

SUMTER COUNTY
CONTINUING ENGINEERING AND
HYDROGEOLOGICAL SERVICES CONTRACT

This Agreement is made and entered into this 27th day of September, 2011, by and between Sumter County, Florida, hereinafter referred to as the "County", and Tetra Tech, Inc., an engineering firm, hereinafter referred to as "Consultant".

PREMISES

WHEREAS, the County desires to have a consultant to assist the County with projects regarding, but not limited to, environmental engineering, hydrogeology, wetlands, ecology, solid waste, structural engineering and surveying.

WHEREAS, the County desires to employ the Consultant in connection thereof upon the terms and conditions hereinafter set forth, and the Consultant is desirous of obtaining such employment and has represented that it is qualified and competent to perform such services upon said terms and conditions.

NOW, THEREFORE, in consideration of the mutual covenants and agreement hereinafter contained, it is agreed by and between the parties hereto as follows:

1. **SCOPE OF PROFESSIONAL SERVICES:** The Consultant shall diligently and timely perform professional hydrogeologic, environmental engineering, wetlands ecology, and civil engineering services as requested by the County. The Consultant shall provide the County with a Scope of Services and cost for the professional services requested by the County for approval prior to commencing work. The general scope of services shall include but not be limited to: review of any and all permit applications made to the County relative to hydrogeology, resource mining, environmental engineering, biology, ecology, civil engineering and structural analyses, and creation and/or review of land development regulations.

The Consultant shall also provide the County with environmental engineering and hydrogeologic services for County related projects on an as-need basis. Anticipated projects include, but are not limited to, water/wastewater utilities, groundwater and surface water resources, solid waste, wetlands ecology/jurisdictional analyses, surveying, stormwater management, environmental permitting, etc., and other projects as required by the County.

Consultant shall attend Development Review Committee, Zoning and Adjustment Board, and County Commission meetings as required by the County for permit application review, normal County business, or special meetings as required in order to provide the services listed above.

Consultant shall also provide, as needed, expert witness services for the disciplines listed above.

As work is requested by the County, Consultant shall prepare a task proposal with estimated budget and time schedule to complete that work. The proposal for each task will be submitted for approval prior to commencing the work.

2. PAYMENT:

A. The County agrees to pay the consultant for the services described in the various Scopes of Services, and the consultant agrees to accept as payment a fee for each task as described in Exhibit "1", Hourly Rate Schedule. Authorization for each task and the notice to proceed must be provided by the County prior to the Consultant performing the work.

B. The Consultant shall be reimbursed for reasonable out-of-pocket expenses upon submission of adequate documentation.

C. If upon written instruction by the County, the Consultant shall perform additional work, then in such event, the Consultant shall be entitled to additional compensation. The additional compensation shall be computed by the Consultant on a revised fee quotation proposal and submitted to the County for written approval. The fee shall be agreed upon before commencement of the above additional work and shall be incorporated by written amendment to this Contract. If such additional work is required as a result of error, omission, or negligence by the Consultant, the Consultant shall not be entitled to additional compensation.

D. In the event that additional outside services are required due to unforeseen conditions, the consultant shall:

1) Obtain a written proposal from the firm designated to render the required services, and submit such proposal to the County for written approval.

2) If the services are such that registration is required to perform them, the Consultant shall select a firm that is registered in the State of Florida.

3) If the proposal is approved in writing by the County, the Consultant shall enter into a contract with the firm for the furnishing of such services in accordance with the proposal.

4) The Consultant shall submit a minimum of two (2) copies of reports for all such required services to the County, unless otherwise directed by the County.

5) Upon approval by the County of such reports, the County shall reimburse the Consultant for the cost of such services, which cost shall not exceed the amount of the proposal.

6) Services rendered by the Consultant in connection with the coordination of these additional services shall be considered within the scope of the basic contract, and no additional fee shall be due the Consultant.

