

**AGREEMENT _____ BETWEEN FLORIDA COMMUNITY COLLEGE
AT JACKSONVILLE AND _____**

FOR

ENGINEERING PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into in duplicate this ____ day of _____, 200_, by and between **FLORIDA COMMUNITY COLLEGE AT JACKSONVILLE**, a political subdivision of the State of Florida with its principal address of 501 West State Street, Jacksonville, Florida 32202, hereinafter referred to as **FCCJ**, and _____, a private for profit corporation authorized to do business in the State of Florida with its principal address ____ ____, Jacksonville, FL 32257 (Federal ID # __ _____) hereinafter referred to as the **CONSULTANT**, for miscellaneous _____ services on various projects, each of which is hereinafter referred to as the Project;

WITNESSETH:

WHEREAS. FCCJ prepared a Request for Qualifications (RFQ 200_C-__) for Miscellaneous _____ Services and solicited qualifications from interested firms, and WHEREAS, the CONSULTANT submitted qualifications to FCCJ and was ranked by FCCJ as one of the best and most qualified applicants, and WHEREAS, FCCJ and the CONSULTANT have negotiated mutually satisfactory terms for the execution of such services.

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements hereinafter contained, FCCJ hereby agrees to engage the CONSULTANT for an annual indefinite quantity agreement for miscellaneous _____ services in accordance with FCCJ's RFQ # ____ and Consultants Qualifications submittal incorporated by reference and the following,

SECTION 1

BASIC SERVICES OF THE CONSULTANT

1.1 STATEMENT OF CONSULTANT SERVICES

1.1.1 The Consultant shall attend meeting(s) as requested to define a project's scope of services and to submit for the College's consideration a written proposal. Only upon issuance of a College purchase order as set for the in Section 3 of this Agreement for a specific project, the Consultant shall perform services authorized therein. The purchase order shall include or refer to all applicable provisions of the "Scope of Services".

1.1.2 Pursuant to Florida Statutes Chapter 287.055(2)(g), this indefinite quantity Annual Continuing Contract shall be limited to services provided for projects in which construction costs does not exceed \$1,000,000 or for study activity when the fee for such professional service does not exceed \$50,000.

1.2 PERIOD OF SERVICE

This Agreement shall commence on the date first above and written shall continue and remain in full force with fixed rates for twenty four (24) months or until earlier termination as provided in Section 5.1 hereof. At the option of FCCJ, this Agreement may be renewed for additional periods of two (2) years each, subject to review of performance, mutually agreed to rates, terms, conditions and District Board of Trustees approval of extension.

1.3 COMMENCEMENT OF WORK

1.3.1 The Consultant shall not commence work without a purchase order issued by FCCJ, and thereafter shall commence work on each project only upon receipt of purchase order or change orders(s) provided herein. Work may proceed on various projects on a concurrent or consecutive basis, or both, dependent upon FCCJ's issuance of purchase orders.

1.3.2 The issuance of a Purchase Order shall be a condition precedent to any liability attaching to FCCJ, whether under the terms of this Agreement or otherwise. As part of the

consideration for the execution of this Agreement, the Consultant hereby releases FCCJ from any claim for damages whether in contract, tort or otherwise, in the event that no purchase order is ever issued pursuant to this Agreement.

1.4 GENERAL REQUIREMENTS

The Consultant shall serve as FCCJ's professional representative on the project and shall consult with FCCJ during the performance of its services. The Consultant warrants that it has or will secure at its own expense all personnel, equipment and facilities required to perform all services under this Agreement. The Consultant shall not have any direct or indirect contractual relationship with any officer, employee or member of the District Board of Trustees of FCCJ. All personnel assigned to the work shall be fully qualified and licensed and all equipment and facilities employed shall be adequate to accomplish the work required. The Consultant shall execute the work under the full-time direction of one or more of its senior officers or a responsible representative, mutually agreed to with FCCJ.

