City of Jacksonville, Florida

Lenny Curry, Mayor

Department of Public Works
Engineering & Construction Management Division
214 N. Hogan Street, 10th Floor
Jacksonville, FL 32202
(904) 255-8762
www.coj.net

ONE CITY. ONE JACKSONVILLE.

TO: Greg Pease, Chairperson
Professional Services Evaluation Committee

THRU John P. Pappas, P. E.
Director of Public Works

FROM: Bill Joyce, P. E., Operations Director
Department of Public Works

Duane Kent, P. E., Project Manager
Engineering and Construction Management Division

DATE: December 18, 2018

RE: **REQUEST FOR PROPOSALS – PROFESSIONAL DESIGN SERVICES FOR THE SOUTHBANK RIVERWALK EXTENSION- RFP NO. P-~~18~~ 10-19**

Please take appropriate action to issue the attached Request for Proposals (RFP) for subject professional services.

The following information is furnished as required by the Ordinance Code and Procurement Department Regulations:

1. The general purpose of these services is stated in the accompanying RFP.
2. The objective of this request is to make available professional services as stated in the RFP.
3. The services shall be performed in accordance with negotiated time schedules.
4. The cost for these services is estimated at approximately $850,000.
5. These services will not duplicate prior or existing work.
6. There are no current or prior services directly related to this request.
7. Coordination has been completed between the pertinent Divisions of the Department of Public Works for proper utilization of these services.
8. The Department of Public Works does not have the in house capabilities to provide these services.

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9. A subcommittee composed of Bill Joyce, P. E., Operations Director, Department of Public Works, 255-8762; and Duane Kent, Project Manager, Engineering and Construction Management Division, 255-8910, is assigned to review submittals for this RFP.

10. Internal Services administrative costs should be charged to Account No. PWEN011AD.

11. Funding will be identified at the time the contract is drafted for these services.

12. All firms who have expressed an interest in furnishing Professional Engineering Services as detailed in the RFP should be mailed a notice of this RFP.

13. The subcommittee members assigned to this RFP have read and understand the Procurement Manual dated March 2017.

14. Three (3) weeks is believed to be sufficient time for interested parties to respond to this RFP.

We certify the contents of this memorandum are correct and true to the best of our knowledge.

DJ:dh

Attachment: Request for Proposals
Risk Management and EBO Approvals (sent by e-mail)

cc: David D. Hahn, P. E., Engineer Manager, Engineering Design Section
Lori West, Contract Specialist, Engineering Division

DRAFT

Request for Proposals

P-10-19

Professional Design Services for The Southbank Riverwalk Extension

December 2018

ONE CITY. ONE JACKSONVILLE

CITY OF JACKSONVILLE
Procurement Division
Ed Ball Building
214 North Hogan Street, Suite 800 (8th Floor)
Jacksonville, Florida 32202
Phone: (904) 255-8800
Fax: (904) 255-8837

Lenny Curry
Mayor

Gregory Pease, Chief
Procurement Division

REQUEST FOR PROPOSALS
PROFESSIONAL DESIGN SERVICES FOR
ORTEGA HILLS SUBDIVISION NORTH ACCESS PROJECT

For
City of Jacksonville, Florida

SECTION 1
(Specific Information Regarding this RFP)

The City of Jacksonville ("**Buyer**") intends to hire an individual or firm (**"Contractor"** and/or **"Consultant"**) to provide the professional services described in Section 1.2 of this Request for Proposal ("**RFP**"). Persons interested in submitting a response to this RFP (a "**Proposal**") should carefully review this RFP for instructions on how to respond and for the applicable contractual terms. This RFP is divided into the following sections:

Section 1	Specific Information Regarding This RFP
Section 2	General Instructions
Section 3	General Terms and Conditions of Agreement
Section 4	Description of Services (if referenced in Section 1.2 below)
Attachment A	Response Format
Attachment A-1	Volume of Work for Using Agencies by Prime Contractor Within the Last Five Years
Attachment B	Evaluation Matrix
Attachment C	Equal Business Opportunity Program Requirements • EBO Form 1 • EBO Form 2 • EBO Form 3
Attachment D	Sample Contract
Attachment E	Federal Funding Provisions (Omitted - Not applicable to this Contract)
Attachment F	Errors & Omissions Procedures
Attachment G	Indemnification
Attachment H	Insurance Requirements
Attachment I	Procurement Protest Procedures
Attachment J	Disqualified/Probationary Vendors List
Attachment K	Project Location Maps
Form 1 -	Price Sheet (Do not submit with RFP Response)
Form 2 -	Conflict of Interest Certificate (**Sign and Submit with RFP Response**)
Form 3 -	Insurance Agent Acknowledgement (**Must be completed and signed by your Insurance Agent and submitted with your RFP Response**)
Form 4 -	Acknowledgement of Errors and Omissions Requirements described in Article 3.48 and Attachment F (**Sign and Submit with RFP**)

In the event of conflicting provisions, the following sections of this RFP will have priority in the order listed: Section 1, Section 4, Section 2, Section 3, the Attachments, and the Forms.

1.2 **Scope of Services.**
This is a Request for Proposals (RFP) for Contractors to provide engineering design and all other professional services necessary for the permitting (including a submerged land lease), bidding and construction of a new approximately 1200 feet long section of Southbank Riverwalk behind Baptist Hospital on Prudential Drive. The Riverwalk will be a 16 foot wide concrete structure, over water with amenities such as benches, trash cans, lighting etc. The Project will include the design and permitting of a floating dock for use by the River Taxi and four private vessels.

Please see Section 4 for a full description of the services and deliverables required under this RFP.

1.3 **Term of Agreement.**
The initial term of agreement will commence upon execution of the Contract and will continue thru Construction to project completion. The Contract is subject to early termination as set forth elsewhere in this RFP.

1.4 **Minimum Requirements for Contractors.**
Contractors must satisfy the following mandatory minimum requirements in order to have their Responses evaluated. By submitting a response, Contractor warrants and represents that it satisfies these requirements. Failure to meet these requirements will result in the Response not being evaluated and being rejected as non-responsive:

A. **Authorized and licensed under Florida Statutes to perform the professional services sought by this RFP.**

B. **Capability to deliver final drawings in electronic form using either a standard .dxf or .dwg format.**

C. **Must possess a Local Business Tax Certificate, if applicable.**

1.5 **Equal Business Opportunity Program**
It is an official policy of the City of Jacksonville to encourage the maximum participation of Jacksonville Small and Emerging Businesses (JSEBs) in its contract awards based upon availability. To participate as a JSEB on Buyer projects, a company must be certified as a JSEB with the City's Equal Business Opportunity Office.

This RFP and the resulting Contract are subject to requirements of the "Participation Percentage Plan", which is set forth on Attachment C to this RFP. This RFP shall have a **20%** percent participation goal under the Plan.

Contractors may contact Buyer's Equal Business Opportunity Office at 904-255-8620 or find the JSEB directory at the City's website at www.jseb.coj.net

1.6 **Documents Available for Inspection (if applicable)**
During preparation of a response to this RFP, the following material is available for review by Contractors:

A. City Standard Details, Standard Specifications, Land Development Procedures Manual and City Standard Contract Documents.

B. Any other information available in the City's records which pertain to this project.

C. The Contractor accepts the responsibility for the accuracy of any information furnished and ultimately incorporated into its services.

D. Arrangements for inspection should be made with the Contact Person identified in Section 1.12. Copies of documents will be furnished to the extent permitted by law.

1.7 **Federal Funds.**
Federal funds **will not** be used as part of this solicitation.

1.8 **Pre-Proposal Meeting.**
There **is not** a pre-proposal meeting scheduled for this RFP.

1.9 **Response Due Date.**
The deadline for submitting responses to this RFP is **Wednesday, February 6, 2019, at 2:00 p.m., Eastern Time.** Please see Sections 2.3 and 2.4 for more details.

1.10 **Response Delivery Location.**
Responses must be delivered to the following location:

City of Jacksonville
Procurement Division
Attn: Professional Services Specialist
214 N. Hogan Street, Room 105
Jacksonville, Florida 32202

1.11 **Response Opening.**
All Responses received shall be publicly announced and recorded at 2:00 PM on the Response Due Date at the Response Delivery Location (see Sections 1.9 and 1.10 above).

1.12 **Contact Person.**
Buyer's Contact Person for this RFP is:

Alex Baker
Professional Services Specialist
abaker@coj.net

Please refer to Section 2.9 for further information on who may and may not be contacted regarding this RFP.

1.13 **Questions and Requests for Amendments.** Any questions, requests for information or requests for amendments to this RFP must be submitted via email no later than **11:00 a.m., Friday, January 25, 2019,** in accordance with Section 2.2 of this RFP.

1.14 **Special Instructions**: N/A

1.15 **Special Contract Terms**:

1. City reserves the right to review insurance requirements specified in Article 3.21 for construction project in excess of $3,000,000, and make changes when deemed necessary. Compensation will be provided for justifiable, documented corresponding increases in insurance costs.

(End of Section 1 – Remainder of page intentionally left blank)

Section 2
General Instructions
(RFP for-Design Professional Services)

Contents

2.1 Application of Chapter 126 and Other Laws
2.2 Questions and Requests for Amendment to RFP
2.3 Format/Content of Responses
2.4. Submission of Responses
2.5 Evaluation of Responses
2.6 Negotiation and Award of Contract
2.7 Terms of Agreement
2.8 Public Meetings and Special Accommodations
2.9 Ex-Parte Communication.
2.10 Cost of Developing RFP Response
2.11 Response Ownership.
2.12 Public Records Law; Process For Protecting Trade Secrets and Other Information
2.13 Multiple Responses from Same Contractor; No Collusion.
2.14 Conflict of Interest.
2.15 Convicted Vendor List
2.16 Discriminatory Vendor List
2.17 Contractor Representations
2.18 Protests

2.1 **Application of Chapter 126 and Other Laws.** The selection of and contracting with a Contractor under the RFP will be in accordance with Part 3 of Chapter 126, of the Jacksonville Ordinance Code. Other provisions of federal, state, county and local laws, and administrative procedures, policies or rules may apply to the RFP and any claims or disputes arising hereunder. Lack of knowledge of the law or administrative procedures, policies, or rules by any Contractor shall not constitute a cognizable defense against their effect.

2.2 **Questions and Requests for Amendment to RFP**. If a Contractor (i) has questions about the RFP, (ii) finds discrepancies, omissions or ambiguities in the RFP, or (iii) believes any term or condition of the RFP is unreasonable, Contractor should request an amendment to the RFP. The request should reference the RFP section at issue and include any specific language that Contractor recommends using.

All requests for amendment must be submitted to the Contact Person in writing (via e-mail,) and, unless otherwise specified in Section 1.13 of the RFP, be received by the Contact Person at least **ten (10) calendar days** before the Response Due Date. Questions and requests for amendments directed to the Contact Person or to any other Buyer personnel shall not constitute a formal protest of the RFP. Failure to request an interpretation or change will be considered evidence that Contractor understands and agrees to the provisions of the RFP.

The posting of a written amendment is the only official method by which interpretations, clarifications, changes or additional information will be given by Buyer prior to the opening of Responses. Any other interpretation, clarification, change or information will have no legal effect.

Buyer reserves the right to amend, cancel or reissue the RFP at its discretion. This includes the right to change the Response Due Date and the Contract award date. Notice of all amendments and cancellations will be posted on Buyer's website (please contact the Contact Person if you are uncertain of the website address or if you experience problems accessing it). Contractor is responsible for monitoring this website for new or changing information.

2.3 **Format/Content of Responses.**

A. If a Response Format is specified in the RFP, Contractors should follow that format.

B. Responses should be prepared simply and economically, providing a straightforward, concise description of Contractor's ability to provide services sought by the RFP. Unnecessary brochures, artwork, expensive paper, and presentation aids are discouraged. Bindings and covers will be at Contractor's discretion.

C. When responding to specific questions, please reprint each question in its entirety before the response.

D. Responses shall be in ink or typewritten. All corrections must be initialed.

E. Response shall be limited to a page size of 8½" x 11". Font size less than 11-points is discouraged. The Response shall be indexed and all pages sequentially numbered.

F. **Except as may be specifically requested in the Response Format, Contractor may not impose any additional terms or conditions to any aspect of the RFP.** Buyer objects to and shall not be required to consider any additional terms or conditions submitted by Contractor, including any appearing in the Response. In submitting a Response, Contractor agrees that any additional terms or conditions shall have no force or effect. Any failure to comply with the terms and conditions of the RFP, including those specifying information that must be submitted with a Response, may result in rejection of the Response. **If Contractor desires a change or clarification to the terms or conditions of the RFP, Contractor must follow the process set forth in Section 2.2 ("Questions and Requests for Amendments").**

G. Unless otherwise requested by Buyer, Contractors should make only one proposal for each RFP item. Multiple offerings, alternates (unless any are specifically requested by Buyer) and/or stipulations may be cause for rejection of a Response.

H. Price offerings shall be **inclusive of ALL costs** (including but not limited to administrative cost for submission of all required paperwork on Buyer's behalf and any other costs) and will be the only compensation given to Contractor for the required services herein.

I. All prices submitted under the RFP shall be indelible. The use of correction fluid or erasures to correct line item bid prices and/or quantities are not acceptable. Corrections must be by lineout of the incorrect figures, writing in of correct figures, and initialing of the corrections by the originator. Correction fluid or erasure corrected bids will be considered non-responsive for the corrected item(s) only, and may render the entire Response as nonresponsive.

J. Failure to sign any form requiring a signature may be grounds for rejecting a Response.

2.4 <u>Submission of Responses</u>.

A. The location and deadline for submitting Responses is set forth in Section 1 of the RFP. Contractors are fully responsible for meeting these requirements. Reliance upon mail or public carrier is at Contractor's risk. **Late bids will not be considered.**

B. Contractor shall submit:

1) One (1) original signed version of its Response clearly marked as "ORIGINAL." The Response must be signed by an officer or employee having authority to legally bind Contractor.

2) Two (2) hard copies of the entire Response.

3) Six (6) scanned copies (in .pdf format) of entire Response, each on a separate CD-ROM. Large files may be scanned as several separate PDF files.

4) One (1) REDACTED scanned copy of the Response (if necessary pursuant to Section 2.12). This copy should be marked "Confidential - Trade Secret" or something comparable to alert the reader of Contractor's claim of a public records exemption.

All copies are to be placed in a sealed package. The outside must be marked with (i) the RFP title and number, and (ii) Contractor's name, address, contact person, and telephone number.

It is the sole responsibility of each Contractor to assure all copies are EXACT duplicates of the original Response. Photocopies or CD copies will be used for the purpose of evaluating the Responses. Any information contained in the original Response which has not been transferred to the CDs or photocopies will NOT be considered. The original document will be used solely for official record keeping and auditing purposes.

2.5 Evaluation of Responses.

A. Buyer will determine the qualifications, interest and availability of Contractors by reviewing all Responses and, when deemed necessary in the sole discretion of Buyer, by conducting formal interviews of selected Contractors that are determined to be the best qualified based upon evaluation of the Responses.

B. The determination of which Contractors are "best qualified" will be based upon the criteria set forth in the RFP.

C. Before making an award, Buyer reserves the right to seek clarifications, revisions, and information it deems necessary for the proper evaluation of Responses. Failure to provide any requested clarifications, revisions or information may result in rejection of the Response.

D. Buyer reserves the right to accept or reject any and all Responses, or separable portions thereof, and to waive any minor irregularity, technicality, or omission if Buyer determines that doing so will serve Buyer's best interests. Buyer may reject any Response not submitted in the manner specified by the RFP.

2.6 Negotiation and Award of Contract.

A. The process for contract negotiation and award is set forth in Jacksonville Ordinance Code Sections 126.303 and 126.304. Generally, Buyer will negotiate first with the highest ranked Contractor. If an agreement cannot be reached with the highest ranked Contractor, Buyer reserves the right to negotiate and recommend award to the next highest ranked Contractor or subsequent Contractor(s) until an agreement is reached.

B. Buyer may make an award within sixty (60) days after the date of the Responses are due, during which period the Responses shall remain firm and shall not be withdrawn. Any Response that expresses a shorter duration may, in Buyer's sole discretion, be accepted or rejected. If award is not made within sixty (60) days, the Response shall remain firm until either the Contract is awarded or Buyer receives from Contractor written notice that the Response is withdrawn. [Note: Withdrawal of a Response may be requested within 72 hours (excluding State holidays, Saturdays and Sundays) after the date and time Responses are due. Buyer will not accept an amended Response after the date and time Responses are due.]

C. Except as may otherwise be expressly set forth in the RFP, Buyer intends to award one contract, but reserves the right to enter into a contract with multiple Contractors or to reject all Responses.

D. Based on the evaluation and negotiation results, Buyer shall electronically post a notice of intended award at Buyer's website. Please contact the Contact Person if you are uncertain of Buyer's website address or if you experience problems accessing it. Any person who is adversely affected by the decision shall file with Buyer a notice of protest in accordance with the Protest provisions of the RFP. Buyer does not intend to provide tabulations or notices of award by telephone.

2.7 **Terms of Agreement.** After award to the successful Contractor, Buyer and Contractor will promptly enter into a written agreement (the "Contract") incorporating the terms of the RFP, the successful Response, and other terms and conditions as may be agreed to between the parties. To the extent the Response contains exceptions to or modifications of the RFP, such exceptions or modifications are stricken unless Buyer affirmatively accepts the exceptions or modifications in the Contract. The Contract will be substantially in the form set forth in an attachment to the RFP. Buyer will not be obligated to pay Contractor for the RFP services until the Contract is signed by both parties. Buyer retains the right to reject all bids and/or amend its notice of award at any time prior to the full execution of the Contract.

If the successful Contractor fails to perform the Services as agreed, Buyer reserves the right to (i) issue a new solicitation for the Services; (ii) reopen the RFP for the purpose of negotiating and awarding a second contract to another Contractor in accordance with the criteria and processes set forth herein; and/or (iii) take such other actions permitted by law.

2.8 **Public Meetings and Special Accommodations.** Any meetings of the RFP evaluation committee (i.e., the Professional Services Evaluation Committee), shall be noticed on Buyer's website and shall comply with Florida's Open Meetings Laws. Please contact the Contact Person if you are uncertain of Buyer's website address or if you experience problems accessing it. Persons requiring a special accommodation because of a disability should contact the Contact Person identified in Section 1 at least forty-eight (48) hours prior to the meeting.

2.9 **Ex-Parte Communications**. Communications regarding the RFP by a potential vendor, service provider, bidder, lobbyist or Contractor to city employees, staff, or hired consultants are prohibited. This prohibition includes communications with the Buyer's Office of General Counsel unless the Contact Person has authorized those communications in advance. Violations may result in the rejection/disqualification of a Response.

