLY FEE SCHEDULE**

<u>Classification</u>	<u>Fully Loaded Rate</u>
Senior Project Engineer Project Administrator	\$250.78
Assist. Project Administrator	\$181.04
Senior Inspector	\$131.84
Inspector	\$102.38
Inspector Aide	\$84.51
Private Development (Inspector Level)	\$56.03
	\$80.00

ATTACHMENT 2
WORK ORDER
FORM



**Clay County Engineering
and Public Works**

Engineering Department
Post Office Box 1366
Green Cove Springs, FL
32043

Area Code: 904
Phone: 284-6301
Fax: 278-4708

County Manager
Howard Wannamaker

Commissioners:

Mike Cella
District 1

Wayne Bolla
District 2

Jim Renninger
District 3

Betsy Condon
District 4

Kristen Burke, DC
District 5

www.claycountygov.com

WORK ORDER ASSIGNMENT No. _____
CLAY COUNTY CONTRACT/AGREEMENT NO. 2021/2022- _____

To: Consultant From: Clay County Engineering Department
P.O. Box 1366
Green Cove Springs, FL 32043

Contract/Agreement No. 2021/2022- _____ is included herein by reference and made a part hereof.

ATTACHMENT A: BASE AUTHORIZATION I.D.
ATTACHMENT B: SCOPE OF SERVICES
ATTACHMENT C: FEE SUMMARY
ATTACHMENT D: SCHEDULE OF HOURLY RATES

FEE TYPE AMOUNT: LUMP SUM: \$
NOT-TO-EXCEED: \$

Description
This Work Order is issued for the purpose of _____.

Total Lump Sum or Not-to-Exceed Amount: \$ _____

CONSULTANT CLAY COUNTY

By: _____ By: _____
Howard Wanamaker, County Manager

Date: _____ Date: _____

ATTACHMENT A

BASE AUTHORIZATION I.D.

Base Authorization: Contract/Agreement No. 2021/2022-_____

Clay County Contract/Agreement No. 2021/2022-_____ is included herein by reference and made a part hereof.

ATTACHMENT B

[Insert Consultant's Scope of Services]

ATTACHMENT C

[Insert Fee Summary for Consultant and any subconsultants]

ATTACHMENT D

[Insert Schedule of Hourly Rates – Attachment 1 to Agreement]

ATTACHMENT 3
RFQ SCOPE OF
SERVICES

SCOPE OF SERVICES

REQUEST FOR QUALIFICATIONS NO. 20/21-48 **CONTINUING GENERAL ENGINEERING CONSULTING SERVICES** **FOR CONSTRUCTION ENGINEERING INSPECTION**

PURPOSE

The County intends to contract with multiple, qualified firms for a two (2) year term with an option of two (2) one-year extensions to provide general engineering consulting (GEC) services for a variety of County projects and residential land subdivision projects involving construction engineering and inspection of transportation, drainage, site development, facilities and other related services.

GENERAL SCOPE STATEMENT

These required services vary and include, but are not limited to construction engineering & inspection (CEI), support to the County, including construction inspectors, construction plan reviews during project design by other consultants, project budget and schedule management and reporting and related services.

No guarantee of work

The County will request GEC services on an as-needed and as-requested basis. There is no guarantee that all or any of the services described in this Solicitation will be assigned during the term of the resulting Contract. The County reserves the right to request services from among the selected firms based upon the firm's capabilities and resources, record in providing qualified and experienced personnel, the expertise of the personnel to be provided, record of providing services in a timely manner, and the performance of the firm and its personnel on County projects.

The County reserves the right to add to, substitute or delete from time-to time, depending on the County's actual project workload and schedules, and to make project assignments based solely on its judgment as to which contracted GEC firm, if any, is the best most qualified to provide the desired services for a specific project or portion of a project.

Performance Evaluation

A work performance evaluation will be conducted periodically and at the completion of each various project.

SPECIFIC SCOPE OF SERVICE

The GEC will provide all professional, technical, clerical, subconsultant, subcontracting and other services necessary to completely perform the work order(s). The GEC will function as an extension or augmentation of the County's staff by providing qualified technical and professional personnel to perform the duties and responsibilities, when specifically assigned by authorized County staff under the terms of the Contract, in a

quality, timely and expeditious manner. The GEC will also provide particular expertise on an "as needed" basis to augment the County technical staff and its expertise. These services may be requested to be performed at County facilities during the performance of assigned work order.

