



St. Johns River Water Management District

Ann B. Shortelle, Ph.D., Executive Director

4049 Reid Street • P.O. Box 1429 • Palatka, FL 32178-1429 • (386) 329-4500
On the Internet at www.sjrwmd.com.

Date: April 21, 2016

To: Interested Universities

From: Madeline Northcutt, CPPO, CPPB Voice: 386-329-4424
Sr. Procurement Specialist Fax: 386-329-4329
mnorthcu@sjrwmd.com

Subject: Informal Request for Proposals – Contract #28650
Lake George Water Quality Modeling: Environmental Fluid Dynamics Code (EFDC) and CE-QUAL-ICM Three-Dimensional Eutrophication Model Platform Compatibility and Evaluation of Sensitivity Analysis Methodologies

The St. Johns River Water Management District (District) is interested in securing proposals for a project entitled “Lake George Water Quality Modeling: EFDC and CE-QUAL-ICM Platform Compatibility and Evaluation of Sensitivity Analysis Methodologies.”

The District has established a budget of \$25,000 for this work. The Respondent should plan to commence work upon full execution of the agreement and complete all work by no later than September 30, 2016. Time is of the essence.

This letter is an invitation for you to offer a proposal to the District based on the enclosed Statement of Work, Exhibit 1. Unless the District has a special university template for your university, the contract for these services will be prepared using our general university template (sample agreement attached as Exhibit 2). If you are interested in this work, written quotations are due by **5:00 p.m. on Thursday, May 12, 2016**. Submit quotations as an email attachment to Madeline Northcutt at mnorthcu@sjrwmd.com.

The Proposal should include the information and documentation requested below:

1. Letter of Transmittal — this letter should not exceed two pages in length and briefly state the Respondent’s understanding of the Work
2. Name and address of your institution
3. Name and address of any partners or subconsultants that will be working with your institution on this project
4. An organizational chart identifying key staff members — indicate the name of person(s) who will be assigned to the District’s project and an outline of their education, experience, training, and location
5. A list of at least two public-sector entities for whom similar projects are or have been performed (include brief description of the type of work performed)
6. A description of the methodology employed to accomplish the Statement of Work
7. A cost breakdown by task including all travel and indirect costs associated with completing the Work

(continued on next page)

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This solicitation is not a formal competitive process subject to a public bid opening. Staff will evaluate the proposal packages to determine which proposal best meets the District's needs and the Evaluation Committee will meet on Wednesday, May 18, 2016. Staff anticipates awarding a contract by May 30, 2016. If you have any further questions, please contact me at (386) 329-4424. Thank you for your consideration. I look forward to receiving your response.

EXHIBIT 1 - STATEMENT OF WORK
Lake George Water Quality Modeling: EFDC and CE-QUAL-ICM Platform Compatibility and
Evaluation of Sensitivity Analysis Methodologies

I. INTRODUCTION

Lake George is a large, flow-through lake of the St. Johns River that divides the non-tidal middle St. Johns River from the tidally-dominated lower St. Johns River. Lake George has an area of about 52,000 acres with a mean depth of 10 feet. Lake George's local watersheds are largely undeveloped and local inflows are dominated by several large springs along the lake's western shore. As such, phosphorus and nitrogen loading to the lake is predominately from the St. Johns River. The aggregate nutrient load is derived from upstream sources that extend nearly 150 miles from the entrance of Lake George (longitude 29° 12') to Blue Cypress Lake west of Vero Beach (latitude 27° 44'). Because of its relatively low flushing, Lake George suffers from regular summer blooms of cyanobacteria that can exceed 100 µg L⁻¹ Chl-a. Much of this algal biomass is exported to the lower St. Johns River, thus degrading downstream water quality. In addition, conditions in Lake George favor N-fixing cyanobacteria that add considerable nitrogen load, in excess of 100 MT yr⁻¹, to the N-limited estuarine portion of the lower St. Johns River.

Lake George's size and location make it a critical area of concern for water resource management. As such, the St. Johns River Water Management District (District) is developing a coupled hydrodynamic model (Environmental Fluid Dynamics Code) and water quality model (CE-QUAL-ICM) to simulate primary production and nutrient cycling within the lake. This modeling system will be used to calculate the assimilative capacity of the lake for nitrogen and phosphorus within the context of a range of hydrologic and meteorological conditions, all of which are critical for supporting appropriate remediation project development. In addition, the District will use the models to assess (a) the efficacy of future upstream nutrient reduction projects and (b) water quality changes due to upstream surface withdrawals for public water supply.

