



**Procurement Department
1577 Dam Site Road
Conroe, Texas 77304**

REQUEST FOR PROPOSAL

RFP #23-0036-A

Professional Public Communications Consulting Services for the Woodlands Division

**Issue Date: May 19, 2023
Response Due Date and Time (CDT):
June 16, 2023 @ 11:00 a.m.
Location for Delivery: as stated above**

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INTRODUCTION

The San Jacinto River Authority seeks to enter into an agreement with a qualified individual, firm or corporation (Respondent) with substantial and relevant experience and expertise to provide Professional Public Communications Consulting Services for the Woodlands Division.

The successful Respondent must meet all requirements of this RFP, maintain proper licensing, and comply with all federal, state, and local laws and mandates relative to the services specified in this RFP.

DEFINITIONS

The following definitions shall be used to identify terms throughout this solicitation:

A. AGREEMENT/CONTRACT

A mutually binding legal document obligating the Consultant to furnish the services specified within this solicitation and obligating SJRA to pay for the services as specified. This may be an authorized purchase order.

B. BOARD OF DIRECTORS

The governing Board of the San Jacinto River Authority, given the authority to exercise such powers and jurisdiction of all Authority business as conferred by the State Constitution and Laws.

C. CONSULTANT

The successful Respondent of this request. A person or business enterprise providing services to SJRA as fulfillment of obligations arising from an agreement pursuant to this request; the successful Respondent of this request.

D. E-MARKETPLACE SYSTEM

SJRA's hosted software solution offering automatic notifications of posted Solicitations, questions and answers, and addendum. The System also allows for Respondent's to upload required documents electronically.

E. PIGGYBACK CONTRACT

A contract or agreement that has been competitively solicited in accordance with State of Texas statutes, rules, policies and procedures and has been extended for the use of state and local agencies that have entered (or will) into an Interlocal Agreement with SJRA.

F. PURCHASE ORDER

A purchase order records the financial obligation of SJRA to pay for services properly received; therefore, a purchase order is also required for all contracts with an expenditure of funds entered into by the General Manager or Board of Directors.

G. RESPONSE/PROPOSAL

A complete, properly signed and submitted response to this solicitation.

H. RESPONDENT

The Individual or Firm responding to this solicitation consider themselves qualified to provide the services specified herein, and are interested in making an offer to provide the services to SJRA.

I. SAN JACINTO RIVER AUTHORITY (SJRA)

A conservation and reclamation district of the State of Texas with general and administration offices located at 1577 Dam Site Road, Conroe, Texas 77304; same as SJRA; same as Authority.

J. SOLICITATION

This Request for Proposal document issued by SJRA contains terms, conditions and specifications for the services to be procured.

NOTICE TO RESPONDENTS

A. NOTICE

All proposals are due on or before **11:00 a.m. on June 16, 2023**. **Solicitations are posted and available to download from**

[Brazos Valley e-Marketplace System Current Solicitations](#)

Respondents may receive notice of proposals from SJRA from a variety of channels. Approved methods of dissemination include: the Brazos Valley e-Marketplace, the San Jacinto River Authority website or the SJRA Purchasing Department. The receipt of solicitations through any other means may result in the receipt of incomplete solicitation documents or addenda which could ultimately render your proposal non-compliant. SJRA accepts no responsibility for the receipt or notification of solicitations through any other source.

B. RECEIPT OF PROPOSALS

1. Electronic Proposals. Electronic proposals shall be submitted through the Brazos Valley e-Marketplace site at: [Brazos Valley e-Marketplace Login](#). All interested Respondents are required to register as a “supplier” at the above web address and clicking on “Supplier Registration”. Registration provides automatic access to the solicitation and its documents (specifications, attachments, exhibits), and for any changes to the solicitation including change(s) to the submission time and date.

Electronic proposals must be received prior to the time and date specified in the Brazos Valley e-Marketplace System. The mere fact that the proposal was dispatched will not be considered; the Respondent must ensure that the proposal was properly uploaded in the System. The time proposals are received shall be determined by the electronic clock in the e-Marketplace System.

2. Hard Copy Proposals. Authority prefers electronic submissions, however, sealed proposals submitted to SJRA by hard copy (non-electronic) will also be accepted on or before the time and date designated above and at addresses listed below.

If the Respondent chooses to submit a hard copy, the submittal must consist of one (1) unbound original Proposal and one (1) electronic PDF copy on a USB flash drive.

The hard copy submittal shall be enclosed in an opaque sealed envelope, marked with the project title and name, and the address of the Respondent. If the Proposal is sent through

the mail or other delivery system the sealed envelope shall be enclosed in a separate envelope with the notation "PROPOSAL ENCLOSED" on the face of it.

