ONE CITY. ONE JACKSONVILLE.

MEMORANDUM

October 4, 2019

TO: Gregory Pease, Chairman
Professional Services Evaluation Committee

FROM: Jody McDaniel, City Planner III
Planning and Development Department

Krista Fogarty, City Planner II
Planning and Development Department

Subject: **Certification Letter for RFP for P-41-19 Brownfield Environmental Site Assessment Services**

Please take appropriate action to issue a Request for Proposal (RFP) for the referenced professional services.

The following information is furnished in accordance with chapter 126.302 of the City Ordinance Code.

1. The general purpose of the service or study:

   See attached RFP

2. The Objective of the study or services:

   To provide Phase I and II Environmental Site Assessments, remediation/reuse planning, outreach and programmatic support as required by the FY19 EPA Brownfields Assessment Grant that has been awarded to the City.

3. The estimated period of time needed for the service or study:

   3 Years. Grant expires September 30, 2022.

4. The estimated cost of the service or study:

   $293,500

5. Whether the proposed study or service would or would not duplicate a prior or existing study or service:

   The service would not duplicate the prior grant from FY 15, as the assessment activites for this grant would occur on different sites.

6. List of current contracts or prior services or studies which are related to the proposed study or service.

   The City had a similar grant for FY 15, which was closed out on September 30, 2018.

7. A statement as to why the service/study cannot be done by department or agency staff:

   The Planning Department staff does not have the experise to conduct Environmental Site Assessments.

8. The **names** and **telephone numbers** of **two** representatives from the using agency designated to serve on the evaluation committee as subcommittee members.

   Krista Fogarty 255-7825

   James Reed 255-7836

9. A project funding account number:

   PDCO1F1-03410-PDD018-20

10. The **names** and **addresses** of **specific consultants** the using agency wishes to be included in the solicitation process.

    N/A

11. A signed statement to the effect the individuals responsible for developing the scope and Certification letter and the two individuals named herein to serve as subcommittee Members, have read and understand the Procurement Manual and Procurement Committee Guidelines dated May 2018.

City Planner III
TITLE

City Planner II
TITLE

Request for Proposals

Brownfield Environmental Site Assessment Services

October 2019

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 PROPOSAL

Brownfield Environmental Site Assessment Services

RFP: P-41-19
For
City of Jacksonville, Florida

SECTION 1
(Specific Information Regarding this RFP)

1.1 Introduction

The City of Jacksonville ("**Buyer**") intends to hire an individual or firm ("**Consultant and or Contractor**") 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 B	Evaluation Matrix
Attachment C	Equal Business Opportunity Program Requirements (JSEB Form 1, JSEB Form 2)
Attachment D	Sample Contract
Attachment E	Federal Funding Provisions (if applicable under Section 1.7 below)
Attachment F	Indemnification
Attachment G	Insurance
Attachment H	EPA City of Jacksonville Notice of Award
Form 1 -	Price Sheet
Form 2 -	Conflict of Interest Certificate
Form 3 -	Certification Regarding Lobbying
Form 4 -	Insurance Agent Acknowledgment

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.

The City of Jacksonville is seeking environmental consulting firms to complete environmental site assessment activities, provide project management services, prepare an updated brownfields site inventory, develop brownfield site redevelopment plans, participate in and prepare materials for community outreach activities and complete other activities as described in the RFP.

The City of Jacksonville encourages participation by respondents who are qualified DBE/MBE/WBE. The City is also encouraging Respondents that can commit to providing employment opportunities for certified and qualified graduates of the Florida State College at Jacksonville (FSCJ) Environmental Job Training Program, especially for the Phase II assessment services described in Section 4 of the RFP.

Note: 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 for a three (3) year period. The Contract is subject to early termination as set forth elsewhere in this RFP.

1.4 Minimum Requirements for Contractors.

Consultant/Firm must satisfy the following mandatory minimum requirements in order to have their Responses evaluated. By submitting a Consultant 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:

1. The Contractor shall provide current proof of all business licenses required by local, state, and federal law as applicable.
2. Must show documentation of at least five years' experience in similar environmental projects.
3. Must show documentation of knowledge of grant performance experience.

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 **"Encouragement Plan,"** which is fully described on Attachment C to this RFP.

Consultants 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)

None

1.7 Federal Funds.

Federal funds **will be** used as part of this solicitation. If federal funds will be used, please see Attachment E for additional terms and conditions.

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, November 6, 2019 at 2:00 p.m. ET.** 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 to Alex Baker at abaker@coj.net no later than 11:00 a.m. E.T. Monday, October 21, 2019,** in accordance with Section 2.2 of this RFP.

1.14 **Special Instructions:** None

1.15 **Special Contract Terms:** None

(End of Section 1)

Section 2
General Instructions
(RFP for Non-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 Consultant; No Collusion.
2.14 Conflict of Interest.
2.15 Convicted Vendor List
2.16 Discriminatory Vendor List
2.17 Consultant 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 Consultant (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, Consultant 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, Consultants should follow that format.

B. Responses should be prepared simply and economically, providing a straightforward, concise description of Consultant'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 Consultant'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 Submission of Responses.

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 Consultant.

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

3) Ten (10) scanned copies (in .pdf format) of entire Response, each on a separate CD-ROM/USB Flash Drives. 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 Consultant'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, Flash Drives 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, USBs 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 consultant 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.

In accordance with Section 119.0701, Florida Statutes, the Contractor shall:

(a) Keep and maintain public records required by City to perform the services; and

(b) Upon request from City's custodian of public records, provide City with a copy of the requested records or allow records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided for in Chapter 119, Florida Statutes, or as otherwise provided by law; and

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of this Contract if Contractor does not transfer the records to City; and

(d) Upon completion of this Contract, transfer to City at no cost all public records in possession of Contractor or keep and maintain public records required by City to perform the service. If Contractor transfers all public records to City upon completion of this Contract, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Contractor keeps and maintains public records upon completion of this Contract, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to City upon request from City's custodian of public records in a format that is compatible with City's information technology systems.

The above requirements apply to a "Contractor" as defined in Section, 119.0701, Florida Statutes.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT (904) 630-7678; PRR@COJ.NET; CITY OF JACKSONVILLE, PUBLIC RECORDS REQUEST, 214 N. HOGAN STREET, SUITE 1180, JACKSONVILLE, FLORIDA 32202.

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 800, 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

Contents

3.1 Provision of Services
3.2 Relationship of the Parties
3.3 Buyer's Right to Make Changes
3.4 Service Warranties
3.5 Buyer Will Assist Contractor
3.6 Location Requirements for Services
3.7 Use of Subcontractors; Flow-Down Provisions
3.8 Meetings and Reports
3.9 Ownership of Works
3.10 Intellectual Property
3.11 Software Development Processes and Standards
3.12 Limitation of Warranty for Buyer-Furnished Software
3.13 Loss of Data
3.14 Purchase Orders
3.15 Best Pricing for Comparable Services to Other Government Entities
3.16 Invoicing and Payment
3.17 Taxes
3.18 Right of Setoff
3.19 Retention of Records / Audits
3.20 Indemnification
3.21 Insurance
3.22 Buyer's Right to Suspend Work
3.23 Buyer's Right to Terminate for Convenience
3.24 Buyer's Remedies Upon Contractor Default.
3.25 Contractor Remedies Upon Buyer Default.
3.26 Transition Services
3.27 Force Majeure, Notice of Delay, and No Damages for Delay
3.28 No Waiver
3.29 Qualification of Contractor Employees, Subcontractors, and Agents
3.30 Security Procedures
3.31 Restrictions on the Use or Disclosure of Buyer's Information
3.32 Protection of Contractor's Trade Secrets and Other Confidential Information
3.33 Assignment
3.34 Notice and Approval of Changes in Ownership
3.35 Assignment of Antitrust Claims
3.36 Equal Employment Opportunity
3.37 Other Non-Discrimination Provisions
3.38 Prompt Payment to Subcontractors and Suppliers
3.39 Conflicts of Interest
3.40 Contingent Fees Prohibited
3.41 Truth in Negotiation Certificate
3.42 Compliance with Applicable Laws
3.43 Cooperative Purchasing
3.44 Warranty of Ability to Perform
3.45 Warranty of Authority to Sign Contract
3.46 Governing State Law/Severability/Venue/Waiver of Jury Trial
3.47 Construction

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, first-class 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) Consultant 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) Consultant must permit Buyer to interview any of Consultant'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 Consultant'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. Attachment 'F'

3.21. Insurance. Attachment 'G'

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 re-procurement 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 direct 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 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"), 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 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 from all prior payments Contractor has received from Buyer. Contractor shall not unreasonably withhold payments to certified JSEB's if such payments have been made to Contractor. If Contractor withholds payment to its certified JSEB'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 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 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 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 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 and in Chapter 218, Florida Statutes, for non-JSEB'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.

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

Section 4
Description of Services and Deliverables

I. Community Outreach:

The qualified consultant will be expected to participate in community outreach meetings and activities as directed by the City. The printing of any community outreach materials will be done by the City. These activities will include the following:

- Assisting the City with implementation of a Community Involvement Plan.
- Participation at least 12 public meetings, which may include:
  - Charrettes/visioning sessions for reuse planning.
  - Presenting at Neighborhood Association meetings and Citizens Planning Advisory Committees (CPACs)
  - Presenting to local businesses and organizations, such as Downtown Vision, Chamber of Commerce, commercial relators, etc.
- Preparation of public meeting materials such as agendas, handouts, maps, posters, and presentation materials.
- Taking notes at public meetings, preparing minutes, collecting information, data, and input.
- Summarizing community input into meaningful reports.