E. At the end of each month, the Consultant shall submit an invoice for services rendered during that month for each task as outlined in the various Scopes of Services. At no time shall the invoices exceed the aggregate total of the lump sums negotiated for each task as outlined in the Scope of Services. All payments by the Board hereunder shall be due and payable in Bushnell, Sumter County, Florida, as per the terms of the Local Government Prompt Payment Act as codified in Chap. 218, Fla. Stat.

3. SCHEDULE

Project schedules will be developed under each task proposal.

4. COUNTY'S RESPONSIBILITY: The County shall:

A. Furnish the Consultant with all existing data, plans, profiles, and other information available and useful in connection with projects to be completed by the Consultant. Such information shall be returned to the County upon the completion of the services to be performed by the Consultant, unless such data, plans, profiles, and other data are necessary for daily operations; then such forms of information shall be promptly photocopied by the consultant and returned to the County.

5. **COUNTY'S DESIGNATED REPRESENTATIVE:** It is understood and agreed that the County designates the Director of Planning and Development or his/her designated representative to represent the County in all technical matters pertaining to and arising from the work and performance of this contract whose responsibility shall include:

A. Examination of all reports, sketches, drawings, cost estimates, proposals and other documents presented by the Consultant, and rendering in writing decisions pertaining thereto within a reasonable time so as not to materially delay the work of the Consultant.

B. Transmission of instructions, receipt of information, interpretation, and definition of County policies and decisions with respect to design, materials, and other matters pertinent to the work covered by this Contract.

C. Give prompt written notice to the consultant whenever the County observes or otherwise becomes aware of any defects or changes necessary in the project.

6. **CHANGES IN SCOPE:** The County may, from time to time, request changes in the scope of the services of the Consultant to be performed hereunder. Such changes, including any increase or decrease in the amount of the Consultant's compensation, shall not be binding unless

mutually agreed upon by and between the County and the Consultant, and incorporated in written amendments to this Contract.

7. **TERMINATION OF THE CONTRACT:** The County shall have the right at any time upon thirty (30) days written notice to the Consultant to terminate the services of the Consultant hereunder without cause, and, in that event, the Consultant shall cease work and shall deliver to the County all documents, including reports, surveys, plans, tracings, specifications, and all other data and material prepared or obtained by the Consultant in connection with its services hereunder. The County shall upon delivery of the aforesaid documents, pay to the Consultant and the Consultant shall accept as full payment for its services hereunder, a sum of money equal to:

A. The fee for each authorized and completed activity as described in each task authorization;

B. The percentage of the work done in any authorized but uncompleted activity shown in the task authorizations;

C. Less all previous payments.

8. **NON-EXCLUSIVE CONTRACT:** The County reserves the right at its sole discretion to enter into contracts with other Consultants to provide similar services as those identified in the various Scopes of Services.

9. **TERM OF THE CONTRACT:** Unless terminated sooner pursuant to the provisions of the, "TERMINATION OF CONTRACT" clause contained in paragraph seven (7) herein, and subject to the availability of appropriated funds, this Contract shall take effect immediately upon its execution by the parties, and is to continue in force for a period of three (3) years, and shall be renewable. Upon mutual consent of the County and the Consultant, this Contract may be renewed at the end of the contract period.

10. **LIABILITY OF THE CONSULTANT:** The Consultant hereby does hold the County harmless of any and all claims, actions, or suits to the extent caused by the Consultant in the performance of professional services hereunder in conformance with Section 725.06, Florida Statutes, the specific consideration given for the promises of the consultant set forth in this paragraph is one dollar (\$1.00) in hand paid by the County to the Consultant, receipt whereof is hereby acknowledged and the adequacy of which the Consultant accepts as completely fulfilling the obligations of the County.

11. **INSURANCE:** See Exhibit "A" attached hereto and incorporated herein.