Further, the GEC will provide these services on a nonexclusive basis. The County, at its option, may elect to have any of the services set forth herein performed by other consultants or County staff. In addition, the County may elect to expand, reduce, or delete the extent of each work element described in this Scope of Services document.

Work orders will normally take the form of long-term on-going assignments, major project assignments, project review tasks, long-term specific tasks, short-term specific tasks and emergency specific tasks. Consultants may be requested to perform work for any County Department or Division.

When work orders are proposed by the County, it may require contracted GECs to provide the County with a detailed approach, schedule and team (with team structure and resume's with education, experience, etc. pertaining to the particular task) proposed to perform the task. The approved work order will be executed by the County Manager. No task shall be performed by a GEC until after notice to proceed is received from the County.

Irrespective of whether the GEC provides direct services or uses a subconsultant, it is understood that the County's contract relationship is directly with the GEC, not with the GEC's subconsultants. The "Lead Person" in charge of the assigned work shall have a minimum of ten (10) years' experience performing the assigned work. All subconsultants shall be made aware of this relationship and, unless specifically agreed to by all parties, shall report directly to the GEC. All subconsultants performing assigned work for the GEC shall be prequalified by the FDOT in applicable areas or shall have a minimum of five (5) years of experience performing the assigned work.

The following summary is a general description and examples of potential work task services. It is understood that services under the Contract are not guaranteed to include all of the services listed, and that major tasks will require a more detailed description of the scope of work for that task or project.

The GEC shall provide Construction Management/Oversight and CEI services for horizontal (e.g., roadways, bridges, stormwater, traffic, parking lots, site development, etc.) including new construction, repair and retrofit projects; prepare record drawings, maintenance manuals and related documentation for such facilities.

The GEC will be responsible for construction management, engineering, inspection, testing and administrative functions, as defined in this Scope of Services and referenced manuals and procedures, normally handled by a FDOT Project Engineer, including Verification Testing (VT). The Construction Contractor will perform Quality Control (QC), independent of the GEC.

The GEC shall use effective control procedures, which will assure that the construction of the project is performed in reasonable conformity with the plans, specifications and contract provisions.

The GEC shall provide technical and administrative personnel meeting the requirements set forth in appropriate numbers at the proper times to ensure that the responsibilities assigned under this Scope of Services, and as otherwise assigned by the County, are effectively carried out. All services shall be performed in accordance with the established standard procedures and practices of the FDOT and the County. Prior to furnishing any services, the GEC shall be familiar with those standard procedures and practices as set forth in the documents listed in this Scope of Services and with best practices for construction engineering and contract administration for bridge and highway related construction and miscellaneous construction.

1. Professional Services Required

Firm responsibilities will include: recruiting, screening and training of personnel to ensure compliance with the County requirements; providing necessary backup personnel; providing worker's compensation, general liability and professional liability insurance; furnishing payrolls and other administrative services; and furnishing vehicles with auto liability coverage.

2. Personnel

The GEC will supply the County with qualified senior project engineering, project administration, contract support specialist, senior inspection, inspector and/or support personnel as needed by the County. The County may interview all proposed candidates and may elect to reject personnel for any reason based on that interview or during the period of the assigned work order. Thereafter, if a candidate does not perform effectively, the County will inform the GEC and may require the GEC to provide a qualified replacement. Qualified replacement personnel shall be provided to the County within one (1) week of written request.

All personnel proposed by the GEC are required to have the basic skills required to work in an engineering/construction environment. Skills such as good written and verbal communications, decision-making, record keeping, fundamental knowledge of engineering and construction practices and problem solving are required of all personnel. All personnel will report indirectly to the County. Examples of classifications and specific qualifications are outlined below; the County may require other classifications, as the need arises.

a. Senior Project Engineering

A qualified Senior Project Engineer must have a Civil Engineering degree, or equivalent, be registered in the State of Florida as a Professional Engineer at the time of assignment, and have ten (10)

years of engineering experience (2 years of which must have involved major road and bridge construction).

b. Project Administrator

A qualified Project Administrator must have a Civil Engineering degree, or equivalent, and six (6) years of responsible and related engineering experience (2 years of which must have involved construction of major road and bridge structures), or, in lieu of a Civil Engineering degree, have ten (10) years of responsible, progressive and related engineering experience (2 years of which must have involved construction of major road and bridge structures). The Project Administrator directs and assigns specific tasks to the construction management staff assigned to the project. The Project Administrator also assists in all phases of the construction project and is responsible for the progress and final pay estimates through the project's duration.