II. Phase I Environmental Site Assessments:

Phase I ESAs include an examination of relevant records, interviews with owners, past owners and neighbors and an inspection of the property by the qualified consultant in order to identify recognized environmental conditions. Phase I ESAs will be conducted for up to six (6) hazardous substance sites and up to six (6) petroleum sites. Based on the findings of a Phase I assessment, a Phase II may be conducted. The contractor shall utilize practices for preforming Phase I site assessments, which are listed in 40 CFR Part 312 and ASTM standard E1527-13 "Standard Practices for Environmental Site Assessment: Phase I Environmental Site Assessment Process," or EPA's All Appropriate Inquiries Final Rule. The City will complete and sign the "All Appropriate Inquiries Rule: Reporting Requirements Checklist for Assessment Grant Recipients", (Publication Number: EPA 560-R-11-030), for each Phase I ESA conducted with brownfield grant funds. The reporting requirements for "All Appropriate Inquires" can be found at: https://www.epa.gov/brownfields/brownfields-all-appropriate-inquiries-rule-reporting-requirements-checklist-assessment. Per EPA requirements, the environmental consultant will be requested to address the potential presence of PCB sources during Phase I Assessments. The City of Jacksonville reserves the right to utilize the Public Works Department's current environmental consultant for Phase I ESAs on any City of Jacksonville properties. A typical Phase I scope will include the following:

- Performance of an on-site visit to view present conditions; hazardous substances or petroleum product usage; and evaluate any likely environmentally hazardous site history;
- Evaluation of risks of neighboring properties upon the subject property;
- Interview of persons who are knowledgeable regarding the property history;
- Examination of municipal planning files to check prior land uses and permits;
- Examination of files from other public agencies having oversight relative to water quality, soil contamination, underground storage tanks or hazardous materials;
- Examination of historic aerial photography and property history records;
- Examination of current topographic maps; and
- Examination of chain of title for Environmental Liens and or activity and land use limitations (AULs).

III. Phase II Environmental Site Assessments:

Prior to spending grant funds for Phase II ESAs, the Contractor will submit a completed EPA Region 4 Site Eligibility Determination Outline to the EPA Project Officer and will receive EPA approval prior to beginning any work. In addition, for petroleum sites, the City will request a petroleum site eligibility determination from its designated State official. Either the state or the EPA must approve the site as eligible for funding before Phase II work begins.

Quality Assurance Project Plans - (QAPPs)

The qualified consultant shall also complete :

a- A Generic QAPP that meets EPA quality standards and uses the EPA Region 4 QAPP toolbox, which can be found at https://www.epa.gov/brownfields/region-4-quality-assurance-project-plan-qapp-tool-box

b- Up to three (3) Site Specific Quality Assurance Project Plans (SS-QAPPs) for hazardous substance sites and up to three (3) SS-QAPPs for petroleum sites for any Phase II ESA completed as part of this grant.

The City of Jacksonville reserves the right to utilize the Public Works Department's current environmental consultant for Phase II ESAs on any City of Jacksonville properties. Once the EPA has determined the site to be eligible, Phase II ESA activities can begin. The following are specific activities that will be performed to complete this task. In addition, the contractor must comply with the following requirements:

1. **Federal Cross-Cutting Requirements:** The contractor will comply with Federal cross-cutting requirements. These requirements include but are not limited to OSHA Worker Health & Safety Standard 29 CFR 1910.120; National Historic Preservation Act; Endangered Species Act; and Permits required by Section 404 of the Clean Water Act; Executive Order 11246, Equal Employment Opportunity, and implementing regulations at 41 CFR 60-4; Contract Work Hours and Safety Standards Act, as amended (40 USC § 327-333) the Anti-Kickback Act (40 USC § 276c) and Section 504 of the Rehabilitation Act of 1973 as implemented by Executive Orders 11914 and 11250.

2. **Environmental Health & Safety Plans:** The Environmental Consultant will prepare and follow an OSHA-compliant Health and Safety Plan (HASP) and place a copy in the Cooperative Agreement file. This plan will also be submitted to EPA and the State for the Brownfields project file.

IV. Reuse, Remediation and Area-Wide Planning

Remediation activities will include calculating remediation costs and determining site appropriate remediation and/or reuse plans to reduce health/environmental risks for selected sites. Working with the community and FDEP, the City will establish a unified vision and set goals for reuse planning. Charrettes or visioning sessions may be held for the redevelopment of key priorities.

The contractor, with City assistance, will prepare and secure approvals for the Analysis of Brownfields Cleanup Alternatives (ABCAs) based on the data collected and data derived from the environmental assessments completed for the sites tested. The report will be communicated to the public and supplied to the FDEP Northeast District Brownfields Coordinator for feedback prior to final approval.

The qualified contractor will develop up to three (3) ABCAs for sites where a Phase II ESA was completed.

An ABCA briefly summarizes:

- Information about the site and contamination issues, cleanup standards, applicable laws, cleanup alternatives considered, and the proposed cleanup.
- It will include information on the cleanup effectiveness, the ability of the grantee to implement each alternative, the cost of each proposed cleanup alternative and an analysis of the reasonableness of the various cleanup alternatives considered, including the one chosen.

- The contractor will consider the use of Institutional Controls (IC), as well as engineering controls, as part of the Analysis of Brownfield Cleanup Alternatives. The team will work closely with the State and site owner for the approvals. In addition, the contractor will produce an area-wide brownfields plan that will integrate brownfield clean-up and redevelopment strategies into the community vision. The area-wide brownfields plan will align with the current City of Jacksonville comprehensive plan and any existing redevelopment plans.

V. Project Management:

The qualified consultant will be expected to assist with project management tasks and support activities, as related to the grant. Project Management Tasks could include the following:

- Assistance with grant activities to ensure compliance with EPA and Florida Department of Environmental Protection requirements while achieving the City's grant objectives,
- Serve as a technical expert on grant related matters,
- Prepare monthly reports on progress documenting all activities and preparing or assisting the city with preparing Quarterly, Annual and Closeout Reports for submittal to EPA,
- Participate in Monthly Conference Call with EPA, and
- Completion of final report summarizing all grant activities.

VI. Schedule

This is a three year grant project. All project activities must be completed by September 30, 2022. EPA will not grant a contract extension under any circumstances. In accordance with EPA performance expectations, at least $140,000 in project expenses must be invoiced to the City by March 15, 2021. The grant has very strict deadlines and requirements that must be met.

VII. Project Deliverables

All project deliverables will be subject to approval by the City of Jacksonville Planning & Development Department before submittal and final production by the consultant. The consultant will submit all electronic files in a format and/or file type that is reproducible, editable and compatible with City systems, as determined by City of Jacksonville staff before delivery of the electronic file.

The selected qualified consultant will deliver the following reports and plans to the City of Jacksonville in conjunction with the Scope of Work:

- Monthly and Quarterly Reports,
- Entry of information into EPA Assessment, Cleanup and Redevelopment Exchange System (ACRES),
- Reports for at least 12 community meetings,
- Update brownfield site inventory and GIS ready database of brownfield sites as needed,
- Site prioritization results,
- Phase I Environmental Site Assessment reports for up to six (6) hazardous substance sites and up to six (6) petroleum sites,
- Up to three (3) hazardous substance site and up to three (3) petroleum site Phase II Environmental Site Assessment reports,
- Up to three (3) clean-up and reuse plans for completed Phase II ESA sites,
- Property Profile Forms for each site assessed,
- Generic QAPPs,
- Up to three (3) hazardous substance and up to three (3) petroleum Site Specific QAPPs for properties where Phase II assessments will be performed,
- Quality Management Plans if required by EPA or FDEP,
- Environmental Health and Safety Plan where Phase II assessments will be performed,
- Risk Assessment Reports,

- Final report summarizing project analyses, performance, findings, accomplishments and suggested future actions.
- Federal close-out reports.

VIII. Consultant Selection

The City of Jacksonville will select a consultant based on individual and firm capabilities to complete assigned services within the grant period; past similar project experience; key personnel assigned to the project; knowledge of the geographic area the grant covers; and grant performance experience.

IX. Grant Program Requirements

In addition to the terms of the contract with the City of Jacksonville, the consultant will comply with all of the requirements set forth in the Cooperative Agreement for U.S. Environmental Protection Agency (EPA) Project Number BF-00D93619-0, EPA General Terms & Conditions (effective October 1, 2018), the approved Work Plan for EPA Project Number BF-00D93619-0, and any and all other EPA regulations and policies.

(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 would be helpful.

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

2) **Cover Letter:** Include the following:

- Date of Letter.
- 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.** Attach all forms identified in Section 1 or in Attachments C or E, each signed by an authorized representative. Examples of the forms that may be required include:

- Price Sheet. (Form 1)
- Conflict of Interest Certificate. (Form 2)
- Business References.
- Equal Business Opportunity Program Forms (JSEB Form 1, JSEB Form 2, in Attachment C).
- Federal Forms (see Attachment E).
- Bid Bond (not applicable to this contract).
- Insurance Agent Acknowledgement (Form 3 - must be completed and signed by the bidder's insurance agent and submitted with the bid response.)

4) **Proof of Minimum Requirements.** 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.** 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).

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 maximum points. Contractors are encouraged to arrange their responses in a format that will offer ready review and evaluation of each criterion.