Hard copy sealed Proposals shall be addressed to and hand-delivered or shipped to:

San Jacinto River Authority – Purchasing Department
1577 Dam Site Road
Conroe, TX 77304

Proposals must be received by SJRA’s Purchasing Department on or before the time and date specified. The mere fact that the Proposal was dispatched will not be considered; the Respondent must ensure that the Proposal is actually delivered. The time hard copy Proposals are received shall be determined by the time clock stamp in SJRA’s Administrative Offices located on the 3rd floor. Proposals received after the specified time of the opening will be returned unopened.

- 3. Discrepancies.** Should the Respondent submit an electronic Proposal and a hard copy delivered to SJRA, and if discrepancies are discovered between the two, the electronic Proposal submitted via e-Marketplace will prevail.
- 4. Public Acknowledgement.** SJRA shall receive, publicly open, and read aloud the names of the Respondents submitting sealed Proposals (hard copy and electronic) at 1577 Dam Site Road, Conroe, Texas 77304. Information contained in the Proposals will not be disclosed until after the award of the Contract.

C. QUESTIONS AND INQUIRIES

Questions and inquiries about this Solicitation shall be submitted in writing electronically to the point of contact in SJRA’s e-Marketplace System.

The deadline for written questions is **Thursday, June 1, 2023 @ 11:00 A.M. CST**. This deadline has been established in order to provide adequate time for SJRA staff to prepare responses to questions from Respondents to the best of their ability in advance of the due date and time.

Respondents shall not attempt to contact SJRA Board members, SJRA staff or Management directly about this RFQ from the date of release until award of the Contract. SJRA intends to respond to all appropriate questions or concerns; however, SJRA reserves the right to decline to respond to any question or concern. All material modifications, clarifications or interpretations will be incorporated into an addendum which will be publicly posted on the e-Marketplace System. All addenda issued prior to the due date and time for responses are incorporated into the RFQ and must be acknowledged in the Proposal response. Only written information provided shall be binding. Oral or other interpretations shall not be binding and are held without legal effect.

D. ANTICIPATED SCHEDULE OF IMPORTANT DATES

SJRA will generally comply with the following schedule for the selection process, subject to changes necessary to ensure fairness and to accommodate unanticipated events:

Release RFP	May 19, 2023
Advertisement Dates	N/A

Non-Mandatory Pre-Proposal Conference	May 30, 2023 @ 10:00 am CT
Deadline for Questions and Inquiries	June 1, 2023 @ 11:00 am CT
Addendum Posting	June 5, 2023
RFP Due Date	June 16, 2023 @ 11:00 am CT
Earliest Award by SJRA	July

E. PRE-PROPOSAL CONFERENCE

A virtual pre-proposal conference will be held via Microsoft Teams on Tuesday, May 30, 2023 at 10:00 AM. Respondents interested in participating must submit a request for information to participate.

STANDARD TERMS AND CONDITIONS

1. ACCEPTANCE

Upon acceptance and approval by the Board of Directors, or their designee, this Proposal affects a working agreement between SJRA and the successful Consultant. An official SJRA Purchase Order is required prior to the delivery of any services provided to SJRA.

2. ABSENCE OF PURCHASE ORDER OR AGREEMENT

SJRA is not responsible for delivery of any services, commodities or equipment without an official SJRA Purchase Order.

3. ADVERTISING AND PUBLICITY

Consultant shall not advertise or otherwise publicize, without SJRA’s prior written consent, the fact that SJRA has entered into the Agreement, except to the extent required by applicable law.

4. ADDENDA

If it becomes necessary to revise any part of this proposal, prior to the due date and time, a written addendum will be provided to all Respondents via the e-Marketplace System. SJRA is not bound by any oral representations, clarifications, or changes made in the written specification by SJRA’s employees, unless such clarification of change is provided to Respondents in written addendum form from the Purchasing Department.

Addenda will be transmitted by electronic means to all registered vendors in SJRA’s E-Marketplace system that are known to have downloaded a copy of the proposal documents and specifications from SJRA’s E-Marketplace system. However, it shall be the sole responsibility of the Respondent to verify issuance of any addenda and to check all avenues of document availability prior to the opening date and time. Respondent shall acknowledge receipt of each addendum with signature and date and return with completed Proposal.