These prohibitions on ex-parte communications do not apply to the following:

- communications regarding the RFP to the Chief of the Procurement Division or the Contact Person, provided the communication is limited strictly to matters of process or procedure already contained in the RFP.
- communications with the city employee responsible for administering the Jacksonville Small Emerging Business Program, provided the communication is limited strictly to matters of programmatic process or procedures.
- communications with the Office of Inspector General and his/her staff regarding any perceived inefficiency, misconduct or abuse by city employees.
- communications at any pre-bid conferences.
- presentations before publicly noticed committee meetings.
- contract negotiations during any duly noticed public meeting.
- any duly noticed site visits to determine competency of bidders during the period between bid opening and issuance of the Chief of Procurement Division's written recommendation.

- communications that are necessary for, and solely related to, the ordinary course of business concerning Buyer's existing contract(s) for the materials or services addressed in the RFP.

The period for these prohibitions commences upon the advertisement of the RFP and terminates after the Chief of the Procurement Division issues a written recommendation to the corresponding awarding committee. If the awarding committee refers the Chief's recommendation back for further review, the prohibitions shall be reinstated until such time as the Chief issues a subsequent recommendation.

2.10 **Cost of Developing RFP Response.** All costs related to the preparation of Responses and any related activities are the sole responsibility of Contractor. Buyer assumes no liability for any costs incurred by Contractors throughout the entire selection process.

2.11 **Response Ownership.** All Responses, including attachments, supplementary materials, addenda, etc., shall become property of Buyer and shall not be returned to Contractor. Buyer will have the right to use any and all ideas or adaptation of ideas presented in any Response. Acceptance or rejection of a Response shall not affect this right.

2.12 **Public Records Law; Process For Protecting Trade Secrets and Other Information.** Article 1, Section 24, Florida Constitution, guarantees every person access to all public records, and Section 119.011, Florida Statutes, provides a broad definition of public records. As such, all responses to the RFP are public records unless exempt by law. If Contractor considers any portion of its Response to be exempt from disclosure under Florida law, Contractor must provide Buyer with a separate redacted copy of the Response and briefly describe in writing the grounds for claiming exemption from the public records law, including the specific statutory citation. Contractor shall be responsible for defending its determination that the redacted portions of its Response are confidential, trade secret or otherwise not subject to disclosure. Further, Contractor shall protect, defend, and indemnify Buyer for any and all claims arising from or relating to Contractor's determination that the redacted portions of its Response are confidential, trade secret or otherwise not subject to disclosure. If Contractor fails to submit a Redacted Copy with its Response in accordance with Section 2.4 above, Buyer is authorized to produce the entire Response in answer to a public records request.

2.13 **Multiple Responses from Same Contractor; No Collusion.** More than one Response from an individual, firm, partnership, corporation or association under the same or different names is not permitted. Reasonable grounds for believing that a Contractor is involved in more than one Response for the same work will be cause for rejection of all Responses in which such Contractor is believed to be involved. Any or all Responses will be rejected if there is reason to believe that collusion exists between Contractors. Responses in which the prices obviously are unbalanced will be grounds for rejection.

2.14 **Conflict of Interest.** Section 126.110 of the Jacksonville Ordinance Code requires that a public official who has a financial interest in a bid or contract make a disclosure at the time that the bid or contract is submitted or at the time that the public official acquires a financial interest in the bid or contract, including but not limited to the public official's name, public office or position held, bid or proposal number, and the position or relationship of the public official with the bidder or Contractor. The parties will follow the provisions of Section 126.110, Jacksonville *Ordinance Code,* with respect to required disclosures by public officials who have or acquire a financial interest in a bid or contract with Buyer, to the extent the parties are aware of the same. All Contractors must submit the Conflict of Interest Certificate attached to the RFP.

2.15 **Convicted Vendor List.** A person or affiliate placed on the State of Florida convicted vendor list pursuant to Section 287.133, Florida Statutes, following a conviction for a public entity crime may not do any of the following for a period of 36 months from the date of being placed on the convicted vendor list:

- submit a bid on a contract to provide any goods or services to a public entity;
- submit a bid on a contract with a public entity for the construction or repair of a public building or public work;
- submit bids on leases of real property to a public entity;
- be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and
- transact business with any public entity in excess of the Category Two threshold amount provided in Section 287.017, Florida Statutes.

2.16 **Discriminatory Vendor List.** An entity or affiliate placed on the State of Florida discriminatory vendor list pursuant to Section 287.134, Florida Statutes, may not:

- submit a bid on a contract to provide any goods or services to a public entity;
- submit a bid on a contract with a public entity for the construction or repair of a public building or public work;
- submit bids on leases of real property to a public entity;
- be awarded or perform work as a contractor, supplier, sub-contractor, or consultant under a contract with any public entity; or
- transact business with any public entity.

2.17 **Contractor Representations.** In submitting a Response, Contractor understands, represents, and acknowledges the following (if Contractor cannot so certify to any of following, Contractor shall submit with its Response a written explanation of why it cannot do so).

- Contractor currently has no delinquent obligations to the City of Jacksonville or any of its independent agencies.
- The Response is submitted in good faith and without any prior or future consultation or agreement with any other respondent or potential respondent;
- To the best of the knowledge of the person signing the Response, neither the Contractor, its affiliates, subsidiaries, owners, partners, principals or officers:
    - is currently under investigation by any governmental authority for conspiracy or collusion with respect to bidding on any public contract;
    - is currently under suspension or debarment by any governmental authority in the United States;
    - has within the preceding three years been convicted of or had a civil judgment rendered against it, or is presently indicted for or otherwise criminally or civilly charged, in connection with (i) obtaining, attempting to obtain, or performing a federal, state, or local government transaction or public contract; (ii) violation of federal or state antitrust statutes; or (iii) commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or
    - has within the preceding three-year period had one or more federal, state, or local government contracts terminated for cause or default.
- If this Agreement is for goods or services of $1 million or more, the City, pursuant to Section 287.135(3)(c), Florida Statutes, may terminate this Agreement at City's option if Contractor:

    (a). Is found to have submitted a false certification under Section 287.135(5), Florida Statutes;

(b). Has been placed on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel;

(c). Has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes; or

(d). Has been engaged in business operations in Cuba or Syria.

- Contractor has read and understands the RFP terms and conditions, and the Response is submitted in conformance with those terms and conditions.
- All representations made by Contractor to Buyer in connection with the RFP have been made after a diligent inquiry of its employees and agents responsible for preparing, approving, or submitting the Response.
- Contractor shall indemnify, defend, and hold harmless Buyer and its employees against any cost, damage, or expense which may be incurred or be caused by any error in the Response.
- All information provided by, and representations made by, Contractor are material and important and may be relied upon by Buyer in awarding the Contract.

2.18 **Protests.** Any protest concerning the RFP shall be made in accordance with the Procurement Protest Procedures established pursuant to Section 126.106(e) of the Jacksonville Ordinance Code. A full copy of the procedures is available on Buyer's website and can also be obtained by contacting Buyer's Contact Person. Please contact the Contact Person if you are uncertain of Buyer's website address or if you experience problems accessing it. Questions and requests made to the Contact Person shall not constitute formal Notice of Protest.

The Procurement Protest Procedures include the following provisions:

- a Protestant shall have 10 business days after the posting of a solicitation or 48 hours after the posted date and time of a pre-bid or pre-proposal conference, whichever is earlier, or 48 hours after the posting of an amendment, in which to file a written Notice of Protest in order to timely challenge the requirements, terms and/or conditions contained in bid or proposal documents, including without limitation any provisions governing or establishing: (i) the basis for making the award in question; (ii) evaluation criteria; (iii) equipment, product, or material specifications; (iv) proposed project schedules; (v) statements regarding participation goals or other equal opportunity measures; or (vi) other general solicitation or project requirements.
- a Protestant shall have 48 hours after either the posting or written notification of a decision or intended decision, whichever is earlier, in which to file a written Notice of Protest in order to timely challenge or seek relief from a recommended conclusion to any bid or proposal solicitation process, including without limitation: (i) a recommendation to reject a bid or proposal; (ii) a contract award; or (iii) the short-listing of bidders or proposers.
- A written Notice of Protest shall: (i) be addressed to the Chief [of Jacksonville's Procurement Division]; (ii) identify the solicitation, decision, or recommended award in question by number and title or any other language sufficient to enable the Chief to identify the same; (iii) state the timeliness of the protest; (iv) state Protestant's legal standing to protest; and (v) clearly state with particularity the issue(s), material fact(s) and legal authority upon which the protest is based.
- At the time of filing a timely Notice of Protest, a Protestant may request an extension of three (3) business days after the date its Notice of Protest is timely received, in which to provide supplemental protest documentation. Failure to do so or to timely submit the supplemental protest documentation shall constitute a waiver of any right to same.
- The timely filing of a Notice of Protest shall be accomplished when said notice is actually received by the Procurement Division within the applicable time limitation or period

contained herein. Filing a notice may be accomplished by manual transfer via hand-delivery or mail to the Chief of Procurement Division at 214 North Hogan Street, Suite 899, Jacksonville, Florida 32202, or by electronic transfer via facsimile to (904) 255-8837. The responsibility and burden of proof that its Notice of Protest has been timely and properly received shall rest with the Protestant, regardless as to the method of delivery employed.

(End of Section 2 – Remainder of page intentionally left blank)

Section 3
General Terms and Conditions of Agreement

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3.22 Buyer's Right to Suspend Work
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3.24 Buyer's Remedies Upon Contractor Default.
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3.29 Qualification of Contractor Employees, Subcontractors, and Agents
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3.35 Assignment of Antitrust Claims
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3.1. Provision of Services. Contractor shall provide Buyer with all of the services and deliverables described in the RFP, the Response and the resulting Contract (collectively, the "Services"). If any services,

functions or responsibilities are not specifically described in the RFP, the Response or the resulting Contract but are necessary for the proper performance and provision of the Services, they shall be deemed to be implied by and included within the scope of the Services to the same extent and in the same manner as if specifically described herein.

3.2. Relationship of the Parties. In performance of the Services, Contractor shall be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of Buyer. Contractor shall be solely responsible for the labor, supplies, materials, means, methods, techniques, sequences and procedures utilized to perform the Services in accordance with the Contract.

3.3. Buyer's Right to Make Changes. Buyer may unilaterally require, by written order, changes altering, adding to, or deducting from the Services ("Changes"), provided that such Changes are within the general scope of the Contract. Buyer will make an equitable adjustment in the Contract price or delivery date if the Change materially affects the cost or time of performance. Such equitable adjustments require the written consent of Contractor, which shall not be unreasonably withheld. The Parties will cooperate with each other in good faith in discussing the scope and nature of the Change, the availability of Contractor personnel, the expertise and resources to provide such Change, and the time period in which such Change will be implemented.

3.4. Service Warranties. Contractor warrants that the Services shall be performed and delivered in a professional manner in accordance with the Contract and the standards prevailing in the industry. Contractor shall also undertake the following actions without additional consideration during the term of the Contract and for one year thereafter: (i) promptly making necessary revisions or corrections to resolve any errors and omissions on the part of Contractor; and (ii) conferring with Buyer for the purpose of interpreting any of the Services or information furnished. Acceptance of the Services by Buyer shall not relieve Contractor of these responsibilities. The warranties and covenants in this paragraph will extend to all subcontractors as well.

The foregoing warranties and covenants shall not apply (i) with respect to any portions of the Service that have been produced by anyone other than Contractor or its subcontractors; (ii) to any modifications made by anyone other than Contractor or its subcontractors or without Contractor's specific prior written consent; or (iii) to any use of the Service in a manner or for any purpose other than those contemplated in the Contract. **EXCEPT AS EXPRESSLY STATED IN THE CONTRACT, THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES REGARDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CONTRACTOR'S WARRANTIES EXTEND SOLELY TO BUYER.**

3.5. Buyer Will Assist Contractor. At Contractor's request, Buyer will provide reasonable assistance and cooperation to Contractor, including the supply of any data and information necessary for Contractor to provide the Services. Buyer will also designate a Contract Manager who will, on behalf of Buyer, work with Contractor and administer the Contract in accordance with its terms.

3.6. Location Requirements for Services. Unless otherwise stated in the RFP or the Response, the majority of the Services shall be performed within Duval County, Florida and no Services will be performed outside of the United States. These restrictions may be modified in writing if Buyer determines, in its sole discretion, that the restrictions impose an undue burden on Contractor's ability to perform the Services as contemplated in the Contract.

3.7. Use of Subcontractors; Flow-Down Provisions. Except to the extent the use of subcontractors is disclosed in the Response or consented to in writing by Buyer, Contractor shall not be allowed to subcontract or assign any of its duties and obligations hereunder. In all cases, Contractor will be responsible for the acts or omissions of its subcontractors. Contractor will ensure that all relevant contractual obligations will flow down to the subcontractors and will be incorporated into the subcontracts (including the obligations relating to insurance, indemnification, delays, intellectual property rights, public records, non-discrimination, audits, security, location of services, termination, transition assistance, warranties, and the manner in which the Services are to be performed).

3.8. Meetings and Reports. Contractor must attend all meetings and public hearings relative to the Services where its presence is determined to be necessary and requested by Buyer and Contractor can reasonably schedule its appearance. Unless otherwise agreed, Contractor shall provide a monthly report summarizing Contractor's performance. Contractor shall provide other periodic reports respecting the Services as Buyer reasonably requests.

3.9. Ownership of Works.

(a) As used in Sections 3.9 and 3.10, the term "Work" shall mean each deliverable, drawing, design, specification, rendering, notebook, tracing, photograph, reference book, equipment, expendable equipment and material, negative, report, finding, recommendation, data and memorandum of every description, shared with or delivered to Buyer pursuant to the Contract.

(b) With the exception of Contractor's pre-existing intellectual capital and third-party intellectual capital as described in Section 3.10 below, Buyer shall own all right, title and interest, including ownership of copyright (limited to the extent permitted by the terms of any governing licenses), in and to each Work including, but not limited to, software, source code, reports, deliverable, or work product developed by Contractor specifically for Buyer in connection with the Contract, and derivative works relating to the foregoing. The use of these Works in any manner by Buyer shall not support any claim by Contractor for additional compensation.

(c) Each Work, and any portion thereof, shall be a "work made for hire" for Buyer pursuant to federal copyright laws. Any software, report, deliverable, or work product as used in connection with the Work, but previously developed by Contractor specifically for other customers of Contractor or for the purpose of providing substantially similar services to other Contractor customers, generally shall not be considered "work made for hire", so long as the foregoing are not first conceived or reduced to practice as part of the Work. To the extent any of the Works are not deemed works made for hire by operation of law, Contractor hereby irrevocably assigns, transfers, and conveys to Buyer, or its designee, without further consideration all of its right, title and interest in such Work, including all rights of patent, copyright, trade secret, trademark or other proprietary rights in such materials. Except as provided in the foregoing sentences, Contractor acknowledges that Buyer shall have the right to obtain and hold in its own name any intellectual property right in and to the Work. Contractor agrees to execute any documents or take any other actions as may reasonably be necessary, or as Buyer may reasonably request, to perfect or evidence Buyer's ownership of the Work.

3.10. Intellectual Property.

(a) Contractor grants to Buyer an irrevocable, perpetual, royalty free and fully paid-up right to use (and such right includes, without limitation, a right to copy, modify and create derivative works from the subject matter of the grant and the right to sublicense all, or any portion of, the foregoing rights to an affiliate or a third party who provides service to Buyer) Contractor's intellectual property (including, without limitation, all trade secrets, patents, copyright and know-how) that is contained or embedded in, required for the use of, that was used in the production of or is required for the reproduction, modification, maintenance, servicing, improvement or continued operation of any applicable unit of Work.

(b) If the Work contains, has embedded in, or requires for the use of, any third party intellectual property, or if the third party intellectual property is required for the reproduction, modification, maintenance, servicing, improvement or continued operation of the Work, Contractor shall secure for Buyer an irrevocable, perpetual, royalty free and fully paid-up right to use all third party intellectual property. Contractor shall secure such right at its expense and prior to incorporating any third party intellectual property (including, without limitation, all trade secrets, patents, copyright and know-how) into any Work, including, without limitation, all drawings or data provided under the Contract, and such right must include, without limitation, a right to copy, modify and create derivative works from the subject matter of the grant of the right and a right to sublicense all or any portion of the foregoing rights to an affiliate or a third party service provider. This subparagraph does not apply to standard office software (e.g., Microsoft Office).

(c) Should Buyer, or any third party obtaining such Work through Buyer, use the Work or any part thereof for any purpose other than that which is specified in the Contract, it shall be at Buyer's and such third party's sole risk.

3.11. Software Development Processes and Standards. To the extent any software is developed, modified, or otherwise procured under the Contract, Contractor will use commercially-accepted software development and documentation processes and standards.

3.12. Limitation of Warranty for Buyer-Furnished Software. In lieu of any other warranty expressed or implied herein, Buyer warrants that any programming aids and software packages supplied for Contractor use as Buyer-furnished property shall be suitable for their intended use on the system(s) for which designed. In the case of programming aids and software packages acquired by Buyer from a commercial source, such warranty is limited to that set forth in the contractual document covering the product(s). Should Buyer furnish Contractor with any programming aids or software packages that are found not to be suitable for their intended use on the system(s) for which designed, Contractor shall notify Buyer and supply documentation regarding any defects and their effect on progress on the Contract. Buyer will consider equitably adjusting the delivery performance dates or compensation, or both, and any other contractual provision affected by the Buyer-furnished property in accordance with the procedures provided for in Section 3.3 above ("Buyer's Right to Make Changes").

3.13. Loss of Data. If any Buyer data or record is lost or corrupted due to the negligence of Contractor or any of its subcontractors or agents, Contractor shall be responsible for correcting and recreating all production, test, acceptance and training files or databases affected which are used in the provision of services, at no additional cost to the Customer in the manner and on the schedule set by Buyer. This remedy shall be in addition to any other remedy Buyer may be entitled to by law or the Contract.

3.14. Purchase Orders. If the Contract requires a Service to be ordered by Buyer via purchase order, Contractor shall not deliver or furnish the Service until a Buyer transmits a purchase order. All purchase orders shall bear the Contract or solicitation number, shall be placed by Buyer directly with Contractor, and shall be deemed to incorporate by reference the Contract. Any discrepancy between the Contract terms and the terms stated on the Contractor's order form, confirmation, or acknowledgement shall be resolved in favor of terms most favorable to Buyer.

3.15. Best Pricing for Comparable Services to Other Government Entities. Compensation for the Services shall be as set forth in the Contract. During the Contract term, if Contractor offers better pricing to other government entities for substantially the same or a smaller quantity of Services upon the same or similar terms of the Contract ("Better Pricing"), then the price under the Contract shall be immediately reduced to the better price. Buyer may require Contractor to certify on an annual basis that Better Pricing (as defined above) does not exist.

