City of Jacksonville, Florida

Lenny Curry, Mayor

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

ONE CITY. ONE JACKSONVILLE.

February 15, 2019

TO: Gregory W. Pease, Chairman
Professional Services Evaluation Committee

02/21/19 09:21:09
Procurement Division

THRU: John P. Pappas, P.E.
Director

FROM: William J. Joyce, P.E.
Director of Operations

Steven D. Long, Jr., P.E.
Chief, Right-of-Way and Stormwater Maintenance

SUBJECT: P-13-18 Construction Engineering and Inspection Services for the Mega Site Development Entrance Road at New World Avenue
JECP331ED-06505-PW0416-15-JEC038-18 $400,000.00
PWCP32ERD549-06505-PW0416-15 $600,000.00

The Engineering Division has negotiated with the consultant selected for Construction Engineering and Inspection Services for the Mega Site Development Entrance Road at New World Avenue, resulting in the Scope of Services, Exhibit A and Contract Fee Schedule, Exhibit B, attached. Work will be based on billable hours with a not to exceed limit established based on funding availability. This limit may go up or down based on the work to be performed, with amendments to increase the limit, as needed, as funding allows, until the project is complete. JSEB firms to be utilized to meet the 20% Participation Percentage Plan for this contract are detailed on a separate attachment

Accordingly, this is to recommend that the City of Jacksonville enter into a contract with G-A-I Consultants, Inc. for Construction Engineering and Inspection Services for the Mega Site Development Entrance Road at New World Avenue that includes the attached Scope of Services, Exhibit A and Fee Summary, Exhibit B, to provide an initial not to exceed limit for Construction Engineering Services in the amount of $1,000,000.00, with an anticipated maximum indebtedness to the City in the amount of $1,000,000.00 and with an expiration date as Project Completion. All other terms and conditions are as provided in the RFP and the City's standard contract language.

WJJ/lw

Attachment: Exhibits A & B
JSEB Participation

cc: Lori West, Contract Specialist

ab.

EXHIBIT A

January 7, 2019

GAI Project No.: B180424.00

Duane Kent, P.E.
Engineering Design Section
214 N. Hogan Street, 10th Floor
Jacksonville, Florida 32202

Attention: Mr. Kent, PE

Sent Via E-mail: rkent@coj.net

City of Jacksonville RFP# P-13-18 - Schedule of Proposed Rates
Construction Inspection and Engineering Services for the Mega Site Development Entrance Road at New World Avenue Project
Jacksonville, Florida

Dear Mr.Kent, PE:

GAI Consultants, Inc. is pleased to provide you with the proposed rates to provide the required Construction and Engineering Inspection services on the Mega Site Development Entrance Road Project. The proposed positions will allow for the inspection services on the Mega Site roadway construction, any work within the Florida Department of Transportation's Righ-of-Way and any required field material testing. Laboratory material verification testing will be conducted by Universal Engineering Science, Inc. (UES) and their lab rates are also included in the attachments

GAI has also includeed C&ES Consultants, Inc., our Jacksonville Small and Emerging Business (JSEB) partner to assist with inspection duties and will alsio assit us in meeting our 20% JSEB goal. We look forward to working with you and the rest of the City's team on this important project. If you have any questions, or need any additional information, please do not hesitate to give me a call.

Sincerely,

GAI Consultants, Inc.

Kevin Leadbetter, PE
Vice President

KRL/atd

Attachments: Exhibit A-1- Proposed Rates- GAI
Exhibit A-2- Proposed Rates- C&ES
Exhibit A-3- Proposed Rates- UES

cc: Thomas McKnight
Lori West

EXHIBIT B

Form 1 - SCHEDULE OF PROPOSED PRICES/RATES

NAME OF CONSULTANT GAI Consultants, Inc

Proposal Number P-13-18 (CEI Services- Mega Site Development Entrance Road)

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

Project Manager (Responsible Professional)	$ 62.90 hr.
Design Engineer or Architect (Registered)	$ N/A hr.
Designer or Technician (Non-Registered)	$ N/A hr.
Drafter or CADD Operator	$ N/A hr.
Field Inspector	$ 34.19 hr.
Clerical (Typist, Word Processor, Document Assembly, etc.)	$ 23.40 hr.