1) **COMPETENCE.** Including professional and/or technical education and training; experience in the kind of projects to be undertaken; availability of adequate personnel, equipment and facilities and the extent of repeat business of the persons. Provide names and resumes of all individuals to be assigned to this project. List previous projects similar to the one in the RFP, which have been satisfactorily completed. Provide resumes of principal staff/project manager showing years of experience in the field to which they are assigned for this project. **(15 points maximum score)**
   a. Must show documentation of at least five years' experience in similar environmental projects.
   b. Must show documentation of knowledge of environmental grant performance experience.

2) **CURRENT WORKLOAD.** Provide the number and size of the projects currently being performed. Discuss past ability to deliver projects on a timely basis under similar current workload conditions. **(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. **(10 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.** Provide a list of completed projects that are similar in nature and scope to the project under consideration with references to include owner's contact person and telephone number. Describe any outstanding accomplishments that relate to specific services being sought. Responding to this evaluation criterion necessitates that Contractors include statements of their past and present record of professional accomplishments or performance with 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 an independent agency required by law or voluntarily requesting to utilize for 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. **(10 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 in complete compliance with all applicable federal, state and local laws, statutes, ordinances, rules and regulations. **(10 points maximum score)**

9) **QUOTATION OF RATES, FEES OR CHARGES AND OTHER DETAILED COST PROPOSAL OR COST BREAKDOWN INFORMATION.** Describe the Contractor's overall willingness to meet both time and budget requirements for the project, and subject to Chapter 126, Part 3 of Jacksonville Ordinance Code, Section 126.302(e) in particular, proposed total compensation or unit price quotations, including, without limitation, hourly rates, fees, or other charges that will ultimately be used during, contract negotiations to calculate or determine total compensation. **(5 points maximum score)**

10) **THE VOLUME OF CURRENT AND PRIOR WORK PERFORMED FOR USING AGENCIES SHALL BE CONSIDERED A MINUS FACTOR.** Provide a list of all local government projects including the fees awarded for each on which 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 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)**

Attachment C – Equal Business Opportunity Program Requirements

EQUAL BUSINESS OPPORTUNITY PROGRAM
ENCOURAGEMENT PLAN FOR
JACKSONVILLE SMALL AND EMERGING BUSINESS PROGRAM

It is an official policy of the City of Jacksonville to encourage the maximum participation of **Jacksonville Small Emerging Business (JSEB)** in its contract awards based upon availability.

This project has been designated to be under the Equal Business Opportunity Program and has been selected to utilize the following method for achieving JSEB utilization and goals under the Equal Business Opportunity Program: **The Encouragement Plan.**

Under the encouragement plan, vendors are required to make all efforts reasonably necessary to ensure that City certified JSEB have a full and fair opportunity to compete for performance on this project.

Bidders/Suppliers/Consultants or any entity doing business with the City shall not discriminate on the basis of race, ethnicity, national origin or gender in the award and performance of the work under this contract.

Please use the attached form 1 (Schedule of Participation) to submit JSEB Participation on this Bid. You may contact the Jacksonville Small & Emerging Business Office at (904) 255-8620 to verify the status of a JSEB or visit our web site at www.JSEB.coj.net.

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JSEB FORM 1

CITY OF JACKSONVILLE SMALL & EMERGING BUSINESS PROGRAM

SCHEDULE OF JSEB SUPPLIER/ CONSULTANT/ SUBCONTRACTOR

NAME OF BIDDER _____

PROJECT TITLE _____

RFP NO._____ TOTAL BASE BID AMOUNT_____

***Please list all JSEB Suppliers**

NAME OF SUB FIRM	ADDRESS OF FIRM	TYPE OF SUB (if certified)	TYPE OF WORK TO BE PERFORMED	TOTAL CONTRACT VALUE

The undersigned acknowledges and agrees that, if any of the above-listed JSEBs are not, for any reason, properly certified with the City, in accordance with Ordinance 2004-602, at the time of bid opening, the same will not be counted toward meeting the participation percentage goal as defined herein.

The undersigned will enter into a formal Agreement with the JSEB Suppliers/Consultants/Subcontractors identified herein for work listed in this schedule, as well as any applicable alternates, 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: _____ Title: _____ Date: _____
Signature of Prime Contractor

Print Name: _____

Attach additional list of subcontractors/sub-consultants as needed.

JSEB FORM 2

CITY OF JACKSONVILLE SMALL & EMERGING BUSINESS PROGRAM

LETTER OF INTENT

TO PERFORM AS A SUPPLIER/CONSULTANT/SUBCONTRACTOR and **to be utilized by JSEBs only**

_____

Supplier/Consultant/Subcontractor)

'PROJECT _____ BID NO _____

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 Price of work to be performed or materials to be supplied including Sales Tax**

_____

Signature of JSEB Supplier/Consultant/ Subcontractor Title Date

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

Total price must be filled in on this form in order for participation to be considered valid. This form must be used for Letter of Intent.

CITY OF JACKSONVILLE SMALL & EMERGING BUSINESS PROGRAM
FINANCE & ADMINISTRATION DEPARTMENT
CONSULTANT AND CONTRACTOR'S MONTHLY REPORT

PRIME CONTRACTOR NAME: _____ PROJECT TITLE: _____

PROFESSIONAL SERVICES (RFP) NO. _____ -OR- CITY BID NO. _____

CURRENT CONTRACT TOTAL AMOUNT $_____ CITY CONTRACT NO. or PO NO._____

INVOICE INFORMATION

INVOICE NO.: _____ CURRENT INVOICE $: _____

FOR PERIOD ENDING DATE: _____ CUMULATIVE INVOICED $: _____

CONTRACT % COMPLETE: _

CONTRACT GOAL TRACKING

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

PRIOR MONTH CUMULATIVE **JSEB SUPPLIER $:** _____

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

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

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

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

JSEB SUPPLIER/ CONSULTANT/ SUBCONTRACTORS TO BE PAID FROM THIS INVOICE

COMPANY NAME	FEDERAL I.D. NO.	ZIP CODE	JSEB TYPE [1]	TYPE OF WORK [2]	$ THIS PAYMENT
				TOTAL	

NON-JSEB SUPPLIER/ CONSULTANT/ 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		
				TOTAL	

[1] **JSEB** (Jacksonville Small Emerging Business)
[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 – SUBOBJECT - 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 participation from original contract commitment.

JSEB FORM 4
CITY OF JACKSONVILLE SMALL & EMERGING BUSINESS PROGRAM
JSEB GOOD FAITH EFFORT DOCUMENTATION

The intent of this form is to document the good faith effort attempts made by the apparent low bidder in soliciting JSEB firms to meet the JSEB project goal. Please note that the project goal will not be waived, and the contractor must make efforts to achieve the goal throughout the life of the contract.

Every work type where there is a certified JSEB, the apparent low bidder must submit the form as follows:
1 available JSEB – must contact 1 JSEB
2-5 available JSEB – must contact 3 JSEBs minimum
6-7 available JSEBs – must contact 4 JSEBs minimum
8-9 available JSEBs – must contact 5 JSEBs minimum
10 or more available JSEBs – must contact 6 JSEBs minimum

All information submitted on this form is subject to audit by the JSEB Office

Date Submitted: _____ Bid Number: _____ Agency: _____

Contractor Name: _____ Company Address: _____

City_____ State: _____ Zip code: _____ Phone: _____

Goal Percentage: _____ Commitment Percentage: _____ Unattained Percentage: _____

I certify that the information contained in this good faith effort documentation form is true and correct to the best of my knowledge. I further understand that any willful falsification, fraudulent statement or misrepresentation will result in appropriate sanctions which may involve debarment and/or prosecution under applicable State and Federal laws.

Bidder/Authorized Representative Signature: _____

Representative Title: _____ Date: _____

Witness: _____ Date: _____

JSEB FORM 4 (Cont.)
CITY OF JACKSONVILLE SMALL & EMERGING BUSINESS PROGRAM

GOOD FAITH EFFORT DOCUMENTATION

Work Type Number	Description of Work, Service or	JSEB Firm Name		
Contact Name (First and Last)	**Contact Date**	**Contact Method**	**Contact Results**	**Bid Amount**
1.				
2.				
3.				
Comments:				

Work Type Number	Description of Work, Service or Material	JSEB Firm Name		
Contact Name (First and Last)	**Contact Date**	**Contact Method**	**Contact Results**	**Bid Amount**
1.				
2.				
3.				
Comments:				

Work Type Number	Description of Work, Service or	JSEB Firm Name		
Contact Name (First and Last)	**Contact Date**	**Contact Method**	**Contact Results**	**Bid Amount**
1.				
2.				
3.				
Comments:				

JSEB FORM 4 (Cont.)
CITY OF JACKSONVILLE SMALL & EMERGING BUSINESS PROGRAM

GOOD FAITH EFFORT DOCUMENTATION

GOOD FAITH EFFORTS

Proposers who fail to meet the stated JSEB participation goals set forth in Section "J" 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 Chapter 126, Jacksonville Ordinance code:

(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.

SOLICITATION EFFORTS - Should include your efforts to solicit quotes, through all reasonable and available means, the interest of all certified firms who have the capability to perform the work of the contract. The bidder should ensure that the requests are made within sufficient time to allow JSEB firms to respond. The contractor should take the initiative to contact firms which have indicated an interest in participating as a subcontractor/supplier.