1.4.1 All services performed by the Consultant shall be executed in cooperation and coordination with FCCJ, and in the performance of such services that the Consultant shall:

1.4.1.1 Maintain close liaison and cooperation with FCCJ designate staff during performance of the work hereunder to obtain agreement and coordination of the various phases of work contained herein.

1.4.1.2 Attend all meetings and conferences as arranged and required by FCCJ during the progress of the work hereunder to establish criteria for each project, to review FCCJ, Department of Education, and all other State of Florida codes and standards, to secure agreement upon the comprehensive and detailed basis of Consultant's services, and to discuss any other matters relating to the work.

1.4.1.3 Provide FCCJ with written memoranda promptly to confirm and record the understandings and agreements resulting from meetings and conferences in connection with the project.

1.4.1.4 Provide schedules, including starting dates and estimated completion dates, for the salient features of the work and periodic progress reports. These schedules and progress reports shall be in such a format and detail as FCCJ may require.

1.4.1.5 Prepare and continually update a probable construction cost estimate based on the scope of work. Submit an updated estimate with each design submittal.

1.4.1.6 FCCJ reserves the right to select the approach for construction of each project. This includes traditional bid by a general contractor, construction manager at risk, design build, delivery order contracting and/or by in-house forces. The consultant shall coordinate their documents accordingly.

SECTION 2 FCCJ'S RESPONSIBILITIES

FCCJ shall:

- 2.1 Advise the Consultant as to its requirements for the scope of work deadlines and identify the established budget for the project.
- 2.2 Assist the Consultant by placing at its disposal all available information pertinent to the site of the work, which FCCJ may have without warranting its accuracy.
- 2.3 Guarantee access to and make all provisions for the Consultant to enter upon FCCJ properties as required for the Consultant to perform its work under this Agreement.
- 2.4 Review all studies, reports, sketches, estimates, specifications, drawings, proposals and other documents presented by the Consultant and render written decisions pertaining thereto within a reasonable time so as not to delay the work of the Consultant.
- 2.5 Through the Associate Vice President of Facilities Management and Construction, or his designee, designate in writing that person to act as FCCJ's project manager with respect to each project to be performed under this Agreement. Such person shall have authority to transmit instructions, receive information, interpret and define FCCJ's District Board of Trustees policies and decisions with respect to the work covered by each purchase order and this Agreement. FCCJ reserves the right to change said project manager on a given project/purchase order by written memorandum.
- 2.6 Assist the Consultant in securing approval of governmental authorities having jurisdiction over each project, as well as such approvals and consents from such other individuals or bodies as may be necessary for completion of the work.

- 2.7 Direct the Consultant as requested to provide, at FCCJ's expense, any necessary additional services in connection with the work that may be required by FCCJ, provided that any such direction shall be given by FCCJ to the Consultant in writing by purchase order/change order, and shall provide a maximum indebtedness for such services.

SECTION 3 PAYMENT FOR SERVICES OF THE CONSULTANT

- 3.1 The fee to be paid to the Consultant for each project shall be a lump sum negotiated figure or an amount in accordance with the rates and factors set forth in the "Schedule of Fixed Rates per disipline" and "The State University System (SUS) Engineers Fee Schedule" attached hereto as **Exhibit A** and **Exhibit B** and by this reference made part hereof. The purchase order issued by FCCJ to the Consultant for each project shall state a not-to-exceed maximum fee or a lump sum fee for the project, together with appropriate payment terms.
- 3.2 The cost or any pre-approved services provided to the Consultant by Subconsultants shall be reimbursed at invoiced amount without mark-up by the Consultant. Pre-approved travel expenses are at cost without mark-up and mileage and meals are at the State of Florida per diem rates per F.S. 112.061.[5][b]
- 3.3 Invoices for each project shall be submitted at the completion of a phase of work or not more frequently than monthly for services rendered, and shall be in form and shall contain such documentation reasonably required by FCCJ's project manager to determine charges and to enable compensation by FCCJ within forty (40) days after receipt, review and approval of each such acceptable invoice. Each invoice shall include the amount of payment requested, the amount previously paid, maximum not-to-exceed or lump sum fee for that project, the percent completed since the last payment request, the total percent completed to date, and any other information as may be reasonable and necessary to facilitate the required approval of payment by FCCJ's project manager/budget administrator in writing, on the request for the payment. Each invoice shall contain a statement that is made subject to the provisions and penalty of Section 837.06, Florida Statutes.
- 3.4 Each and every payment by FCCJ to the Consultant shall be expressly subject to the submittal of written invoices as provided in Section 3.3.