12. **NEGOTIATION DATA:** The Consultant hereby certifies, covenants, and warrants that wage rates and other factual unit costs supporting the compensation provided in Paragraph 2 are accurate, complete, and current as of the date of negotiation. All such Contract adjustments shall

be made within one (1) year following the date of final billing or acceptance of the work by the County in writing, whichever is later. Records of costs incurred under the terms of this Contract shall be maintained by the Consultant and made available to the County during the period of this Contract, and for one (1) year after the final payment is made. Copies of these documents and records shall be furnished to the County without cost.

13. OWNERSHIP OF DOCUMENTS: It is understood and agreed that all documents, including detailed reports, plans, original tracings, specifications, and all other data, prepared or obtained by the consultant in connection with its services hereunder shall be delivered to, and shall become the property of the County prior to the final payment to the Consultant. The Consultant shall not be liable for any use by the County of said documents or data if modified in any manner without written approval of the Consultant. The County shall not use the Consultant's drawings on any project other than the project described in the Scope of the Work and Instructions to Respondents unless the County notifies the Consultant of its intended use, provides insurance protection for the Consultant for all claims which might arise out of the County's use of the documents, and obtains written consent of the use by the Consultant.

14. WORK COMMENCEMENT/PROGRESS/DELAYS:

A. The services to be rendered by the Consultant shall commence upon execution of this Contract, and upon written notice from the County Administrator or his/her designee.

B. The Consultant agrees to abide by the schedule for performance of the contracted services. The County will be entitled at all times to be advised in writing at its request as to the status of the work being done by the Consultant, and of the details thereof.

C. In the event there are delays on the part of the County or regulatory agencies as to the approval of any of the plans, permits, and drafts of special provisions submitted by the Consultant which delay the project schedule completion date, upon written submittal to the County of an explanation by Consultant and approval of the explanation by the County, said approval not to be unreasonably withheld, the County shall grant to the Consultant in writing an extension of the Contract time equal to the aforementioned delays. The County shall be solely responsible for determination of whether any extension of the Contract time should be awarded to the Consultant.

D. The Consultant shall maintain an adequate and competent staff or professionals and may associate with other qualified firms for the purpose of rendering services hereunder, without cost to the County, and upon approval by the County. The Consultant, however, shall not sublet, assign, or transfer any work under this Contract without the written consent of the County.

15. STANDARDS OF CONDUCT:

A. The Consultant warrants that he 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 Contract, and that he 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, gift, or any other consideration, contingent upon or resulting from the award of this contract.

B. The Consultant covenants that it or any of its employees presently has no interest and shall not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any manner or degree with performance of services hereunder.

C. Standards of Conduct-Conflict of Interest-The Consultant agrees that it and its employees shall be bound by the Standards of Conduct provided in Section 112.313, Florida Statutes, as it relates to work performed under this Contract, which standards will by reference be made a part of this contract as though set forth in full. The Consultant agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

D. The County reserves the right to cancel and terminate this Contract, without penalty, in the event that the Consultant or any employee, servant, or agent of the Consultant is indicted or has any direct information issued against him for any crime arising out of or in conjunction with any work being performed by the Consultant for or on behalf of the County. It is understood and agreed that in the event of such termination, that the Consultant shall be compensated for services rendered under this Contract up to the time of termination in accordance with Paragraph 9 hereof. The County also reserves the right to terminate and cancel this contract in the event that the Consultant shall be placed in either voluntary or involuntary bankruptcy or an assignment be made for the benefit of creditors.

16. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS: The Consultant shall comply with all Federal, State, and Local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this Contract.

17. ASSIGNABILITY: The Consultant shall not assign any interest in this contract, and shall not transfer any interest in same, whether by assignment or novation, without the prior written approval of the County, provided that claims for the money due or to become due the Consultant from the County under this Contract may be assigned to a bank, trust company, or other financial institution, or to a trustee in bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the County.

18. INDEPENDENT CONTRACTOR: It is hereby mutually agreed that the Consultant is and shall remain an independent contractor and not an employee of the County.