ADDITIONAL EFFORTS - Utilizing the services offered by the City of Jacksonville Small and Emerging Business Office for assistance with recruitment efforts. Contractors are encouraged to undertake and document any other efforts taken in their attempt to fulfill the project goal.

ATTACHMENT D

SAMPLE 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:

By _____
James McCain, Jr.
Corporation Secretary

CITY OF JACKSONVILLE

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:

By_____
Signature

_____
Type/Print Name

_____
Title

INSERT NAME OF CONTRACTOR.

By_____
Signature

_____
Type/Print Name

_____
Title

Attachment E

Federal Procurement Requirements (Supplemental)

The following represents required contract clauses for federally funded or reimbursed projects. If any contract clause below conflicts with a similar contract clause contained in sections 1, 2, 3, 4 or attachments or forms of this RFP, the contract clause below will control.

E 1 Clean Air Act and Federal Water Pollution Control Act

Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387), and will report violations to FEMA and the Regional Office of the Environmental Protection Agency (EPA).

E 2 Suspension and Debarment

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by the City of Jacksonville. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (name of state agency serving as grantee and name of subgrantee), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions."

E 3 Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of $100,000 or more shall file the required certification (FORM 3). Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

Please see FORM 3 as part of this RFP.

ATTACHMENT F

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, 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 G

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 Provider 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	$ 1,000,000 Each Accident
	$ 1,000,000 Disease Policy Limit
	$ 1,000,000 Each Employee/Disease

This insurance shall cover the Consultant (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.
	$1,000,000	Personal/Advertising Injury
	$1,000,000	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 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

Any entity hired to perform professional services as a part of this contract shall maintain professional liability coverage on an Occurrence Form or a Claims Made Form with a retroactive date to at least the first date of this Contract and with a three year reporting option beyond the annual expiration date of the policy.

Pollution Liability $1,000,000 per Loss
$2,000,000 Annual Aggregate

Any entity hired to perform services as part of this contract for environmental or pollution related concerns shall maintain Contractor's Pollution Liability coverage. Such Coverage will include bodily injury, sickness, and disease, mental anguish or shock sustained by any person, including death; property damage including physical injury to destruction of tangible property including resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed; defense including costs charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages; coverage for losses caused by pollution conditions that arises from the operations of the contractor including transportation.

Pollution Legal Liability $1,000,000 per Loss
$2,000,000 Aggregate

Any entity hired to perform services as a part of this contract that require disposal of any hazardous material off the job site shall maintain Pollution Legal Liability with coverage for bodily injury and property damage for losses that arise from the facility that is accepting the waste under this contract.

Umbrella Liability $5,000,000 Each Occurrence/Agg.

The Umbrella Liability policy shall be in excess of the above limits without any gap. The Umbrella coverage will follow-form the underlying coverages and provides on an Occurrence basis all coverages listed above and shall be included in the Umbrella policy

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 and CG2037, 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. 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.

E. 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.

F. 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.

G. 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.

H. Certificates of Insurance. Provider 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.

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 available 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 Provider 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, Provider shall present this Contract and Attachment F & G 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 Provider.

Form 1 – Price Sheet

NAME OF CONSULTANT_____

Proposal Number_____

SCHEDULE OF PROPOSED PRICES/RATES

1. Flat Fee charged for each Phase I Environmental Site Assessment :

_____

2. Flat Fee charged for each Phase II Environmental Site Assessment :

_____

3. Fee charged for each Quality Assurance Project Plan (QAPP) :

_____

4. Fee charged for each Analysis of Brownfields Cleanup Alternative (ABCA):

_____

5. If charges are based on hours worked, the hourly direct labor rates (without Fringe Benefits) are:

Principal (Partner or Senior Officer): $_____hr.

Project Manager (Responsible Professional): $_____hr.

6. Other direct Project Costs per Unit (please specify):

_____
_____
_____
_____

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. _____

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
CERTIFICATION REGARDING LOBBYING

Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)
Contractors who apply or bid for an award of $100,000 or more shall file the required certification (FORM 3). Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loans, and Cooperative Agreements
(To be submitted with each bid or offer exceeding $100,000)
The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.
The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

_____
Signature of Contractor's Authorized Official

_____
Name and Title of Contractor's Authorized Official

_____
Date

FORM 4

INSURANCE AGENT ACKNOWLEDGMENT

RFP No. P-41-19

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 insurance provisions F-G as stated in those documents.

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

***This Form is not to be edited in any way (including handwritten comments). If Bidder has insurance coverage with multiple insurance agents, each agent will need to complete and sign their own form to be submitted with the bid response.**

ATTACHMENT 'H'

EPA City of Jacksonville Notice of Award

U.S. ENVIRONMENTAL PROTECTION AGENCY

Cooperative Agreement

GRANT NUMBER (FAIN): 00D93619 **MODIFICATION NUMBER:** 0 **PROGRAM CODE:** BF	**DATE OF AWARD** 08/20/2019
TYPE OF ACTION New	**MAILING DATE** 08/27/2019
PAYMENT METHOD: ASAP	**ACH#** 40148

RECIPIENT TYPE:
Municipal

Send Payment Request to:
Las Vegas Finance Center

RECIPIENT:
City of Jacksonville
117 West Duval Street
Suite 225
Jacksonville, FL 32202
EIN: 59-6000344

PAYEE:
City of Jacksonville
117 West Duval Street
Suite 225
Jacksonville, FL 32202

PROJECT MANAGER	EPA PROJECT OFFICER	EPA GRANT SPECIALIST
Jody McDaniel 117 West Duval Street Suite 225 Jacksonville, FL 32202 **E-Mail:** jodymdcoj.net **Phone:** 904-255-7855	Barbara Alfano 61 Forsyth Street Atlanta, GA 30303-8960 **E-Mail:** alfano.barbara@epa.gov **Phone:** 404-562-8923	Shantel Shelmon Grants and Audit Management Section **E-Mail:** shelmon.shantel@epa.gov **Phone:** 404-562-9817

PROJECT TITLE AND DESCRIPTION
Brownfields Multipurpose, Assessment, Revolving Loan Fund Cleanup Cooperative Agreements

This action approves an award of $300,000 to the City of Jacksonville, Florida, to inventory, characterize, assess, and conduct cleanup planning and community involvement related activities for brownfield sites in the Downtown Urban Core, the LaVilla, McCoys Creek, Eastside and Springfield neighborhoods that are all adjacent to Downtown.

BUDGET PERIOD	PROJECT PERIOD	TOTAL BUDGET PERIOD COST	TOTAL PROJECT PERIOD COST
10/01/2019 - 09/30/2022	10/01/2019 - 09/30/2022	$300,000.00	$300,000.00

NOTICE OF AWARD

Based on your Application dated 01/28/2019 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards $300,000. EPA agrees to cost-share 100.00% of all approved budget period costs incurred, up to and not exceeding total federal funding of $300,000. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.

ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)	AWARD APPROVAL OFFICE
ORGANIZATION / ADDRESS	**ORGANIZATION / ADDRESS**
61 Forsyth Street Atlanta, GA 30303-8960	U.S. EPA, Region 4 Land, Chemicals and Redevelopment Division 61 Forsyth St Atlanta, GA 30303

THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY

Digital signature applied by EPA Award Official Keva R. Lloyd - Grants Management Officer	**DATE** 08/20/2019

EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	$	$ 300,000	$ 300,000
EPA In-Kind Amount	$	$	$ 0
Unexpended Prior Year Balance	$	$	$ 0
Other Federal Funds	$	$	$ 0
Recipient Contribution	$	$	$ 0
State Contribution	$	$ 0	$ 0
Local Contribution	$	$ 0	$ 0
Other Contribution	$	$	$ 0
Allowable Project Cost	$ 0	$ 300,000	$ 300,000

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.818 - Brownfields Multipurpose Assessment Revolving Loan Fund and Cleanup Cooperative Agreements	CERCLA: Sec. 104(k)(2) Consolidated Appropriations Act of 2018 (P.L. 115-141)	2 CFR 200 2 CFR 1500 and 40 CFR 33

Fiscal

Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
-	1904VT9013	19	E4	04V2AG7	000D79	4114	G400NY00	-	150,000
-	1904VT9013	19	E4	04V2AG7	000D79XBP	4114	G400OR00	-	150,000
									300,000

Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	$0
2. Fringe Benefits	$0
3. Travel	$5,000
4. Equipment	$0
5. Supplies	$1,500
6. Contractual	$293,500
7. Construction	$0
8. Other	$0
9. Total Direct Charges	$300,000
10. Indirect Costs: % Base	$0
11. Total (Share: Recipient 0.00 % Federal 100.00 %.)	$300,000
12. Total Approved Assistance Amount	$300,000
13. Program Income	$0
14. Total EPA Amount Awarded This Action	$300,000
15. Total EPA Amount Awarded To Date	$300,000

Administrative Conditions

General Terms and Conditions

The recipient agrees to comply with the current EPA general terms and conditions available at: https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-october-1-2018
These terms and conditions are in addition to the assurances and certifications made as a part of the award and the terms, conditions, or restrictions cited throughout the award.

The EPA repository for the general terms and conditions by year can be found at http://www.epa.gov/grants/grant-terms-and-conditions.

GRANT-SPECIFIC ADMINISTRATIVE CONDITIONS

A. UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES

GENERAL COMPLIANCE, 40 CFR, Part 33
The recipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in 40 CFR, Part 33.