SECTION 4
ADDITIONAL SERVICES OF THE CONSULTANT

4.1 AUTHORIZED ADDITIONAL SERVICES

If authorized in writing by FCCJ, the Consultant shall furnish or obtain from others additional services which shall be paid for by FCCJ, and that such services are provided for by written amendment to this Agreement/issuance of a College purchase order/change order.

- 4.1.1 Prepare to serve as an expert witness for FCCJ in any trial, hearing or other judicial, quasi-judicial or administrative proceeding at customary, reasonable and usual rates to be established prior to serving as an expert witness.
- 4.1.2 Provide additional services in connection with the project, including services normally furnished by FCCJ and services not otherwise provided for in this Agreement.

SECTION 5
GENERAL CONDITIONS

5.1 TERMINATION AND SUSPENSION

- 5.1.1 This Agreement shall continue and remain in full force and effect, as to all of its terms, conditions, and provisions as set forth herein for the initial term of _____, 200_ through _____, 200_, until and unless FCCJ shall give written notice to the Consultant of its desire to terminate this Agreement, with or without cause or cost on a specified time and date thereafter. FCCJ will provide twenty-four hour notice in the event that funds become unavailable to FCCJ for any reason whatsoever. Consultant shall retain the right to submit a written Notice of Request of Termination no less than one hundred twenty (120) days prior to the anniversary date of this Agreement. In the event of any such termination, the Consultant shall be paid by FCCJ for contracted services actually, timely and faithfully rendered up to, receipt of FCCJ the notice of termination, and thereafter until the date of termination the Consultant shall be paid only for such services as are specifically authorized in writing by FCCJ.
- 5.1.2 This Agreement, or any portion hereof, may be suspended from time to time for various periods of time in the event that any project is delayed, postponed or otherwise adversely affected.

5.2 OWNERSHIP OF DOCUMENTS

If requested by FCCJ, the Consultant shall deliver to FCCJ for approval and acceptance, and before being eligible for final payment of any amounts due on any project, reproducible drawings of the project, CAD files, maps and plans, the originals of specifications, true copies of all computations, survey notes and diaries if applicable, and copies of memoranda and pertinent correspondence pertaining to the work. All such documents shall become the property of FCCJ, with the College retaining the right, with Consultant's concurrence, to use such documents as deemed in the best interest of the College.

5.3 ESTIMATES

Estimates of costs provided by the Consultant are to be made on the basis of its experience and qualifications and represent its best judgment as a professional familiar with the industry. The Consultant is responsible to design within the funds available for the project construction budget unless requested in writing otherwise. In accord with the State of Florida SREF, additive or deductive alternates to the project shall be identified with the approval of FCCJ staff in order to arrive at a base bid that is within the construction budget. In the event the construction bids are higher than the defined project construction budget, the Consultant will work with the College to redesign (at no additional cost to the College) and modify the drawings to re-bid the project to be within the defined budget.

5.4 INDEMNIFICATION AND INSURANCE

5.4.1 In consideration of ten dollars (\$10.00), receipt and sufficiency of which is hereby acknowledged by the Consultant, the Consultant and any of its subconsultants shall indemnify and save harmless and defend FCCJ from all suits or actions of every name and description brought against FCCJ based on personal injury, bodily injury (including death) or property damages (including destruction) received or claims and expenses to the received or sustained by any person or persons arising from or in connection with any negligent act, or omission of the Consultant or its subconsultants, its agents, employees or assigned in providing the professional services called for herein.