2. Total Overhead Rate (to be applied to Direct Labor:) 172.94 %

3. Profit Rate (to be applied to Direct Labor plus Overhead) 10% %

4. Cost of 4-man survey crew per 8 hour day (If applicable) $ N/A hr.

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

6. Estimated percentage of total fee to be performed by subconsultants 25 %

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

1) Attached rate sheet for Universal Engineering Sciences for materials laboratory verification tests attached. Services will be utilized as-needed

2) Additional form attached for C&ES, Inc (JSEB) for inspection services

EXHIBIT B

Form 1 – SCHEDULE OF PROPOSED PRICES/RATES

NAME OF CONSULTANT C&ES, Inc. (JSEB Subconsultant)

Proposal Number P-13-18 (CEI Services- Mega Site Development Entrance Road)

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

Project Manager (Responsible Professional)	$ N/A hr.
Design Engineer or Architect (Registered)	$ N/A hr.
Designer or Technician (Non-Registered)	$ N/A hr.
Drafter or CADD Operator	$ N/A hr.
Field Inspector	$ 35.00 hr.
Clerical (Typist, Word Processor, Document Assembly, etc.)	$ _____ hr.

2. Total Overhead Rate (to be applied to Direct Labor:) 175 %

3. Profit Rate (to be applied to Direct Labor plus Overhead) 10% %

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

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

_____

_____

_____

6. Estimated percentage of total fee to be performed by subconsultants N/A %

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

_____

_____

_____

_____

EXHIBIT I
CONSTRUCTION MATERIALS TESTING
UES Proposal No.: 1645801
UES Opportunity No.: 0910.0219.00019

Item	Unit	Cost Per Unit
LABORATORY SERVICES		
Modified Proctor	EACH	$95.00
Standard Proctor	EACH	$100.00
Soil Classification	EACH	$70.00
Organic Content	EACH	$35.00
Compressive Strength of Concrete Cylinders	EACH	$15.00
FIELD SERVICES		
Asphalt Plant Verification Technician Level II	HOUR	$115.00
PROFESSIONAL SERVICES		
Professional Engineer	HOUR	$125.00
Administrative Services	HOUR	$40.00

ALL UNIT RATES ARE BASED ON PROVIDING SERVICES DURING NORMAL WORK HOURS (WEEKDAYS, 6:30 A.M. TO 5:30 P.M.). FIELD SERVICES THAT ARE RENDERED BEYOND NORMAL WORK HOURS AND ON HOLIDAYS AND WEEKENDS WILL BE BILLED AT 1.5 TIMES THE QUOTED HOURLY TECHNICIAN RATE OR THE TEST FEE, WHICHEVER IS APPLICABLE.

NOTES

1. Professional Engineer review time will be charged accordingly on a per report basis.
2. A minimum of five (5) In-Place Density Tests are required per trip. Standby time required for backfilling, etc will be charged at the technician's hourly rate of $49.00 per hour.
3. Scheduled work requires 24 hours (excluding weekends) advance notice to the UES Dispatch Office. Work performed without advance notice will be termed RAPID RESPONSE SERVICES. Rapid Response Services will occur on a first come, first serve basis. An additional fee of 1 hour of technician time or a fee multiplier of 1.5 (whichever is greater) will be charged for all Rapid Response Services.
4. Professional consultations and meetings will be invoiced at our standard unit rates.
5. Cancellation without notice and standby time will be invoiced at our standard unit rates.
6. One hour of technician time is included with the unit rate for concrete cylinders, cubes, beams and prisms. Any additional time required for testing (late trucks, slow placement, etc.) will be charged at a standby rate of $49.00 per hour.
7. All laboratory pricing is FOB Jacksonville Laboratory. There will be an additional charge of $49.00 for trips made to the job site for the sole purpose of picking up samples.

EBO FORM 1
SCHEDULE OF SUBCONTRACTOR/SUBCONSULTANT PARTICIPATION

Name of Proposer: GAI Consultants, Inc.