19. CONTROLLING LAW: All questions, issues or disputes arising out of or under this Contract, shall be governed by the laws of the State of Florida and State jurisdiction is hereby agreed by Contractor to be only in Sumter County, Florida, and Federal jurisdiction is hereby agreed by Contractor to be only in the Middle District of Florida and all Federal litigation shall be filed and litigated in Tampa, Hillsborough County, Florida. In the event suit is commenced to enforce this Contract, costs of said suit including reasonable attorneys fees in all proceedings, trials, investigations, appearances, appeals and in any bankruptcy proceeding or administrative proceeding shall be paid to the prevailing party by the other party. In the event any litigation is commenced by either party to enforce this Contract, the action will be filed and litigated, if necessary, in a Court of competent jurisdiction located only in Sumter County, Florida. Consultant waives any and all rights to have this action brought in any place other than Sumter County, Florida, under applicable venue laws. Contractor hereby agrees the jurisdiction and venue of all disputes arising out of this Contract lie in no Court other than those stated above.

20. ENTIRE AGREEMENT: This Contract constitutes the entire agreement between the parties with respect to the subject matters. All prior agreements, representations, statements, negotiations, and undertakings are hereby superseded. Any alterations or variations of the terms of this Contract shall not be valid unless made in writing and signed by the parties. If any term or provision of this Contract shall be found by a court of competent jurisdiction to be illegal or unenforceable, then, notwithstanding, the remainder of the Contract shall remain in full force and effect.

21. ATTORNEY'S FEES: In the event of default by either party hereto, the defaulting party shall be liable for all costs and expenses, including a reasonable attorney's fee, incurred by the other party and enforcing its rights hereunder, whether litigation be instituted or not, and at the trial court and appellate court level.

IN WITNESS WHEREOF, the parties have hereto caused the execution of these documents, the year and date first above written.

SUMTER COUNTY, FLORIDA

Attest: _____
Sumter County Clerk

By: _____
County Chairman

APPROVED AS TO FORM AND CORRECTNESS:

By: _____
County Attorney

TETRA TECH, INC.

By: _____
Vice President

WITNESS

Print Name _____

WITNESS

Print Name _____

Date

Exhibit "A"
INSURANCE REQUIREMENTS

The Contractor shall maintain, on a primary basis and at its sole expense, at all times during the life of this contract, or the performance of work hereunder, the following insurance coverage's, limits, and endorsements described herein. The requirements contained herein, as well as the County's review or acknowledgement, is not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Contractor under this contract.

Financial Rating of Insurance Companies All insurance companies must have financial rating of A- or higher by A.M. Best.

Commercial General Liability The Contractor shall maintain Commercial General Liability at a limit of liability not less than **\$1,000,000** Each Occurrence and **\$2,000,000** Annual Aggregate. The coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Independent Contractors, Broad Form Property Damage, X-C-U Coverage, Contractual Liability or Cross Liability. The self-insured retention or deductible shall not exceed \$25,000.

Business Automobile Liability The Contractor shall maintain Business Automobile Liability at a limit of liability not less than **\$1,000,000** Each Occurrence. Coverage shall include liability for Owned, Non-Owned & Hired automobiles. In the event the Contractor does not own automobiles, the Contractor shall maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Worker's Compensation Insurance & Employers Liability The Contractor shall maintain its own Worker's Compensation Insurance & Employers Liability in accordance with Florida Statute Chapter 440.

Professional or E & O Liability) The Contractor shall maintain a Professional Liability or E & O policy at a limit of liability no less than \$2,000,000. The Contractor shall endorse the County as an "Additional Insured" on the Professional and/or E & O Liability.

Additional Insured The Contractor shall endorse the County as an Additional Insured on the Commercial General Liability with a CG 2010 Additional Insured – Owners, Lessees, or Contractors, or CG2026 Additional Insured – Owners, Lessees, or Contractors – Scheduled Person or Organization endorsement, or similar endorsement providing equal or broader Additional Insured coverage.