5. AMENDMENTS

Following the Contract award, *additional* products or services of the same general category that could have been encompassed in the award of this contract, and that are not already on the contract, may be added. A formal written request may be sent to successful Consultant

to provide a proposal on the *additional* products and/or services and shall submit proposals to SJRA as instructed. All prices are subject to negotiation. SJRA may accept or reject any or all pricing proposals, and may issue a separate RFP for the products after rejecting some or all of the proposals. The commodities and services covered under this provision shall conform to the scope of work, specifications, and requirements as outlined in the request. Contract changes shall be made in accordance with Texas Water Code, Chapter 49.

6. **BUSINESS PRACTICES**

Minority business enterprises and/or historically underutilized businesses will be afforded full opportunity to submit Proposals in response to this invitation and will not be discriminated against on the basis of race, color, creed, gender, age, religion, national origin, mental or physical disability, veteran's status or political affiliation in consideration for an award.

7. **CERTIFICATION**

This solicitation includes a certification page. Respondent must:

1. Furnish complete name, mailing address, telephone number and email of the individual duly authorized to execute contractual documents on behalf of the Respondent.
2. Furnish the name of individual(s), along with respective telephone numbers and email addresses, who will be responsible for answering all questions.
3. Certify that they have not conspired with any other potential Respondents in any manner to attempt to control competitive pricing.
4. Certify that they are duly qualified, capable and otherwise bondable business entity not in receivership or contemplating same and has not filed bankruptcy.

Any attempt to intentionally or unintentionally conceal or obfuscate a conflict of interest may automatically result in the disqualification of the Respondent's offer.

8. **CODES, PERMITS, LICENSES**

Consultant shall comply with all federal, state and local standards, codes and ordinances, as well as other authorities that have jurisdiction pertaining to equipment and materials used and their application. None of the terms or provisions of the specification shall be construed as waiving any rules, regulations or requirements of these authorities. Consultant shall be responsible for obtaining all necessary permits, certificates and/or licenses to fulfill contractual obligations to SJRA.

9. **COLLUSION**

Advanced disclosures of any information to any particular Respondent which gives that particular Respondent any advantage over any other interested Respondent in advance of the opening of proposals, whether in response to advertising or an informal solicitation, made or permitted by a member of the governing body or an employee or representative thereof, will cause to void all responses to that particular proposal solicitation or request.

10. **COMMUNICATION**

To insure the proper and fair evaluation of this proposal, SJRA prohibits ex parte communication (e.g., unsolicited) initiated by the Respondent to SJRA Official or Employee evaluating or considering the Responses prior to the time an award has been made. Communication between Respondents and SJRA will be initiated by the appropriate SJRA Official or Employee in order to obtain information or clarification needed to develop a proper and accurate evaluation of the proposal. Ex parte communication may be grounds for

disqualifying the offending Respondent from consideration or award of the proposal then in evaluation, and/or any future solicitation.

Unless otherwise specified, all requests for clarification or questions regarding a solicitation must be directed to the point of contact listed in the Brazos Valley e-Marketplace.

11. DISCLOSURE OF CONTENTS

At the due date and time there will be no disclosure of contents of any Proposal to competing Respondents, and all Proposals will be kept confidential during the negotiation process. Except for trade secrets and confidential information which the Respondent identifies as proprietary, all Proposals will be open for public inspection after the contract award.

12. DISCLOSURE OF CONFLICT OF INTEREST

Effective January 1, 2006, Chapter 176 of the Texas Local Government Code (House Bill 914) requires that any vendor or person considering doing business with a local government entity disclose the vendor or person's affiliation or business relationship that might cause a conflict of interest with a local government entity. The Conflict of Interest Questionnaire form is available from the Texas Ethics Commission at www.ethics.state.tx.us. Any completed Conflict of Interest Questionnaires shall be submitted to SJRA.

13. DISCLOSURE OF INTERESTED PARTIES

Contracting hereunder may require compliance with §2252.908 Texas Government Code/Disclosure of Interested Parties for contracts that (1) require an action or vote by the Board of Directors before the contract may be signed; or (2) has a value of at least \$1 million. The law provides that a governmental entity may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity at the time the business entity submits the signed contract to the governmental entity or state agency.

The process as implemented by the Texas Ethics Commission ("TEC") is as follows:

1. The disclosure of interested parties must be performed using the [Texas Ethics Commission's electronic filing application](#) listing each interested party of which the business entity is aware on Form 1295, obtaining a certification of filing number for this form from the TEC, and printing a copy of it to submit to SJRA.
2. The copy of Form 1295 submitted to SJRA must contain the unique certification number from the TEC. The form must be filed with SJRA pursuant to §2252.908 Texas Government Code, "at the time the business entity submits the signed contract" to SJRA.
3. SJRA, in turn, will submit a copy of the disclosure form to the TEC not later than the 30th day after the date SJRA receives the disclosure of interested parties from the business entity.