MBE/WBE REPORTING, 40 CFR, Part 33, Subpart E
MBE/WBE reporting is required in annual reports. Reporting is required for assistance agreements where there are funds budgeted for procuring construction, equipment, services and supplies, including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the "Other" category that exceed the threshold amount of $250,000, including amendments and/or modifications.

Based on EPA's review of the planned budget, this award meets the conditions above and is subject to the Disadvantaged Business Enterprise (DBE) Program reporting requirements. However, if recipient believes this award does not meet these conditions, it must provide with a justification and budget detail within 21 days of the award date clearly demonstrating that, based on the planned budget, this award is not subject to the DBE reporting requirements.

The recipient agrees to complete and submit a "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" report (EPA Form 5700-52A) on an annual basis. All procurement actions are reportable, not just that portion which exceeds $250,000.

When completing the annual report, recipients are instructed to check the box titled "annual" in section 1B of the form. For the final report, recipients are instructed to check the box indicated for the "last report" of the project in section 1B of the form. Annual reports are due by October 30th of each year. Final reports are due by October 30th or 90 days after the end of the project period, whichever comes first.

The reporting requirement is based on total procurements. Recipients with expended and/or budgeted funds for procurement are required to report annually whether the planned procurements take place during the reporting period or not. If no budgeted procurements take place during the reporting period, the recipient should check the box in section 5B when completing the form.

MBE/WBE reports should be sent to:
R4epagrantsmbewbereporting@epa.gov
cc: shelmon.shantel@epa.gov
Attn: Shantel Shelmon

The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at http://www.epa.gov/osbp/dbe_reporting.htm

This provision represents an approved deviation from the MBE/WBE reporting requirements as described in 40 CFR, Part 33, Section 33.502; however, the other requirements outlined in 40 CFR Part 33 remain in effect, including the Good Faith Effort requirements as described in 40 CFR Part 33 Subpart C, and Fair Share Objectives negotiation as described in 40 CFR Part 33 Subpart D and explained below.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D
A recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

In accordance with 40 CFR, Section 33.411 some recipients may be exempt from the fair share objectives requirements as described in 40 CFR, Part 33, Subpart D. Recipients should work with their DBE coordinator, if they think their organization may qualify for an exemption.

Accepting the Fair Share Objectives/Goals of Another Recipient
The dollar amount of this assistance agreement, or the total dollar amount of all of the recipient's financial assistance agreements in the current federal fiscal year from EPA is $250,000, or more. The recipient accepts the applicable MBE/WBE fair share objectives/goals negotiated with EPA by the **FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION** as follows:

MBE: CONSTRUCTION 9%; SUPPLIES 9%; SERVICES 9%; EQUIPMENT 9%
WBE: CONSTRUCTION 3%; SUPPLIES 3%; SERVICES 3%; EQUIPMENT 3%

By signing this financial assistance agreement, the recipient is accepting the fair share objectives/goals stated above and attests to the fact that it is purchasing the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market as **FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION**.

Negotiating Fair Share Objectives/Goals, 40 CFR, Section 33.404
The recipient has the option to negotiate its own MBE/WBE fair share objectives/goals. If the recipient wishes to negotiate its own MBE/WBE fair share objectives/goals, the recipient agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The submission of proposed fair share goals with the supporting analysis or disparity study means that the recipient is **not** accepting the fair share objectives/goals of another recipient. The recipient agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within 120 days of its acceptance of the financial assistance award. EPA will respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

Objective/Goals of Loan Recipients
As a recipient of an EPA financial assistance agreement to capitalize revolving loan funds, the recipient agrees to either apply its own fair share objectives negotiated with EPA to identified loans using a substantially similar relevant geographic market, or negotiate separate fair share objectives with its

identified loan recipients. These separate objectives/goals must be based on demonstrable evidence of the availability of MBEs and WBEs in accordance with 40 CFR, Part 33, Subpart D.

The recipient agrees that if procurements will occur over more than one year, the recipient may choose to apply the fair share objective in place either for the year in which the identified loan is awarded or for the year in which the procurement action occurs. The recipient must specify this choice in the financial assistance agreement, or incorporate it by reference therein.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C
Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

(a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.

(b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.

(c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

(e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302
The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)
Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

B. EXTENSION OF PROJECT/BUDGET PERIOD EXPIRATION DATE

EPA has not exercised the waiver option to allow automatic one-time extensions for non-research grants under 2 CFR 200.308 (d)(2). Therefore, if a no cost time extension is necessary to extend the period of availability of funds the recipient must submit a written request to the EPA prior to the budget/project period expiration dates. The written request must include: a written justification describing the need for

additional time, an estimated date of completion, and a revised schedule for project completion including updated milestone target dates for the approved workplan activities. In addition, if there are overdue reports required by the administrative and programmatic terms and conditions of this assistance agreement, the recipient must ensure that they are submitted along with or prior to submitting the no cost time extension request.

The extension request must be submitted to the local Grants Office via email to: shelmon.shantel@epa.gov. An interim FFR (SF-425) covering all expenditures and obligations to date, must be emailed to the Las Vegas Finance Office at LVFC-grants@epa.gov or sent to the following address:

US EPA, Las Vegas Finance Center

4220 S. Maryland Pkwy, Bld C, Rm 503

Las Vegas, NV 89119

To expedite processing of your request, please submit a courtesy copy of the interim FFR to the local Grants Office along with your written extension request. All email attachments must be sent in pdf format. Documents emailed to us in any other format will not be accepted.

C. PRE-AWARD COSTS

In accordance with 2 CFR 1500.8, the grantee may charge pre-award costs (both Federal and non-Federal matching shares) incurred from **{07/01/2019}** to the actual award date provided that such costs were contained in the approved application and all costs are incurred within the approved budget period."

Programmatic Conditions

FY19 Assessment Cooperative Agreement Terms and Conditions

These Terms and Conditions (T&Cs) apply to Brownfield Assessment Cooperative Agreements awarded under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) § 104(k).

I. GENERAL FEDERAL REQUIREMENTS

NOTE: For the purposes of these Terms and Conditions, the term "assessment" includes eligible activities under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) § 104(k)(2)(A)(i) such as activities involving the inventory, characterization, assessment, and planning relating to brownfield sites as described in the EPA-approved workplan.

A. Federal Policy and Guidance

1. Cooperative Agreement Recipients: By awarding this cooperative agreement, the Environmental Protection Agency (EPA) has approved the proposal for the Cooperative Agreement Recipient (CAR) submitted in the Fiscal Year 2019 competition for Brownfield Assessment cooperative agreements.

2. In implementing this agreement, the CAR shall ensure that work done with cooperative agreement funds complies with the requirements of CERCLA § 104(k). The CAR shall also ensure that assessment activities supported with cooperative agreement funding comply with all applicable federal and state laws and regulations.

3. A term and condition or other legally binding provision shall be included in all subawards entered into with the funds awarded under this agreement, or when funds awarded under this agreement are used in combination with non-federal sources of funds, to ensure that the CAR complies with all applicable federal and state laws and requirements. In addition to CERCLA § 104(k), federal applicable laws and requirements include 2 CFR Part 200.

4. The CAR must comply with federal cross-cutting requirements. These requirements include, but are not limited to, DBE requirements found at 40 CFR Part 33; OSHA Worker Health & Safety Standard 29 CFR § 1910.120; Uniform Relocation Act (40 USC § 61); National Historic Preservation Act (16 USC § 470); Endangered Species Act (P.L. 93-205); Permits required by Section 404 of the Clean Water Act; Executive Order 11246, Equal Employment Opportunity, and implementing regulations at 41 CFR § 60-4; Contract Work Hours and Safety Standards Act, as amended (40 USC §§ 327-333); the Anti-Kickback Act (40 USC § 276c); and Section 504 of the Rehabilitation Act of 1973 as implemented by Executive Orders 11914 and 11250.

5. The CAR must comply with Davis-Bacon Act prevailing wage requirements and associated U.S. Department of Labor (DOL) regulations for all construction, alteration, and repair contracts and subcontracts awarded with funds provided under this agreement by operation of CERCLA § 104(g). Assessment activities generally do not involve construction, alteration, and repair within the meaning of the Davis-Bacon Act. However, the recipient must contact the EPA Project Officer if there are unique circumstances (e.g., removal of an underground storage tank or another structure and restoration of the site) which indicate that the Davis-Bacon Act applies to an activity the CAR intends to carry out with funds provided under this agreement. EPA will provide guidance on Davis-Bacon Act compliance if necessary.

II. SITE ELIGIBILITY REQUIREMENTS

A. Eligible Brownfield Site Determinations

1. The CAR must provide information to the EPA Project Officer about site-specific work prior to incurring any costs under this cooperative agreement for sites that have not already been

pre-approved in the CAR's workplan by EPA. The information that must be provided includes whether the site meets the definition of a brownfield site as defined in § 101(39) of CERCLA, and whether the CAR is the potentially responsible party under CERCLA § 107, is exempt from CERCLA liability and/or has defenses to CERCLA liability.

2. If the site is excluded from the general definition of a brownfield but is eligible for a property-specific funding determination, then the CAR may request a property-specific funding determination from the EPA Project Officer. In its request, the CAR must provide information sufficient for EPA to make a property-specific funding determination on how financial assistance will protect human health and the environment, and either promote economic development or enable the creation of, preservation of, or addition to parks, greenways, undeveloped property, other recreational property, or other property used for nonprofit purposes. The CAR must not incur costs for assessing sites requiring a property-specific funding determination by EPA until the EPA Project Officer has advised the CAR that EPA has determined that the property is eligible.