3.16. Invoicing and Payment.

(a) Unless otherwise specified in the RFP, payment to Contractor for Services shall be made on a monthly basis for the Services provided by Contractor for the preceding month. Invoices shall contain the Contract number, purchase order number if applicable, and the appropriate vendor identification number. Buyer may require any other information from Contractor that Buyer deems necessary to verify its obligation to pay under the Contract. Payments will be made to Contractor approximately forty-five (45) days after receipt and acceptance of a proper invoice. Buyer does not pay service charges, interest or late fees unless required by law.

(b) To the extent Contractor's fees include reimbursement for travel or travel- related expenses, such travel and travel-related expenses shall be subject to and governed by the provisions and limitations of Chapter 106, Part 7, Jacksonville Ordinance Code.

(c) Buyer's obligations to make payment are contingent upon availability of lawfully appropriated funds for the Services.

3.17. Taxes. Buyer is generally exempt from any taxes imposed by the State of Florida or the Federal Government. Exemption certificates will be provided upon request. Contractor shall not include any state, local and federal taxes in any prices quoted to Buyer.

3.18. Right of Setoff. Buyer may, in addition to other remedies available at law or equity and upon notice to Contractor, retain such monies from amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted in good faith by Buyer (or any other local government entity or authority located in Duval County, Florida) against Contractor.

3.19. Retention of Records / Audits.

(a) Contractor must establish and maintain books, records, contracts, sub-contracts, papers, financial records, supporting documents, statistical records and all other documents pertaining to the Contract (collectively, the "Records"), in whatsoever form or format (including electronic storage media) is reasonable, safe and sufficient.

(b) Contractor must retain all Records for a minimum period of three (3) years after the final payment is made under the Contract. If an audit has been initiated and audit findings have not been resolved at the end of the three (3) year period, the Records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of the Contract, at no additional cost to Buyer. Records shall be retained for longer periods when the retention period exceeds the time frames required by law or ordinance.

(c) At all reasonable times for as long as the Records are maintained, Contractor must allow persons duly authorized by Buyer (including Buyer's auditor and inspector general offices), and to have full access to and the right to examine, copy or audit any of the Records, regardless of the form in which kept. Contractor will not charge Buyer for any setup, supervision or space in connection with the examination and audit. Photocopying charges will not exceed the actual and reasonable cost of the copies to Contractor, and Buyer shall be permitted to bring its photocopying equipment if Buyer so desires.

(d) Contractor must comply with and cooperate in any audits or reports requested by Buyer, and must ensure that all related party transactions are disclosed to the auditor.

(e) Contractor must permit Buyer to interview any of Contractor's employees, subcontractors and subcontractor employees to assure Buyer of the satisfactory performance of the terms and conditions of the Contract. Unless the parties agree otherwise or Buyer is willing to pay for the employee's reasonable travel expenses, the interviews will be conducted at the employee's primary place of work. Contractor will not charge Buyer for any employee time unless the interview time for that employee exceeds eight (8) hours in a calendar year.

(f) Following any audit or review, if performance of Contractor's, in the opinion of Buyer, deficient, Buyer will deliver to Contractor a written report of the deficiencies and request for development by Contractor of a corrective action plan. Contractor hereby agrees to prepare and submit, to Buyer, said corrective plan within ten (10) days of receiving Buyer's written report. Thereafter, Contractor must correct all deficiencies in the corrective action plan within a reasonable time after Buyer's receipt of the corrective action plan.

(g) All reports and other information provided by Contractor pursuant to this Section shall be submitted under penalties of perjury, under Section 837.06, Florida Statutes.

(h) Contractor must include the aforementioned audit, inspection, investigation and record-keeping requirements in all subcontracts and Contract assignments.

(i) Contractor agrees to reimburse Buyer for the reasonable costs of investigation incurred by Buyer for audits, inspections and investigations that uncover a material violation of the Contract. Such costs shall include the salaries of investigators, including overtime, travel and lodging expenses, and expert witness and documentary fees. Contractor shall not be responsible for any costs of investigations that do not uncover a material violation of the Contract.

3.20 **Indemnification.** See Attachment G

3.21 **Insurance Requirements.** See Attachment H

3.22. Buyer's Right to Suspend Work. Buyer may in its sole discretion suspend any or all activities under the Contract by providing a written notice to Contractor at least five (5) days in advance that outlines the particulars of suspension. Within ninety (90) days of providing such notice, or within any longer period agreed to by Contractor, Buyer shall either (1) authorize the resumption of work, at which time activity shall resume, or (2) terminate the Contract in accordance with the applicable termination provisions. Suspension of work shall not entitle Contractor to any additional compensation. The parties will reasonably amend any schedules relating to performance of the Services to reflect the suspension of work hereunder. Contractor shall not be entitled to receive compensation for any work it performs after being excused from providing it hereunder.

3.23. Buyer's Right to Terminate for Convenience. Buyer reserves the right to terminate the Contract at any time and for any reason by giving written notice to Contractor. If the Contract is terminated for convenience as provided herein, Buyer will be relieved of all further obligations other than payment for that amount of Services actually performed to the date of termination. Access to any and all work papers will be provided to the District after the termination of the Contract. The parties understand and agree that Contractor shall not have a reciprocal right to terminate the Contract for convenience; it being understood that Buyer's payment for Services forms the consideration for Contractor not having this right. In the event of Buyer's termination of the Contract, Buyer (in its sole discretion) may also require Contractor to provide the Transition Services as set forth in Section 3.26 below.

3.24. Buyer's Remedies Upon Contractor Default. Any one or more of the following events, if not cured within ten (10) calendar days after Contractor's receipt of written notice thereof, shall constitute an "Event of Default" on the part of Contractor: (1) Contractor fails to perform the Services within the time specified in the Contract or any extension, (2) Contractor fails to maintain adequate progress, thus endangering performance of the Contract, (3) Contractor fails to honor any other material term of the Contract, or (4) Contractor fails to abide by any statutory, regulatory, or licensing requirement. Buyer may extend the 10-day cure period in its discretion.

In addition, the following shall constitute an immediate Event of Default with no right cure: (i) Contractor is found to have made a false representation or certification in its Response, or (ii) Contractor has been placed on the list maintained under Section 287.135, Florida Statutes, of companies with activities in Sudan or in Iran Petroleum Energy Sector.

Upon an "Event of Default" on the part of Contractor, Buyer will be entitled to terminate the Contract and pursue such other remedies available at law or equity, including the recovery of any reprocurement costs and delay damages. The rights and remedies available to Buyer under the Contract are distinct, separate and cumulative remedies, and no one of them, whether or not exercised by a party, shall be deemed to be in exclusion of any other.

If, after termination, it is determined that Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience.

3.25. Contractor Remedies Upon Buyer Default. Buyer shall be in default if Buyer fails to honor any material term of the Contract, and such failure is not cured within forty-five (45) calendar days after receipt of written notice thereof from Contractor. In the event of Buyer's default, Contractor will be entitled to

terminate the Contract and pursue such other remedies available at law or equity as it deems appropriate. **Except as expressly provided elsewhere in the Contract, Contractor will not be entitled to recover any lost profits or consequential damages.** The rights and remedies available to Contractor under the Contract are distinct, separate and cumulative remedies, and no one of them shall be deemed to be in exclusion of any other.

3.26. Transition Services. At any time prior to the date the Contract expires or terminates for any reason (the "Termination Date"), Buyer may request Contractor to provide reasonable transition assistance services ("Transition Assistance"). Contractor shall provide such Transition Assistance until such time as Buyer notifies Contractor that Buyer no longer requires such Transition Assistance, but in no event for more than 180 days following the Termination Date.

Transition Assistance shall mean any services, functions or responsibilities that are ordinarily or customarily provided to a purchaser to ensure that the services provided to that purchaser by a contractor are fully transitioned in a smooth and efficient manner to a new service provider (either Buyer itself or a third party contractor). Transition Assistance includes the development and implementation of a detailed transition plan. To the extent that Transition Assistance will involve third parties hired by Buyer, those third parties shall cooperate with Contractor in its provision of Transition Assistance and sign any reasonable non-disclosure agreements required by Contractor.

Transition Assistance rendered before the Termination Date shall be provided at no additional cost to Buyer. Transition Assistance rendered after the Termination Date shall be provided at the rates negotiated by the parties prior to the rendering of such service, which rates shall not exceed the standard market rates that Contractor charges to government entities for comparable services; provided however, that if Buyer terminates the Contract because of a breach by Contractor, then (i) the Transition Assistance shall be provided at no cost to Buyer, and (ii) Buyer will be entitled to any other remedies available to it under law. Contractor may withhold Transition Assistance after the Termination Date if Buyer does not provide reasonable assurance that the charges for such Transition Assistance will be paid to Contractor in accordance with the invoicing and payment provisions of the Contract.

3.27. Force Majeure, Notice of Delay, and No Damages for Delay. Neither party shall be responsible for delays in performance if the delay was beyond that party's control (or the control of its employees, subcontractors or agents). Contractor shall notify Buyer in writing of any such delay or potential delay and describe the cause of the delay either (1) within ten (10) calendar days after the cause that creates or will create the delay first arose, if Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) calendar days after the date Contractor first had reason to believe that a delay could result. Based upon such notice, Buyer will give Contractor a reasonable extension of time to perform; provided, however, that Buyer may elect to terminate the Contract in whole or in part if Buyer determines, in its sole judgment, that such a delay will significantly impair the value of the Contract to Buyer. Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. **THE FOREGOING SHALL CONSTITUTE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** No claim for damages, other than for an extension of time, shall be asserted against Buyer. Contractor shall not be entitled to an increase in the Contract price or payment of any kind from Buyer for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency arising because of delay, disruption, interference, or hindrance from any cause whatsoever.

3.28. No Waiver. The delay or failure by a party to exercise or enforce any of its rights under the Contract shall not constitute or be deemed a waiver of that party's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. Unless otherwise agreed in writing, Buyer's payment for the Services shall not release Contractor of its obligations under the Contract and shall not be deemed a waiver of Buyer's right to insist upon strict performance hereof.

3.29. Qualification of Contractor Employees, Subcontractors, and Agents. All Contractor employees, subcontractors and agents performing work under the Contract shall be properly trained and qualified.

Upon request, Contractor shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors and agents performing work under the Contract must comply with all reasonable administrative requirements of Buyer and with all controlling laws and regulations relevant to the services they are providing under the Contract. Buyer may conduct, and Contractor shall cooperate in, a security background check or other assessment of any employee, subcontractor or agent furnished by Contractor. Buyer may refuse access to, or require replacement of, any personnel for reasonable cause.

Contractor shall take all actions necessary to ensure that Contractor's employees, subcontractors and agents are not considered employees of Buyer. Such actions include, but are not limited to, ensuring that Contractor's employees, subcontractors and agents receive payment and any legally mandated insurance (e.g., workers' compensation and unemployment compensation) from an employer other than Buyer.

As a condition to providing services to Buyer, Contractor (and any subcontractor) will enroll and participate in the federal E-Verify Program within thirty days of the effective date of the Contract. Proof of enrollment and participation will be made available to Buyer upon request.

3.30. Security Procedures. Contractor and its employees, subcontractors and agents shall comply fully with all generally applicable security procedures of the United States, the State of Florida and Buyer in performance of the Contract. Buyer agrees that any security procedures imposed by Buyer specifically for the Contract will be reasonable and will not impose any unreasonable costs or hardships.

3.31. Restrictions on the Use or Disclosure of Buyer's Information. Contractor shall not use, copy or disclose to third parties, except in connection with performing the Services, any information obtained by Contractor or its agents, subcontractors or employees in the course of performing the Services, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of Buyer. At Buyer's request, all information furnished by Buyer will be returned to Buyer upon completion of the Services. Contractor shall not be required to keep confidential any information that has already been made publicly available through no fault of Contractor or that Contractor developed independently without relying on Buyer's information. To ensure confidentiality, Contractor shall take appropriate steps as to its employees, agents, and subcontractors, including the insertion of these restrictions in any subcontract agreement. The warranties of this paragraph shall survive the Contract.

3.32. Protection of Contractor's Trade Secrets and Other Confidential Information. All documents received by Buyer in connection with this Agreement are subject to Chapter 119, Florida Statutes (the "Florida Public Records Law"). Any specific information that Contractor claims to be a trade secret or otherwise exempt from the Florida Public Records Law must be clearly identified as such by Contractor on all copies furnished to Buyer. Buyer agrees to notify Contractor of any third-party request to view such information, but it is Contractor's obligation to obtain a court order enjoining disclosure. If Contractor fails to obtain a court order enjoining disclosure within five (5) business days of Contractor's receiving notice of the request, Buyer may release the requested information. Such release shall be deemed for purposes of the Contract to be made with Contractor's consent and will not be deemed to be a violation of law, including but not limited to laws concerning trade secrets, copy right or other intellectual property.

3.33. Assignment. Each party binds itself and its respective successors and assigns in all respects to all of the terms, conditions, covenants and provisions of the Contract. Contractor shall not sell, assign or transfer any of its rights (including rights to payment), duties or obligations under the Contract without the prior written consent of Buyer. In the event of any assignment, Contractor shall remain liable for performance of the Contract unless Buyer expressly waives such liability. Buyer may assign the Contract with prior written notice to Contractor of its intent to do so. Nothing herein shall be construed as creating any personal liability on the part of any officer, employee or agent of Buyer.

3.34. Notice and Approval of Changes in Ownership. Because the award of the Contract may have been predicated upon Contractor's ownership structure, Contractor agrees that any transfer of a substantial interest in Contractor by any of its owners shall require Buyer's prior written approval, which approval

shall not be unreasonably withheld or unreasonably delayed. By execution of the Contract, Contractor represents that it has no knowledge of any intent to transfer a substantial interest in Contractor. A substantial interest shall mean at least 25% of the voting shares in Contractor. This section shall not apply to (i) transfers occurring upon the incapacitation or death of an owner; (ii) transfers associated with an initial public offering on the NYSE or NASDAQ markets; or (iii) transfers to a company whose stock is publicly traded on the NYSE or NASDAQ markets.

3.35. Assignment of Antitrust Claims. Contractor and Buyer recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by Buyer. Therefore, Contractor hereby assigns to Buyer any and all claims under the antitrust laws of Florida or the United States for overcharges of goods, materials or services purchased in connection with the Contract.

3.36. Equal Employment Opportunity. The Equal Opportunity clause in Title 41, Part 60-1.4 of the Code of Federal Regulations (Paragraphs 1 through 7 of President's Executive Order 11246), the provisions of the Equal Opportunity for Individuals with Disabilities Act in 42 U.S.C. Section 12112, the Listing of Employment Openings for Veterans Clause in Title 41, Part 50-260.2 of the Code of Federal Regulations and the Disabled Veterans and Veterans of the Vietnam era Clause in Title 41, Part 60-250.5 of the Code of Federal Regulations, are incorporated herein by reference if and to the extent applicable. If Contractor is exempt from any of the above cited terms, written evidence of such exempt status must be provided to Buyer.

3.37. Other Non-Discrimination Provisions. As required by Section 126.404, Jacksonville Ordinance Code, contractor represents that it has adopted and will maintain throughout the term of this contract a policy of nondiscrimination or harassment against any person with regard to race, color, sex (including pregnancy), sexual orientation, gender identity or expression, religion, political affiliation, national origin, disability, age, marital status, veteran status, or any other impermissible factor in recruitment, hiring, compensation, training, placement, promotion, discipline, demotion, transfers, layoff, recall, termination, working conditions and related terms and conditions of employment. Contractor agrees that, on written request, it will permit reasonable access to its records of employment, employment advertisement, application forms and other pertinent data and records, by the Executive Director of the Community Relations Commission, or successor agency or commission, for the purpose of investigation to ascertain compliance with the non-discrimination provisions of the Contract; provided however, that Contractor shall not be required to produce, for inspection, records covering periods of time more than one (1) year prior to the effective date of the Contract. Contractor agrees that, if any of the products or Services to be provided pursuant to the Contract are to be provided by a subcontractor, the provisions of this Section shall be incorporated into and become a part of the subcontract.

3.38. Prompt Payment to Subcontractors and Suppliers. The following is required by Chapter 126, Part 6, Jacksonville Ordinance Code; provided however, if Contractor does not use JSEB or MBE subcontractors, as identified below, this Section 3.38 shall not apply:

(a) *Generally.* When Contractor receives payment from Buyer for labor, services or materials furnished by subcontractors and suppliers hired by Contractor, Contractor shall remit payment due (less proper retainage) to those subcontractors and suppliers within fifteen (15) calendar days after Contractor's receipt of payment from Buyer. Nothing herein shall prohibit Contractor from disputing, pursuant to the terms hereof, all or any portion of a payment alleged to be due to its subcontractors and suppliers. In the event of such dispute, Contractor may dispute the disputed portion of any such payment only after Contractor has provided notice to the Buyer and to the subcontractor or supplier whose payment is in dispute, which notice shall: (i) be in writing; (ii) state the amount in dispute; (iii) specifically describe the actions required to cure the dispute; and (iv) be delivered to Buyer and said subcontractor or supplier within ten (10) calendar days after Contractor's receipt of payment from Buyer. Contractor shall pay all undisputed amounts due within the time limits imposed by this Section.

(b) *Jacksonville Small and Emerging Business Enterprise and Minority Business Enterprise Participation.* Notwithstanding Chapter 126, Part 6 of the Jacksonville Ordinance Code, Contractor shall pay all contracts awarded with certified Jacksonville Small and Emerging Business Enterprises ("JSEB")

and Minority Business Enterprises ("MBE"), as defined therein, their pro rata share of their earned portion of the progress payments made by Buyer under the Contract within seven (7) business days after Contractor's receipt of payment from Buyer (less proper retainage). The pro-rata share shall be based on all work completed, materials and equipment furnished, or services performed by the certified JSEB or MBE at the time of payment. As a condition precedent to progress and final payments to Contractor, Contractor shall provide to Buyer, with its requisition for payment, documentation that sufficiently demonstrates that Contractor has made proper payments to its certified JSEB's or MBE's from all prior payments Contractor has received from Buyer. Contractor shall not unreasonably withhold payments to certified JSEB's and MBE's if such payments have been made to Contractor. If Contractor withholds payment to its certified JSEB's or MBE's, which payment has been made by Buyer to Contractor, Contractor shall return said payment to Buyer. Contractor shall provide notice to Buyer and to the certified JSEB's or MBE's whose payment is in dispute, which notice shall: (i) be in writing; (ii) state the amount in dispute; (iii) specifically describe the actions required to cure the dispute; and (iv) be delivered to Buyer and said JSEB's or MBE's within five (5) calendar days after Contractor's receipt of payment from Buyer. Contractor shall pay all undisputed amounts due within the time limits imposed in this Section. The failure to pay undisputed amounts to the JSEB's or MBE's within seven (7) business days shall be a breach of the Contract, compensable by one per-cent (1%) of the outstanding invoice being withheld by Buyer, not as a penalty, but as liquidated damages to compensate for the additional contract administration by Buyer.