The calculated assimilative capacity will be used by the Florida Department of Environmental Protection (FDEP) to establish a nutrient Total Maximum Daily Load (TMDL) for Lake George. The models are presently running on the District's Linux cluster. Use of the models by FDEP for TMDL development require that the models be compatible with the Windows platform. Modifying, compiling, and testing the source codes for compatibility with Windows is a key success criterion for this work.

The water quality modeling system for Lake George is of considerable importance to management of both Lake George and the larger St. Johns River. As such, the District desires to quantify model uncertainty and identify the model input parameters that contribute the greatest amount of uncertainty to the model output. These global uncertainty and sensitivity analyses (GUA/SA) will help guide application of the model for management given predicted results and their associated error. Finally, these results will be useful for determining how (or if) model uncertainty can be reduced. The District has a Linux cluster and can likely implement uncertainty and sensitivity analysis algorithms, but is here seeking expert guidance in selection of the most appropriate methodologies suitable to the District's particular model of Lake George. The selection criteria for methodologies will likely include, but not limited to, model pathology, number of model parameters, range of variation of each parameter, and model run-time.

II. OBJECTIVES

- 1) ensure that the existing Linux source codes are platform-compatible with Windows
- 2) assess the EFDC/CE-QUAL-ICM model system of Lake George to determine the model-specific criteria required to recommend appropriate methodologies for global uncertainty analysis and sensitivity analysis

- 3) document recommended methodologies for global uncertainty analysis and sensitivity analysis in a report that includes rationale for their use with the EFDC/CE-QUAL-ICM models of Lake George, references for the methodologies, and illustrative test cases of their use

III. SCOPE OF WORK

The St. Johns River Water Management District is requesting proposals to (a) ensure that the existing District EFDC and CE-QUAL-ICM source codes, presently executable on Linux, are compatible with Windows and (b) develop a plan for global uncertainty and sensitivity analysis of an existing coupled hydrodynamic and water quality model of Lake George, FL. Work must commence immediately following final acceptance of the contract by both the District and the University because all work must be completed by September 30, 2016.

IV. TASK IDENTIFICATION

Proposals should provide a list of tasks that need to be completed to meet project objectives. This task list should be used to define the deliverables the University will provide to meet the project objectives. Task identification should be provided in this format:

Task 1 Title of Task Using Deliverable as the Main Component

University shall assess model-specific parameters that will include at a minimum ... etc.

The last task (n+1) will be the report summarizing the project and results from all tasks prior to this last one.

TASK n + 1 – Final Report

University shall provide a draft final report including deliverables from Tasks 1 through n, an executive summary and any appendices necessary to provide adequate background. District staff will provide comments within two (2) weeks after receipt. The University shall provide electronic versions of the report in MS WORD. Any modifications to the Windows compatible source codes shall be provided as ASCII text files. Windows compatible executable files shall be provided along with model input files sufficient to test the binary executables on District Windows computers. The University shall provide a reconciliation memo for any changes suggested by District staff indicating the specific outcome for each change, with a reason for each suggestion not incorporated.

V. TIME FRAMES AND DELIVERABLES

University shall provide an estimate of timelines using deliverables from Item IV as the milestones. A sample table is provided below for your convenience.

Table 1. An example of a project schedule table based on final due date for each deliverable

| Task | Deliverable | Deliverable Due Date |
|---|---|----------------------|
| 1 – Port Linux-compatible source codes to Windows | Windows-compatible executables with example input files | July 1, 2016 |
| 2 – Define model-specific methodologies for global uncertainty and sensitivity analysis | Draft of Recommended GUA/SA Methodologies | August 1, 2016 |

VI. CONTRACT BUDGET

Proposals should provide a table identifying the cost associated with each task. Please **do not** provide a breakout by salaries, cost of equipment or travel. This will be a fixed fee contract in accordance with the schedule and fees that the University will provide to match tasks and deliverables from Section IV. Table 2 provides a sample table of budget breakout requested. (Note that the total project budget cannot exceed \$25,000.)

Table 2. A sample budget table showing costs by task

| <u>Task</u> | <u>FY15-16 Cost</u> June 2016 – September 30, 2016 |
|---|---|
| 1 – Port source code to Windows | \$10,000 |
| 2 – Assess Lake George model for model-dependent criteria for GUA/SA | \$5,000 |

VII. EVALUATION CRITERIA

Proposals will be evaluated using the following criteria and should be submitted in two sections. The first should include sufficient material to evaluate background and qualifications and the second is the technical proposal. The technical proposal should provide everything requested in the statement of work, including the budget, and should utilize the guidelines provided in the evaluation criteria below to insure clarity and completeness.