14. DISCLOSURE OF LITIGATION

Each Respondent shall include in its proposal a complete disclosure of any material civil or criminal litigation or pending investigation which involves the Respondent or in which the Respondent has been judged guilty.

15. EXCEPTIONS

Any deviations from terms, conditions or specifications contained herein must be clearly

indicated in the proposal. Any deviations or exceptions are subject to review by SJRA and may deem the proposal disqualified or non-responsive. If no exceptions are stated, it will be understood that all standard terms and conditions and specific requirements will be complied with, without exception.

16. FORMS

All Responses must be submitted on the form(s) as required by SJRA, and accompanied by all required attachments.

17. FUTURE EMPLOYMENT AND CONTRACTING

Any director, officer, investment officer, or employee of SJRA who, during his or her period of service or employment with SJRA, participated in a procurement or contract negotiation involving a person, firm, association, or corporation, is prohibited by law from accepting employment from that person, firm, association, or corporation before the second anniversary of the date service or employment with SJRA ceased. Further, a former director is prohibited by law from contracting with SJRA before the first anniversary of the date the director's service with SJRA ceased.

18. GIFTS

SJRA may, by written notice to the Respondent, disqualify the Respondent without liability if it is determined by SJRA that any gift or thing value, whether in the form of money, services, credits, loans, travel, entertainment, hospitality, promise, or any other form, were offered or given by the Respondent or any agent or representative of the Respondent to any officer or employee of SJRA with the intent of influence such officer or employee as a reward for any decision, opinion, recommendation, securing the Agreement or securing favorable treatment with respect to awarding or amending or the making of any determinations with respect to performance of the Agreement.

19. INDEPENDENT CONTRACTOR

Nothing in this solicitation is intended to be construed as creating an employer/employee relationship, a partnership or joint venture. The Consultant's services shall be those of an independent contractor. The Consultant agrees and understands that the Agreement does not grant any rights or privileges established for employees of SJRA. Consultant shall not be within protection or coverage of SJRA's Worker Compensation Insurance, Health Insurance, Liability Insurance or any other insurance that SJRA, from time to time, may have in force.

20. INSURANCE REQUIREMENTS

SJRA's insurance requirements are provided in Exhibit A1/A2

21. INTERLOCAL AGREEMENT

Other governmental entities may be extended the opportunity to purchase from solicitations awarded by SJRA, with the consent and agreement of the successful Consultant(s) and SJRA. Such consent and agreement shall be conclusively inferred from lack of exception to this clause in Respondent's response to this Solicitation. However, all parties indicate their understanding and all parties hereby expressly agree that SJRA is not an agent of, partner to or representative of those outside agencies or entities and that SJRA is not obligated or liable for any action or debts that arise out of such independently negotiated piggyback procurements.

22. **INTERPRETATION OF PROPOSALS**

SJRA reserves the right to adopt the most advantageous interpretation of the Proposals submitted in the case of ambiguity or lack of clearness in stating Proposal Prices, to reject any or all Proposals, and/or waive informalities. SJRA reserves the right to ***reject any or all Proposals***, including without limitation the rights to reject any or all nonconforming, nonresponsive, unbalanced, or conditional Proposals and to reject the Proposal of any Respondent if SJRA believes that it would not be in the best interest of the Project to make an award to that Respondent, whether because the Proposal is not responsive or the Respondent is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by SJRA.

23. **MISSTATEMENTS**

Material misstatements in the material submitted for evaluation may be ground for rejection of Respondent's Proposal on this project. Any such misstatement, if discovered after award of the contract to such firm, may be grounds for immediate termination of the contract. Additionally, the Respondent will be liable to SJRA for any additional costs or damages to SJRA resulting from such misstatements, including costs and attorney's fees for collecting such costs and damages.

24. **NOTICES**

Unless otherwise specified, all notices, requests or other communications required or appropriate to be given under the Agreement shall be in writing and deemed delivered three (3) business days after postmarked if sent by US Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, fax, or other commercially accepted means. Notices to the Consultant shall be sent to the address specified in the Respondent's Proposal or at such other address as a party may notify the other in writing. Notices to SJRA shall be addressed to: San Jacinto River Authority, Purchasing Office, 1577 Dam Site Road, Conroe, Texas 77304 and marked to the attention of the Purchasing Manager.

25. **PAYMENT TERMS**

1. **Tax Exempt Status:**

SJRA is exempt from all federal excise, state and local taxes unless otherwise stated in this document. SJRA claims exemption from all sales and/or use taxes under Texas Tax Code §151.309, as amended. Texas Limited Sales Tax Exemption Certificates are furnished upon request. Consultant will not charge for such taxes. If billed, SJRA will not remit payment until a corrected invoice is received.