(c) *Third Party Liability.* The Prompt Payment requirements hereunder shall in no way create any contractual relationship or obligation between Buyer and any subcontractor, supplier, JSEB or MBE or any third party or create any Buyer liability for Contractor's failure to make timely payments hereunder. However, Contractor's failure to comply with the Prompt Payment requirements shall constitute a material breach of Contractor's contractual obligations to Buyer. As a result of said breach, Buyer, without waiving any other available remedy it may have against Contractor, may: (i) issue joint checks; and (ii) charge Contractor a 0.2% daily late payment charge or the charges specified in said Chapter 126 of the Jacksonville Ordinance Code for JSEB's or MBE's and in Chapter 218, Florida Statutes, for non-JSEB's or MBE's, whichever is greater.

3.39. **Conflicts of Interest**. Contractor acknowledges that Section 126.112 of the Jacksonville Ordinance Code requires that a public official who has a financial interest in a bid or contract make a disclosure at the time that the bid or contract is submitted or at the time that the public official acquires a financial interest in the bid or contract, including but not limited to the public official's name, public office or position held, bid or proposal number, and the position or relationship of the public official with the bidder or contractor.

3.40. **Contingent Fees Prohibited.** In conformity with Section 126.306, Jacksonville Ordinance Code: Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure the Contract and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona- fide employee working solely for Contractor, any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of the Contract. For the breach or violation of these provisions, Buyer shall have the right to terminate the Contract without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

3.41. **Truth in Negotiation Certificate**. Pursuant to Section 126.305, Jacksonville Ordinance Code, the execution of the Contract by Contractor shall be deemed to be a simultaneous execution of a Truth-In-Negotiation Certificate, whereby Contractor states that the wage rates and other factual unit costs supporting the compensation hereunder are accurate, complete and current at the time of contracting. Further Contractor agrees that the compensation hereunder shall be adjusted to exclude any significant sums where Buyer determines the contract price was increased due to inaccurate, incomplete or non-current 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 the Contract.

3.42. Compliance with Applicable Laws. Contractor (and any subcontractors) must comply with all applicable federal, state and local laws, rules and regulations as the same exist and as may be amended from time to time, including, but not limited to:

- Chapter 119, Florida Statutes (the Florida Public Records Law);
- Section 286.011, Florida Statutes (the Florida Sunshine Law);
- Chapter 602, Jacksonville Ordinance Code (the Jacksonville Ethics Code);
- Chapter 126, Jacksonville Ordinance Code (the Jacksonville Purchasing Code); and
- All licensing and certification requirements applicable to performing the Services.

3.43. Cooperative Purchasing. Pursuant to their own governing laws, and subject to the agreement of Contractor, other entities may be permitted to make purchases at the terms and conditions contained herein. These purchases are independent of the agreement between Buyer and Contractor, and Buyer shall not be a party to such transactions.

3.44. Warranty of Ability to Perform. Contractor warrants that (i) it is ready, willing and able to perform its obligations under the Contract, and (ii) to the best of Contractor's knowledge, there are no pending or threatened actions, proceedings, investigations or any other legal or financial conditions that would in any way prohibit, restrain, or diminish Contractor's ability to satisfy its Contract obligations. Contractor shall immediately notify Buyer in writing if its ability to perform is compromised in any manner during the term of the Contract.

3.45. Warranty of Authority to Sign Contract. Each person signing the Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.

3.46. Governing State Law/Severability/Venue/Waiver of Jury Trial. The rights, obligations and remedies of the parties as specified under the Contract shall be interpreted and governed in all aspects by the laws of the State of Florida. Should any provision of the Contract be determined by the courts to be illegal, unenforceable or in conflict with any applicable law, the validity of the remaining provisions shall not be impaired. Venue for litigation of the Contract shall be exclusively in courts of competent jurisdiction located in Jacksonville, Duval County, Florida. The parties waive any and all rights to a jury trial with respect to disputes arising under the Contract.

3.47. Construction. Both parties acknowledge that they have had the opportunity to provide meaningful input into the terms and conditions contained in the Contract. Therefore any doubtful or ambiguous provisions contained herein shall not be construed against the party who physically prepared the Contract. Article headings appearing herein are inserted for convenience or reference only and shall in no way be construed to be interpretations of text.

3.48 Accuracy of Work; Liability for Errors & Omissions. The CONTRACTOR shall be responsible for the accuracy of its work, including work by any subcontractors, and shall promptly make necessary revisions or corrections resulting from errors and omissions on the part of the CONTRACTOR or subcontractors without additional compensation. Acceptance of the work by the CITY shall not relieve the CONTRACTOR of the responsibility for subsequent corrections of any such errors and the clarification of any ambiguities.

At any time during the construction of the Project provided for by the Contract Documents or during any phase of work performed by others based on data furnished by the CONTRACTOR under this Agreement, the CONTRACTOR shall confer with the CITY for the purpose of interpreting the information furnished and/or to correct any errors and/or omissions made by the CONTRACTOR. The CONTRACTOR shall prepare all drawings or data to correct its errors and/or omissions without added compensation, even though final payment may have already been received therefor.

The CONTRACTOR shall be and shall remain liable, in accordance with applicable law, for all damages to the CITY caused by the CONTRACTOR's breach of contract or its negligent performance of any of the services furnished under this Agreement. The CONTRACTOR shall not be responsible for (i) any time

delays in the Project caused by circumstances beyond the CONTRACTOR's control, or (ii) any additional construction costs, other than the "Recoverable Damages" defined below, that would have been incurred by the CITY if the Contract Documents had been properly prepared in the first place. However, the CONTRACTOR will be liable to the CITY for the following damages associated with such breach of contract or negligent performance ("Recoverable Damages"):

- any retrofit expenses (such as the cost to remove installed work), intervening increases in the cost of the labor, supplies or building components, and any other avoidable costs resulting from the breach or negligent performance that are not otherwise recoverable under this Agreement; and

- liquidated damages equal to 20% of the cost of any Change Order issued to the CONTRACTOR to perform the work necessary to correct the breach or negligent performance. This payment shall not constitute a penalty, but rather is the parties' reasonable estimate of the amount necessary to compensate the CITY for (i) increased administrative/oversight costs of CITY staff, (ii) recovery of the "builder's premium" for Change Orders that the CITY cannot competitively bid out, and (iii) the damages resulting from the fact that CITY will need to pull funding from other CITY-budgeted projects to cover the costs of the Change Order; and

- any other damages available to the CITY at law or in equity.

(End of Section 3 - Remainder of page intentionally left blank)

Section 4
Description of Services and Deliverables

This is a Request for Proposals (RFP) for Contractors to provide engineering design and all other professional services necessary for the permitting (including a submerged land lease), bidding and construction of a new approximately 1200 feet long section of Southbank Riverwalk behind Baptist Hospital on Prudential Drive. The Riverwalk will be a 16 foot wide concrete structure, over water with amenities such as benches, trash cans, lighting etc. The Project will include the design and permitting of a floating dock for use by the River Taxi and four private vessels.

A. All design recommendations shall, as may be applicable, be consistent with:

- The City's Master Storm Water Management Plan
- The City's Land Development Procedures Manual.
- Manual on Uniform Traffic Control Devices
- FDOT Minimum Standards for Design, Construction and Maintenance of Streets and Highways
- Florida's Design Criteria for Resurfacing, Restoration and Rehabilitation (RRR) of Streets and Highways
- FDOT Design Standard Index

B. Consultant's services on this project may be in two (2) phases: Final Design and Professional Services During Construction (PSDC), with separate negotiated fees for each phase. The original agreement for Consultant's services will be for the Final Design Phase. At the City's option, upon successful completion of the Final Design Phase, the Consultant's services may be terminated or extended to include PSDC.

C. It is intended that Consultant's services will result in all investigations, designs, drawings, specifications, permits and other documents needed for the City to determine the improvements needed (including utility adjustments), acquire necessary rights of way and easements, obtain required permits, seek bids, and contract for construction of the project.

D. A detailed Scope of Services defining the exact performance requirements and schedules for completion of each phase will be developed during negotiations with the selected Consultant to establish terms of the agreement for professional services and consultant's fee.

(End of Section 4 – Remainder of page intentionally left blank)

Attachment A – Response Format

To maintain comparability and facilitate the evaluation process, Responses shall be organized in the manner set forth below. Tab delineations for each of the five sections listed below would be helpful. **Section 5, the Statement of Qualifications is limited to a maximum of five written pages.**

1) **Title Page:** Include ONLY RFP Title, RFP Number, Contractor's full name, address, phone number.

2) **Cover Letter:** Include ONLY the following:
   - RFP Title and Number
   - Contractor's full name, address and phone number.
   - Names of the persons who will be authorized to make representations for the Contractor, their titles, addresses (including email address) and telephone numbers.
   - Contractor's Federal Employer ID Number.
   - Acknowledgement that (i) the Response is based on the terms set forth in the RFP and all amendments thereto posted on Buyer's website as of the date of the Response, and (ii) the Contractor will be responsible for monitoring Buyer's website for subsequent amendments and for either maintaining, amending or withdrawing the Response prior to the Response Due Date based on those subsequent amendments.
   - Signature of Authorized Representative.

3) **Required Forms. (Not included as part of five page limitation)** Attach all forms identified in Section 1 or in Attachments B, C or E, each signed by an authorized representative. Examples of the forms that may be required and placed in Section 3 include:
   - Conflict of Interest Certificate.
   - Local Business Tax Certificate (if required)
   - Business References (TO MAXIMIZE YOUR GRADE YOU MUST INCLUDE: bank reference letter(s), financial report(s)/audit(s)/balance sheet, insurance certificates, etc.). If the proposer desires, the 3 copies of Company financial reports can be submitted separately from the proposal but must be in 3 separate envelopes marked "confidential".
   - Equal Business Opportunity Program Forms (if required in Attachment C).
   - Federal Forms (if required in Attachment E).
   - Bid Bond (if applicable).
   - Resumes of Proposed Project Team
   - Attachment A-1 - Volume of Local Government Work Within the Last Five Years
   - Form 3 – Insurance Agent Acknowledgement (Must be completed and signed by your Insurance Agent and submitted with your RFP Response)

4) **Proof of Minimum Requirements. (Not included as part of five page limitation)** Responses will ONLY be accepted from companies meeting the minimum requirements in Section 1 of the RFP. Contractor must provide clear documentation that they meet the minimum requirements.

5) **Statement of Qualifications.** (Maximum of 5 written pages) This portion of the Response will be used to provide the information Buyer needs to evaluate how well the Contractor meets the criteria listed in Attachment B – Evaluation Criteria. Failure to provide adequate information on any criterion will result in lower scores and could result in rejection of the Response as non-responsive. Please divide this portion of the Response into ten subsections (one subsection for each of the listed criteria).

(End of Attachment A – Remainder of page intentionally left blank)

ATTACHMENT A-1
(Page 1 of 1)

VOLUME OF WORK FOR USING AGENCIES BY PRIME CONTRACTOR WITHIN THE LAST FIVE YEARS

Please list the original contract amounts in the Fiscal Year the contracts were executed and amendments to the contracts in the Fiscal Year that the amendments were executed. For Annual Contracts, show totals of Purchase Orders issued in each Fiscal Year.

PROJECT DESCRIPTION	FY13/14 Oct13-Sep14	FY14/15 Oct14-Sep15	FY15/16 Oct15-Sep16	FY16/17 Oct16-Sep17	FY17/18 Oct17-Sep18
YEARLY TOTALS:					

Attachment B- Evaluation Matrix

The evaluations will be based upon the following criteria, and Contractors are requested to provide, as a minimum, the information listed under each criterion. **Failure to provide adequate information on any criterion will result in lower scores and could result in rejection of the proposal as non-responsive.** The response to each of the criterion will be evaluated relative to the other responses received and will be awarded a score of 1 through the maximum points allowed for each criteria. Contractors are encouraged to arrange their responses in a format that will offer ready review and evaluation of each criterion.

1. **COMPETENCE.** Provide names and resumes of all individuals to be assigned to this project who have worked on similar projects as identified in this RFP. List the previous projects these individuals have worked on similar to the one in the RFP, which have been satisfactorily completed. **(10 points maximum score)**

2. **CURRENT WORKLOAD.** Provide an itemized list of current projects and workload including status for each. Describe ability of firm to perform this project given its current workload. **(10 points maximum score)**

3. **FINANCIAL RESPONSIBILITY.** Describe form of business, i.e., proprietorship, partnership, corporation; years in business; changes in ownership; bank reference(s); past, present, pending and/or threatened legal proceedings within any forum; and any other information the Contractor may wish to supply to demonstrate financial responsibility. Failure to provide all listed information and documentation will result in score less than maximum for this criterion. **(5 points maximum score)**

4. **ABILITY TO OBSERVE AND ADVISE WHETHER PLANS AND SPECIFICATIONS ARE BEING COMPLIED WITH, WHERE APPLICABLE.** Describe experience, ability, and understanding of Contractor and assigned personnel in observing and monitoring instruction or direction to similarly related tasks. **(10 points maximum score)**

5. **PAST AND PRESENT RECORD OF PROFESSIONAL ACCOMPLISHMENTS WITH CITY AGENCIES AND OTHERS.** Describe any outstanding accomplishments that relate to specific services being sought including awards and recognition. **(5 points maximum score)**

6. **PROXIMITY TO THE PROJECT.** Document the location of Contractor's corporate headquarters, which, if located in Jacksonville, Florida, no further information is required under this criterion and maximum points will be awarded. If Contractor's corporate headquarters are not located in Jacksonville, Florida, please document the location and the nature of business of Contractor's branch office(s), if any, that are located in and/or that are closest to Jacksonville, Florida, the number of employee assigned thereto and the period of continuous existence thereof. Additionally, Contractors are requested to demonstrate, define and provide examples of their ability to provide the services contemplated herein in a manner comparable to having a local office in Jacksonville, Florida or to show that a local office is not necessary to satisfactorily perform the services required for this project, in which event maximum points may be awarded. **(10 points maximum score)**

7. **PAST AND PRESENT DEMONSTRATED COMMITMENT TO SMALL AND MINORITY BUSINESSES AND CONTRIBUTIONS TOWARD A DIVERSE MARKET PLACE.** Responding to this evaluation criterion necessitates that Contractors indicate their past and present commitment to minority, women-owned, small and emerging businesses. More specifically, responses to this evaluation criterion should include, without limitation, statements that document the Contractor's: (i) commitment to diversity among the directors, officers, members and/or employees that make up its firm; (ii) commitment to diversity within its community and beyond; (iii) commitment to and/or utilization of minority, women-owned, small and emerging businesses on past projects; and (iv) commitment to and/or utilization of minority, women-owned, small and emerging businesses, certified JSEBs in particular, for the project solicitation in question. **(10 points maximum score)**

8. **ABILITY TO DESIGN AN APPROACH AND WORK PLAN TO MEET THE PROJECT REQUIREMENTS.** Describe the Contractor's understanding of the requirements of this solicitation, and its ability, approach and/or plan to satisfy the same. Identify time and cost saving possibilities. **(20 points maximum score)**

9. **AN OVERALL WILLINGNESS TO MEET BOTH TIME AND BUDGET REQUIREMENTS FOR THE PROJECT.** In an effort to remain consistent with Chapter 287, Florida Statutes, responding to this evaluation criterion necessitates that a proposer include statements and references demonstrating that the proposer met both time and budget requirements on projects of similar size and scope that were completed by the proposer within the past three years and that the proposer is meeting both time and budget requirements on projects of similar size and scope that are currently being performed by the proposer ("Reference Projects"). As part of its response to this evaluation criterion, the proposer:
   1. must submit an expressed statement of its overall willingness to meet both time and budget requirements for the project in question; and
   2. should submit, without limitation, project narratives, schedules, cost and fee summaries and owner references for any Reference Projects.

   During contract negotiations, successful proposers will be required to provide a Schedule of Proposed Rates on the forms provided as Form "1". Such rates and costs will be used in the negotiation of fees and shall remain in effect throughout the length of the contract, except such rates may be adjusted when an amendment to the original agreement is being negotiated; provided any increases in rates shall not exceed actual increases in the CPI since the date of response to the RFP. Unless specifically identified otherwise on the form, rates for subcontractors also shall not exceed those shown on the form.

   Proposed Overhead rate is limited to 175% of direct labor. Proposed overhead rates in excess of 175% shall conform to Federal Acquisition regulations as established by a governmental audit certified to by Certified Public Accountant. However, under no circumstance shall the overhead rate exceed 200%. Profit rate shall only be applied to direct labor plus overhead. No mark-up or profit shall be paid on non-labor related costs, reimbursables or on services provided by subcontractors or others. **(10 points maximum score)**

10. **THE VOLUME OF CURRENT AND PRIOR WORK PERFORMED FOR USING AGENCIES SHALL BE CONSIDERED A MINUS FACTOR.** Provide a list on Attachment A-1 of all local government projects including the fees awarded for each on which the Prime Contractor has been awarded during the past five (5) years. Include only those projects on which Contractor was the Prime Contractor (do not delete fees paid to subcontractors or others). Such list shall include all work for the City of Jacksonville and its various "using agencies," which is defined in the Jacksonville Ordinance Code as "a department, division, office, board, agency, commission or other unit of Buyer and independent agency required by law or voluntarily requesting to utilize the services of the [Procurement] Division"; and with any of Buyer's Independent Authorities"; and on projects undertaken with others that are similar in nature to the size and scope of professional services and/or work required for the project solicitation herein. If the Contractor has not performed work for any of these agencies during the past five (5) years, the response should so clearly state. The minus factor methodology for this criteria will be based on the fees awarded. The higher the volume of fees the lower the score, less volume of fees the higher the score. **(10 points maximum score)**

(End of Attachment B – Remainder of page intentionally left blank)

JACKSONVILLE SMALL & EMERGING BUSINESS (JSEB) PROGRAM PARTICIPATION PERCENTAGE PLAN FOR JSEB's

A. POLICY

It is an official policy of the City of Jacksonville to encourage the maximum participation of Jacksonville Small and Emerging Businesses (JSEBs) in its contract awards based upon availability. It is the City's intent in adopting this program to reflect the philosophy with regard to enhancing participation of JSEBs in all areas of procurement.

Please be advised that, in order to be counted toward meeting the participation percentage goal defined herein, all JSEBs shall be certified by the City in accordance with Ordinance Code 2004-602 AT THE TIME OF PROPOSAL OPENING.