c. Contract Support Specialist

A qualified Contract Support Specialist must have four (4) years of road and bridge construction engineering inspection experience in performing/assisting with contract related duties (i.e., final pay estimates, contractor document processing, etc.), and completion of the FDOT's Final Estimates Preparation Seminar.

d. Senior Inspector

A qualified Senior Inspector must be a high school graduate, or equivalent, and have ten (10) years' experience in construction inspection, four (4) years of which must have been in bridge and/or roadway construction inspection, or a Civil Engineering degree and four (4) years of road and bridge Construction Engineering Inspection (CEI) experience. The Senior Inspector is responsible for performing highly complex technical assignments in field surveying and construction layout, making, and checking engineering computations, inspecting construction work and conducting field tests and is responsible for coordinating and managing the lower level inspectors. Work is performed under the general supervision of the Project Administrator. Required qualifications include:

- CTQP Concrete Field Inspector Level I
- CTQP Concrete Transportation Construction Inspector (CTCI) Level II
- CTQP Asphalt Roadway Level I (if applicable)
- CTQP Asphalt Roadway level II (if applicable)
- CTQP Earthwork Construction Inspection Level I
- CTQP Earthwork Construction Inspection Level II
- CTQP Pile Driving Inspection (if applicable)

- CTQP Drilled Shaft Inspection (if applicable)
- FDOT Advanced MOT Certification
- CTQP Final Estimates Level I

e. Inspector

A qualified Inspector must be a high school graduate, or equivalent, and have two (2) years experience in roadway construction inspection. The Inspector is responsible for assisting the Senior Inspector or designated County Staff in the performance of his or her duties. Work is performed under general supervision from the Senior Inspector or designated County Staff, who reviews work while in progress. Required qualifications include:

- CTQP Concrete Field Inspector Level I
- CTQP Asphalt Roadway Level I (if applicable)
- CTQP Asphalt Roadway level II (if applicable)
- CTQP Earthwork Construction Inspector Level I
- CTQP Earthwork Construction Inspection Level II
- CTQP Final Estimates Level I

f. Support Personnel (Administrative)

A qualified secretary must be a high school graduate, or equivalent, have two (2) years of secretarial and/or clerical experience and type at a rate of 35 correct words per minute. Experience in the use of standard word processing software and ability to exercise independent initiative to help relieve the supervisor of clerical detail is required. Work is performed under the general supervision of the Senior Project Engineer, Project Administrator or designated County Staff.

3. Training

The GEC is responsible for supplying all contract personnel basic training as required for the position. The GEC shall be responsible for keeping qualified personnel supplied to the County, current with their training requirements, specifically safety training certificates, and the GEC shall supply the County documentation of all training, upon request.

4. Vehicles

The GEC shall provide vehicles meeting the actual project needs of field personnel using the vehicle. The vehicles provided will be economy pick-ups or midsize utility vehicles in good serviceable condition. Vehicles shall have the name of the GEC firm visibly displayed.

The GEC shall also provide office personnel with safety equipment and vehicles necessary for field work.

5. Equipment

The GEC shall furnish all equipment necessary to perform the duties of this scope of services. This may include those non-consumable, non-expendable items which are normally needed for a construction project, including but not limited to the following: facsimile machines, copiers, calculators, tape recorders/transcribers, typewriters, computers, word processors, printers, cameras, camcorders, communication equipment, fire extinguishers, first aid kits, flashers, hard hats, safety vests, life vests (if applicable), rain gear, portable water coolers, gauges, engineering scales, tape measures, drafting tools, measuring wheels, thermometers, flashlights, speedy moisture kits and turbidity meters, etc.

For embedded GEC staff, the County shall furnish office space and office equipment (i.e. copier, fax, printer, notebook computer, etc.)

The GEC shall be responsible for providing and maintaining the necessary vehicles or transportation for the performance of its duties on the project throughout the duration of the Contract.

The GEC shall retain responsibility for risk of loss or damage to said equipment during performance of this Contract. Field office equipment shall be maintained and in operational condition at all times.