2. **Invoicing Requirements:**

Unless otherwise specified, all invoices shall be submitted to San Jacinto River Authority, Accounts Payable, PO Box 329, Conroe, TX 77305, or emailed directly to Accounts Payable at AP@sjra.net and issued as required by the Purchase Order or Agreement. Each invoice must reference the unique Purchase Order number, and include the Consultant's complete name and remit to address. If applicable, transportation and delivery charges must be itemized on the each invoice. A copy of the bill of lading and the freight waybill must be submitted with the invoice if applicable.

3. Payment Terms:

All payments will be processed in accordance with Texas Prompt Payment Act, *Texas Government Code*, Subtitle F, Chapter 2251. SJRA will pay Consultant within thirty days after performance of services was completed, or the day of receipt of a correct invoice for the services, whichever is later. The Consultant may charge a late fee (fee shall not be greater than that permitted under the Texas Prompt Payment Act) for payments not made in accordance with this prompt payment policy; however, the policy does not apply to payments made by SJRA in the event: (a) there is a bona fide dispute between SJRA and Consultant concerning the services performed, that causes the payment to be late; (b) the terms of a federal agreement, grant, regulation or statute prevents SJRA from making a timely payment with Federal funds; (c) there is a bona fide dispute between the Consultant and a subcontractor and its suppliers concerning services provided, which caused the payment to be late; or (d) the invoice is not mailed to SJRA in strict accordance with instructions on the Purchase Order or Agreement, or other such contractual agreement.

4. Right To Audit:

The Consultant agrees that the representatives of SJRA shall have access to, and the rights to audit, examine, or reproduce, any and all records of the Consultant related to the performance under this Agreement. The Consultant shall retain all such records for a period of four (4) years after final payment on this Agreement or until all audit and litigation matters that SJRA has brought to the attention of the Consultant are resolved, whichever is longer. The Consultant agrees to refund to SJRA any overpayments disclosed by any such audit.

5. Firm Pricing:

The price shall remain firm for the duration of the Agreement and resulting Purchase Order, or any extension periods. No separate line item charges shall be permitted for invoice purposes, which shall include equipment rental, demurrage, fuel surcharges, delivery charges, and costs associated with obtaining permits or any other extraneous charges unless expressly agreed to in advance and in writing. Consultant further certifies that the prices in the proposal have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.

6. Price Warranty:

The Respondent warrants the prices quoted are not materially higher than the current prices on orders by others for like deliverables under similar terms of purchase. In addition to any other remedy available, SJRA may deduct from any amounts owed to the Consultant, or otherwise recover, any amounts paid for items materially in excess of the Consultant's current prices on orders by others for like deliverables under similar terms of purchase.

7. Travel Expenses:

All travel, lodging and/or per diem expenses associated with providing the services specified must be included in the original RFP and resulting Services Agreement and Purchase Order. All travel expenses are subject to review by SJRA and documentation of actual itemized expenses may be requested. No reimbursement will be made without prior authorization, or for expenses not actually incurred. Airline fares in excess of coach or economy will not be reimbursed.

26. PERSONAL INTEREST

No officer, employee, independent consultant or appointed official of SJRA who is involved in the development, evaluation or decision-making process of this Solicitation shall have a financial interest, direct or indirect, in the resulting Agreement. Any willful violation of this Paragraph shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal.

27. PRIORITY OF DOCUMENTS

In the event there are inconsistencies between the general provisions and special (or other) terms and conditions contained herein, the latter will take precedence.

28. PROHIBITED RESPONDENTS

1. SJRA will not conduct business with Respondents who have failed to comply with their contracts and have been debarred from doing business with the State of Texas or the federal government.
2. Successful Respondent must affirm, in any resulting contract, that (i) it does not Boycott Israel; and (ii) will not Boycott Israel during the term of any resulting Contract. This section may not apply if the Company is a sole proprietor, a non-profit entity or a governmental entity; and only applies if: (i) the Company has ten (10) or more fulltime employees and (ii) the Contract has a value of \$100,000.00 or more to be paid under the terms of the Contract.
3. Successful Respondent must affirm, in any resulting contract, that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization.
4. Successful Respondent must affirm, in any resulting contract, that it does not boycott energy companies, and will not boycott energy companies during the term of the Agreement.
5. Successful Respondent must affirm, in any resulting contract, that it (i) does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and (ii) will not discriminate against a firearm entity or firearm trade association during the term of the Agreement.
6. Successful Respondent must affirm, in any resulting contract, that it is not (i) owned or controlled by (a) individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; or (b) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or (ii) headquartered in China, Iran, North Korea, Russia or a designated country.