At the time of proposal opening, proposers shall include documentation with their proposal that indicates good faith efforts, as outlined in the Good Faith Efforts categories of Section J, herein, in the event proposers: (i) are unable to obtain proposals from JSEB subcontractors that equal or exceed the percentages established in the participation goals; or (ii) otherwise desire to demonstrate their "good faith" efforts performed in their attempt to meet the participation percentage goal whether or not said goal is met.

B. JSEB OBLIGATION

Proposers are required to make all efforts reasonably possible to ensure that Jacksonville Small and Emerging Businesses have a full and fair opportunity to compete for performance on this project. Contractors shall not discriminate on the basis of race, ethnicity, national origin or gender in the award and performance of the work under this contract.

C. ELIGIBILITY

1. To be considered eligible for contract award, the Contractor shall include with the proposal/proposal an original EBO Form 1(Schedule of Subcontractor/Sub-consultant Participation), showing:

    a. Total percentage of JSEB work or procurement that the Prime Contractor intends to award;
    b. The identification of the JSEB as being a subcontractor, service organization, manufacturer, or supplier;

In addition, each JSEB certified subcontractor must submit to the prime contractor a Letter of Intent (EBO Form 2) **(see Section 3 of specification documents)** to perform a specific task related to the project for which he or she is licensed to perform and has been certified by the City in that category. The Letter of Intent must include the JSEB sub contractors' name, the scope of work to be performed, the Minority Business Enterprise ethnic category and the percent of the work to be performed. **Copies (or faxes) of the original Letters of Intent signed by the JSEB subcontractors or suppliers must be submitted with the proposal.** The Schedule of Subcontractor/Sub-consultant Participation and the Letter of Intent must match and be identical. Failure to submit the letter of intent within 48 hours of the scheduled proposal opening will make the proposal non-responsive and will be cause for rejection.

2. In the event the company submitting the proposal is unable to obtain proposals from JSEB subcontractors that equal or exceed the percentages established in the participation goals, documentation must be included with the proposal that indicates good faith efforts as stated in Good Faith Efforts, Section J.
3. The JSEB must be subcontracted in the area that the JSEB is certified by the City or licensed by the State Professional Regulatory Board.

D. COMPLIANCE

All those submitted proposals or subcontractors participating in this project are hereby notified that failure to fully comply with the City's JSEB policy as set forth herein shall constitute a breach of contract which may result in termination of the contract or such other remedy as deemed appropriate by the Owner. Such penalties as outlined in Section 126.201 of Ordinance 2004-602-E will apply.

E. PARTICIPATION GOALS

The following goals apply to this contract and submissions of a proposal by prospective contractor shall constitute full acceptance of all conditions outlined in the proposal documents or proposals.

The attainment of JSEB participation goals established for this contract will be: (i) based upon JSEBs certified by the City AT THE TIME OF PROPOSAL OPENING in accordance with Ordinance Code 2004-602; and (ii) measured as a percentage of the total dollar value of the contract or in the case of alternates the percentage is calculated on the base proposal for the purpose of the award, we however, expect the contractor to meet or exceed the stated goals when the alternates are awarded. The goals established for this contract are:

20% PERCENT TO BE PERFORMED BY CITY CERTIFIED JSEBs AT THE TIME OF PROPOSAL OPENING (ANY COMBINATION)

F. CONTRACT AWARD

The City proposes to award the contract to the responsive, responsible proposer submitting a reasonable proposal provided the proposer has met the goals for JSEB participation or, if failing to meet the goals, the proposer made an acceptable good faith effort to meet the JSEB participation goals as established herein. Proposers are advised that the City has sole discretion and authority to determine if any proposer has made a "Good Faith Effort." The City reserves the right to reject any or all proposals submitted. The City will have absolute discretion to reject any proposal or exclude a prospective proposer from submitting a proposal who has been non-responsive to JSEB program requirements without satisfactory justification accepted by the Chief of Procurement and Supply.

G. SUBCONTRACT CLAUSE

1. All proposers hereby agree to incorporate JSEB participation, policy, goals, conditions and instructions in all agreements that offer JSEB participation subcontracting opportunities.
2. If a change order presents further subcontracting opportunity beyond current subcontracting, the prime contractor should make positive efforts to further include JSEB participation.
3. The JSEB prime contractor shall perform at least 40% of the total amount of the work to be performed under this Contract with its own workforce. Subletting of any Work under this Contract shall not relieve the JSEB prime contractor of its full responsibility for the proper and timely performance and for its selection of Subcontractor (s).

H. POST AWARD REQUIREMENTS

After the award of the contract, failure on the part of the successful contractor to subcontract with JSEBs at a percentage level equal to or higher than stated on EBO Form 1, may put the contractor in violation and is subject to penalties outlined in Ordinance 2004-602.

I. PAYMENT OF SUBCONTRACTORS

Prime contractors shall certify in writing that ALL subcontractors and suppliers have been paid for work and materials from previous progress payments received (less any Retainage) prior to receipt of any further progress payments. Failure to comply with the requirements of this section may result in penalties including without limitation those outlined in Ordinance 2004-602.

J. GOOD FAITH EFFORTS

Proposers who fail to meet the stated JSEB participation goals set forth in Section "E" above are required to submit with their proposal all efforts that would demonstrate a "Good Faith Effort" in the solicitation of subcontractors to meet the JSEB participation goals on this project.

The following categories, without limitations, may be utilized in considering Good Faith Efforts as outlined in Ordinance 2004-602:

(1) A contact log showing the name, address, and contact number (phone or fax) used to contact the proposed certified subcontractors, nature of work requested for quote, date of contact, person making the effort;
(2) The description of work for which a quote was requested;
(3) The amount of the quote given, if one was obtained;
(4) The list of divisions of work not subcontracted and an explanation why not; and
(5) Subcontractor information as requested by forms developed by the Department.

NOTE: The City will investigate and verify information submitted in determining Good Faith Effort, and will compare the same with the performance of other proposers' attempts to meet the participation goals defined herein.

K. EXCLUSIONARY AGREEMENTS

Agreements between any proposer and a JSEB in which the JSEB promises not to provide subcontracting quotations to other proposers are prohibited, and may result in both the proposer and the JSEB being subject to the penalties outlined in Ordinance Code 2004-602.

L. JOINT VENTURE SUBMITTALS

For Capital Improvement, contractors submitting as Joint Venture, must be certified as a joint venture at the time of proposal opening. Applications may be obtained from the Department of Procurement, 214 N. Hogan Street, Suite 800, Jacksonville, FL 32202. Failure to meet the application deadline for certification as a Joint Venture will deem the proposal non-responsive.

M. SUBSTITUTIONS

In the event the successful proposer / contractor wishes to make a substitution of a JSEB subcontractor or wishes to self-perform or supplement the work of a JSEB subcontractor, the proposer / contractor shall:

1. Submit satisfactory written proof of "noncompliance" to the Chief of Equal Business Opportunity/Contract Compliance. (The term "noncompliance" is defined as facts and circumstances that substantially demonstrate a material breach by the subcontractor of the contract between it and the successful contractor)

2. Take no action until all information submitted has been reviewed and approved by the JSEB Administrator.
3. Substitute of a certified JSEB performing the same work, as the subcontractor being replaced.

N. JSEB MONTHLY REPORT

A completed JSEB Monthly Report (See EBO Form 3) will be included with each pay request. Contractors are required to maintain records of the JSEB Monthly Reports for three (3) years.

O. CALCULATION OF JSEB PARTICIPATION

1. Credits toward the JSEB goal for Majority Proposer will be based on the percentage of work actually performed by JSEBs.
2. If a certified JSEB submits a proposal as a prime contractor, he/she can meet the designated goal.
3. Subject to the requirements of Ordinance 2004-602, credit towards the JSEB goal allowed for joint venture with JSEB will be equal to the same percentage as the percentage of ownership and control of the JSEB participants in the joint venture. The eligibility of a JSEB joint venture will be determined on a project-by project basis. A joint venture must be certified as a JSEB joint venture at the time of proposal opening in order for the participation of the JSEB partner to be counted towards the JSEB goal requirement. The JSEB partner's share in the ownership, control, management responsibilities, risks and profits of the joint venture must be at least twenty-five percent (25%) and the JSEB partner must be responsible for a clearly defined portion of the work to be performed.
4. The JSEB Office will accept participation from certified JSEB companies that are certified at the time of proposal opening, and that are immediately subordinate to subcontractor and sub-consultants, toward meeting percentage goals.
5. The JSEB Office will accept 100% of purchase price for materials from JSEB suppliers towards meeting JSEB percentage goals.

P. PENALTIES

Severe penalties, including without limitation those outlines in Ordinance 2004-602, may apply to non-compliance with the Equal Business Opportunity Program and other violations of applicable federal, state and local laws statutes, ordinances, rules and regulations.

EBO FORM 1
SCHEDULE OF SUBCONTRACTOR/SUBCONSULTANT PARTICIPATION

Name of Proposer: _____

Project Title: _____

Proposal Number: _____ Total Base Proposal Amount (if applicable): _____

***Please list all JSEBs first**

Full Company Name	JSEB Category (African-American, Women, Asian, Native American, Non-MBE or Hispanic)	Type of Work to be Performed	Total Contract Value or Percentage

Attach additional list of subcontractors/sub-consultants as needed

CONSULTANT/SUBCONTRACTOR/SUPPLIER TOTAL VALUES	
African-American Participation Total	
Hispanic-American Participation Total	
Native-American Participation Total	
Asian-American Participation Total	
Woman Participation Total Non-MBE Participation Total	

The undersigned will enter into a formal Agreement with the JSEB Suppliers/Consultants/Subcontractors identified herein for work listed in this schedule conditioned upon execution of a contract with the City of Jacksonville. Under penalties of perjury I declare that I have read the foregoing conditions and instructions and the facts are true to the best of my knowledge and beliefs.

Signature of Proposer: _____ Title: _____ Date: _____

Print Name: _____

EBO FORM 2

LETTER OF INTENT
TO PERFORM AS A SUB-CONTRACTOR or SUB-CONSULTANT

_____
(Name of JSEB Supplier/Consultant/Subcontractor)

Name of Project: _____ Bid Number: _____

JSEB GROUP STATUS:

☐ African-American

☐ Woman Business Owner

☐ Asian-Americans

☐ Hispanic-Americans

☐ Native-Americans

☐ Non-MBE

I, the undersigned, understand that the price below is representative of my intent to perform the scope of work stated below. I further understand that this price is subject to increase or decrease due to the City of Jacksonville bid requirements. All work must meet the City of Jacksonville bid specifications.

*Scope of Work	*Total Percent of work to be performed or materials to be supplied, including Sales Tax
_____	
_____	
_____	
_____	
_____	$ _____

_____ _____ _____
Signature of JSEB Title Date

*Scope of Work and Price are covered under Base Bid only.

This form must be used for Letter of Intent.

EBO FORM 3
CITY OF JACKSONVILLE
JACKSONVILLE SMALL & EMERGING BUSINESS PROGRAM
CONSULTANT AND CONTRACTOR'S MONTHLY REPORT

PRIME CONTRACTOR NAME:_____ PROJECT TITLE:_____

PROFESSIONAL SERVICES NO. _____ - *OR* - CITY PROPOSAL NO.: _____

CURRENT CONTRACT TOTAL AMOUNT $_____ CITY CONTRACT NO. _____

INVOICE INFORMATION

INVOICE NO.: _____ CURRENT INVOICE **$**: _____

FOR PERIOD ENDING DATE: _____ CUMULATIVE INVOICED **$**: _____

CONTRACT **%** COMPLETE:

CONTRACT GOAL TRACKING

JSEB GOAL $: _____ **JSEB GOAL %:**

PRIOR MONTH
CUMULATIVE **JSEB $**: _____

PRIOR MONTH
CUMULATIVE **NON-JSEB $**: _____

FORMULA FOR CURRENT MONTH %:
CUMULATIVE $ / CUMULATIVE $ INVOICED

CUMULATIVE **JSEB $**: _____ CUMULATIVE **JSEB %** : _____

CUMULATIVE **NON- JSEB $**: _____ CUMULATIVE **NON- JSEB %** : _____

JSEB SUBCONTRACTORS TO BE PAID FROM THIS INVOICE

COMPANY NAME	FEDERAL I.D. NO.	ZIP CODE	JSEB/JSEB TYPE [1]	TYPE OF WORK [2]	$ THIS PAYMENT
Use Sheet 2 if additional lines are needed.				TOTAL	

NON-JSEB SUBCONTRACTORS TO BE PAID FROM THIS INVOICE

COMPANY NAME	FEDERAL I.D. NO.	ZIP CODE	Type	TYPE OF WORK [2]	$ THIS PAYMENT
			N/A		
			N/A		
			N/A		
			N/A		
Use Sheet 3 if additional lines are needed.				TOTAL	

[1]**JSEB** (Jacksonville Small Emerging Business) / **JSEB** (Minority Business Enterprise) **TYPES: AA:** African-American; **WBE:** Woman; **HA:** Hispanic-American, **ASA:** Asian-American, **NA:** Native-American, **Non-MBE**

[2]**TYPE OF WORK**: Examples: Catering, Clerical, Consulting, Engineering, Hauling, Janitorial, Masonry, Site Clearing, Technical Support, etc...

FOR CITY OF JACKSONVILLE USE ONLY

DATE PROCESSED	DOCUMENT NO.	INDEX CODE – SUB-OBJECT - PROJECT NO. - DETAIL	$ THIS PAYMENT

Notes:
1. THIS MONTHLY FORM MUST BE COMPLETED AND SUBMITTED WITH ALL REQUESTS FOR PAYMENT AND FINAL PAYMENT.
2. Contractor shall attach to this form a typewritten explanation of any differences in JSEB/JSEB participation from original contract commitment.

ATTACHMENT D

SERVICES CONTRACT
BETWEEN
[THE CITY OF JACKSONVILLE]
AND
INSERT CORPORATE NAME OF CONTRACTOR
FOR
INSERT SUMMARY OF SERVICES TO BE PERFORMED

THIS CONTRACT, made and entered into this ___ day of _____, 201__ (the "Effective Date"), by and between the CITY OF JACKSONVILLE (the "CITY"), a municipal corporation existing under the Constitution and the laws of the State of Florida, and _____(the "CONTRACTOR"), a _____corporation authorized to transact business in Florida and with its principal offices at _____.

WHEREAS, the CITY (as the "Buyer") issued a Request for Proposal No. _____ (the "RFP") for certain services described in the RFP (the "Services"); and

WHEREAS, based on CONTRACTOR'S response to the RFP dated _____, consisting of ____ pages (the "Response"), the CITY has negotiated and awarded this Contract to CONTRACTOR;

NOW THEREFORE, in consideration of the premises and the mutual covenants contained below, the parties agree as follows:

1. **Performance of Services.** The Services will be performed by CONTRACTOR as specified in the RFP and the Response.

2. **Compensation**. CONTRACTOR will be paid by the CITY for the Services [as follows: _____] or [as specified on the Price Sheets attached as Exhibit ____].

3. **Maximum Indebtedness.** As required by Section 106.431, *Ordinance Code*, the CITY's maximum indebtedness, for all products and services under this Contract shall be a fixed monetary amount not-to-exceed _____($_____).

4. **Term.** The initial term of this Contract shall commence on the Effective Date and shall expire on _____, unless sooner terminated by either party in accordance with the terms of the RFP. This Contract may be renewed for up to _____additional one (1) year periods by (i) the CITY, it its sole discretion, upon written notice to CONTRACTOR at least sixty (60) days prior to end of the then-current term, or (ii) upon the mutual agreement of the parties.

5. **Contract Documents.** This Contract consists of the following documents which are hereby incorporated as if fully set forth herein and which, in case of conflict, shall have priority in the order listed:
   - This document, as modified by any subsequent signed amendments
   - Any amendments to the RFP
   - Specific Information Regarding The RFP (Section 1 of the RFP)
   - Description of Services and Deliverables (Section 4 of the RFP)
   - General Instructions to Respondents (Section 2 of the RFP)
   - General Contract Conditions (Section 3 of the RFP)
   - Any Purchase Order under the Contract
   - The Response, provided that any terms in the Response that are prohibited under the RFP shall not be included in this Contract.

6. **Notices.** All notices under this Agreement shall be in writing and shall be delivered by certified mail, return receipt requested, or by other delivery with receipt to the following:

As to the CITY:

_____
_____
_____

As to the CONTRACTOR:

_____
_____
_____

7. **Contract Managers.** Each Party will designate a Contract Manager during the term of this Contract whose responsibility shall be to oversee the Party's performance of its duties and obligations pursuant to the terms of this Contract. As of the Effective Date, CITY'S Contract Manager is __[Insert Name and Address]__, and the CONTRACTOR'S Contract Manager is __[Insert Name and Address]__. Each Party shall provide prompt written notice to the other Party of any changes to the Party's Contract Manager or his or her contact information; provided, such changes shall not be deemed Contract amendments and may be provided via email.

8. **Entire Agreement.** This Contract constitutes the entire agreement between the parties hereto for the Services to be performed and furnished by the CONTRACTOR. No statement, representation, writing, understanding, agreement, course of action or course of conduct, made by either party or any representative of either party, which is not expressed herein shall be binding. CONTRACTOR may not unilaterally modify the terms of this Contract by affixing additional terms to materials delivered to the CITY (e.g., "shrink wrap" terms accompanying or affixed to a deliverable) or by including such terms on a purchase order or payment document. CONTRACTOR acknowledges that it is entering into this Contract for its own purposes and not for the benefit of any third party.

9. **Amendments.** All changes to, additions to, modifications of, or amendment to this Contract, or any of the terms, provisions and conditions hereof, shall be binding only when in writing and signed by the authorized officer, agent or representative of each of the parties hereto.

10. **Counterparts.** This Contract, and all amendments thereto, may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

[Remainder of page left blank intentionally. Signature page follows immediately.]

IN WITNESS WHEREOF, the parties have executed this Contract as of the day and year first above written.

ATTEST:

CITY OF JACKSONVILLE

By _____
James McCain
Corporation Secretary

By _____
Lenny Curry
Mayor

In accordance with the *Ordinance Code*, of the City of Jacksonville, I do hereby certify that there is an unexpended, unencumbered, and un-impounded balance in the appropriation sufficient to cover the foregoing agreement; and that provision has been made for the payment of monies provided therein to be paid.

_____
Director of Finance
CITY Contract Number:_____

Form Approved:

_____
Office of General Counsel

ATTEST:

INSERT NAME OF CONTRACTOR.

By_____
Signature

_____
Type/Print Name

_____
Title

By_____
Signature

_____
Type/Print Name

_____
Title

ATTACHMENT F

ERROR & OMISSIONS

This Attachment includes the following Documents:

- ERRORS & OMISSIONS PROCEDURES
- PROCEDURAL STEPS FOR ERRORS & OMISSIONS

CITY OF JACKSONVILLE
DEPARTMENT OF PUBLIC WORKS
ERRORS & OMISSIONS PROCEDURES

BACKGROUND

The City of Jacksonville contracts with professional architects, engineers and building inspectors ("Consultants") to provide various services for a construction project. These Consultants usually perform with a high degree of quality and accuracy; however when mistakes occur that result in increased costs or damage to the City, the City should take all appropriate action to hold the Consultant accountable.