EVALUATION CRITERIA:

| CRITERIA | WEIGHT | SCORE | TOTAL |
|--|---------------|--------------|--------------|
| Background and Qualifications a) General Project Information: Discuss other information relevant to the potential success of the project. This should include facilities, personnel expertise/experience with similar projects, general knowledge of uncertainty and sensitivity analysis for environmental models, and familiarity with EFDC and CE-QUAL-ICM. b) Resumes showing qualifications and experience of all staff assigned to contract, including contingency personnel | .30 | | |
| Completeness and Technical Merits of Proposal a) Clarity of proposal b) Approach/Activities: Outline the research design, methods, and techniques that you intend to use in meeting the objectives in the Statement of Work c) Describe the results you expect to achieve during the project and provide a timeline. Provide a statement on processes that will be used to assure that results of the research satisfy the intended project objectives. d) Accuracy and completeness of proposal, all tasks thoroughly covered. e) References cited should be included in an appendix. | .50 | | |
| Budget Costs will be scored according to the following: Lowest bid score = 100 Second lowest bid = $100 - (100 * ((\text{second bid} - \text{lowest}) / \text{lowest}))$ Third lowest bid = $100 - (100 * ((\text{third bid} - \text{lowest}) / \text{lowest}))$ And so on | .20 | | |
| TOTAL | 100 | | |

Scores: 90 to 100..... Excellent, provided all requested information
 70 to 90Adequate information provided
 50 to 70Inadequate information provided
 <50 Unacceptable

EXHIBIT 2 – SAMPLE AGREEMENT

**DRAFT UNIVERSITY SERVICES AGREEMENT (GENERAL)
BETWEEN THE
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
AND _____ FOR
LAKE GEORGE WATER QUALITY MODELING: EFDC AND CE-QUAL-ICM PLATFORM
COMPATIBILITY AND EVALUATION OF SENSITIVITY ANALYSIS METHODOLOGIES**

THIS AGREEMENT is entered into by and between the GOVERNING BOARD of the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT (“the District”), whose address is 4049 Reid Street, Palatka, Florida 32177, and _____ (“University”), whose address is _____. All references to the parties hereto include the parties, their officers, employees, agents, successors, and assigns.

In consideration of the payments hereinafter specified, University agrees to furnish and deliver all materials and perform all labor required for Lake George Water Quality Modeling: EFDC and CE-QUAL-ICM Platform Compatibility and Evaluation of Sensitivity Analysis Methodologies (“the Work”). University shall complete the Work in conformity with this Agreement, which includes the Statement of Work and any Special Conditions or other attachments. If any provision in the body of this Agreement conflicts with any attachment hereto, the body of this Agreement shall prevail. The parties hereby agree to the following terms and conditions.

1. TERM OF AGREEMENT

- (a) The term of this Agreement shall be from the Effective Date to the Completion Date. Time is of the essence for each and every aspect of this Agreement. Where additional time is allowed to complete the Work, the new time limit shall also be of the essence. Notwithstanding specific mention that certain provisions survive termination or expiration of this Agreement, all provisions of this Agreement that by their nature extend beyond the Completion Date survive termination or expiration hereof.
- (b) **Effective Date.** The Effective Date is the date upon which the last party to this Agreement has dated and executed the same.
- (c) **Completion Date.** The Completion Date of this Agreement is September 30, 2016, unless extended by mutual written agreement of the parties. The Work shall be completed for use no later than said date.

2. COMMENCEMENT OF WORK

- (a) University shall commence the Work:
 - ☐ Within fifteen (15) days after the Effective Date; or
 - ☐ Upon the issuance of a Notice to Proceed by the District; or
 - ☐ Within fourteen (14) days of issuance of a Work Order by the District; or
 - ☐ On _____ (insert specific date).

This date shall be known as the “Commencement Date.” University shall prosecute the Work regularly, diligently, and uninterruptedly so as to complete the Work ready for use in accordance with the Statement of Work and the time for completion stated therein. University shall not commence the Work until any required submittals are received and approved.