Deductibles, Coinsurance Penalties, & Self-Insured Retention The Contractor shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, coinsurance penalty, self-insured retention, or coverage exclusion or limitation. For deductible amounts that exceed the amounts stated herein that are acceptable to

the County, the Contractor shall, when requested by the County, maintain a Commercial Surety Bond in an amount equal to said deductible amount.

Waiver of Subrogation The Contractor shall provide a Waiver of Subrogation in favor of the County, Contractor, subcontractor, architects, or engineers for each required policy providing coverage during the life of this Contract. When required by the insurer, or should a policy condition not permit the Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then the Contractor shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or an equivalent endorsement. This Waiver of Subrogation requirement shall not apply to any policy which includes a condition specifically prohibiting such an endorsement, or voids coverage should the Contractor enter into such an agreement on a pre-loss basis.

Right to Revise or Reject The County reserves the right, but not the obligation, to review and revise any insurance requirement, not limited to limits, coverage's and endorsements based on insurance market conditions affecting the availability or affordability of coverage; or changes in the scope of work / specifications affecting the applicability of coverage. Additionally, the County reserves the right, but not the obligation, to review and reject any insurance policies failing to meet the criteria stated herein, or any insurer(s) providing coverage due to its poor financial condition or failure to operate legally. In such events, the County shall provide the Contractor written notice of such revision or rejections.

No Representation of Coverage Adequacy The coverage's, limits or endorsements required herein protect the primary interests of the County, and these coverage's, limits or endorsements shall in no way be required to be relied upon when assessing the extent or determining appropriate types and limits of coverage to protect the Contractor against any loss exposures, whether as a result of the Project or otherwise.

Certificate(s) of Insurance The Contractor shall provide the County with Certificate(s) of Insurance clearly evidencing that all coverage's, limits and endorsements required herein are maintained and in full force and effect. A minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage shall be identified on each Certificate of Insurance. In the event the County is notified that a required insurance coverage will cancel or expire during the period of this Contract, the Contractor agrees to furnish the County prior to the expiration of such insurance, a new Certificate of Insurance evidencing replacement coverage. When notified by the County, the Contractor agrees not to continue work pursuant to this Contract, unless all required insurance remains in effect.

The County shall have the right, but not the obligation, of prohibiting the Contractor from entering the Project site until a new Certificate of Insurance is provided to the County evidencing the replacement coverage. The Contractor agrees the County reserves the right to withhold payment to the Contractor until evidence of reinstated or replacement coverage is provided to the County. If the Contractor fails to maintain the insurance as set forth herein, the Contractor agrees the County shall have the right, but not the obligation, to purchase replacement insurance, which the Contractor agrees to reimburse any premiums or expenses incurred by the County.

The Contractor agrees the Certificate(s) of Insurance shall:

1. Clearly indicate the County has been endorsed on the Commercial General Liability with a CG 2010 Additional Insured – Owners, Lessees, or Contractors, or CG 2026 Additional Insured – Owners, Lessees, or Contractors – Scheduled Person or Organization endorsement, or similar endorsement providing equal or greater Additional Insured coverage.
2. Clearly indicate the County is endorsed as an Additional Insured, or Loss Payee, on the Builder's Risk, and when applicable, Additional Insured on the Commercial Umbrella/Excess Liability as required herein.
3. Clearly identify each policy's limits, flat & percentage deductibles, sub limits, or self-insured retentions, which exceed the amounts or percentages set forth herein.
4. Clearly indicate a minimum thirty (30) day endeavor to notify requirement in the event of cancellation or non-renewal of coverage.
5. Forward original to and clearly indicate Certificate Holder and Additional Insured as follows:

Sumter County Board of County Commissioners
Attention: Financial Services
7375 Powell Rd, Suite 206
Wildwood, FL 34785