5.4.1.1 The Parties hereto acknowledge and agree that Florida Community College at Jacksonville (College) is a political subdivision of the State of Florida. As such, the College's performance under this agreement and any amendments hereto of attachments connected herewith, shall at all times be subject to any and all state laws , state regulations and District Board of Trustee Rules which are applicable to the College's operations, commitments and /or activities in furtherance of any terms specified herein.

5.4.2 Without limiting its liability under the Agreement, the Consultant shall procure and maintain during the life of this Agreement insurance of the types and in the minimum amounts stated below; (once the Consultant has been issued a purchase order for specific projects.)

<u>SCHEDULE</u>	<u>LIMITS</u>
<u>Worker's Compensation</u> Florida Statutory Coverage & Employer's Liability (Including Appropriate Federal Acts)	Statutory/\$100,000
<u>Comprehensive General Liability</u> Premises-Operations Products-Completed Operation P.D. Contractual Liability The District Board of Trustees of Florida Community College at Jacksonville (DBOT) shall be named as an additional Insured on this policy	\$500,000 CSL Minimum
<u>Auto Liability</u> All auto-owned, hired or used	\$500,000 CSL
<u>Professional Liability Insurance</u> Including errors and omissions	\$500,000 minimum

Valuable Papers

All of the above insurance shall be written by an insurer or insurers holding a current certificate of authority pursuant to Chapter 624, Florida Statutes. Prior to commencing any work on the project, certificates of insurance shall be furnished by FCCJ, Purchasing Department evidencing the maintenance of said insurance. The certificates shall list the District Board of Trustees of FCCJ as "additional insured" for professional general liability coverage and provide that no material alteration or cancellation, including expiration and non-renewal, shall be effective until thirty (30) days after receipt of written notice by FCCJ.

5.4.3 Anything to the contrary notwithstanding, the liabilities of the Consultant under this Agreement shall survive and not be terminated, reduced or otherwise limited by any expiration or termination thereof.

5.5 SUCCESSORS AND ASSIGNS

FCCJ and the Consultant each bind the other and their respective successors and assigns in all respects to all of the terms, conditions, covenants and provisions of this Agreement, and any assignment or transfer by the Consultant of its interests in the Agreement without the written consent of FCCJ shall be void. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of FCCJ or Consultant, nor shall it be construed as giving any right or benefit hereunder to anyone other than FCCJ or Consultant.

5.6 NON-DISCRIMINATION PROVISIONS

The Consultant warrants that it has adopted and shall maintain a policy of non-discrimination as defined by Chapter 126, part 4, of the Ordinance Code of the City of Jacksonville and the District Board of Trustees Rule.

5.7 RETENTION OF RECORDS

The Consultant and its subcontractors shall maintain all books, documents papers, accounting records and other evidence pertaining to the work and shall make such materials available at no cost and at all reasonable times during the period of this Agreement and for three (3) years from the date of final payment under this Agreement for inspection and/or audit by FCCJ, its internal auditor and/or State Auditor General's Office.

5.8 CODE COMPLIANCE

The Consultant shall comply with any and all applicable federal, state and local laws, rules, codes and regulations, as the same exist and may be amended from time to time. Such laws, rules and regulations include, but are not limited to, Chapter 119, Florida Statutes, (the Public Records Act) and Section 286.011, Florida Statutes (the Florida Sunshine Law) State Board of Education/State Requirements for Educational Facilities (SREF) and the Florida Building Code where applicable. If any of the obligations of this

Agreement are to be performed by a subcontractor, the provisions of this Section shall be incorporated into and become part of the consultants resultant subcontract(s).