3. **DELIVERABLES**

- (a) The Work is specified in the Statement of Work, Attachment A. University shall deliver all products and deliverables as stated therein. University is responsible for the professional quality, technical accuracy, and timely completion of the Work. Both workmanship and materials shall be of good quality. University shall, if required, furnish satisfactory evidence as to the kind and quality of materials provided. Unless otherwise specifically provided for herein, University shall provide and pay for all materials, labor, and other facilities and equipment necessary for performance of the Work. The District’s Project Manager shall make a final acceptance inspection of the deliverables when completed and finished in all respects.
- (b) If not otherwise addressed in the Statement of Work, upon written request, University shall submit written progress reports to the District’s Project Manager at the frequency requested in the form approved by the Project Manager at no additional cost to the District. The progress report shall provide an updated progress schedule, taking into account all delays and approved changes in the Work. Failure to provide a progress report will be cause to withhold payment.

4. **OWNERSHIP OF DELIVERABLES.** All deliverables, including Work not accepted by the District, are District property when University has received compensation therefor, in whole or in part. For any Work subject to patent, copyright, such Work is a “work made for hire” as defined by the patent and copyright laws of the United States. University shall not make any representation otherwise and, upon request, shall sign any documents so affirming. Any District source documents or other District or non-District documents, specifications, materials, reports, or accompanying data developed, secured, or used in the performance of the Work, excluding proprietary materials, as outlined in the Statement of Work, are District property and shall be safeguarded and provided to the District upon request. District plans and specifications shall not be used on other work and, with the exception of the original plans and specifications, shall be returned to the District upon request. This obligation shall survive termination or expiration of this Agreement.

5. **FUNDING OF AGREEMENT**

- (a) For satisfactory performance of the Work, the District agrees to pay University _____ (the “Total Compensation”).

6. **PAYMENT OF INVOICES**

- (a) University shall submit itemized invoices at the completion of each task by one of the following two methods: (1) by mail to the St. Johns River Water Management District, Finance Director, 4049 Reid Street, Palatka, Florida 32177, or (2) by e-mail to acctpay@sjrwm.com. Each invoice shall be submitted in detail sufficient for proper pre-

audit and post-audit review. If necessary for audit purposes, University shall provide additional supporting information as required to document invoices.

- (b) **End of District Fiscal Year Reporting.** The District's fiscal year ends on September 30. Irrespective of the invoicing frequency, the District is required to account for all encumbered funds at that time. When authorized under the Agreement, submittal of an invoice as of September 30 satisfies this requirement. The invoice shall be submitted no later than October 30. If the Agreement does not authorize submittal of an invoice as of September 30, University shall submit, prior to October 30, a description of the additional Work completed between the last invoice and September 30, and an estimate of the additional amount due as of September 30 for such Work. If there have been no prior invoices, University shall submit a description of the Work completed on the project through September 30 and a statement estimating the dollar value of that Work as of September 30.
- (c) **Final Invoice.** The final invoice must be submitted no later than 45 days after the Completion Date; provided, however, that when the Completion Date corresponds with the end of the District's fiscal year (September 30), the final invoice must be submitted no later than 30 days after the Completion Date. **Final invoices that are submitted after the requisite date shall be subject to a penalty of 10 percent of the invoice. This penalty may be waived by the District, in its sole judgment and discretion, upon a showing of special circumstances that prevent the timely submittal of the final invoice. University must request approval for delayed submittal of the final invoice not later than ten (10) days prior to the due date and state the basis for the delay.**
- (d) All invoices shall include the following information: (1) District contract number; (2) District encumbrance number; (3) University's name and address (include remit address, if necessary); (4) University's invoice number and date of invoice; (5) District Project Manager; (6) University's Project Manager; (7) supporting documentation as to cost and/or project completion (as per the cost schedule and other requirements of the Statement of Work; (8) Progress Report (if required); (9) Diversity Report (if otherwise required herein). Invoices that do not correspond with this paragraph shall be returned without action, stating the basis for rejection. Payment shall be made within forty-five (45) days of receipt of an approved invoice. Disputes regarding invoice sufficiency are resolved pursuant to the dispute resolution procedure of this Agreement.
- (e) **Travel expenses.** If the cost schedule for this Agreement or project estimate for a Work Order (if applicable) includes a line item for travel expenses, travel expenses shall be drawn from the project budget and are not otherwise compensable. If travel expenses are not included in the cost schedule, they are a cost of providing the service that is borne by University and are only compensable when specifically approved by the District as an authorized District traveler. In such instance, travel expenses must be submitted on District or State of Florida travel forms and shall be paid pursuant to District Administrative Directive 2000-02.
- (f) **Payments withheld.** The District may withhold or, on account of subsequently discovered evidence, nullify, in whole or in part, any payment to such an extent as may be necessary to protect the District from loss as a result of: (1) defective Work not remedied; (2) failure to maintain adequate progress in the Work; or (3) any other material breach of this Agreement. Amounts withheld shall not be considered due and shall not be paid until the ground(s) for withholding payment have been remedied.