The purpose of this document is to establish the Department of Public Works' procedures to (i) identify, investigate and document errors, omissions and contractual breaches ("Errors & Omissions") in the performance of architect, engineering and inspection services on City contracts; (ii) determine and document the extent of a Consultant's responsibility for damages resulting from the Errors & Omissions, including the added costs of staff time, plan revisions and Change Orders; and (iii) pursue recovery of such damages as appropriate.

DISCOVERY, EVALUATION AND EARLY NOTIFICATION OF ERRORS & OMISSIONS

Discovery: When an Error & Omission issue is first discovered, it can usually be addressed in the form of a Request for Information (RFI); however there may be times when the issue requires design revisions and/or contract modifications. When that occurs the Consultant Engineer Inspection Firm (CCEI) or other knowledgeable and responsible person must inform the City's Project Manager/Consultant Project Manager immediately of all relevant details. The initial communication may be informal; however, this must immediately follow-up with an e-mail or other written correspondence to the Consultant/EOR.

Evaluation: The City Project Manager, the Design Project Manager, the Design Professional and the Engineer of Record (the "Project Team") will begin the evaluation process by reviewing the project's plans and specifications. Upon an initial review of the issue it may appear that the issue was beyond the Consultant's contractual scope of work and should not be charged to the Consultant; however, before making this determination, the City Project Manager must review the following:

- Consultant's Scope of Work;
- Professional Standards (in effect upon contract execution);
- Specific project information provided by the Engineer of Record;
- Other instructions provided by the Department.

If the City Project Manager is not an engineer, the City's in-house engineer in charge of the project shall perform the evaluation.

Early Notification Letter: If the evaluation indicates that the Consultant committed an Error & Omission, the City Project Manager will provide the Consultant with a formal written "*Early Notification Letter*" specifying the nature of the design issue and any resulting increases in costs or completion dates. The DPM will seek counsel with the Office of General Counsel (OGC) on any legal questions, including the right to recover damages. Attached is a sample "*Early Notification Letter*" to be used as a starting point.

The City Project Manager will establish and maintain a project file with all written communication to include any information related to the Consultant. The City Project Manager will also establish a verbal communication log to capture information & notifications discussed with Consultant.

RESOLUTIONDEVELOPMENT

Before and after the issuance of the *Early Notification Letter,* the City Project Manager shall determine an appropriate course of action for resolution of the Error & Omission issues.

- The City Project Manager may provide revised drawings, calculations, and specification changes to resolve the project issues.
- With the approval of the City Project Manager the CCEI may work directly with the construction contractor to resolve project issues, provided the Department incurs no premium economic or time costs as a result.
- The City Project Manager shall calculate the cost impact of the Errors & Omissions.
- To ensure an accurate assessment of recoverable costs, the City Project Manager shall prepare the Change Order with input from the CCEI, OGC Legal Counsel, and the Construction Contractor.

ASSESSMENT OF RECOVERABLE COSTS

The City Project Manager shall assess the Consultant's responsibility for any added costs or damages for Errors and Omissions with legal advice from the OGC. The reasonable administrative costs the Department incurs to process a Change Order and to resolve changes in contract documents, together with additional construction engineering and inspection costs, may be considered when determining recoverable costs. *Please note that the Consultant's contract may include liquidated damage clause allowing the City to recover a percentage of the Change Order cost.*[1]

FOLLOW-UP NOTIFICATION LETTER

Following the Early Notification Letter, the City Project Manager shall notify the Consultant in writing of the City's intent to correct the project issues by Change Order. The letter shall state the City's initial assessment of the project issues (costs, contract time and Consultant responsibility) and request a written response from the Consultant. The City Project Manager shall also notify the Consultant if there appears to be no Consultant responsibility for the project issues. The City Project Manager shall include copies of all such correspondence in the project Errors and Omissions file. Attached is a sample "*Follow-Up Notification Letter*" to be used as a starting point in these cases.

---

[1] Generally, the City may not recover the cost of a Change Order to the extent the changes add value to the project. However, certain non-value added costs may be recoverable. The following are examples of costs that do not add value and should be recoverable against the Consultant:

(i) **Retrofit Expenses**. This includes any costs to remove installed work and any intervening increases in the cost of the labor, supplies or building components.

(ii) **Premium Cost of New Work**. This is the extra cost incurred by the Department because work is procured through a Change Order instead of a competitive bid.

(iii) **Administrative Work**. This includes the cost of internal staff time, charged at normal staff rates.

Items (ii) and (iii) can be difficult to quantify. Therefore, Consultant agreements should include a liquidated damages provision allowing the City to charge the Consultant 20% of the cost of any Change Order to offset those cost categories.

The Consultant shall respond to the Follow-Up Notification Letter and provide comment and documentation in rebuttal to the City's assessment of the project issues. The City Project Manager and City's In-House Engineer, or their representatives, may conduct meetings with the Consultant to evaluate the response. The final determination of Consultant responsibility shall be vested with the City Engineer. The City Project Manager acts in an advisory capacity.

RECOVERY

The City should pursue the recovery of all costs and damages resulting of Consultant's Errors and Omissions. However, the extent of the City's recovery efforts should be guided by the anticipated recovery amount and the likelihood of success. Administrative costs, the expense of litigation, and the Consultant's performance history may all affect the City's decision to pursue recovery. If at any point in the process, the City decides not to pursue recovery, the City Project Manager shall justify and document the decision in the project file and notify the Consultant.

The Consultant may, as a result of Early Notification Letter, accept responsibility for Errors and Omissions and offer to settle with the City. In these instances, the OGC, in consultation with the Department of Public Works, shall prepare and approve the settlement agreement.

With the approval of the Project Manager, the Consultant may work directly with the construction contractor to resolve the issue provided the City has reached an accord on any additional costs or time extensions resulting from the issue. Such resolution shall be documented through a Change Order with the construction contractor.

The Consultant may also have valid reasons to dispute the City's assessment of Errors and Omissions issues. When such disputes cannot be resolved at the project level, Director's Meeting should be held to discuss a settlement. All parties should sign a "Notice of Attendance at Claim Meeting and Acknowledgement of Privileged Discussion" (See attached form).

DOCUMENTATION PROCEDURES

In view of the possibility of litigation resulting from the Errors and Omissions, the City Project Manager is requested by the OGC to prepare and maintain a file containing all documentation regarding each Errors and Omissions claim for periodic review by the OGC. The file labels shall include the Consultant Name, the Project Title, and the title "Errors and Omissions Recovery."

Attached is a Step-By-Step Summary to assist Project Managers in following these procedures.

[END]

Early Notification Letter

Appendix A

(insert date)

[Note: Notification Letters shall be Certified Mail and addressed to an Officer in the company as specified in the Consultant's contract with the City.]

Consultant, Inc.
Street Address
City, State Zip Code

Re: *Project Description...*
Bid No.:
Contract No. 12345 (FY)

Dear Consultant:

Project Issues have been identified in the referenced contract that requires immediate attention. (Make reference to any prior informal communications on this issue(s)). In accordance with the City's Error & Omission procedures please evaluate the following issue(s) and provide a recommendation for the appropriate course of action:

(brief description of project issues)

Issues of this nature may impact project costs and contract time; please give them your immediate and full consideration. All reasonable costs you may incur during this process shall be billable, unless the project issues are the result of your errors or omission. Please track all additional services separately for potential compensation. Thank you for your attention to these matters and response by *(insert date)*.

Sincerely,

COJ Project Manager

Follow-Up Notification Letter

Appendix B

(insert date)

[Note: Follow-Up Notification Letters shall be Certified Mail and addressed to an Officer in the company as specified in the Consultant's contract with the City.]

Consultant, Inc.
Street Address
City, State Zip Code

Re: *Project Description...*
Bid No.:
Contract No.:

Dear Consultant:

(If the Consultant did not respond to the Early Notification Letter, so note here.)

In preparing the referenced Supplemental Agreement / Change Order, the City determined that your firm is responsible for certain costs resulting from your errors/omissions in the [construction plans and contract documents] / [administration of the project], in the amount of $_____. These costs do not add value to the project and should have been avoided. Further, the City intends to pursue recovery of these costs.

Please respond to this letter within 15 calendar days and state your position on the City's assessment of recoverable costs and responsibility for the following:

(Description of errors and omissions...attachments as necessary)

Sincerely,
COJ Project Manager

Appendix C – Notice of Attendance at Claim Meeting and Acknowledgement of Privileged Discussion

Re: Project Description:...
Contract No.:

Date and Location of Director's Meeting: _____

The undersigned persons and entities acknowledge and agree, in their individual and representative capacities, that the discussions held in the above referenced Director's Meeting regarding the referenced matter (and any subsequent related settlement discussions) are for the purpose of settlement of certain claims and disputes between the Department and Consultant and are subject to certain settlement privileges in accordance with Florida law. They further acknowledge that they are represented by legal counsel or have had the opportunity to obtain legal counsel and advice for this Director's Meeting.

Name (Print)	Company	Title	Signature

Appendix D – Premium Costs Demand Letter – Design

(insert date)

Note: Notification Letters shall be Certified Mail and addressed to an Officer in the company.

(insert address)

Re: ***Project Description...***
Contract No. 12345 (FY) Addendum No. 1

Dear Design Consultants:

Previously, the Department advised you of damages incurred on the referenced contract in the amount of $____. These additional project costs are the result of your Errors and Omissions and should have been avoided. The Department's Director's Group recently convened and determined that the assessment of premium costs against your company was appropriate and recommended that the Department pursue recovery.

You may accept this determination and settle this claim for the amount set forth above by having an authorized representative of your company accept this offer by executing this letter at the bottom and returning it to the Department within 15 calendar days of the receipt of this letter. Upon payment of the premium costs the Department will provide an appropriate release. If you elect not to accept this offer within the designated time period, the Department will initiate legal action to recover these damages.

Sincerely,

Director of Transportation Development ACCEPTANCE OFFER:

_____accepts the offer of the Department to settle all claims for premium costs in the amount of $_____as a result of its alleged conduct in the above referenced project/contract and agrees to make payment of such sum to the Department within 30 days of the date of this Acceptance.

_____

Designated Representative of Consultant Dated: _____

Appendix E – Statutes of Limitation

Florida Statute 95.11 has two subsections regarding statute of limitation periods of two (2) years ***(FS 95.11(4)(a)*** and four (4) years ***(FS 95.11 (3)(a)(c))***, pertinent sections set forth below, which may be applicable to claims for premium costs against a designer for professional malpractice, negligence, or breach of contract. Each section provides that the statute of limitations period "shall run from the time the cause of action/defect is discovered or should have been discovered with the exercise of due diligence". Due to a relatively short statute of limitations period from "when a cause of action/defect" should have been discovered it is imperative that the Chief of Litigation, Office of General Counsel (OGC) or his/her designee, be consulted as soon as possible to provide an analysis/opinion of the applicable limitation period and when a lawsuit must be filed to comply with the statute in order to preserve claims for premium costs. The Chief of Litigation can be reach at the OGC (904-630-1700).

95.11 Limitations other than for the recovery of real property. - - Actions other than for recovery of real property shall be commenced as follows:

(1) WITHIN **TWO** YEARS.

An action for professional malpractice, other than medical malpractice, whether founded on contract or tort; provided that the period of limitations shall run from the time the cause of action is discovered or should have been discovered with the exercise of due diligence. However, the limitation of actions herein for professional malpractice shall be limited to persons in privity with the professional.

and

(2) WITHIN **FOUR** YEARS.

(a) An action founded on negligence.

(b) An action founded on the design, planning, or construction of an improvement to real property, with the time running from the date of actual possession by the owner, the date of the issuance of a certificate of occupancy, the date of abandonment of construction if not completed, or the date of completion or termination of the contract between the professional engineer, registered architect, or licensed contractor and his or her employer, whichever date is latest; except that, when the action involves a latent defect, the time runs from the time the defect is discovered or should have been discovered with the exercise of due diligence. In any event, the action must be commenced within 10 years after the date of possession by the owner, the date of the issuance of a certificate of occupancy, the date of abandonment of construction ifnot completed, or the date of completion or termination of the contract between the professional engineer, registered architect, or licensed contractor and his or her employer, whichever date is the latest.

CITY OF JACKSONVILLE

DEPARTMENT OF PUBLIC WORKS

PROCEDURAL STEPS

FOR

ERRORS & OMISSIONS

The Department of Public Works Director (DPWD), Project Management Engineer (PME), Design Engineer (DDE), Design Project Manager (DPM), Construction Project Manager (CPM), Construction Engineering and Inspection (CEI) General Accounting Office (GAO), and Office of General Counsel (OGC) Legal Counsel are the principal users of this procedure.

DEFINITIONS:

Construction Engineering and Inspection (CEI): Personnel, whether consultant or Department employees, providing construction engineering and inspection services.

Construction Plans and Contract Documents: Consultant-prepared plans and contract documents as contracted by the Department and defined in the professional services agreement.

Construction Project Manager (CPM): The Department employee whose duties include managing consultant CEI contracts.

Consultant: Either the Architect, EOR or CCEI.

Consultant Project Administrator: The Consultant's administrator in charge of more than one aspect of the construction or administration of the project CCEI.

Contractual Breach: The failure of the EOR or CCEI to perform or comply with one or more aspects of its contractual obligations.

Contract Documents: The term "Contract Documents" includes: Plans, Drawings, Specifications, Addenda, Invitation to Bid Instruction Bidders, Bid Proposal, Equal Business Opportunity Program, Procurement protest procedures, Bid Bond, Contract/Purchase Order, Contract Bonds, General Conditions, Federal Regulations, Scope of Work, Special Conditions, City Standard Specifications, City Standard and other information mailed or otherwise transmitted to the prospective bidders prior to the receipt of bids, Change Orders, and Addendums, all of which are to be treated as one instrument whether or not set forth at length in the form of contract.

Contractual Obligation: The legal responsibility to satisfy the terms and conditions of the professional consultant contract.

Department CEI: The Department employees who perform construction engineering and inspection services.

Design Project Manager (DPM): The Department employee whose duties include managing consultant design contracts.

Construction Engineer (CE): The Department employee whose duties include direction of major functional responsibilities within the City Office of Construction.

City Project Management Engineer (CPME) The Department employee who is a professional engineer with direct supervisory responsibility for the Design Project Manager (DPM) managing consultant-designed projects.

Design Engineer (DDE): The Department employee whose duties include direction of major functional responsibilities within the City Office of Design.

Engineer of Record (EOR): As defined in ***Rule 61G15-30.002 (1), Florida Administrative Code***: "A Florida professional engineer who is in responsible charge for the preparation, signing, dating, sealing and issuing of any engineering document(s) for any engineering service or creative work." For this procedure only, the EOR is a professional consulting engineer retained by the Department to provide said services.

Engineer's Estimate: The estimate of the actual cost and time impacts to the Contractor caused by a contract change without regard to whose fault the contract change is or the percentage of those cost and time impacts the Contractor may be entitled to recover. For each contract change issue, the ***Engineer's Estimate*** will show the pay items involved along with quantities, unit prices, any time impacts, and the basis for the estimate.

Errors and Omissions: Acts of negligence committed by the EOR in the performance of engineering design service or creative work, and acts of negligence committed by CCEI in the performance of construction engineering inspection services.

Errors and Omissions Liaison: A City employee—appointed by the Chief Engineer—who is responsible for the status of the recovery effort for all COJ Errors and Omissions issues.

Office of the General Counsel (OGC): City of Jacksonville legal office.

Accounting Office (GAO): General Accounting Office.

Premium Costs: The additional cost of a contract change that would not have been incurred if the work had been included in the original contract. More specifically, premium costs are dollar amounts paid for non-value added work. Delays, inefficiencies, or extra work, as shown below, other than those caused by the contractor and/or his subcontractors or suppliers will be considered as non-value added work. Non-value added work can occur in three distinct situations:

(i) [1] Generally, the City may not recover the cost of a Change Order to the extent the changes add value to the project. However, certain non-value added costs may be recoverable. The following are examples of costs that do not add value and should be recoverable against the Consultant:

(i) **Retrofit Expenses**. This includes any costs to remove installed work and any intervening increases in the cost of the labor, supplies or building components.

(ii) **Premium Cost of New Work**. This is the extra cost incurred by the Department because work is procured through a Change Order instead of a competitive bid.

(iii) **Administrative Work**. This includes the cost of internal staff time, charged at normal staff rates.

Items (ii) and (iii) can be difficult to quantify. Therefore, Consultant agreements should include a liquidated damages provision allowing the City to charge the Consultant 20% of the cost of any Change Order to offset those cost categories.

Value-Added Costs: All costs that add value to the project.

PROCEDURAL STEPS PROCESSES

1. STEP ONE: CONSULTANT(S) ISSUE DISCOVERY, EVALUATION, AND EARLY NOTIFICATION

1.1 The CPM shall prepare a written assessment of the project issues, determine the appropriate corrective action, and establish a reasonable time frame to implement the solution.

1.2 The CPM shall promptly notify the CCEI in writing of project issues that may result in premium costs and contract time *(Appendix A-Early Notification Letter- CCEI).*

1.3 Further, the CPM shall establish and maintain a project file to record all information related to CCEI Errors and Omissions.

1.4 If the Department determines that the is not responsible for Errors and Omissions the DCE's delegate shall promptly notify the CCEI of the results, and all reasonable costs incurred by the CCEI during this process shall be billable.

1.5 The CCEI shall track such costs separately for potential compensation

2. STEP TWO: RESOLUTION DEVELOPMENT

2.1 Before and after the issuance of the *Early Notification Letter* the CPM shall determine an appropriate course of action for resolution of the project issues.

2.2 The CPM may provide revised drawings, calculations and specification changes to resolve the project issues.

2.3 With the approval of the DCE/CPM the CCEI may work directly with the construction contractor to resolve project issues, provided the Department incurs no premium economic or time costs as a result.

2.4 CPM shall calculate the premium cost impact for Errors and Omissions.

2.5 To ensure an accurate assessment of premium costs, the CPM shall prepare the Change Order with input from the CCEI, OGC Legal Counsel, and the Construction Contractor.

3. STEP THREE: NEGOTIATE AND IMPLEMENT RESOLUTION WITH CONSTRUCTION CONTRACTOR

3.1 The CEI will negotiate any additional cost and time required to implement the proposed resolution with the construction contractor. The CEI shall document the time and cost of a resolution with the construction contractor by a Change Order, or Unilateral Payment document.