3. Brownfield Sites Contaminated with Petroleum

   a. For any petroleum-contaminated brownfield site that is not included in the CAR's EPA-approved workplan, the CAR shall provide sufficient documentation to EPA prior to incurring costs under this cooperative agreement which documents that:
      i. the State determines there is "no viable responsible party" for the site;
      ii. the State determines that the person assessing or investigating the site is a person who is not potentially liable for cleaning up the site; and
      iii. the site is not subject to any order issued under Section 9003(h) of the Solid Waste Disposal Act.

      This documentation must be prepared by the CAR or the State, following contact and discussion with the appropriate state petroleum program official. Please contact the EPA Project Officer for additional information.

   b. Documentation must include:
      i. the identity of the State program official contacted;
      ii. the State official's telephone number;
      iii. the date of the contact; and
      iv. a summary of the discussion relating to the State's determination that there is no viable responsible party and that the person assessing or investigating the site is not potentially liable for cleaning up the site.

      Other documentation provided by a State to the recipient relevant to any of the determinations by the State must also be provided to the EPA Project Officer.

   c. If the State chooses not to make the determinations described in Section II.A.3. above, the CAR must contact the EPA Project Officer and provide the necessary

information for EPA to make the requisite determinations.

d. EPA will make all determinations on the eligibility of petroleum-contaminated brownfield sites located on tribal lands (i.e., reservation lands or lands otherwise in Indian country, as defined at 18 U.S.C. § 1151). Before incurring costs for these sites, the CAR must contact the EPA Project Officer and provide the necessary information for EPA to make the determinations described in Section II.A.3.b. above.

III. GENERAL COOPERATIVE AGREEMENT ADMINISTRATIVE REQUIREMENTS

A. Sufficient Progress

1. This condition supplements the requirements of the Sufficient Progress Condition in the *Administrative* General Terms and Conditions. If after 18 months from the date of award, EPA determines that the CAR has not made sufficient progress in implementing its cooperative agreement, the CAR must implement a corrective action plan concurred on by the EPA Project Officer and approved by the Award Official or Grants Management Officer. Alternatively, EPA may terminate this agreement under 2 CFR § 200.339 for material non-compliance with its terms, or with the consent of the CAR as provided at 2 CFR § 200.339, depending on the circumstances. Sufficient progress is indicated when 35% of funds have been drawn down and disbursed for eligible activities. For assessment coalition cooperative agreements, sufficient progress is demonstrated when a solicitation for services has been released, sites are prioritized, or an inventory has been initiated (if necessary), community involvement activities have been initiated and a Memorandum of Agreement is in place, or other documented activities that demonstrate to EPA's satisfaction that the CAR will successfully perform the cooperative agreement.

B. Substantial Involvement

1. EPA may be substantially involved in overseeing and monitoring this cooperative agreement.

a. Substantial involvement by EPA generally includes administrative activities by the EPA Project Officer such as monitoring, reviewing project phases, and approving substantive terms included in professional services contracts. EPA will not direct or recommend that the CAR enter into a contract with a particular entity.

b. Substantial EPA involvement includes brownfield property-specific funding determinations described in Section II.A.2. If the CAR awards a subaward for site assessment, the CAR must obtain technical assistance from EPA on which sites qualify as a brownfield site and determine whether the statutory prohibition found in CERCLA § 104(k)(5)(B)(i)(IV) applies. This prohibition does not allow the subrecipient to use EPA cooperative agreement funds to assess a site for which the

subrecipient is potentially liable under § 107 of CERCLA.

c. Substantial EPA involvement may include reviewing financial and program performance reports, monitoring all reporting, record-keeping, and other program requirements.

d. EPA may waive any of the provisions in Section III.B.1. with the exception of property-specific funding determinations, at its own initiative or upon request by the CAR. The EPA Project Officer will provide waivers in writing.

2. Effects of EPA's substantial involvement include:

a. EPA's review of any project phase, document, or cost incurred under this cooperative agreement will not have any effect upon CERCLA § 128 *Eligible Response Site* determinations or rights, authorities, and actions under CERCLA or any federal statute.

b. The CAR remains responsible for ensuring that all assessments are protective of human health and the environment and comply with all applicable federal and state laws.

c. The CAR and its subrecipients remain responsible for ensuring costs are allowable under 2 CFR Part 200, Subpart E.

C. Cooperative Agreement Recipient Roles and Responsibilities

1. The CAR must acquire the services of a Qualified Environmental Professional(s) as defined in 40 CFR § 312.10 to coordinate, direct, and oversee the brownfield site assessment activities at a given site, if it does not have such a professional on staff.

2. Subawards are defined at 2 CFR § 200.92. The CAR may not subaward to for-profit organizations or individual consultants. The CAR must obtain commercial services and products necessary to carry out this agreement under competitive procurement procedures as described in 2 CFR §§ 200.317 through 200.326. In addition, EPA policy encourages awarding subawards competitively and the CAR must consider awarding subawards through competition. Recipients may consult EPA's Subaward Policy and Best Practice Guide for Procuring Services, Supplies, and Equipment Under EPA Assistance Agreements for additional guidance.

3. The CAR is responsible for ensuring that funding received under this cooperative agreement does not exceed the statutory $200,000 funding limitation for an individual brownfield site. Waiver of this funding limit for a brownfield site must be submitted to the EPA Project Officer and approved prior to the expenditure of funding exceeding $200,000. In no case may funding for site-specific assessment activities exceed $350,000 on a site receiving a waiver.

4. CARs expending funding from a Community-wide Assessment cooperative agreement must include this amount in any total expended on the site.

5. The CAR will provide project updates to the State Brownfields or Voluntary Cleanup Program (VCP) contact on a regular basis.

a. *The CAR will make the State aware of all site-specific Phase II assessment activities to be initiated.*

b. *The CAR will provide the State an opportunity to review and comment on all technical reports, including Quality Assurance Project Plans (QAPPs), Analysis of Brownfields Cleanup Alternatives (ABCAs), and cleanup plans.*

c. *The CAR should involve the State in site eligibility determinations.*

6. *The CAR must obtain approval from the EPA Project Officer before expending cooperative agreement funds to purchase electronic equipment or supplies to use the Assessment, Cleanup and Redevelopment Exchange System (ACRES). See Section III.E.1.*

7. Cybersecurity – The recipient agrees that when collecting and managing environmental data under this cooperative agreement, it will protect the data by following all applicable State law cybersecurity requirements.

   a. EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement are secure. For purposes of this section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition.

      If the recipient's connections as defined above do not go through the Environmental Information Exchange Network or EPA's Central Data Exchange, the recipient agrees to contact the EPA Project Officer no later than 90 days after the date of this award and work with the designated Regional/ Headquarters Information *Security Officer to* ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by EPA's regulatory programs for the submission of reporting and/or compliance data.

   b. The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in Cybersecurity Section a. above if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange. The recipient will be in compliance with this condition: by including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the recipient under 2 CFR § 200.331(d), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and EPA.

8. All geospatial data created must be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards may be found at www.fgdc.gov.

D. Quarterly Progress Reports

1. In accordance with EPA regulations 2 CFR Parts 200 and 1500 (specifically, § 200.328, *Monitoring and Reporting Program Performance*), the CAR agrees to submit quarterly progress reports to the EPA Project Officer within 30 days after each reporting period. The reporting periods are October 1 – December 31 (1st quarter); January 1 – March 31 (2nd quarter); April 1 – June 30 (3rd quarter); and July 1 – September 30 (4th quarter).

   These reports shall cover work status, work progress, difficulties encountered, preliminary data results and a statement of activity anticipated during the subsequent reporting period, including a description of equipment, techniques, and materials to be used or evaluated. A discussion of expenditures and financial status for each workplan task, along with a comparison of the percentage of the project completed to the project schedule and an explanation of significant discrepancies shall be included in the report. The report shall also include any changes of key personnel concerned with the project.

   The CAR shall refer to and utilize the Quarterly Reporting function within the ACRES to submit quarterly reports.

2. The CAR must submit progress reports on a quarterly basis to the EPA Project Officer. Quarterly progress reports must include:

   a. A summary that clearly differentiates between activities completed with EPA funds provided under the Brownfield Assessment cooperative agreement and related activities completed with other sources of leveraged funding.

   b. A summary and status of approved activities performed during the reporting quarter; a summary of the performance outputs/outcomes achieved during the reporting quarter; and a description of problems encountered during the reporting quarter that may affect the project schedule.

   c. A comparison of actual accomplishments to the anticipated outputs/outcomes specified in the EPA-approved workplan and reasons why anticipated outputs/outcomes were not met.

   d. An update on project schedules and milestones, including an explanation of any discrepancies from the EPA-approved workplan.

   e. A list of the properties where assessment activities were performed and/or completed during the reporting quarter.

   f. A budget recap summary table with the following information: current approved project budget; EPA funds drawn down during the reporting quarter; costs drawn down to date (cumulative expenditures); program income generated and used (if applicable); and total remaining funds. The CAR should include an explanation of any discrepancies in the budget from the EPA-approved workplan, of cost overruns or

high unit costs, and other pertinent information.

Note: Each property where assessment activities were performed and/or completed must have its corresponding information updated in ACRES prior to submitting the quarterly progress report (see Section III.E. below).