29. PROTEST PROCEDURES

1. Respondents are advised that protests of specifications, terms, conditions or any other aspect of this solicitation, must be made prior to the proposal due date. Protest of specifications and solicitation terms and conditions made after the due date and time will not be considered by the Purchasing Agent.
2. Protest of award must be made immediately, and in no event later than five (5) days after the aggrieved party knows, or should have known, the facts giving rise thereto. All protests must include the following information:
 - a. The name, address and telephone number of the protestor.
 - b. The signature of the protestor or protestor's representative.

- c. The solicitation or contract number.
- d. A detailed statement of the legal and/or factual ground of the protest.
- e. The form of relief/result requested.

3. Protests shall be mailed to the Purchasing Department, 1577 Dam Site Road, Conroe, TX 77304, Attention: Purchasing Manager. Award will be made in the best interest of SJRA.

30. **PUBLIC INFORMATION**

All Responses are subject to release as public information unless the Response or specific parts of the Response can be shown to be exempt from the Texas Public Information Act. Respondents are advised to consult with their legal counsel regarding disclosure issues and take the appropriate precautions to safeguard trade secrets or any other proprietary information. SJRA assumes no obligation or responsibility for asserting legal arguments on behalf of potential Respondents.

If a Respondent believes that a Response or parts of a Response are confidential, then the Respondent shall so specify. The Respondent shall stamp in bold red letters the term "**CONFIDENTIAL**" on that part of the Response, which the Respondent believes to be confidential. Vague and general claims as to confidentiality shall not be accepted. All Responses and parts of Responses that are not marked as confidential will be automatically considered public information.

31. **RECEIPT OF PROPOSALS**

Proposals must be received by SJRA prior to the time and date specified. The time proposals are received shall be determined by the system time in the e-Marketplace System. Please note that SJRA is not responsible for high internet traffic/demand at or near the time the response packages are due and that Respondents submitting their response package during peak traffic times risk their submittal not being received by the due date and time.

32. **REIMBURSEMENTS**

There is no expressed or implied obligation for SJRA to reimburse Respondents for any expenses incurred in preparing proposals in response to this solicitation and SJRA will not reimburse Respondents for these expenses, nor will SJRA pay any subsequent costs associated with the provision of additional information or presentation, or to procure a Contract for these services.

33. **REPRESENTATIONS AND RESPONSIBILITIES**

By submitting a proposal in response to this RFP, Respondent represents that it has carefully read and understands all elements of this RFP; has familiarized itself with all federal, state, and local laws, ordinances, and rules and regulations that in any manner may affect the cost, progress, or performance of the work; and has full knowledge of the scope, nature, quality and quantity of services to be performed.

By submitting a proposal in response to this RFP, the Respondent represents that it has not relied exclusively upon any technical details in place or under consideration for implementation by SJRA, but has supplemented this information through due diligence research and that the Respondent sufficiently understands the issues relative to the indicated requirements.

The failure or omission of Respondent to receive or examine any form, instrument, addendum, or other documents or to acquaint itself with conditions existing at the site or other details shall in no way relieve any Respondent from any obligations with respect to its proposal or to the contract.

34. **RESERVATIONS**

SJRA reserves the right to request clarification or additional information specific to any response after all Responses have been received and the solicitation due date has passed. Additionally, SJRA reserves the right to accept or reject all or part of any Response, waive any formalities or technical inconsistencies, delete any requirement or specification from the solicitation, or terminate the solicitation when deemed to be in SJRA's best interest.

35. **RESPONDENT'S OBLIGATION:**

Consultant shall fully and timely provide all deliverables described in this solicitation, Consultant's proposal must be in strict accordance with the terms, covenants and conditions of the Agreement and all applicable federal, state and local laws, rules and regulations.

36. **RESPONSES BECOME PROPERTY OF SJRA:**

Submissions received in response to a solicitation become the sole property of SJRA.

37. **RIGHT OF ACCEPTANCE AND REJECTION**

The qualifications of a Respondent shall not deprive SJRA of the right to accept a Proposal, which in its judgment offers the best value to SJRA. In addition, SJRA reserves the right to reject any Proposal where circumstances and developments have, in the opinion of SJRA, changed the qualifications or responsibility of the Respondent.

38. **RIGHT TO ASSURANCES**

In the event SJRA, in good faith, has reason to question the intent of the Respondent to perform, SJRA may demand written assurances of the intent to perform. In the event no written assurance is given within the time specified, SJRA may reject the Proposal.