Project Title: Construction Engineering and Inspection Services for the Mega Site Development Entrance Road at New World Avenue

Proposal Number: P-13-18 Total Base Proposal Amount (if applicable): N/A

***Please list all JSEBs first**

Full Company Name	JSEB Category (African-American, Women, Asian, Native American, Non-MBE or Hispanic)	Type of Work to be Performed	Total Contract Value or Percentage
Construction & Engineering Services Consultants, Inc.	African-American	CEI Staff Support	TBD
Universal Engineering Sciences, Inc.	Non-MBE	Construction Materials Testing	TBD

Attach additional list of subcontractors/sub-consultants as needed

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

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

Signature of Proposer: Title: Vice President Date: February 19, 2019

Print Name: Kevin Leadbetter, PE

C&ES
CONSULTANTS, INC.

February 7, 2019

Andre Sutherland, P.E.
Senior Project Engineer
GAI Consultants
6983 103rd Street, Unit 5
Jacksonville, FL 32210

Re: Proposal for Mega Site Development Entrance Road
Jacksonville, Florida
CEI Services

Dear Mr. Sutherland:

Construction and Engineering Services Consultants, Inc. (C&ES) is pleased to submit the following Schedule of Proposed Price/Rates to GAI Consultants (THE CLIENT) for construction engineering and inspection (CEI) services for the referenced project.

SCOPE OF WORK:

Based on information provided by THE CLIENT, the proposed services will consist of monitoring the Contractor's on-site construction activities and inspecting materials entering into the work in accordance with the plans, specifications, and special provisions for the Construction Contract to determine that the projects are constructed in reasonable conformity with such documents. Maintain detailed accurate records of the Contractor's daily operations and of significant events that affect the work for the proposed construction.

C&ES will provide the services of one (1) Field Inspector.

If this proposal meets with your approval, please execute one copy of the agreement and send it back to us and retain one copy for your files. Once the executed agreement is received, we will consider it our Notice To Proceed and will perform this work on a timely matter. We look forward to the opportunity of working with you on this project.

If you have any questions, please do not hesitate to contact our office at 904-652-1186.

Sincerely,

CONSTRUCTION & ENGINEERING SERVICE CONSULTANTS, INC.

Stephen V. Manis, P.E.
Senior Project Manager

Cc: Steven Davis

Form 1 – SCHEDULE OF PROPOSED PRICES/RATES

NAME OF CONSULTANT C&ES, Inc. (JSEB Subconsultant)

Proposal Number P-13-18 (CEI Services- Mega Site Development Entrance Road)

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

Project Manager (Responsible Professional)	$ N/A hr.
Design Engineer or Architect (Registered)	$ N/A hr.
Designer or Technician (Non-Registered)	$ N/A hr.
Drafter or CADD Operator	$ N/A hr.
Field Inspector	$ 35.00 hr.
Clerical (Typist, Word Processor, Document Assembly, etc.)	$ _____ hr.

2. Total Overhead Rate (to be applied to Direct Labor:) 175 %

3. Profit Rate (to be applied to Direct Labor plus Overhead) 10% %

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

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

_____

_____

_____

6. Estimated percentage of total fee to be performed by subconsultants N/A %

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

_____

_____

_____

_____

UNIVERSAL
ENGINEERING SCIENCES
Consultants In: Geotechnical Engineering • Environmental Sciences
Geophysical Services • Construction Materials Testing • Threshold Inspection
Building Inspection • Plan Review • Building Code Administration

LOCATIONS:
- Atlanta
- Daytona Beach
- Fort Myers
- Fort Pierce
- Gainesville
- Jacksonville
- Miami
- Ocala
- Orlando (Headquarters)
- Palm Coast
- Panama City
- Pensacola
- Rockledge
- Sarasota
- St. Petersburg
- Tampa
- Tifton
- West Palm Beach

February 7, 2019

Attention: **Andre Sutherland**

GAI Consultants
1301 Riverplace Boulevard, Suite 900
Jacksonville, FL 32207

Reference: **PROPOSAL FOR CONSTRUCTION MATERIALS TESTING AND INSPECTION**
VT Mega Site Laboratory Testing
Duval County, FL
UES Opportunity No.: 0910.0219.00019
UES Proposal No.: 1645801

Universal Engineering Sciences, Inc. (UES) submits for your consideration this proposal which outlines our understanding of the requested construction materials testing services, and presents applicable unit rates for requested services, along with an estimated total fee. These quantities are based upon the review of the drawings and specifications along with the typical test frequencies for projects of this type. Of course, quantities can vary with construction scheduling practices, but we feel that these are reasonably close to what will actually be needed. However, you would only be invoiced for services performed at the unit price fees noted on the attached sheet.