6. Cooperation and Performance of the GEC

During the life of this Contract, the County may conduct independent assurance reviews of the various phases of the GEC construction management operations, such as construction inspection, materials sampling, testing and administrative activities. Reviews will be conducted to determine compliance with this Scope of Services and the sufficiency with which procedures are being effectively applied to assure that the construction work and administrative activities are performed in reasonable conformity with County policies, plans, specifications contract provisions, and industry best practices. The GEC shall cooperate and assist County representatives in conducting the reviews. When deficiencies are indicated in a review, remedial action shall be immediately implemented by the GEC. The GEC actions are to be properly documented by the GEC Senior Project Engineer. In general, remedial action shall be required commensurate with the degree and nature of the deficiencies cited. Additional compensation shall not be allowed for remedial action taken by the GEC to correct deficiencies. Remedial actions are not necessarily limited to, but may include any or all of the following actions:

- a. Reduction in number of assigned inspection personnel, reassignment of inspection personnel or assignment of additional inspection personnel. The GEC will comply with this action within one (1) week of notification.

- b. Replacement of personnel whose performance has been determined by the SMPDC to be inadequate. When requested by the SMPDC, any person whose performance has been determined to be inadequate shall be immediately removed.
- c. An increase in the frequency of the job control testing immediately in the appropriate phases of work where such is the responsibility of the GEC.
- d. An increase in the scope and frequency of all training conducted by the GEC.

7. General Requirements

The GEC shall provide services as necessary to manage and administer assigned construction contracts in a manner that assures the projects are constructed in reasonable conformity with the plans, specifications and contract provisions.

The GEC shall be required to observe the Contractor to ensure the materials and methods used by the Contractor conform to the specifications, plans and other construction contract provisions.

No GEC under contract with the County on a project shall be permitted to subcontract with the Contractor to perform Quality Control or any other services on the same construction project.

It shall be the responsibility of the GEC to review the construction drawings and specifications for errors and omissions and provide recommendations to the County as to actions to take to avoid claims from the Construction Contractor. This service may, at the sole discretion of the County, occur during the bidding phase, as well as during construction as a normal course of duties. Any errors or omissions of the construction drawings and specifications shall immediately be brought to the attention of the County. If such errors or omissions are discovered after the project is bid, the GEC shall identify to the County any additional costs (including "premium" costs" - costs in excess of those that would normally have been expected if the work had been included in the project bid) to be borne by the County.

The GEC shall advise the County of any omissions, substitutions, defects and deficiencies noted in the work of the Contractor, prior to the corrective action being taken, and of the proposed corrective work. If the corrective action involves a substantive change to the project design, the GEC shall also advise the County and project Engineer of Record (EOR) and obtain approval of the change prior to implementation, if time and field conditions allow. If time or field conditions do not allow such consultation and approval, the County and EOR shall be advised of the situation ASAP, in order to ensure integrity of the design is maintained. Drawings noting such changes shall be signed, sealed and dated by a Florida Professional Engineer. The work provided by the GEC shall, in no way, relieve the

Contractor of responsibility for the satisfactory performance of the construction contracts.

8. QC/QA Inspection Services

a. General:

The Contractor is responsible for Quality Control (QC) materials testing and certification of the construction project in accordance with the construction contract documents. The GEC shall monitor the Contractor's materials testing and certification and perform verification testing to insure the quality of the materials entering into the work. The GEC shall monitor the Contractor's operations to insure that the project will be completed in reasonable conformity with the plans, specifications and other contract provisions. The GEC shall keep detailed, accurate records of the Contractor's daily operations and significant events that affect the work.

b. The standard procedures and practices of the FDOT for inspection of construction projects are set out in the Construction Projects Administration Manual (CPAM) and Facilities Design Manual. In general, the GEC shall perform inspection services in accordance with these standard procedures and practices and other accepted industry practices as may be appropriate; and shall perform incidental engineering surveys as may be necessary to verify and confirm the accuracy of the Contractor's work in substantial conformance with the plans and specifications.

c. The inspector shall complete a daily report every day, including each operation and location of construction that has been assigned. It is very important for the daily report to be filled out completely and accurately. In addition to the standard information, the inspector should record any significant lapses of the Contractor's QC.

9. Verification Testing

The Contractor is responsible for performing verification sampling and testing of component materials and completed work items to the extent necessary to assure that the materials and workmanship incorporated in each project are in reasonable conformity with the plans, specifications and contract provisions. The sampling frequencies for Materials Sampling, Testing and Reporting shall be determined by the GEC. The GEC is responsible for the construction project QA Program (verification reviews and testing) to oversee the Contractor's QC Program.