7. PAYMENT AND RELEASE

Upon satisfactory completion of the Work, the District will provide University a written statement accepting all deliverables. University's acceptance of final payment shall constitute a release in full of all University claims against the District arising from the performance of this Agreement, with the exception of any pending claims for additional compensation that have been documented and filed as required by this Agreement.

- 8. LIABILITY AND INSURANCE.** Each party is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party, its officers, employees and agents. Nothing contained herein shall be construed or interpreted as denying to any party any remedy or defense available under the laws of the state of Florida, nor as a waiver of sovereign immunity of the state of Florida beyond the waiver provided for in section 768.28, Fla. Stat., as amended. Each party shall acquire and maintain throughout the term of this Agreement such liability, workers' compensation, and automobile insurance as required by their current rules and regulations.

- 9. FUNDING CONTINGENCY.** This Agreement is at all times contingent upon funding availability, which may include a single source or multiple sources, including, but not limited to: (1) ad valorem tax revenues appropriated by the District's Governing Board; (2) annual appropriations by the Florida Legislature, or (3) appropriations from other agencies or funding sources. Agreements that extend for a period of more than one Fiscal Year are subject to annual appropriation of funds in the sole discretion and judgment of the District's Governing Board for each succeeding Fiscal Year. Should the Work not be funded, in whole or in part, in the current Fiscal Year or succeeding Fiscal Years, the District shall so notify University and this Agreement shall be deemed terminated for convenience five (5) days after receipt of such notice, or within such additional time as the District may allow. For the purpose of this Agreement, "Fiscal Year" is defined as the period beginning on October 1 and ending on September 30.

10. PROJECT MANAGEMENT

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

DISTRICT

Pete Sucsy, Project Manager
St. Johns River Water Management District
4049 Reid Street
Palatka, Florida 32177
Ph: 386-329-4455
E-mail: psucsy@sjrwmd.com

UNIVERSITY

, Project Manager

E-mail:

- (b) The District's Project Manager shall have sole responsibility for transmitting instructions, receiving information, and communicating District policies and decisions regarding all matters pertinent to performance of the Work, and may approve minor deviations in the

Work that do not affect the Total Compensation or Completion Date or otherwise significantly modify the terms of the Agreement.

11. **PROGRESS REPORTS; FAILURE TO MEET SCHEDULE**

- (a) **Progress Reports.** University shall provide to the District update/status reports as provided in the Statement of Work. Reports shall provide detail on progress of the Work and outline any potential issues affecting completion or the overall schedule. Reports shall be submitted in any form agreed to by District's Project Manager and University, and may include emails, memos, and letters.
- (b) **Progress Meetings.** The District may conduct progress meetings with University on a frequency to be determined by the District. In such event, University shall make available its Project Manager and/or superintendent and other appropriate personnel to discuss matters pertinent to the Work.

12. **DELAYS.** University shall not be compensated for delays in the Work caused by University's inefficiency, rework made necessary by University's error, failure to perform the Work as scheduled, or any other corrective or productivity measures made necessary by errors, omissions, or failures to properly perform the Work. Within ten (10) days after the onset of a delay, University shall notify the District in writing of the delay, which shall provide: (1) a detailed description the delay and its probable duration, (2) the specified portion of the Work affected, and (3) an opinion as to the cause of the delay and liability (if any) for the delay. Notices provided more than ten (10) days after inception of the delay shall only be effective as to additional costs or delay incurred during the ten (10) day period preceding receipt of such notice. In the case of continuing cause or delay, only one notice of delay is necessary. If the delay is due to causes beyond University's control, as determined by the District in its sole judgment and discretion, the District may grant a time extension in the form of a written amendment signed by both parties.

13. **AMENDMENTS.** The parties may not amend this Agreement except in writing. Modifications that alter, add to, or deduct from the Work, or otherwise modify the terms of this Agreement, shall be implemented through a change order or formal amendment, specifying the nature of the change and any associated change in the Total Compensation and/or Completion Date. The District's Project Manager may also issue a District Supplemental Instruction (DSI) form, Attachment C, to authorize minor changes in the Work that are not inconsistent with the purpose of the Work and both parties agree in writing do not affect the Total Compensation or the Completion Date.