All testing and inspection services will be performed on a will-call basis. A minimum notice of 24-hours would be appreciated in order to properly schedule services. UES will not be responsible for scheduling our services and will not be responsible for tests that are not performed due to a failure to schedule our services on the project or any resulting damage. All unit fees are for normal work hours, Monday through Friday from 6:30 A.M. to 5:30 P.M. daily. Work performed outside the normal work hours, on Saturdays, Sundays, or on a holiday will be invoiced at the unit fee rate times a multiplier of 1.5. Professional consultations and meetings will be invoiced at our unit fee rates for the labor category of the individual attending. Final Conformance Letters are available upon request at the Professional Engineer's hourly rate for project review. Unit fees include one PDF emailed copy of the field and laboratory test reports.

Attached you will find the Work Authorization/Proposal Acceptance Form and a copy of our General Conditions. If you are ready for us to begin our services, please sign and return one copy of the Work Authorization/Proposal Acceptance Form. We appreciate the opportunity to present this unit fee proposal to you and look forward to providing our construction materials testing and inspection services on this and future projects.

Respectfully Submitted,
UNIVERSAL ENGINEERING SCIENCES, INC.
Mallory Coulombe

UNIVERSAL ENGINEERING SCIENCES, INC.

Work Authorization / Proposal Acceptance Form

PLEASE SIGN AND RETURN ONE COPY VIA EMAIL OR FAX.

PROJECT NAME: VT Mega Site Laboratory Testing

PROJECT LOCATION: Duval County, FL

CLIENT NAME: GAI Consultants

TODAY'S DATE: 02/07/19

CLIENT ADDRESS: 1301 Riverplace Boulevard, Suite 900
Jacksonville, FL 32207

CELL # 904-363-1110

EMAIL ADDRESSES: ***(List email addresses of those who are to receive invoice and paperwork):***

1. _____ 2. _____

I. Scope of Services and Understanding of Project (See attached proposal or as indicated below).

Construction Materials Testing

UES Opportunity No.: 0910.0219.00019

UES Proposal No.: 1645801

Prices effective through December 2019

II. **Contract Documents. The following documents form part of this Agreement and are incorporated herein by referral:**

A. UES General Conditions.

B. UES Proposal Dated: **February 7, 2019.**

C. Plans, reports, specifications and other documents provided by the Client prior to this Agreement date.

D. Other exhibits marked and described as follows:

In the event of any inconsistency or conflict among the Contract Documents, the provision in the Contract Document first listed above shall govern.

III. **Payment:** Visa____ Mastercard_____ Discover_____ American Express_____

C/C#_____ Exp._____ 3-digit security code: _____

Name as it appears on Card: _____

Address: _____

Amount: _____

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their duly authorized representatives

CLIENT NAME:		**UNIVERSAL ENGINEERING SCIENCES**	
SIGNATURE:		SIGNATURE:	Mallory Coulombe
PRINT NAME:		TYPED NAME:	Mallory Coulombe
DATE:		TITLE:	Business Development Representative
		DATE:	February 7, 2019

RETURN EXECUTED COPIES TO

MCOULOMBE@UNIVERSALENGINEERING.COM & EDESIR@UNIVERSALENGINEERING.COM

EXHIBIT I
CONSTRUCTION MATERIALS TESTING
UES Proposal No.: 1645801
UES Opportunity No.: 0910.0219.00019

Item	Unit	Cost Per Unit
LABORATORY SERVICES		
Modified Proctor	EACH	$95.00
Standard Proctor	EACH	$100.00
Soil Classification	EACH	$70.00
Organic Content	EACH	$35.00
Compressive Strength of Concrete Cylinders	EACH	$15.00
FIELD SERVICES		
Asphalt Plant Verification Technician Level II	HOUR	$115.00
PROFESSIONAL SERVICES		
Professional Engineer	HOUR	$125.00
Administrative Services	HOUR	$40.00

ALL UNIT RATES ARE BASED ON PROVIDING SERVICES DURING NORMAL WORK HOURS (WEEKDAYS, 6:30 A.M. TO 5:30 P.M.). FIELD SERVICES THAT ARE RENDERED BEYOND NORMAL WORK HOURS AND ON HOLIDAYS AND WEEKENDS WILL BE BILLED AT 1.5 TIMES THE QUOTED HOURLY TECHNICIAN RATE OR THE TEST FEE, WHICHEVER IS APPLICABLE.