5.9 SETTLEMENT OF CLAIMS

In any case where the Consultant deems that extra compensation is due it for services, materials or damages not clearly covered in this Agreement, or not ordered in writing by FCCJ purchase order as an extra, the Consultant shall notify FCCJ in writing before it begins the work on which it bases the claim. If such notification of a purchase order is not previously given, or the claim is not separately and strictly accounted for, the Consultant hereby agrees to waive the claim for such extra compensation. However, such notice or accounting shall not in any way be construed as proving the validity of the claim.

In the event of a dispute in the interpretation of the provisions of this Agreement, such dispute shall be settled through negotiation between FCCJ's Purchasing/Facilities Management and Construction Department and the Consultant. In the event that agreement is not consummated at this negotiation level, the dispute will then be settled in accordance with established procedures of the State Board of Education. FCCJ shall decide all claims, questions and disputes of any nature which are related to the interpretation of the execution and fulfillment of this Agreement on the part of the Consultant and its decision upon all claims, questions and disputes shall be final and conclusive upon the parties thereto. Nothing in this Agreement shall be construed as denying either party from seeking judicial relief or pursuing any other legal remedy.

5.10 ACCURACY OF WORK

The Consultant shall be responsible for the accuracy of the work, including work by any sub-consultants, and shall promptly make necessary revisions or corrections resulting from errors and omissions on the part of the Consultant or sub-consultant without additional compensation. Acceptance of the work by FCCJ shall not relieve the Consultant of the responsibility for subsequent required corrections of any such errors and the clarification of any ambiguities.

During any phase of work performed by others based on data provided by the Consultant under this Agreement, the Consultant, if requested to do so by FCCJ , shall confer with FCCJ for the purpose of interpreting the information provided and/or to correct any errors

and/or omissions made by it. The Consultant shall prepare any plans or data to correct its errors and/or omissions without added compensation, even though final payment may have been received by it.

The Consultant shall be and shall remain liable, in accordance with applicable law, for all damages to FCCJ and others caused by the Consultant's negligent performance of any of the services furnished under this Agreement.

Further, pursuant to Florida Statutes the Consultant shall not employ the services of sub-consultants to prepare plans, specifications, etc., who may later attempt to bid as contractors or sub-contractors on construction work of the project. The plans, specifications, etc., shall be prepared in such a manner as to promote fair and equitable competition.

5.11 UTILITIES AND PERMITTING AUTHORITIES

Where privately, publicly or cooperatively owned utility companies will require rearrangements in connection with the Consultant's services, and when certain permits will be required for such services, the Consultant shall make the necessary contacts and confer with the Owner(s) regarding the requisite revisions in their facilities, apprising FCCJ of the results of all such contacts. The Consultant shall not make commitments with the utilities or permitting authorities binding upon FCCJ. FCCJ shall conduct all negotiations with the public utilities and authorities. However, the Consultant shall participate in such negotiations at the request of FCCJ.

5.12 PROHIBITION AGAINST CONTINGENT FEES

Pursuant to Section 287.055 Florida Statutes, the Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Consultant, any fee commission, percentage, or gift or any other consideration, contingent upon or resulting from the award or making of this Agreement. For the breach or violation of these provisions, FCCJ shall have the right to terminate this Agreement 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.

5.13 TRUTH IN NEGOTIATION CERTIFICATE

The Consultant understands and agrees that execution of this Agreement by the Consultant shall be deemed to be a simultaneous execution of a truth-in-negotiation certificate under this provision to the same extent as if such certificate has been executed apart from this Agreement, such being required by Section 287.055.(5)(a) Florida Statutes. Pursuant to such certificate, the Consultant hereby states that the wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting. The original contract price and any additions thereto shall be adjusted to exclude any significant sums which FCCJ determines the contract price was increased due to inaccurate or incomplete or non current wage rates and other factual unit costs. All such provided that any and all such adjustments shall be made within one (1) year following the completion date of this Agreement.