14. **TERMINATION AND SUSPENSION**

- (a) **District Termination for Cause.** This Agreement may be terminated by the District for cause on ten (10) days written notice in the event of any breach hereof, including, but not limited to, University's: (1) failing to carry forward and complete the Work in accordance with the requirements hereof; (2) failing to comply with applicable laws, regulations, permits, or ordinances; (3) failing to timely commence or continuously and vigorously pursue correction of defective Work; (4) failing to make payments when due to subcontractors, vendors, or others for materials or labor used in the Work; or (5) making a material misrepresentation to the District regarding the Work or performance thereof. Upon termination, the District may take possession of the Work and finish the Work by whatever method(s) the District deems expedient. The remedy enumerated herein is non-exclusive. In addition, the District may avail itself of any statutory and/or common law remedy not specifically set forth herein.

- (b) **District Termination for Convenience.** Notwithstanding any other provision hereof, the District may at any time terminate this Agreement or any Work issued under it, in whole or in part, without cause, upon thirty (30) days written notice to University. In such event, University shall be compensated for any Work performed prior to the date of termination and for materials that were ordered prior to receipt of notice of termination that cannot be returned to the vendor, which shall become District property. Upon receipt of notice, University shall discontinue the Work on the date and to the extent specified therein and shall place no further orders for materials, equipment, services, or facilities, except as needed to continue any portion of the Work not terminated. University shall also make every reasonable effort to cancel, upon terms satisfactory to the District, all orders or subcontracts related to the terminated Work. University may not claim any compensation not specifically provided for herein, including, but not limited to: loss of anticipated profits; idle equipment, labor, and facilities; any additional claims of subcontractors and vendors.
- (c) **District Suspension for Convenience.** The District may direct University to stop Work, in whole or in part, whenever, in the District's sole judgment and discretion, such stoppage is necessary to ensure the proper completion of the Work, avoid injury to third persons, or otherwise meet the objectives of the District. The District shall provide University not less than five (5) days written notice, except in emergency circumstances. University shall immediately comply with such notice. Should such stoppage increase University's cost, an equitable adjustment will be made by Change Order. The notice shall be effective until rescinded in writing, unless the period of suspension is stated in the notice.
- (d) **University's Right to Terminate Agreement.** University may terminate this Agreement if the District fails to pay undisputed and adequately documented sums when due hereunder. In such event, University shall provide the District no less than ten (10) days prior written notice of its intention to terminate this Agreement and afford the District an opportunity to cure the grounds for termination within said period. In the event of any other event, dispute, or other matter arising under this Agreement, University shall fully perform the Work in accordance with the District's written instructions and may claim additional compensation as a Change Order, subject to the dispute resolution procedure.

ADDITIONAL PROVISIONS

- 15. **ASSIGNMENT AND SUBCONTRACTS.** University shall not sublet, assign, or transfer any Work involving more than fifteen percent (15%) of the total cost of the Work, or assign any monies due hereunder, without the District's prior written consent; provided, however, that in all cases, if the proposed subcontractor is different than the team specified by University in the contract award process, University shall notify the District's Project Manager in writing and obtain the District's prior approval. Neither District approval of a subcontractor nor any other provision of this Agreement creates a contractual relationship between any subcontractor and the District. University is responsible for fulfilling all work elements in any subcontracts and payment of all monies due. University is fully responsible to the District for the acts and omissions of its subcontractors and persons directly or indirectly employed by them, and shall hold the District harmless from any liability or damages resulting from any subcontract to the extent allowed by law.
- 16. **AUDIT; ACCESS TO RECORDS.** Until the expiration of three (3) years after expenditure of funds hereunder, the District or its duly authorized representatives shall have access to examine

any of University's books and other records involving transactions related to this Agreement. University shall preserve all such records for a period of not less than three (3) years. University shall refund any payment(s) that are found to not constitute allowable costs based upon audit examination. All required records shall be maintained until an audit has been completed and all questions arising from it are resolved. University will provide proper facilities for access to and inspection of all required records.

17. **CIVIL RIGHTS.** Pursuant to chapter 760, Fla. Stat., University shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, age, handicap, or marital status.