NOTES

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3. Scheduled work requires 24 hours (excluding weekends) advance notice to the UES Dispatch Office. Work performed without advance notice will be termed RAPID RESPONSE SERVICES. Rapid Response Services will occur on a first come, first serve basis. An additional fee of 1 hour of technician time or a fee multiplier of 1.5 (whichever is greater) will be charged for all Rapid Response Services.
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5. Cancellation without notice and standby time will be invoiced at our standard unit rates.
6. One hour of technician time is included with the unit rate for concrete cylinders, cubes, beams and prisms. Any additional time required for testing (late trucks, slow placement, etc.) will be charged at a standby rate of $49.00 per hour.
7. All laboratory pricing is FOB Jacksonville Laboratory. There will be an additional charge of $49.00 for trips made to the job site for the sole purpose of picking up samples.

Universal Engineering Sciences, Inc.
GENERAL CONDITIONS

SECTION 1: RESPONSIBILITIES

1.1 *Universal Engineering Sciences, Inc.*, ("UES"), has the responsibility for providing the services described under the Scope of Services section. The work is to be performed according to accepted standards of care and is to be completed in a timely manner. The term "UES" as used herein includes all of *Universal Engineering Sciences, Inc's* agents, employees, professional staff, and subcontractors.

1.2 The Client or a duly authorized representative is responsible for providing UES with a clear understanding of the project nature and scope. The Client shall supply UES with sufficient and adequate information, including, but not limited to, maps, site plans, reports, surveys and designs, to allow UES to properly complete the specified services. The Client shall also communicate changes in the nature and scope of the project as soon as possible during performance of the work so that the changes can be incorporated into the work product.

1.3 The Client acknowledges that UES's responsibilities in providing the services described under the Scope of Services section is limited to those services described therein, and the Client hereby assumes any collateral or affiliated duties necessitated by or for those services. Such duties may include, but are not limited to, reporting requirements imposed by any third party such as federal, state, or local entities, the provision of any required notices to any third party, or the securing of necessary permits or permissions from any third parties required for UES's provision of the services so described, unless otherwise agreed upon by both parties.

1.4 Universal will not be responsible for scheduling our services and will not be responsible for tests or inspections that are not performed due to a failure to schedule our services on the project or any resulting damages.

1.5 **PURSUANT TO FLORIDA STATUTES §558.0035, ANY INDIVIDUAL EMPLOYEE OR AGENT OF UES MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE.**

SECTION 2: STANDARD OF CARE

2.1 Services performed by UES under this Agreement will be conducted in a manner consistent with the level of care and skill ordinarily exercised by members of UES's profession practicing contemporaneously under similar conditions in the locality of the project. No other warranty, express or implied, is made.

2.2 The Client recognizes that subsurface conditions may vary from those observed at locations where borings, surveys, or other explorations are made, and that site conditions may change with time. Data, interpretations, and recommendations by UES will be based solely on information available to UES at the time of service. UES is responsible for those data, interpretations, and recommendations, but will not be responsible for other parties' interpretations or use of the information developed.

2.3 Execution of this document by UES is not a representation that UES has visited the site, become generally familiar with local conditions under which the services are to be performed, or correlated personal observations with the requirements of the Scope of Services. It is the Client's responsibility to provide UES with all information necessary for UES to provide the services described under the Scope of Services, and the Client assumes all liability for information not provided to UES that may affect the quality or sufficiency of the services so described.

2.4 Should UES be retained to provide threshold inspection services under Florida Statutes §553.79, Client acknowledges that UES's services thereunder do not constitute a guarantee that the construction in question has been properly designed or constructed, and UES's services do not replace any of the obligations or liabilities associated with any architect, contractor, or structural engineer. Therefore it is explicitly agreed that the Client will not hold UES responsible for the proper performance of service by any architect, contractor, structural engineer or any other entity associated with the project.