5.14 INDEPENDENT CONTRACTOR

In the performance of this Agreement, the Consultant shall be acting in the capacity of an independent contractor, and not as an agent, employee, partner, joint venturer or associate of FCCJ. The Consultant shall be solely responsible for the means, methods, techniques, sequences and procedures utilized in the full performance of this Agreement.

5.15 CONSULTANT DEFINED

As used herein, the term "Consultant" shall include, but not be limited to, its officers, employees, agents, sub-contractors and other persons, firms, partnerships, corporations or other entities working for or on behalf of it and shall include the work "Engineer", "Architect", "Professional Land Surveyor", "Planner", or other term as appropriate.

5.16 CONSTRUCTION

The College reserves the right to select a construction delivery that best benefits the College and the particular project. The following construction approaches are included: General Construction with competitive bid, Construction Manager, Design Build and/or Job/Delivery Order Construction (with a existing construction team under contract). The Consultant is responsible to organize its construction documents accordingly.

5.17 ORDER OF PRECEDENCE

In the event of any conflict between the provisions of this Agreement, those of the Exhibits attached hereto, and those of any Purchase Order pursuant hereto, the provisions of this Agreement and exhibits shall govern over the Purchase Order.

5.18 AMENDMENTS

This Agreement may be amended only by written instrument specifically referring to this Agreement and executed by both parties with the same formalities as this Agreement.

5.19 This agreement shall be interpreted by the laws of the State of Florida. Any resultant arbitration or litigation shall be brought in the courts of Duval County Florida.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement the day and year first above written.

Contractor: _____

**FLORIDA COMMUNITY COLLEGE AT
JACKSONVILLE
FCCJ**

_____/____/____
Name (Printed) Date

_____/____/____
Laurence I. Snell Date

Title: _____

Associate Vice President of Purchasing
and Business Services

Date:

Exhibit A

Schedule of Rates

Firm Name: _____

Provide cost proposal for professional engineering services to be firm for the initial term of this agreement as follows:

Services	Billing Rates
Principle Engineer	\$ _____
Senior Engineer	\$ _____
Project Engineer	\$ _____
Engineer II/Design Specialist	\$ _____
Engineer I/ Designer II	\$ _____
Graduate Engineer/Designer I/Administrative Assistant	\$ _____
Technician II/ Secretary II	\$ _____
Technician I/Clerk I/ Receptionist	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
Sub-consultant Mark-up	\$ <u>0.00</u>



STATE UNIVERSITY SYSTEM
BOARD OF REGENTS
Architects Fee Schedule of Project Complexity
Based on Type of Project

Group A CONSIDERABLY MORE THAN AVERAGE COMPLEXITY
laboratories, hospitals, performing arts centers, recording studios and media production studios
 $\% = 18.7261 - (1.8323 \times \log X)$ X = const. budget

Group B MORE THAN AVERAGE COMPLEXITY
repetitive teaching laboratories, basic health care facilities, theaters, student unions, special purpose classrooms, libraries, auditoriums, museums, food service facilities, arenas and natatoriums
 $\% = 16.4118 - (1.5303 \times \log X)$ X = const. budget

Group C REPAIRS AND RENOVATIONS
miscellaneous repairs and renovations, alterations to office space or dormitory space and fire code and corrective work
 $\% = 14.2914 - (1.0702 \times \log X)$ X = const. budget

Group D AVERAGE COMPLEXITY
general office space, repetitive classroom space, gymnasiums, factory buildings, student housing, specialized parking structures and stadiums
 $\% = 14.1013 - (1.2288 \times \log X)$ X = const. budget

Group E LESS THAN AVERAGE COMPLEXITY
service garages, office buildings with undefined interior space (open for later partitioning) and parking structures
 $\% = 11.7968 - (.9281 \times \log X)$ X = const. budget

Group F CONSIDERABLY LESS THAN AVERAGE COMPLEXITY
storage facilities
 $\% = 9.5107 - (.6301 \times \log X)$ X = const. budget

2/22/96