18. **COMPUTER CODES**

- (a) **University Computer Codes.** If the existing computer codes required for the development of a model selected by University and necessary for use in completing the Work are deemed proprietary by University, then University grants to the District and its assignees a non-exclusive license to use the proprietary computer model codes and agrees to indemnify and hold the District harmless from all costs, damages, and expenses, including attorney's fees, arising from any claim, right, or suit over the proprietary interests in the computer codes developed for the Work. Documentation of University's proprietary rights shall be provided to the District upon request. University's computer codes may be public records subject to the provisions of section 119.07, Fla. Stat. If a third party seeks access to this proprietary information, the District shall notify University in writing of the request in order to give University the right to protect its proprietary interest.
- (b) **District Computer Codes.** University shall not be entitled to claim any proprietary right to computer codes that are developed by University in fulfilling the requirements of the Work, which shall be considered "work for hire" under applicable copyright and/or patent law. Such computer codes, which constitute a Deliverable hereunder, are the sole and exclusive property of the District. The District may copyright or patent such computer codes in its own name to the full extent authorized by law.

19. **CONFLICTING EMPLOYMENT.** University hereby represents that it has no undisclosed conflict of interest between the services to be provided under this Agreement and services provided by University to any other clients. Should either party become aware of any such conflict, that party will promptly notify the other thereof. The parties shall negotiate in good faith to resolve the conflict. If the conflict cannot be resolved, the District may terminate this Agreement upon fifteen (15) days prior written notice. In no case shall the University's Project Manager, or other key employees who have been so identified in the Statement of Work, be directly involved in providing services to other clients associated with the conflict. Notwithstanding the foregoing, University may accept retainers from or be employed by third parties whose interests appears conflicting or inconsistent with that of the District if, after full written disclosure of the facts to the District, the District determines that the apparent conflict shall not interfere with the performance of the Work.

20. **DISPUTE RESOLUTION.**

- (a) **During the course of work.** In the event any dispute arises during the course of the Work, University shall fully perform the Work in accordance with the District's written instructions and may claim additional compensation. University is under a duty to seek clarification and resolution of any issue, discrepancy, or dispute by submitting a formal

request for additional compensation, schedule adjustment, or other dispute resolution to the District's Project Manager no later than fifteen (15) calendar days after the precipitating event. If not resolved by the Project Manager within five (5) business days, the Project Manager shall forward the request to the District's Office of General Counsel, which shall issue a written decision within fifteen (15) calendar days of receipt. This determination shall constitute final action of the District and shall then be subject to judicial review upon completion of the Work. **University shall proceed with the Work in accordance with said determination. This shall not waive University's position regarding the matter in dispute.**

- (b) **Invoices.** In the event the District rejects an invoice as improper, and the University declines to modify the invoice, the University must notify the District in writing within ten (10) calendar days of receipt of notice of rejection that the University will not modify the invoice and state the reason(s) therefore. Within five (5) business days of receipt of such notice, if not informally resolved through discussion with the District Project Manager, the Project Manager shall forward the disputed invoice and the University's written response to the District's Office of General Counsel. The matter shall then proceed as described in subsection (a), above.

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

Choose this clause if substantial performance of the work is in Alachua, Baker, Bradford, Clay, Duval, Nassau, Putnam, and/or St. Johns counties.

22. **GOVERNING LAW, VENUE, ATTORNEY'S FEES, WAIVER OF RIGHT TO JURY TRIAL.** This Agreement shall be construed according to the laws of Florida and shall not be construed more strictly against one party than against the other because it may have been drafted by one of the parties. As used herein, "shall" is always mandatory. In the event of any legal proceedings arising from or related to this Agreement: (1) venue for any state or federal legal proceedings shall be in Duval County; (2) each party shall bear its own attorney's fees, including appeals; (3) for civil proceedings, the parties hereby consent to trial by the court and waive the right to jury trial.

Choose this clause if substantial performance of the work is in Brevard, Flagler, Indian River, Lake, Marion, Okeechobee, Orange, Osceola, Seminole, or Volusia counties.

23. **GOVERNING LAW, VENUE, ATTORNEY'S FEES, WAIVER OF RIGHT TO JURY TRIAL.** This Agreement shall be construed according to the laws of Florida and shall not be construed more strictly against one party than against the other because it may have been drafted by one of the parties. As used herein, "shall" is always mandatory. In the event of any legal proceedings arising from or related to this Agreement: (1) venue for any state or federal legal proceedings shall be in Orange County; (2) each party shall bear its own attorney's fees, including appeals; (3) for civil proceedings, the parties hereby consent to trial by the court and waive the right to jury trial.