10. Personnel Training and Certification

Provide qualified personnel for sampling, testing and inspection of materials and construction activities. Ensure that qualifications are maintained during the course of sampling, testing and inspection. Continuance of the GEC

qualifications is subject to satisfactory results from periodic Independent Assurance evaluations conducted by the County.

11. Contract Administration Services

All records and documentation will be in accordance with standard County and FDOT procedures, formats and content. Services include, but are not limited to, the following:

- a. Schedule and conduct construction progress meetings, usually every two (2) weeks, with the Contractor, subcontractors, County Staff and utility companies to review construction progress, schedules, problems or other areas of concern. The County will determine when the EOR is to be included in the progress meetings. During this meeting, discuss the contractor's request for weather days since the previous meeting and come to an agreement on these days. Determine if there are any DBE or other issues and come to an agreement on how, who and when those issues will be addressed and resolved. Prepare and distribute minutes of these meetings.
- b. Assist the County scheduling and conducting a pre-construction conference for the project. Record significant information revealed and decisions made at this conference and distribute copies of these minutes to the appropriate parties.
- c. Once each month, prepare a comprehensive tabulation of the quantity of work satisfactorily completed to date. Quantities shall be based on daily records or calculations. Calculations shall be retained. The tabulation will be used for preparation of the Monthly Progress Estimate. Quantities shall be reviewed with the Contractor's representative prior to submission of the pay estimate to the County
- d. Analyze changes to the plans, specifications, contract provisions and extra work, which appear to be necessary to carry out the intent of the contract. When it is determined that a change or extra work is necessary and within the scope of the original contract, recommend such changes to the County for approval.
- e. Monitor the Contractor's schedule in accordance with the requirements in the contract documents. Take appropriate action to insure that the Contractor achieves his project schedule commitments.
- f. In the event that the Contractor gives notice to the GEC, either written or verbal, that he deems certain work to be performed is beyond the scope of the contract and it intends to claim additional compensation, the GEC shall immediately notify the County and maintain accurate cost account records of such work. These records shall include labor

(including labor classifications), equipment utilization and materials installed (temporary or permanent) in the portion of the work in dispute.

- g. During construction, verify critical elevations of roadway, bridge, stormwater and other applicable structures, particularly those of stormwater facilities. Certify completion of construction in substantial accordance with the approved construction plans. Certify completion of construction of stormwater facilities in accordance with applicable permits to permitting agencies on appropriate forms.
- h. Upon completion of the project, prepare and submit to the County a Final Estimate, with backup computations. The GEC shall also check and verify the accuracy of the as-built plans that are prepared and submitted by the Contractor. In addition, the GEC will maintain and provide sufficient information to enable preparation of a complete set of Record Drawings (as-built plans) by the EOR. This effort will include the marking of changes (during construction) on a set of construction drawings and providing supplemental information for such items as sign structures, box culverts, retaining walls and other structures for which the necessary pertinent information is supplied by a vendor or subcontractor. This information will be provided to the EOR for the preparation of the set of Record Drawings.
- i. Review the Contractor's Certified Payrolls for compliance with contract reporting and certification requirements on Federally-Funded projects, or as otherwise requested by the County; conduct field interviews of contractor and subcontractor employees to verify reported payroll information.
- j. Monitor the Contractor's compliance with contract requirements regarding DBE utilization.
- k. Monitor construction activities to the extent necessary to determine whether construction activities violate the requirements of any permits. If the project requires the use of the NPDES General Permit, supply at least one inspector who has successfully completed the "Florida Stormwater, Erosion, and Sedimentation Control Training and Certification Program for Inspectors and Contractors" to perform the project's erosion control inspections. Notify the Construction Contractor of any violations or potential violations and require his immediate resolution of the problem. Violations must be reported to the County immediately.
- l. Shop drawing/sample submittals and approvals shall be coordinated and shall include monitoring the status of each submittal as it progresses through review and approval. The GEC shall actively encourage all reviewers to accomplish reviews promptly.