SECTION 3: SITE ACCESS AND SITE CONDITIONS

3.1 Client will grant or obtain free access to the site for all equipment and personnel necessary for UES to perform the work set forth in this Agreement. The Client will notify any and all possessors of the project site that Client has granted UES free access to the site. UES will take reasonable precautions to minimize damage to the site, but it is understood by Client that, in the normal course of work, some damage may occur, and the correction of such damage is not part of this Agreement unless so specified in the Proposal.

3.2 The Client is responsible for the accuracy of locations for all subterranean structures and utilities. UES will take reasonable precautions to avoid known subterranean structures, and the Client waives any claim against UES, and agrees to defend, indemnify, and hold UES harmless from any claim or liability for injury or loss, including costs of defense, arising from damage done to subterranean structures and utilities not identified or accurately located. In addition, Client agrees to compensate UES for any time spent or expenses incurred by UES in defense of any such claim with compensation to be based upon UES's prevailing fee schedule and expense reimbursement policy.

SECTION 4: SAMPLE OWNERSHIP AND DISPOSAL

4.1 Soil or water samples obtained from the project during performance of the work shall remain the property of the Client.

4.2 UES will dispose of or return to Client all remaining soils and rock samples 60 days after submission of report covering those samples. Further storage or transfer of samples can be made at Client's expense upon Client's prior written request.

4.3 Samples which are contaminated by petroleum products or other chemical waste will be returned to Client for treatment or disposal, consistent with all appropriate federal, state, or local regulations.

SECTION 5: BILLING AND PAYMENT

5.1 UES will submit invoices to Client monthly or upon completion of services. Invoices will show charges for different personnel and expense classifications.

5.2 Payment is due 30 days after presentation of invoice and is past due 31 days from invoice date. Client agrees to pay a finance charge of one and one-half percent (1 ½ %) per month, or the maximum rate allowed by law, on past due accounts.

5.3 If UES incurs any expenses to collect overdue billings on invoices, the sums paid by UES for reasonable attorneys' fees, court costs, UES's time, UES's expenses, and interest will be due and owing by the Client.

SECTION 6: OWNERSHIP AND USE OF DOCUMENTS

6.1 All reports, boring logs, field data, field notes, laboratory test data, calculations, estimates, and other documents prepared by UES, as instruments of service, shall remain the property of UES.

6.2 Client agrees that all reports and other work furnished to the Client or his agents, which are not paid for, will be returned upon demand and will not be used by the Client for any purpose.

6.3 UES will retain all pertinent records relating to the services performed for a period of five years following submission of the report, during which period the records will be made available to the Client at all reasonable times.

6.4 All reports, boring logs, field data, field notes, laboratory test data, calculations, estimates, and other documents prepared by UES, are prepared for the sole and exclusive use of Client, and may not be given to any other party or used or relied upon by any such party without the express written consent of UES.

SECTION 7: DISCOVERY OF UNANTICIPATED HAZARDOUS MATERIALS

7.1 Client warrants that a reasonable effort has been made to inform UES of known or suspected hazardous materials on or near the project site.

7.2 Under this agreement, the term hazardous materials include hazardous materials (40 CFR 172.01), hazardous wastes (40 CFR 261.2), hazardous substances (40 CFR 300.6), petroleum products, polychlorinated biphenyls, and asbestos.

7.3 Hazardous materials may exist at a site where there is no reason to believe they could or should be present. UES and Client agree that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work. UES and Client also agree that the discovery of unanticipated hazardous materials may make it necessary for UES to take immediate measures to protect health and safety. Client agrees to compensate UES for any equipment decontamination or other costs incident to the discovery of unanticipated hazardous waste.

7.4 UES agrees to notify Client when unanticipated hazardous materials or suspected hazardous materials are encountered. Client agrees to make any disclosures required by law to the appropriate governing agencies. Client also agrees to hold UES harmless for any and all consequences of disclosures made by UES which are required by governing law. In the event the project site is not owned by Client, Client recognizes that it is the Client's responsibility to inform the property owner of the discovery of unanticipated hazardous materials or suspected hazardous materials.