39. **SJRA AGREEMENT**

SJRA's Consulting Services Agreement is attached as Attachment A. Successful Consultant(s) will be required to execute this Agreement. All Respondents shall be required to thoroughly read and understand the terms, conditions and provisions in this Agreement. The Respondent acknowledges that SJRA retains the right to revise the Consulting Services Agreement in order to comply with legal or regulatory requirements. All required Certificates of Insurance and endorsements will be required before contract award. Any exceptions taken to SJRA's Consulting Services Agreement must be indicated in your Response. Failure to note any exceptions will be acknowledgement that you accept the terms and conditions without modifications. SJRA may consider the proposed changes in the evaluation process.

40. **SUBCONTRACTORS, SUPPLIERS AND OTHERS**

If SJRA requests the identity of certain Subcontractors, Suppliers, or other persons or organizations that shall furnish the materials or services, shall within five (5) calendar days from request submit to SJRA a list of all such Subcontractors, Suppliers, or other persons or organizations proposed for those portions of the Work for which such identification is requested.

41. **TAX EXEMPT**

Respondents prices must be net, exclusive of taxes. SJRA is exempt from State Retail Tax and Federal Excise Tax.

42. **VENUE**

Any contract awarded as a result of this RFQ shall be governed by and construed in accordance with the laws of the State of Texas, and venue for any action related to this contract will be Montgomery County, Texas.

43. **WITHDRAWAL OF PROPOSALS BY RESPONDENT**

1. Respondents may request withdrawal of an electronic sealed Proposal ***prior to the scheduled opening time*** by retracting the Proposal in the e-Marketplace System.
2. Respondents may request withdrawal of a hard copy sealed Proposal ***prior to the scheduled opening time*** by contacting the Buyer in writing via email at purchasing@sjra.net.
3. No proposal can be withdrawn after the time set for the receipt of proposals and for a minimum of ninety (90) days thereafter.

44. **WITHDRAWAL BY SJRA**

SJRA makes no guarantees or representations that any award will be made and reserves the right to cancel this solicitation for any reason, including:

1. Reject any and all proposals received as a result of this RFP.
2. Waive or decline to waive any informality and any irregularities in any statement of qualifications or responses received.
3. Negotiate changes in the Scope of Work or services to be provided.
4. Withhold the award of contract(s).
5. Select Respondent(s) it deems to be most qualified to fulfill the needs of SJRA.
6. Terminate the RFP process.

BACKGROUND AND CURRENT CIRCUMSTANCES

SAN JACINTO RIVER AUTHORITY The San Jacinto River Authority (SJRA) was originally created by the Texas Legislature as the “San Jacinto River Conservation and Reclamation District” by House Bill No. 832, Chapter 426, of the General and Special Laws of the 45th Texas Legislature, Regular Session, 1937. In 1951, the Texas Legislature changed the name of the “San Jacinto Conservation and Reclamation District” to the “San Jacinto River Authority.” SJRA is a government agency whose mission is to develop, conserve, and protect the water resources of the San Jacinto River basin. Covering all or part of seven counties, the organization’s jurisdiction includes the San Jacinto River watershed, excluding Harris County. This includes all of Montgomery County and parts of Walker, Waller, San Jacinto, Grimes, Fort Bend and Liberty Counties. SJRA is one of 10 major river authorities in the State of Texas, and like other river authorities, its primary purpose is to implement long-term, regional projects related to water supply and wastewater treatment.

SJRA's general offices are located at 1577 Dam Site Road, Conroe, Texas 77304. SJRA has six (6) major operating divisions: The General and Administrative Division, Flood Management Division, Lake Conroe Division, Woodlands Division, Highlands Division, and Groundwater Reduction Plan (GRP) Division. More information can be accessed here: <http://www.sjra.net/about/>.

A. CURRENT CIRCUMSTANCES

The SJRA Woodlands Division provides wholesale water supply and wastewater treatment services to the 100,000-plus population of The Woodlands, Texas through the financing, construction, operation, and maintenance of three regional wastewater treatment plants, a wastewater conveyance system with numerous lift stations, five water plants, 38 water wells, several elevated and ground storage tanks, and miles of wastewater collection and potable water distribution lines.

Since 1975, the Woodlands Division has served as the wholesaler to the 11 municipal utility districts (MUDs) that provide retail services within The Woodlands, Texas. Woodlands Water Agency (WWA) is the central management agency and retail provider for the 10 MUDs. SJRA works hand in hand with WWA to ensure that the residents of The Woodlands, Texas receive the highest level of service to maintain the well sought after and award winning "live, work, play" lifestyle found in this area.