24. **INDEPENDENT UNIVERSITY.** University is an independent University. Neither University nor University's employees are employees or agents of the District. University controls and directs the means and methods by which the Work is accomplished. University is solely responsible for compliance with all labor and tax laws pertaining to University, its officers, agents, and employees.
25. **INTEREST IN THE BUSINESS OF UNIVERSITY; NON-LOBBYING.** University certifies that no officer, agent, or employee of the District has any material interest, as defined in chapter 112, Fla. Stat., either directly or indirectly, in the business of University to be conducted hereby, and that no such person shall have any such interest at any time during the term of this Agreement. Pursuant to section 216.347, Fla. Stat., monies received from the District pursuant to this Agreement shall not be used to lobby the Florida Legislature or any other state agency.
26. **PERMITS AND LICENSES; COMPLIANCE WITH LAW.** University shall comply with all applicable federal, state and local laws and regulations, including those pertaining to health and safety. All materials used and work performed must conform to the laws of the United States, the state of Florida and county and municipal ordinances. University represents and warrants that it is duly licensed to perform the Work in accordance with the laws of the state of Florida and the county or municipality in which the Work is to be performed. Unless otherwise specifically provided for herein, University shall give to the proper authorities all required notices relative to the Work in its charge; obtain and pay for all official permits or any other licenses, including any and all professional licenses required by the nature of the Work; and furnish any bonds, security, or deposits required to permit performance of the Work. University is responsible for the resolution of any issues resulting from a finding of noncompliance by any regulatory agencies, due to the University's failure to comply with applicable regulatory requirements, including all costs for delays, litigation, fines, or other costs.
27. **PUBLIC ENTITY CRIME.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a University, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted vendor list.
28. **PUBLIC RECORDS.** Records of University that are made or received in the course of performance of the Project may be public records that are subject to the requirements of chapter 119, Fla. Stat. If University receives a public records request, University shall promptly notify the District's Project Manager. Each party reserves the right to cancel this Agreement for refusal by the other party to allow public access to all documents, papers, letters, or other material related hereto and subject to the provisions of chapter 119, Fla. Stat., as amended.
29. **ROYALTIES AND PATENTS.** University certifies that the Work does not, to the best of its information and belief, infringe on any patent rights. University shall pay all royalties and patent and license fees necessary for performance of the Work and shall defend all suits or claims for infringement of any patent rights and save and hold the District harmless from loss to the extent allowed by Florida law.

IN WITNESS WHEREOF, the St. Johns River Water Management District has caused this Agreement to be executed on the day and year written below in its name by its Executive Director, and University has caused this Agreement to be executed on the day and year written below in its name by its duly authorized representatives, and, if appropriate, has caused the seal of the corporation to be attached. This Agreement may be executed in separate counterparts, which shall not affect its validity. Upon execution, this Agreement constitutes the entire agreement of the parties, notwithstanding any stipulations, representations, agreements, or promises, oral or otherwise, not printed or inserted herein. This Agreement cannot be changed by any means other than written amendments referencing this Agreement and signed by all parties.

ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT

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

By: _____

Typed Name and Title

Date: _____

Date: _____

APPROVED AS TO FORM

Attest: _____

William Abrams, Sr. Assistant General Counsel

Typed Name and Title

Attachment A: Statement of Work/Technical Specifications
Attachment B: District's Supplemental Instructions (sample)

University services – general
Last updated: 10-28-13

ATTACHMENT A – STATEMENT OF WORK

(final Statement of Work will be inserted here)

ATTACHMENT B — DISTRICT'S SUPPLEMENTAL INSTRUCTIONS (sample)

DISTRICT SUPPLEMENTAL INSTRUCTIONS #

DATE:

TO:

FROM: _____, Project Manager

CONTRACT/PURCHASE ORDER NUMBER:

CONTRACT TITLE:

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

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

University's approval: (choose one of the items below):

Approved: _____ Date: _____

(It is agreed that these instructions shall not result in a change in the Total Compensation or the Completion Date.)

Approved: _____ Date: _____

(University agrees to implement the Supplemental Instructions as requested, but reserves the right to seek a Change Order in accordance with the requirements of the Agreement.)

Approved: _____ Date: _____
_____, District Project Manager

Acknowledged: _____ Date: _____
_____, District Contracts Administrator

cc: Contract/Purchasing file
Financial Management