7.5 Notwithstanding any other provision of the Agreement, Client waives any claim against UES, and to the maximum extent permitted by law, agrees to defend, indemnify, and save UES harmless from any claim, liability, and/or defense costs for injury or loss arising from UES's discovery of unanticipated hazardous materials or suspected hazardous materials including any costs created by delay of the project and any cost associated with possible reduction of the property's value. Client will be responsible for ultimate disposal of any samples secured by UES which are found to be contaminated.

SECTION 8: RISK ALLOCATION

8.1 Client agrees that UES's liability for any damage on account of any breach of contract, error, omission or other professional negligence will be limited to a sum not to exceed $50,000 or UES's fee, whichever is greater. If Client prefers to have higher limits on contractual or professional liability, UES agrees to increase the limits up to a maximum of $1,000,000.00 upon Client's written request at the time of accepting our proposal provided that Client agrees to pay an additional consideration of four percent of the total fee, or $400.00, whichever is greater. The additional charge for the higher liability limits is because of the greater risk assumed and is not strictly a charge for additional professional liability insurance.

SECTION 9: INSURANCE

9.1 UES represents and warrants that it and its agents, staff and consultants employed by it, is and are protected by worker's compensation insurance and that UES has such coverage under public liability and property damage insurance policies which UES deems to be adequate. Certificates for all such policies of insurance shall be provided to Client upon request in writing. Within the limits and conditions of such insurance, UES agrees to indemnify and save Client harmless from and against loss, damage, or liability arising from negligent acts by UES, its agents, staff, and consultants employed by it. UES shall not be responsible for any loss, damage or liability beyond the amounts, limits, and conditions of such insurance or the limits described in Section 8, whichever is less. The Client agrees to defend, indemnify and save UES harmless for loss, damage or liability arising from acts by Client, Client's agent, staff, and other UESs employed by Client.

SECTION 10: DISPUTE RESOLUTION

10.1 All claims, disputes, and other matters in controversy between UES and Client arising out of or in any way related to this Agreement will be submitted to alternative dispute resolution (ADR) such as mediation or arbitration, before and as a condition precedent to other remedies provided by law, including the commencement of litigation.

10.2 If a dispute arises related to the services provided under this Agreement and that dispute requires litigation instead of ADR as provided above, then:

(a) the claim will be brought and tried in judicial jurisdiction of the court of the county where UES's principal place of business is located and Client waives the right to remove the action to any other county or judicial jurisdiction, and

(b) The prevailing party will be entitled to recovery of all reasonable costs incurred, including staff time, court costs, attorneys' fees, and other claim related expenses.

SECTION 11: TERMINATION

11.1 This agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof. Such termination shall not be effective if that substantial failure has been remedied before expiration of the period specified in the written notice. In the event of termination, UES shall be paid for services performed to the termination notice date plus reasonable termination expenses.

11.2 In the event of termination, or suspension for more than three (3) months, prior to completion of all reports contemplated by the Agreement, UES may complete such analyses and records as are necessary to complete its files and may also complete a report on the services performed to the date of notice of termination or suspension. The expense of termination or suspension shall include all direct costs of UES in completing such analyses, records and reports.

SECTION 12: ASSIGNS

12.1 Neither the Client nor UES may delegate, assign, sublet or transfer their duties or interest in this Agreement without the written consent of the other party.

SECTION 13. GOVERNING LAW AND SURVIVAL

13.1 The laws of the State of Florida will govern the validity of these Terms, their interpretation and performance.

13.2 If any of the provisions contained in this Agreement are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions will not be impaired. Limitations of liability and indemnities will survive termination of this Agreement for any cause.

SECTION 14. INTEGRATION CLAUSE

14.1 This Agreement represents and contains the entire and only agreement and understanding among the parties with respect to the subject matter of this Agreement, and supersedes any and all prior and contemporaneous oral and written agreements, understandings, representations, inducements, promises, warranties, and conditions among the parties. No agreement, understanding, representation, inducement, promise, warranty, or condition of any kind with respect to the subject matter of this Agreement shall be relied upon by the parties unless expressly incorporated herein.

14.2 This Agreement may not be amended or modified except by an agreement in writing signed by the party against whom the enforcement of any modification or amendment is sought.