3. *If the recipient makes any subawards under this agreement, then the CAR is a pass-through entity under the Establishing and Managing Subaward Condition in the Administrative General Term and Conditions* . As the pass-through entity, the CAR must report to EPA on its subaward monitoring activities under 2 CFR § 200.331(d), including the following information on subawards as part of the CAR's quarterly performance reporting:

    a. Summaries of results of reviews of financial and programmatic reports.

    b. Summaries of findings from site visits and/or desk reviews to ensure effective subrecipient performance.

    c. Environmental results the subrecipient achieved.

    d. Summaries of audit findings and related pass-through entity management decisions.

    e. Actions the pass-through entity has taken to correct any deficiencies such as those specified at 2 CFR § 200.331(e), 2 CFR § 200.207 and 2 CFR § 200.338, *Remedies for Noncompliance* .

4. The CAR must maintain records that will enable it to report to EPA on the amount of funds disbursed by the CAR to assess specific properties under this cooperative agreement.

5. In accordance with 2 CFR § 200.328(d)(1), the CAR agrees to inform EPA as soon as problems, delays, or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the EPA-approved workplan.

E. Property Profile Submission

1. The CAR must report on interim progress (i.e., assessment started) and any final accomplishments (i.e., assessment completed, clean up required, contaminants, institutional controls, engineering controls) by completing and submitting relevant portions of the Property Profile Form using the ACRES. The CAR must enter the data in ACRES as soon as the interim action or final accomplishment has occurred, or within 30 days after the end of each reporting quarter. The CAR must enter any new data into ACRES prior to submitting the quarterly progress report to the EPA Project Officer. The CAR must utilize the ACRES system unless approval is obtained from the EPA Project Officer to utilize the Property Profile Form.

F. Final Technical Cooperative Agreement Report with Environmental Results

1. In accordance with EPA regulations 2 CFR Parts 200 and 1500 (specifically, § 200.328, *Monitoring and Reporting Program Performance*), the CAR agrees to submit to the EPA

Project Officer within 90 days after the expiration or termination of the approved project period a final technical report on the cooperative agreement and at least one reproducible copy suitable for printing. The final technical report shall document project activities over the entire project period and shall include brief information on each of the following areas:

a. a comparison of actual accomplishments with the anticipated outputs/outcomes specified in the EPA-approved workplan;

b. reasons why anticipated outputs/outcomes were not met; and

c. other pertinent information, including when appropriate, analysis and explanation of cost overruns or high unit costs.

IV. FINANCIAL ADMINISTRATION REQUIREMENTS

A. Eligible Uses of the Funds for the Cooperative Agreement Recipient

1. To the extent allowable under the EPA-approved workplan, cooperative agreement funds may be used for eligible programmatic expenses to inventory, characterize, assess sites; conduct site-specific planning, general brownfield-related planning activities around one or more brownfield sites, and outreach. Eligible programmatic expenses include activities described in Section V. of these Terms and Conditions. In addition, eligible programmatic expenses may include:

a. Determining whether assessment activities at a particular site are authorized by CERCLA § 104(k).

b. Ensuring that an assessment complies with applicable requirements under federal and state laws, as required by CERCLA § 104(k).

c. Developing a QAPP as required by 2 CFR § 1500.11. The specific requirement for a QAPP is outlined in *Implementation of Quality Assurance Requirements for Organizations Receiving EPA Financial Assistance* available at https://www.epa.gov/grants/implementation-quality-assurance-requirements-organizations-receiving-epa-financial.

d. Using a portion of the cooperative agreement funds to purchase environmental insurance for the characterization or assessment of the site. Funds may not be used to purchase insurance intended to provide coverage for any of the ineligible uses under Section IV., *Ineligible Uses of the Funds for the Cooperative Agreement Recipient.*

e. Any other eligible programmatic costs, including direct costs incurred by the recipient in reporting to EPA; procuring and managing contracts; awarding, monitoring, and managing subawards to the extent required to comply with 2 CFR § 200.331 and the "Establishing and Managing Subawards" General Term and Condition; and carrying out community involvement pertaining to the assessment activities.

2. ***Local Governments Only.*** *No more than 10% of the funds awarded by this agreement may be used by the CAR itself as a programmatic cost for Brownfield Program development and*

implementation of monitoring health conditions and institutional controls. The health monitoring activities must be associated with brownfield sites at which at least a Phase II environmental site assessment is conducted and is contaminated with hazardous substances. The CAR must maintain records on funds that will be used to carry out this task to ensure compliance with this requirement.

3. Under CERCLA § 104(k)(5)(B), CARs and subrecipients may use up to 5% of the amount of federal funding for this cooperative agreement for administrative costs, including indirect costs under 2 CFR § 200.414. *The amount of administrative costs for this agreement must be stated in the EPA-approved workplan* . The total amount of indirect costs and any direct costs for cooperative agreement administration by the CAR or subaward administration by subrecipients paid for by EPA under the cooperative agreement may not exceed this amount. As required by 2 CFR § 200.403(d), the CAR and subrecipients must classify administrative costs as direct <u>or</u> indirect consistently and may not classify the same types of cost in both categories.

   Eligible cooperative agreement and subaward administrative costs subject to the 5% limitation include direct costs for:

   a. Costs incurred to comply with the following provisions of the *Uniform Administrative Requirements for Cost Principles and Audit Requirements for Federal Awards* at 2 CFR Parts 200 and 1500 other than those identified as programmatic.

      i. Record-keeping associated with equipment purchases required under 2 CFR § 200.313;

      ii. Preparing revisions and changes in the budgets, scopes of work, program plans and other activities required under 2 CFR § 200.308;

      iii. Maintaining and operating financial management systems required under 2 CFR § 200.302;

      iv. Preparing payment requests and handling payments under 2 CFR § 200.305;

      v. Financial reporting under 2 CFR § 200.327.

      vi. Non-federal audits required under 2 CFR Part 200, Subpart F; and

      vii. Closeout under 2 CFR § 200.343 with the exception of preparing the recipient's final performance report. Costs for preparing this report are programmatic and are not subject to the 5% limitation on direct administrative costs.

   b. Pre-award costs for preparation of the proposal and application for this cooperative agreement (including the final workplan) or applications for subawards are not allowable as direct costs but may be included in the CAR's or subrecipient's indirect cost pool to the extent authorized by 2 CFR § 200.460.

B. Ineligible Uses of the Funds for the Cooperative Agreement Recipient

1. Cooperative agreement funds shall not be used by the CAR for any of the following activities:

    a. Cleanup activities;

    b. Site development activities that are not brownfield site assessment activities (e.g., marketing of property (activities or products created specifically to attract buyers or investors) or construction of a new facility);

    c. General community visioning, area-wide zoning updates, design guideline development, master planning, green infrastructure, infrastructure service delivery, and city-wide or comprehensive planning/plan updates – these activities are all ineligible uses of grant funds if unrelated to advancing cleanup and reuse of brownfield sites or sites to be assessed. Note: for these types of activities to be an eligible use of grant funds, there must be a specific nexus between the activity and how it will help further cleanup and reuse of the priority brownfield site(s). This nexus must be clearly described in the workplan for the project;

    d. Job training unrelated to performing a specific assessment at a site covered by the cooperative agreement;

    e. To pay for a penalty or fine;

    f. To pay a federal cost share requirement (e.g., a cost share required by another federal grant) unless there is specific statutory authority;

    g. To pay for a response cost at a brownfield site for which the CAR or subaward recipient is potentially liable under CERCLA § 107;

    h. To pay a cost of compliance with any federal law, excluding the cost of compliance with laws applicable to the assessment; and

    i. Unallowable costs (e.g., lobbying and purchases of alcoholic beverages) under 2 CFR Part 200, Subpart E.

2. Cooperative agreement funds may not be used for any of the following properties:

    a. Facilities listed, or proposed for listing, on the National Priorities List (NPL);

    b. Facilities subject to unilateral administrative orders, court orders, and administrative orders on consent or judicial consent decree issued to or entered by parties under CERCLA;

    c. Facilities that are subject to the jurisdiction, custody or control of the United States government except for land held in trust by the United States government for an Indian tribe; or

    d. A site excluded from the definition of a brownfield site for which EPA has not made a property-specific funding determination.

C. Interest-Bearing Accounts and Program Income

1. In accordance with 2 CFR § 1500.7(b), during the performance period of the cooperative agreement, the CAR is authorized to add program income to the funds awarded by EPA and use the program income under the same terms and conditions of this agreement.

2. Program income for the CAR shall be defined as the gross income received by the recipient, directly generated by the cooperative agreement award or earned during the period of the award. Program income includes, but is not limited to, fees charged for conducting assessment, site characterizations, cleanup planning, or other activities when the costs for the activity is charged to this agreement.

3. The CAR must deposit advances of cooperative agreement funds and program income (i.e., fees) in an interest-bearing account.

   a. For interest earned on advances, CARs are subject to the provisions of 2 CFR 200.305(b)(7)(ii) relating to remitting interest on advances to EPA on a quarterly basis.

   b. Any program income earned by the CAR will be added to the funds EPA has committed to this agreement and used only for eligible and allowable costs under the agreement as provided in 2 CFR § 200.307 and 2 CFR § 1500.7, as applicable.

   c. Interest earned on program income is considered additional program income.

   d. The CAR must disburse program income (including interest earned on program income) before requesting additional payments from EPA as required by 2 CFR § 200.305(b)(5).

4. As required by 2 CFR § 200.302, the CAR must maintain accounting records documenting the receipt and disbursement of program income.