3.2 Resolving project issues typically requires a change to the original construction contract through a Change Order. Successful recovery of damages caused by Errors and Omissions is highly dependent on the initial assessment of the project issues addressed in the Change Order, or Unilateral Payment document.

4. STEP FOUR: ASSESSMENT OF PREMIUM COSTS

4.1 The CPM shall assess CCEI responsibility for premium cost impact for Errors and emissions with legal advice from OGC Legal Counsel. The reasonable administrative costs the department incurs to process a Change Order, and to resolve changes in contract

documents, together with additional construction engineering and inspection costs may be considered when determining premium costs.

5. STEP FIVE: WERE THERE ERRORS AND OMISSIONS RESULTING IN PREMIUM COSTS?

5.1 RESPONSE:

NO, The dispute is resolved and no further action will be taken to prosecute recovery of any Premium costs. The decision maker shall document the basis for the decision.

YES, CPM sends Errors and Omissions Notification Letter (Appendix B) this decision shall be made solely by the CPM.

5.2 E&O NOTIFICATION LETTER (APPENDIX B)

A. The CPM shall notify the CCEI in writing of the Department's intent to correct project issues by preparing a change order with the construction contractor *(Appendix B-Errors and Omissions Notification Letter- CCEI).* The notification letter shall state the Department's initial assessment of the project issues (premium costs, contract time and/or money, CCEI responsibility) and request a written response from the consultant.

The CPM shall also notify the CCEI as follow-up to *Early Notification (Appendix A* - if there appears to be no consultant responsibility for the project issues. The CPM shall include copies of all such correspondence in the project Errors and Omissions file.

B. The CCEI may respond to the E&O Notification Letter and provide comment and documentation in rebuttal to the Department's initial assessment of the project issues.

The CPM and DCE or their representatives may conduct meetings with the CCEI to evaluate the response.

The CPM and DCE shall evaluate the CCEI's response to the *Notification Letter* to complete the assessment of CCEI responsibility. The initial determination of CCEI responsibility shall be vested with the DCE. The CPM acts in an advisory capacity.

6. STEP SIX: IS THE CCEI LIABLE FOR ANY PORTION OF THE PREMIUM COSTS?

6.1 RESPONSE:

NO, the matter is resolved and no further action will be taken to recover Premium Cost.

YES, the department will undertake settlement discussions with the CCEI.

6.2 If the Department determines that the consultant is not responsible for Errors and Omissions, the CPM shall promptly notify the CCEI of the results, and all reasonable costs incurred by the CCEI during this process shall be billable as consultant services.

7. STEP SEVEN: DEPARTMENT SETTLES CLAIM WITH CCEI FOR PREMIUM COSTS?

7.1 RESPONSE

NO, CPM and DCE re-evaluate issues and DCE again makes decision whether to continue prosecution of recovery of Premium Costs.

YES, Resolved, OGC Legal Counsel prepares settlement agreement/release and oversees execution of agreement/release and payment of funds.

8. STEP EIGHT: SHALL THE DEPARTMENT CONTINUE PROSECUTION OF THE CLAIM FOR PREMIUM COSTS AGAINST THE CCEI

8.1 RESPONSE

NO, Case is resolved. Department declines to prosecute claim for Premium Costs. CPM documents basis for decision.

YES, CPM, for further analysis, prepares and submits a claim package regarding the Premium costs to the Director's Group for evaluation.

9. DIRECTOR GROUP MEETING

9.1 The Director of Public Works (Director) shall determine if the claim for Errors and Omissions against the CCEI warrants further action.

9.2 The Director or designee(s) shall conduct an initial evaluation of premium costs incurred by the City as a result of the CCEI's potential Errors and Omissions. The Director shall consult with OGC Legal Counsel on issues regarding the liability of the CCEI for the premium costs.

9.3 If the city is unable to resolve its claim for premium costs with the CCEI the Director shall make a determination if the CCEI is potentially liable for all or a portion of the estimated premium costs (Cost Claim). In order to make this determination the DPW shall convene a group of advisors (Director's Group) to assist in the conduct of a meeting to discuss the potential liability of the CCEI.

9.4 The Director may schedule the Group Claim Meeting between the Director's Group and the CCEI to discuss resolution of the Errors and Omissions claim. The Department representatives in the Director's Group may include the Director, the DCE, the CPM, and the OGC Legal Counsel and other designated Department representatives as deemed necessary by the Director. The CCEI may include personnel, attorneys, consultants and experts it deems necessary to represent its interests at the Claim Meeting. The Department, CCEI and their representatives at the Claim meeting must agree that all discussions, representations, and documents made and utilized in the Claim Meeting are deemed settlement discussions and therefore subject to applicable privileges set forth by law. See *Appendix C-Notice of Attendance at Claim Meeting and Acknowledgement of Privilege Discussions.*

9.5 Notwithstanding the presence and assistance of the foregoing persons on behalf of the Department the Director shall have sole authority for the decision on the resolution of all

pending issues arising from the Errors and Omissions claim. Any proposed resolution of issues shall be in writing, reviewed by OGC Legal counsel and signed by authorized representatives of the Department and the CCEI. The proposed resolution should resolve all pending issues and provide for a full release by both parties. Each party must bear their own attorney's fees and costs related to the pending issues. The decision of the Director is final

9.6 If theCCEI declines to attend or participate in the Director's Group Claim Meeting then the Director may conduct a claim meeting without the CCEI and proceed with its evaluation of the Cost Claim.

9.7 If the Director determines as a result of information provided to him that it is in the best interest of the Department to prosecute the Cost Claim and the CCEI does not participate in the Director's Claim Meeting or does not reach a settlement with the Department as a result of the Meeting, the Director will notify the CCEI of the Department's decision to pursue recovery, *Appendix D– Director's Premium Cost Demand Letter.* The letter shall summarize the project issues, the Premium Costs and any additional terms for settlement, and advice the CCEI of the Department's intent to pursue recovery through litigation. The CCEI may resolve the Claim by written acceptance of the terms of the ***DPW Premium Cost Demand Letter*** within 15 calendar days of the date of the letter. After the 15 days the offer expires. Final settlement authority will vest with the Director in accordance with the foregoing.

9.8 If as a result of the Director's Group Claim Meeting the Department and the CCEI are able to reach a resolution of the cost claim a written agreement and release shall be drafted by Department legal counsel for execution by all parties.

ATTACHMENT G
INDEMNIFICATION

Consultant shall hold harmless, indemnify, and defend the City of Jacksonville and City's members, officers, officials, employees and agents (collectively the "Indemnified Parties") from and against, without limitation, any and all claims, suits, actions, losses, damages, injuries, liabilities, fines, penalties, costs and expenses of whatsoever kind or nature, which may be incurred by, charged to or recovered from any of the foregoing Indemnified Parties for:

1. General Tort Liability, for any negligent act, error or omission, recklessness or intentionally wrongful conduct on the part of the Indemnifying Parties that causes injury (whether mental or corporeal) to persons (including death) or damage to property, whether arising out of or incidental to the Indemnifying Parties' performance of the Contract, operations, services or work performed hereunder; and

2. Environmental Liability, to the extent this Contract contemplates environmental exposures, arising from or in connection with any environmental, health and safety liabilities, claims, citations, clean-up or damages whether arising out of or relating to the operation or other activities performed in connection with the Contract; and

3. Intellectual Property Liability, to the extent this Contract contemplates intellectual property exposures, arising directly or indirectly out of any allegation that the Services, any product generated by the Services, or any part of the Services as contemplated in this Contract, constitutes an infringement of any copyright, patent, trade secret or any other intellectual property right. If in any suit or proceeding, the Services, or any product generated by the Services, is held to constitute an infringement and its use is permanently enjoined, the Indemnifying Parties shall, immediately, make every reasonable effort to secure within 60 days, for the Indemnified Parties a license, authorizing the continued use of the Service or product. If the Indemnifying Parties fail to secure such a license for the Indemnified Parties, then the Indemnifying Parties shall replace the Service or product with a non-infringing Service or product or modify such Service or product in a way satisfactory to Buyer, so that the Service or product is non-infringing.

If an Indemnifying Party exercises its rights under this Contract, the Indemnifying Party will (1) provide reasonable notice to the Indemnified Parties of the applicable claim or liability, and (2) allow Indemnified Parties, at their own expense, to participate in the litigation of such claim or liability to protect their interests. **The scope and terms of the indemnity obligations herein described are separate and apart from, and shall not be limited by any insurance provided pursuant to the Contract or otherwise. Such terms of indemnity shall survive the expiration or termination of the Contract.**

In the event that any portion of the scope or terms of this indemnity is in derogation of Section 725.06 or 725.08 of the Florida Statutes, all other terms of this indemnity shall remain in full force and effect. Further, any term which offends Section 725.06 or 725.08 of the Florida Statutes will be modified to comply with said statutes.

ATTACHMENT H
INSURANCE REQUIREMENTS

Without limiting its liability under this Contract, Consultant shall at all times during the term of this Contract procure prior to commencement of work and maintain at its sole expense during the life of this Contract (and Consultant shall require its, subcontractors, laborers, materialmen and suppliers to provide, as applicable), insurance of the types and limits not less than amounts stated below:

Insurance Coverages

Schedule	Limits
Worker's Compensation	Florida Statutory Coverage
Employer's Liability	$ 100,000 Each Accident
	$ 500,000 Disease Policy Limit
	$ 100,000 Each Employee/Disease

This insurance shall cover the Provider (and, to the extent they are not otherwise insured, its subcontractors) for those sources of liability which would be covered by the latest edition of the standard Workers' Compensation policy, as filed for use in the State of Florida by the National Council on Compensation Insurance (NCCI), without any restrictive endorsements other than the Florida Employers Liability Coverage Endorsement (NCCI Form WC 09 03), those which are required by the State of Florida, or any restrictive NCCI endorsements which, under an NCCI filing, must be attached to the policy (i.e., mandatory endorsements). In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the Federal Employers' Liability Act, USL&H and Jones, and any other applicable federal or state law.

Commercial General Liability	$2,000,000	General Aggregate
	$2,000,000	Products & Comp. Ops. Agg.
	$2,000,000	Personal/Advertising Injury
	$2,000,000	Each Occurrence
	$ 50,000	Fire Damage
	$ 5,000	Medical Expenses

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Commercial General Liability Form (ISO Form CG 00 01) as filed for use in the State of Florida without any restrictive endorsements other than those reasonably required by the City's Office of Insurance and Risk Management. An Excess Liability policy or Umbrella policy can be used to satisfy the above limits.

Automobile Liability $1,000,000 Each Occurrence – Combined Single Limit
(Coverage for all automobiles, owned, hired or non-owned used in performance of the Services)

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Business Auto Coverage Form (ISO Form CA0001) as filed for use in the State of Florida without any restrictive endorsements other than those which are required by the State of Florida, or equivalent manuscript form, must be attached to the policy equivalent endorsement as filed with ISO (i.e., mandatory endorsement).

Professional Liability $1,000,000 per Claim and Aggregate

Such insurance shall be on a form acceptable to the City and shall cover for those sources of liability arising out of the rendering or failure to render the services required in this contract. Such coverage must be provided on an Occurrence Form or, if on a Claims Made Form, the retroactive date must be no later than the first date of this contract and such claims-made coverage must respond to all claims reported within three years following the period for which coverage is required and which would have been covered had the coverage been on an occurrence basis.

Additional Insurance Provisions

A. Additional Insured: All insurance except Worker's Compensation and Professional Liability shall be endorsed to name the City of Jacksonville and City's members, officials, officers, employees and agents as Additional Insured. Additional Insured for General Liability shall be in a form no more restrictive than CG2010, Automobile Liability CA2048.

B. Waiver of Subrogation. All required insurance policies shall be endorsed to provide for a waiver of underwriter's rights of subrogation in favor of the City of Jacksonville and its members, officials, officers employees and agents.

C. Consultant's Insurance Primary. The insurance provided by the Consultant shall apply on a primary basis to, and shall not require contribution from, any other insurance or self-insurance maintained by the City or any City members, officials, officers, employees and agents.

D. Deductible or Self-Insured Retention Provisions. All deductibles and self-insured retentions associated with coverages required for compliance with this Contract shall remain the sole and exclusive responsibility of the named insured Consultant. Under no circumstances will the City of Jacksonville and its members, officers, directors, employees, representatives, and agents be responsible for paying any deductible or self-insured retentions related to this Contract.

E. Consultant's Insurance Additional Remedy. Compliance with the insurance requirements of this Contract shall not limit the liability of the Consultant or its Subcontractors, employees or agents to the City or others. Any remedy provided to City or City's members, officials, officers, employees or agents shall be in addition to and not in lieu of any other remedy available under this Contract or otherwise.

F. Waiver/Estoppel. Neither approval by City nor failure to disapprove the insurance furnished by Consultant shall relieve Consultant of Consultant's full responsibility to provide insurance as required under this Contract.

G. Certificates of Insurance. Consultant shall provide the City Certificates of Insurance that shows the corresponding City Contract Number in the Description, if known, Additional Insureds as provided above and waivers of subrogation. The certificates of insurance shall be mailed to the City of Jacksonville (Attention: Chief of Risk Management), 117 W. Duval Street, Suite 335, Jacksonville, Florida 32202.

H. Carrier Qualifications. The above insurance shall be written by an insurer holding a current certificate of authority pursuant to chapter 624, Florida State or a company that is declared as an approved Surplus Lines carrier under Chapter 626 Florida Statutes. Such Insurance shall be written by an insurer with an A.M. Best Rating of A- VII or better.

I. Notice. The Consultant shall provide an endorsement issued by the insurer to provide the City thirty (30) days prior written notice of any change in the above insurance coverage limits or cancellation, including expiration or non-renewal. If such endorsement is not provided then the Consultant, as applicable, shall provide said a thirty (30) days written notice of any change in the above coverages or limits, coverage being suspended, voided, cancelled, including expiration or non-renewal.

J. Survival. Anything to the contrary notwithstanding, the liabilities of the Consultant under this Contract shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage.

K. Additional Insurance. Depending upon the nature of any aspect of any project and its accompanying exposures and liabilities, the City may reasonably require additional insurance coverages in amounts responsive to those liabilities, which may or may not require that the City also be named as an additional insured.

L. Special Provisions: Prior to executing this Agreement, Consultant shall present this Contract and Attachments G & H to its Insurance Agent affirming: 1) That the Agent has personally reviewed the insurance requirements of the Contract Documents, and(2) That the Agent is capable (has proper market access) to provide the coverages and limits of liability required on behalf of Consultant.

ATTACHMENT I

CITY OF JACKSONVILLE

PROCUREMENT DIVISION

214 N. Hogan Street – 8th floor, Jacksonville, Florida 32202
(904) 255-8800-Ph; (904) 255-8837-Fax; www.coj.net

PROCUREMENT PROTEST PROCEDURES

126.106(e) PROTEST PROCEDURES

126.106(e)(1) Purpose and Scope
126.106(e)(2) Definitions
126.106(e)(3) Timely Notice of Protest
126.106(e)(4) Extension Request / Supplemental Protest Documentation
126.106(e)(5) Delivery
126.106(e)(6) Process
126.106(e)(7) Protest Hearing Rules and Procedures
126.106(e)(8) Independent Agency, Board or Delegated Authority

126.106(e)(1) Purpose and Scope

(a) These protest procedures are promulgated pursuant to § 126.106(e) of the Jacksonville Ordinance Code (the "Code"), which authorizes the Chief of the Procurement Division (the "Chief") to "prepare and publish rules and regulations governing bid protests." In the event a court of competent jurisdiction declares any provision of these Procurement Protest Procedures to be unconstitutional, invalid, or otherwise unenforceable, then all remaining provisions shall be severable, valid and enforceable regardless of the invalidity of any other provision.

(b) In accordance with the procedures contained herein, any person or entity that is adversely affected by a decision or an intended decision concerning a solicitation, solicitation documents, award, or any other process or procedure prescribed in the Code and who has standing to protest said decision or intended decision under Florida law (the "Protestant"), must timely file a written Notice of Protest seeking to challenge the decision or intended decision. The issue(s) raised and the information contained in the Notice of Protest and any supplemental documentation filed in accordance with § 126.106(e)(4), hereof, must clearly identify and explain the factual and legal basis for any relief sought, and shall be the only issue(s) and information the Protestant may present for consideration before the applicable committee.

126.106(e)(2) Definitions

For the purpose of these Bid Protest Procedures, the following definitions are provided:

(a) "Competitive solicitation" or "solicitation" shall include without limitation an invitation to bid, competitive sealed bid, multi-step competitive sealed bid, competitive sealed proposal, or a request for proposals and/or qualifications.

(b) "Posting" means the notification of solicitations, decisions or intended decision, or other matters relating to procurement on a centralized Internet website, by placing the same on the bulletin board(s) designated by the Procurement Division for this purpose, or as may be consistent with § 126.102(m) of the Code.

(c) "Exceptional purchase" means any purchase excepted by law or rule from the requirements for competitive solicitation, including without limitation purchases pursuant to §§ 126.107, 126.206, 126.207, 126.211, 126.307, 126.309, 126.311, 126.312, or 126.313 of the Code.

(d) "Electronic transfer" is limited solely to facsimile transmissions that appear legibly on paper at the place of filing.

(e) "Final Agency Action" means a final decision that results from a proceeding hereunder, and includes actions which are affirmative, negative, injunctive, or declaratory in form.

(f) "Procurement process" has the same meaning as "contract solicitation or award process."

126.106(e)(3) Timely Notice of Protest

(a) **Recommendations of Award and/or Bid Rejection.** A Protestant shall have 48 hours after either the posting or written notification of a decision or intended decision, whichever is earlier, in which to file a written Notice of Protest in order to timely challenge or seek relief from a Procurement Division recommended award of an exceptional purchase or an award or recommended conclusion to any bid or proposal solicitation process, including without limitation: (i) a recommendation to reject a bid or proposal; (ii) a contract award; or (iii) the short-listing of bidders or proposers.

(b) **Bid/Proposal Specifications and/or Requirements.** A Protestant shall have 10 business days after the posting of a solicitation or 48 hours after the posted date and time of a pre-bid or pre-proposal conference, whichever is earlier, or 48 hours after the posting of an addendum, in which to file a written Notice of Protest in order to timely challenge the requirements, terms and/or conditions contained in bid or proposal documents, including without limitation any provisions governing or establishing: (i) the basis for making the award in question; (ii) evaluation criteria; (iii) equipment, product, or material specifications; (iv) proposed project schedules; (v) statements regarding participation goals or other equal opportunity measures; or (vi) other general solicitation or project requirements.

(c) **Computation of Time** - The computation of the time limitations or periods contained herein shall be governed by and shall be pursuant to Florida Rule of Civil Procedure 1.090(a). Failure to file a written Notice of Protest within the applicable time limitation or period shall constitute a waiver of any right, remedy, or relief available hereunder.