- m. Provide coordination between the Contractor and utility companies to assure that conflicting utilities are removed, adjusted or protected in place in a timely manner to minimize delays to construction operations.
- n. Provide a digital photo and video log of the project prior to, during and after major construction activities, with heavy emphasis on potential claim items/issues.
- o. Create or process Requests For Information (RFIs), which provide interpretations of the plans and specifications, or answers to questions, problems, proposed changes, etc., as necessary to maintain uninterrupted progress on the project. The Project Administrator may request a response from the EOR and will consult with the County when a response involves complex issues or may have an impact on the cost of performing the work. The EOR and the County for the project will be copied on all RFIs.
- p. Immediately notify the County of any potential Errors and Omissions issues during the course of the project. The County will involve the EOR in resolution of these matters.
- q. Maintain records of all sampling and testing accomplished and analyze such records required to ascertain acceptability of materials and completed work items.
- r. Evaluate Value Engineering Change Proposals in cooperation with the Engineer of Record (EOR) and County, provide input as to whether or not proposed changes are essentially equal to the contract specified work, and provide an evaluation of the estimated savings and recommendation to the County.
- s. When it is determined that a modification to the contract for the project is required due to a necessary change in the character of the work, negotiate or assist the County in the negotiation of prices with the Contractor and support the preparation of a Supplemental Agreement or Change Order in accordance with applicable County policy; document evaluations of proposed contract changes and submit with the GEC's recommendation.
- t. All Potential Change Orders (PCO) shall be tracked and a status report maintained and updated on a monthly basis. This status report shall be a cooperative effort between Project Administrator and the County.
- u. In the event the Contractor submits a request for an extension of the allowable contract time other than for weather delays, analyze the request and prepare a recommendation, with evaluation documentation,

to the County as to the accuracy of statements and the actual impact on the Contractor's controlling items of work.

- v. Maintain a complete log of all required submittals, such as shop drawings, noting the dates of first submission and subsequent reviews and re-submittals, approvals, etc. The GEC team shall take note of and ensure that any changes are properly carried through to construction and shall further record, report, make recommendations and act on any circumstances, which affect the progress or cost of the work. Shop drawings shall also include any manuals or similar documents outlining proposed construction procedures submitted by the Construction Contractor.
- w. Conduct and document field reviews of the maintenance of traffic operations.
- x. Maintain on a daily basis a complete and accurate record of all activities and events relating to the project and a record of all work completed by the Contractor, including quantities of pay items. The GEC shall report apparent significant changes in quantity, time or cost, as they are noted, to the County.
- y. Upon request of the County, provide constructability reviews and consultation with the EOR during the design process at 60% and 90% plan submittals.
- z. Upon request by the County, review final bid plans and contract documents for completeness and quantity take-off; report any comments/suggestions for improvements and discrepancies between plans and pay item lists to the County, before bid documents are released.

12. Contractor's Schedule

The GEC shall analyze the Contractor's Schedule for feasibility, completeness and flow of activities, assuring that this schedule meets the requirements of the contract documents. The purpose of this review is to validate that the schedule is functional, that the information provided is reasonable, that the schedule can be tracked by the GEC and that the Contractor's plan for completing the project within the allowed contract time, or earlier, is reasonable. The Contractor's schedule will be updated to include the actual start dates and durations of activities.

The GEC shall provide the Contractor with a written review that identifies any significant omissions, improbable durations, or errors in logic. The review will include recommendations to the Contractor that are pertinent to the planning and scheduling of the project work and completion of the project within the allowed contract time.

The Contractor is required to provide a two-week look-ahead schedule, indicating planned work for discussion at the bi-weekly progress meetings. The planned work activities are to be reviewed with all affected utility companies and other parties.

13. Personnel

a. General Requirements

The GEC shall provide a sufficient number of qualified personnel to effectively perform its responsibilities under this Section of the Scope of Services.

b. Personnel Training and Certification

The GEC shall utilize only competent personnel who are qualified by experience and education. The GEC shall submit in writing to the County the names of all personnel to be considered for assignment to the construction projects, together with a detailed resume with respect to education and experience qualification for each individual.

c. Staffing

The GEC shall determine the number and type of personnel needed to adequately staff and carry out the responsibilities of this Scope of Services. The GEC shall submit a chart detailing the proposed staffing and the duration of each position.

The chart will be submitted to the County with the proposal for each project assignment. The GEC shall maintain an appropriate staff after completion of construction to complete the final estimate and close out of the project. Responsible personnel, thoroughly familiar with all aspects of construction and final measurements, shall be available to resolve disputes.

d. Subconsultant Services

The GEC may subcontract for engineering inspection, materials testing, aerial photography or specialized professional services. Subcontracts must be approved by the County. The costs of negotiating, administering, managing, coordinating, supervising, processing and quality control of all subcontract services shall be covered by the GEC's overhead rate.