5. The recipient must provide as part of its quarterly performance report and final technical report a description of how program income is being used. Further, a report on the amount of program income earned during the award period must be submitted with the quarterly performance report, final technical report, and Federal Financial Report (Standard Form 425).

V. ASSESSMENT REQUIREMENTS

A. Authorized Assessment Activities

1. Prior to conducting or engaging in any on-site activity with the potential to impact historic properties (such as invasive sampling), the CAR shall consult with the EPA Project Officer regarding potential applicability of the National Historic Preservation Act (NHPA) (16 USC § 470) and, if applicable, shall assist EPA in complying with any requirements of the NHPA and implementing regulations.

B. Quality Assurance (QA) Requirements

1. When environmental data are collected as part of the brownfield assessment, the CAR shall comply with 2 CFR § 1500.11 requirements to develop and implement quality assurance practices sufficient to produce data adequate to meet project objectives and to minimize data loss. State law may impose additional QA requirements. *Prior to conducting a Phase II Environmental Site Assessment or other sampling activity, the CAR must have an EPA-approved QAPP in place. The CAR should allow EPA adequate time (generally 30 days) for review and approval. The QAPP should be consistent with the EPA Region 4's Instructions for the Preparation of Quality Assurance Project Plans for EPA Brownfields Projects in the Southeast* . The QAPP is the document that provides comprehensive details about the quality assurance, quality control, and technical activities that must be implemented to ensure that project objectives are met. Environmental programs include direct measurements or data generation, environmental modeling, compilation of date from literature or electronic media, and data supporting the design, construction, and operation of environmental technology.

   The QAPP should be prepared in accordance with EPA QA/R-5: EPA Requirements for Quality Assurance Project Plans.

   No environmental data collection or data compilation may occur until the QAPP is approved by the EPA Project Officer and/or Designated Approving Official. Additional information on these requirements can be found at the EPA Office of Grants and Debarment website at https://www.epa.gov/grants/implementation-quality-assurance-requirements-organizations-receiving-epa-financial.

2. **Competency of Organizations Generating Environmental Measurement Data:** In accordance with Agency Policy Directive Number FEM-2012-02, *Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements* , the CAR agrees, by entering into this agreement, that it has demonstrated competency prior to award, or alternatively, where a pre-award demonstration of competency is not practicable, the CAR agrees to demonstrate competency prior to carrying out any activities under the award involving the generation or use of environmental data. The CAR shall maintain competency for the duration of the project period of this agreement and this will be documented during the annual reporting process. A copy of the Policy is available online at http://www.epa.gov/fem/lab_comp.htm or a copy may also be requested by contacting the EPA Project Officer for this award.

C. Community Outreach

1. The CAR agrees to clearly reference EPA investments in the project during all phases of community outreach outlined in the EPA-approved workplan which may include the development of any post-project summary or success materials that highlight achievements to which this project contributed.
   a. If any documents, fact sheets, and/or web materials are developed as part of this

cooperative agreement, then they shall include the following statement: "**Though this project has been funded, wholly or in part, by EPA, the contents of this document do not necessarily reflect the views and policies of EPA.**"

b. If a sign is developed as part of a project funded by this cooperative agreement, then the sign shall include either a statement (e.g., this project has been funded, wholly or in part, by EPA) and/or EPA's logo acknowledging that EPA is a source of funding for the project. The EPA logo may be used on project signage when the sign can be placed in a visible location with direct linkage to site activities. Use of the EPA logo must follow the sign specifications available at https://www.epa.gov/grants/epa-logo-seal-specifications-signage-produced-epa-assistance-agreement-recipients.

2. The CAR agrees to notify the EPA Project Officer of public or media events publicizing the accomplishment of significant events related to construction and/or site reuse projects as a result of this agreement, and provide the opportunity for attendance and participation by federal representatives with at least ten (10) working days' notice.

3. To increase public awareness of projects serving communities where English is not the predominant language, CARs are encouraged to include in their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable.

D. All Appropriate Inquiry

1. As required by CERCLA § 104(k)(2)(B)(ii) and CERCLA § 101(35)(B), the CAR shall ensure that a Phase I site characterization and assessment carried out under this agreement will be performed in accordance with EPA's all appropriate inquiries regulation (AAI). The CAR shall utilize the practices in ASTM standard E1527-13 *"Standard Practices for Environmental Site Assessment: Phase I Environmental Site Assessment Process* ," or EPA's All Appropriate Inquiries Final Rule (40 CFR Part 312). A suggested outline for an AAI final report is provided in *"All Appropriate Inquiries Rule: Reporting Requirements and Suggestions on Report Content"* , (Publication Number: EPA 560-F-14-003). This does not preclude the use of cooperative agreement funds for additional site characterization and assessment activities that may be necessary to characterize the environmental impacts at the site or to comply with applicable state standards.

2. AAI final reports produced with funding from this agreement must comply with 40 CFR Part 312 and must, at a minimum, include the information below. All AAI reports submitted to EPA Project Officers as deliverables under this agreement must be accompanied by a completed *"All Appropriate Inquiries: Reporting Requirements Checklist for Assessment Grant Recipients"* (Publication Number: EPA 560-F-17-194) that the EPA Project Officer will provide to the recipient. The checklist is available to CARs on EPA's website at www.epa.gov/brownfields. The completed checklist must include:

a. An ***opinion*** as to whether the inquiry has identified conditions indicative of releases or threatened releases of hazardous substances, and as applicable, pollutants and contaminants, petroleum or petroleum products, or controlled substances, on, at, in, or to the subject property.

b. An identification of ***"significant" data gaps*** (as defined in 40 CFR § 312.10), if any, in the information collected for the inquiry. Significant data gaps include missing or unattainable information that affects the ability of the environmental professional to identify conditions indicative of releases or threatened releases of hazardous substances, and as applicable, pollutants and contaminants, petroleum or petroleum products, or controlled substances, on, at, in, or to the subject property. The documentation of significant data gaps must include information regarding the significance of these data gaps.

c. ***Qualifications*** **and** ***signature*** of the environmental professional(s). The environmental professional must place the following statements in the document and sign the document:

- *"[I, We] declare that, to the best of [my, our] professional knowledge and belief, [I, we] meet the definition of Environmental Professional as defined in §312.10 of this part."*
- *"[I, We] have the specific qualifications based on education, training, and experience to assess a property of the nature, history, and setting of the subject property. [I, We] have developed and performed the all appropriate inquiries in conformance with the standards and practices set forth in 40 CFR Part 312."*

  Note: Please use either "I" or "We."

d. In compliance with §312.31(b), the environmental professional must include in the final report an ***opinion regarding additional appropriate investigation*** , if the environmental professional has such an opinion.

3. EPA may review checklists and AAI final reports for compliance with the AAI regulation documentation requirements at 40 CFR Part 312 (or comparable requirements for those using ASTM Standard 1527-13). Any deficiencies identified during an EPA review of these documents must be corrected by the recipient within 30 days of notification. Failure to correct any identified deficiencies may result in EPA disallowing the costs for the entire AAI report as authorized by 2 CFR § 200.338 through 2 CFR § 200.342. If a recipient willfully fails to correct the deficiencies EPA may consider other available remedies under 2 CFR § 200.342.

E. Completion of Assessment Activities

1. The CAR shall properly document the completion of all activities described in the EPA-

approved workplan. This must be done through a final report or letter from a Qualified Environmental Professional, or other documentation provided by a State or Tribe that shows assessments are complete.

F. Inclusion of Additional Terms and Conditions

1. In accordance with 2 CFR § 200.333 the CAR shall maintain records pertaining to the cooperative for a minimum of three (3) years following submission of the final financial report unless one or more of the conditions described in the regulation applies. The CAR shall provide access to records relating to assessments supported with Assessment cooperative agreement funds to authorized representatives of the Federal government as required by 2 CFR § 200.336.

2. The CAR has an ongoing obligation to advise EPA if it assessed any penalties resulting from environmental non-compliance at sites subject to this agreement.

VI. PAYMENT AND CLOSEOUT

For the purposes of these Terms and Conditions, the following definitions apply: "payment" is EPA's transfer of funds to the CAR; "closeout" refers to the process EPA follows to ensure that all administrative actions and work required under the cooperative agreement have been completed.

A. Payment Schedule

DRAFT Assessment T&C 5/20/05

1. The CAR may request advance payment from EPA pursuant to 2 CFR § 200.305(b)(1) and the prompt disbursement requirements of the General Terms and Conditions of this agreement.

This requirement does not apply to states which are subject to 2 CFR § 200.305(a).

B. Schedule for Closeout

1. Closeout will be conducted in accordance with 2 CFR § 200.343. EPA will close out the award when it determines that all applicable administrative actions and all required work under the cooperative agreement have been completed.

2. The CAR, within 90 days after the expiration or termination of the cooperative agreement, must submit all financial, performance, and other reports required as a condition of the cooperative agreement 2 CFR Part 200.

    a. The CAR must submit the following documentation:

        i. The Final Technical Cooperative Agreement Report as described in Section III.F. of these Terms and Conditions.

        ii. Administrative and Financial Reports as described in the Grant-Specific Administrative Terms and Conditions of this agreement.

    b. The CAR must ensure that appropriate data have been entered into ACRES or all Property Profile Forms are submitted to the EPA Project Officer.

    c. As required by 2 CFR § 200.343, the CAR must immediately refund to EPA any balance of unobligated (unencumbered) advanced cash or accrued program income that is not authorized to be retained for use on other cooperative agreements.