(d) **Form and Content of the Notice of Protest** - A written Notice of Protest shall: (i) be addressed to the Chief; (ii) identify the solicitation, decision, or recommended award in question by number and title or any other language sufficient to enable the Chief to identify the same; (iii) state the timeliness of the protest; (iv) state Protestant's legal standing to protest; and (v) clearly state with particularity the issue(s), material fact(s) and legal authority upon which the protest is based.

126.106(e)(4) Request for Extension to File Supplemental Protest Documentation

At the time of filing a timely Notice of Protest hereunder, a Protestant may request an extension of three (3) business days after the date its Notice of Protest is timely received, in which to provide supplemental protest documentation. Failure to do so or to timely submit the supplemental protest documentation shall constitute a waiver of any right to the same.

126.106(e)(5) Delivery

The timely filing of a Notice of Protest shall be accomplished when said notice is actually received by the Procurement Division within the applicable time limitation or period contained herein. Filing a notice may be accomplished by manual transfer via hand-delivery or mail to the Chief of Procurement at 214 N. Hogan Street, 8th floor, Jacksonville, Florida 32202 or by electronic transfer via facsimile to (904) 255-8837. The responsibility and burden of proof that its Notice of Protest has been timely and properly received shall rest with the Protestant, regardless as to the method of delivery employed.

126.106(e)(6) Process

(a) Upon receipt of a timely filed written Notice of Protest, the Chief or his/her designee shall schedule and provide notice of the time, date and place that the protest will be heard. The protest will be heard before the General Governmental Awards Committee ("GGAC"), the Professional Services Evaluation Committee ("PSEC"), or the Competitive Sealed Proposal Evaluation Committee ("CSPEC"), whichever is applicable. The Chief or his/her designee shall have the discretion to proceed with the solicitation or contract award process in question or to suspend the same pending the resolution of the protest. To the extent the Chief or his/her designee decides to exercise his/her discretion not to suspend the solicitation or contract award process pending the resolution of the protest, the Chief or his/her designee shall set forth in writing the particular facts and/or circumstances upon which his/her decision is based.

(b) Those persons or entities, other than the Protestant, who will be directly affected by the resolution of the protest shall be given notice of the protest hearing, and the Notice of Protest and any supplemental protest

documentation shall be made available to them upon a written request for the same.

(c) When a Notice of Protest is filed pursuant to § 126.106(e)(3)(b), hereof, the Chief or applicable awards committee chairperson shall have the discretion to direct that the solicitation in question not be opened pending the resolution of the protest.

126.106(e)(7) Protest Hearing Rules and Procedures

(a) Hearings hereunder shall be heard before the applicable committee, and shall begin with a general statement of the rules and procedures prescribed herein by a representative of the committee, followed by a general statement of the facts by a representative of the Procurement Division. Representatives of the Protestant, limited solely to its owners, officers, employees and/or legal counsel, will then be required to present its case based solely upon the issue(s) and information contained in the Notice of Protest and any timely submitted supplemental protest documentation. Those persons or entities, other than the Protestant, who have legal standing and will be directly affected by the resolution of the protest will be given an opportunity to be heard and to present information before the committee, which will be followed by a statement and the presentation of information from the Procurement Division and other governmental representatives. The Protestant must establish by the preponderance of the evidence that the protest should be granted based upon the law, facts and information presented. The committee is entitled to ask questions of any party at any time during the hearing.

(b) For hearings hereunder, the formal rules of evidence pursuant to the Florida Evidence Code may be relaxed at the sole discretion of the presiding chairperson of the applicable committee. Hearsay evidence may be admissible and used to supplement or explain other evidence.

(c) Unless otherwise provided by the Code, the burden of proof shall rest with the Protestant. The standard of proof for proceedings hereunder shall be whether a Procurement Division recommendation or the decision or intended decision in question was clearly erroneous, arbitrary or capricious, fraudulent, or otherwise without any basis in fact or law. In any protest proceeding challenging a decision or intended decision to reject all bids, proposals, or replies, the standard of review shall be whether the decision or intended decision is illegal, arbitrary, dishonest, or fraudulent.

(d) A majority vote of the members of the applicable committee shall be required to grant a protest, hereunder; otherwise, the protest shall be denied, and, upon execution by the Mayor or his designee, said vote and/or decision of the applicable awards committee shall be posted and shall represent final agency action.

126.106(e)(8) Independent Agency, Board or Delegated Authority

If a protest is filed and the solicitation is for the benefit of an independent agency, board, or delegated authority that has its own established procurement procedure and does not use the City's procurement process and/or protest procedures, then the person or entity protesting must follow the protest procedures of that independent agency, board, or delegated authority.

CERTIFICATE OF ADOPTION AND IMPLEMENTATION

The preceding Procurement Protest Procedures are hereby adopted this 1st day of October, 2011, by the undersigned Chief of Procurement for immediate implementation, and will remain in full force and effect until such time as they may be formally revised, amended, supplemented, superseded, or abolished.

Procurement Division

Gregory Pease, Chief
City of Jacksonville
214 N. Hogan Street, 8th floor
Jacksonville, Florida 32202
(904) 255-8800 – Phone
(904) 255-8837 – Facsimile
gpease@coj.net

ATTACHMENT J

DISQUALIFIED/PROBATIONARY Vendors List

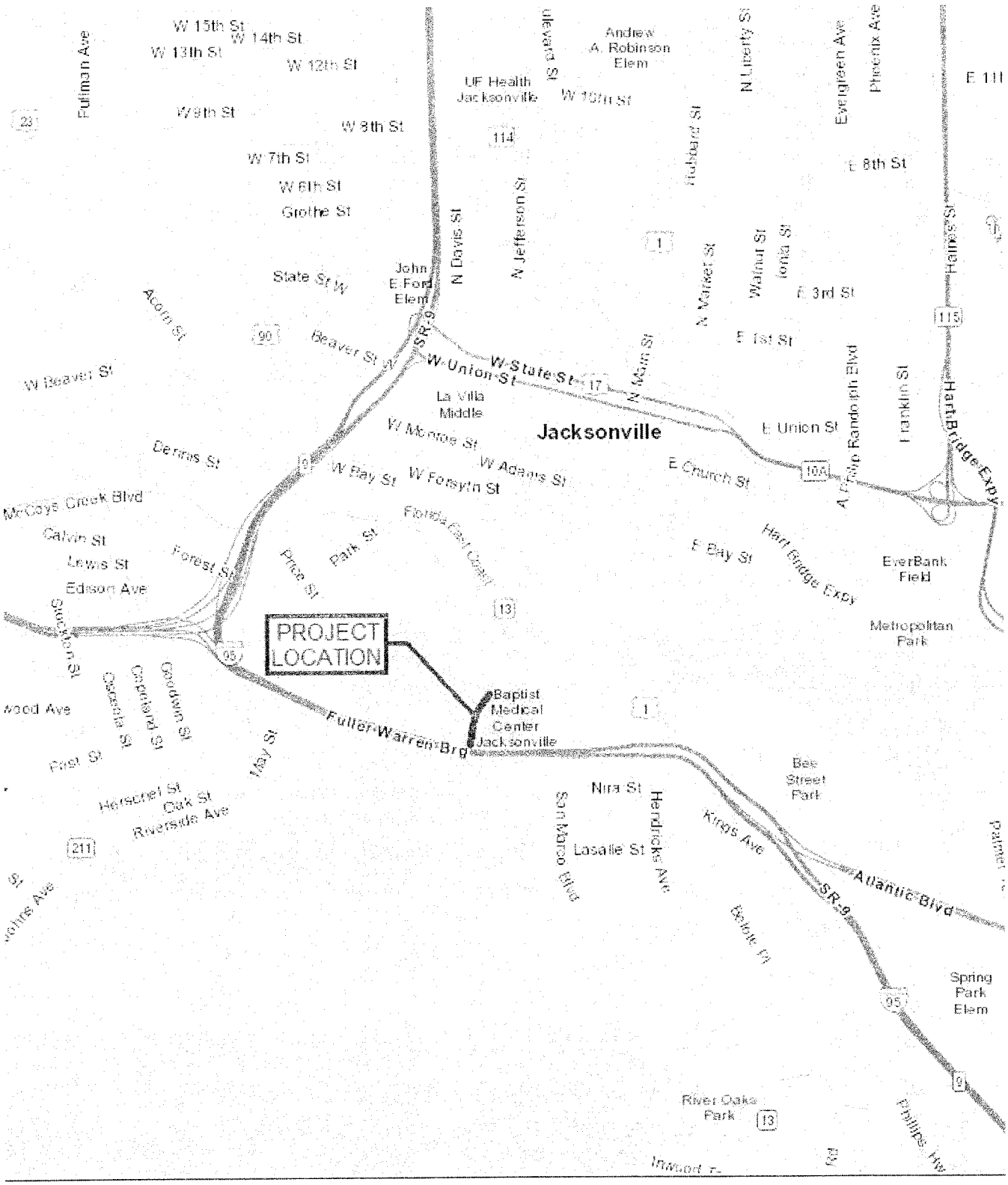
In accordance with the City's Procurement Code 126.201 (1) (1), the Chief of Procurement and all agencies are advised to cease doing business with disqualified vendors as they appear on this list. However, any existing contracts held by the vendors listed below should be completed.

VENDOR	VENDOR-FEIN #	Date of Disqualification	Eligibility Reinstatement Date
Able Lumber and Supply	593198312	07/18/1997	07/18/1998
*Aquino Construction Company, Inc.	00001424	04/19/2018	04/19/2021
Armored Car Services	593191058	02/10/2000	02/10/2001
*Arnett Contracting, Inc.	223965485	06/04/2010	06/04/2013
*Aztec American Builders, Inc.	00012849	01/10/2018	01/10/2021
**B & H Full Service Cleaning, Inc.	*****3840	11/19/2010	11/19/2011
C & H Construction	593216284	03/07/2002	03/07/2003
Carolina Paper Mill	593579372	10/20/1980	10/20/1981
*Cleft Landscape Mgmt.	590036843	10/26/2000	10/26/2001
Concerned Citizens of Developing the Disable, Inc. d/b/a A.I.C.R.		07/23/1998	07/23/1999
Court Yard Concepts	593198312	05/07/1997	05/07/1998
Creed Company	45357941	03/07/1990	03/07/1991
D&D Site Work, Inc.		10/9/2013	10/9/2016
Dajis Construction, Inc.	*****2318	12/16/2015	12/16/2016
Elite Public Safety		03/25/2000	03/25/2001
Fire Defense Centers	593035606	06/08/1987	06/08/1988
*First Coast Site Contractors	273995727	10/26/2012	10/26/2013
**Francbeth, Inc.	593658944	7/9/2014	7/9/2015
*GA Janitorial Cleaning Svcs., Inc.	010684614	08/31/2009	08/31/2010
George Patterson & Assoc.	59317759	06/05/1998	06/05/1999
G K Solutions	593541756	09/08/1999	09/08/2000
**J&J Recycling and Demo, LLC	*****1758	4/21/2015	10/21/2015
Kingdom Cleaning	*****6694/*****9588	10/20/2015	10/20/2017
*Process Server Enterprises, LLC	263336079	04/29/2010	04/29/2011
**Ray T. Freiha Construction, Inc.	593615599	06/01/2010	06/01/2012
*The Real Dirt Busters	*****3042	10/26/2012	10/26/2015
The Rose Group, LLC	*****0716	07/21/2015	07/21/2018
**Sheza General Contractors, Inc.	593430930	11/02/2010	11/02/2011
** Synot Roofing & Construction LLC	*****6145	08/28/2018	02/28/2019
Tiger Tale Publication		05/21/1998	05/21/1999
Whittle & Sons		07/25/1980	07/25/1981

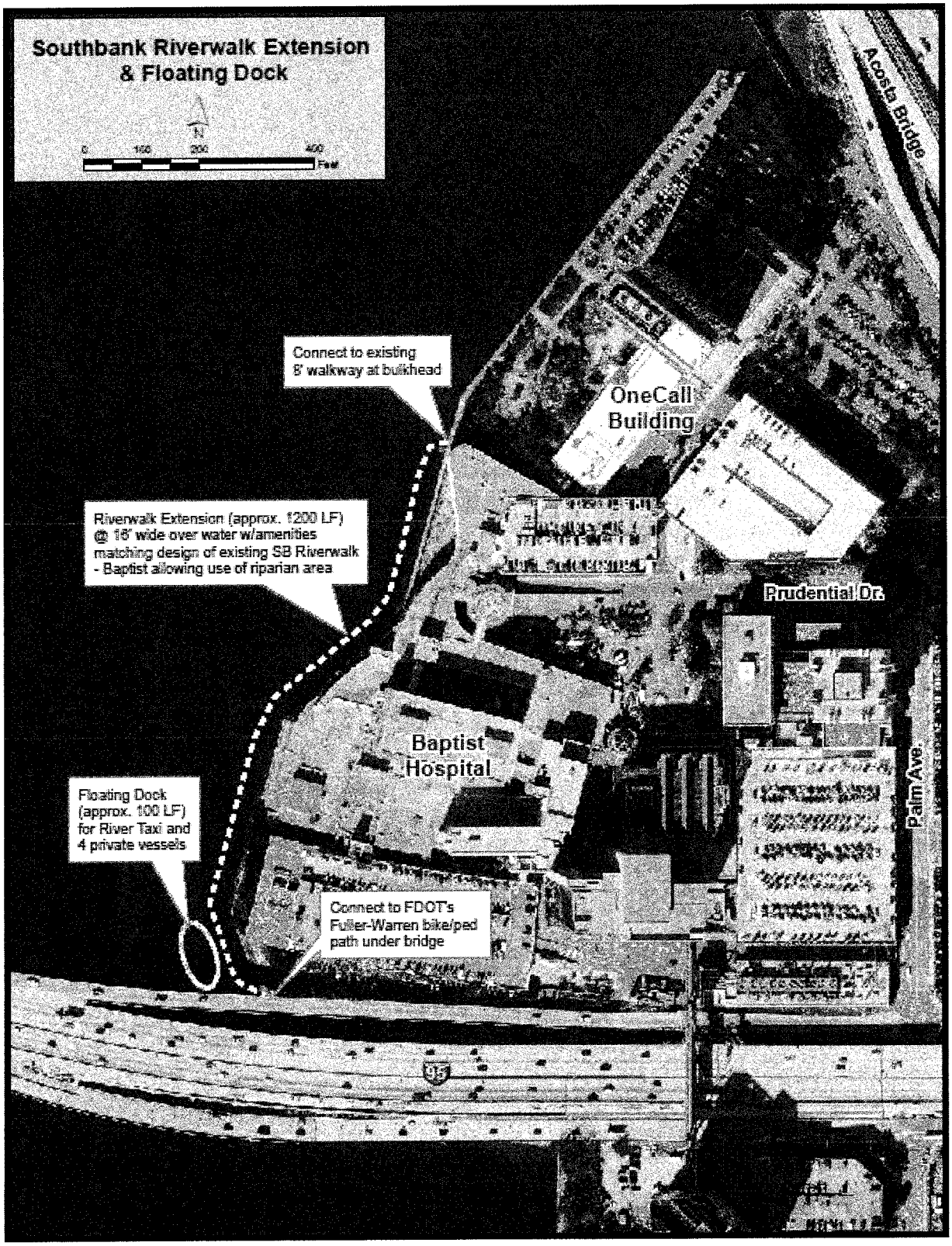
***Vendors disqualified/debarred from bidding as Prime and/or Sub Contractors**
****Vendors placed on probation for a period of 6 months or more**

ATTACHMENT K

PROJECT LOCATION MAP



ATTACHMENT K
PROJECT LOCATION MAP



FOR INFORMATION ONLY - DO NOT SUBMIT WITH YOUR PROPOSAL

FORM 1
SCHEDULE OF PROPOSED PRICES/RATES

NAME OF CONTRACTOR_____

Proposal Number_____

1. Average hourly direct labor rates (without Fringe Benefits)

Project Manager (Responsible Professional)	$_____hr.
Architect (Registered)	$_____hr.
Design Engineer (Registered)	$_____hr.
Designer or Technician (Non-Registered)	$_____hr.
Drafter or CADD Operator	$_____hr.
Clerical (Typist, Word Processor, Document Assembly, etc.)	$_____hr.

2. Total Overhead Rate (to be applied to Direct Labor:) _____%

3. Profit Rate (to be applied to Direct Labor plus Overhead) _____%

4. Cost of 4-man survey crew per 8 hour day (If applicable) $_____hr.

5. Other Direct Project Costs per Unit (please specify)

_____

_____

_____

6. Estimated percentage of total fee to be performed by subconsultants _____%

7. Please provide any other relevant rates that may apply to this project including average direct hourly labor rates for other categories of proposed personnel

_____

_____

_____

_____

FORM 2
CONFLICT OF INTEREST CERTIFICATE

RFP No. P-10-19

Bidder must execute either Section I or Section II hereunder relative to Florida Statute 112.313(12). Failure to execute either Section may result in rejection of this bid proposal.

SECTION I

I hereby certify that no official or employee of the City or independent agency requiring the goods or services described in these specifications has a material financial interest in this company.

Signature	Company Name
Name of Official (Type or Print)	Business Address
	City, State, Zip Code

SECTION II

I hereby certify that the following named City official(s) and employee(s) having material financial interest(s) (in excess of 5%) in this company have filed Conflict of Interest Statements with the Supervisor of Elections, 105 East Monroe Street, Jacksonville, Duval County Florida, prior to bid opening.

Name	Title or Position	Date of Filing

Signature	Company Name
Name of Official (Type or Print)	Business Address
	City, State, Zip Code

PUBLIC OFFICIAL DISCLOSURE

Section 126.112 of the Purchasing Code requires that a public official who has a financial interest in a bid or contract make a disclosure at the time that the bid or contract is submitted or at the time that the public official acquires a financial interest in the bid or contract. Please provide disclosure, if applicable, with bid.

Public Official _____

Position Held: _____

Position or Relationship with Bidder: _____

FORM 3

INSURANCE AGENT ACKNOWLEDGMENT

Bid No./RFP No.: P-10-19

Bidder must have their insurance agent execute the below statement. Failure to execute this statement may result in rejection of this bid proposal.

As insurance agent for _____,

I have read the Indemnification and Insurance Requirements relating to the above referenced bid and do certify that I can provide evidence of all required coverages, limits and additional provisions as stated in those documents.

_____	_____
Agent's Signature	Insurance Company Name
_____	_____
Agent's Name (Type or Print)	Agent's License Number (Type or Print)

ONE CITY. ONE JACKSONVILLE

FORM 4

ERRORS & OMISSIONS PROCEDURES

RFP #: P-10-19

Title of RFP: Professional Design Services for The Southbank Riverwalk Extension

Acknowledge Receipt by Return of Signed Copy With Proposal

_____
Proposer's Signature

_____
Title

_____
Company Name

_____
Date