2024 marks 50 years for The Woodlands, Texas and as a result the infrastructure in the area is quickly approaching the maximum service life and breaks are a common occurrence. Renewal projects are necessary to decrease repair frequencies, improve reliability to end-users, and maintain the highest level of service to the residents. Over the next decade SJRA and WWA will embark on various projects as part of this effort to renew aging wastewater and water infrastructure.

Given the complexity of the decade-long renewal projects, SJRA and WWA have identified the need for formal, outside public communications and relations services for the Woodlands Division. Currently SJRA's Public Communications Department provides communication services to five very dynamic operational divisions. Due to current job responsibilities, workload, and other various limitations of internal staff, an organization that provides specific communications services is being sought out. The sourcing of outside contracted assistance is necessary to plan and execute public communications and relations programs designed to successfully educate and inform residents of The Woodlands, Texas not only of the planned projects, but the financial impact to rates.

SJRA and WWA request that the consultant has knowledge of utility (specifically water and wastewater) services, project communications, project website design, social media communications, educational graphic design (print or digital collateral: brochures, door hangers, FAQs, one-pagers), hosting and executing public meetings, and animation and/or videography. Consultant should have experience with City-wide or County-wide public education campaigns and be able to provide examples. The ideal consultant will have a plan on how to create and communicate the value of the renewal projects before the projects break ground.

SCOPE OF WORK

Professional public communications services to support SJRA and WWA programs and projects as an essential extension of existing SJRA and WWA staff on an on-call or per project basis. Work is anticipated to begin with an assessment of the SJRA and WWA's approach to public education and communication and quickly evolve into an active member of the communications team.

Professional Public Communication Services

1. Consultant shall perform general professional public communication services in a timely, consistent, and accurate manner as directed by SJRA.
2. Consultant shall assess the way SJRA and WWA communicates with and educates WWA's direct customers, the general public and other public entities and make recommendations for implementing community engagement strategies.
3. Consultant shall make recommendations regarding the most effective communications methods.
4. Consultant shall have experience in project communication management, project site design, social media communications, hosting and executing public meetings, and educational graphics production.
5. Consultant shall provide updates to SJRA and WWA to track and monitor efforts.

Deliverables

1. Consultant shall advise on project communications plan, project website, social media communications, educational graphics, collateral materials, animation, and videography.
2. Consultant shall provide a communications timeline for each project.
3. Consultant shall work with SJRA and WWA to produce PowerPoint presentations and scripts to explain SJRA and WWA projects.
4. Consultant shall provide public meeting facilitation, to include public comment and stakeholder database management, creation of collateral materials, production of displays, and facility coordination.
5. Consultant shall provide bi-weekly updates to track and monitor efforts.
6. Consultant shall report to SJRA Director of Communications & Public Affairs.

SUBMISSION REQUIREMENTS

SJRA requires comprehensive responses to every section within this RFP. To facilitate the review of the responses, Respondents shall follow the described format. The intent of the proposal format is to expedite review and evaluation. It is not the intent to constrain Respondents with regard to content, but to assure that the specific requirements set forth in this RFP are addressed in a uniform manner amenable to review.

TAB A FIRM BACKGROUND

1. Briefly introduce your firm including the number of years in business
2. Provide a summary of the administration, organization and staffing of your firm, including multiple offices, if applicable
3. Include the same for any associate firm or sub-consultant

TAB B PROJECT EXPERIENCE AND QUALIFICATIONS

1. Describe at least three (3) projects that are complementary in nature to this project. References for each project should be included (preferably other special districts, city, town or local governments in Texas that the Respondent has provided services to).
2. Describe the experience of the firm in the last thirty-six (36) months in performing services of similar scope and size.
3. Identify the Project Manager and each individual who will work as part of this engagement. Include resumes for each person to be assigned. Include any professional designations and affiliations, certifications and licenses, etc.
4. Provide an organizational chart indicating positions and name of the core management team that will undertake this engagement.

TAB C METHODOLOGY AND TECHNICAL APPROACH

1. Provide a narrative description of the firms' plan to accomplish the work and services to be provided to SJRA.
2. Clearly acknowledge your understanding of the scope of work, including a detailed approach to completing this project in a phase by phase fashion, including the time frame expected to complete each phase and staff assignments for each phase of the project.
3. Provide suggestions and ideas for completing this project in an efficient, effective and innovative manner.
4. Clearly identify materials and knowledge resources that the firm will need from SJRA to complete this project.
5. Identify progress reports that will be made available during the process and key decision points.
6. Clearly distinguish the firms' duties and responsibilities and those of SJRA. Absence of this distinction shall mean the firm is assuming full responsibility for all tasks.

TAB D COST PROPOSAL

1. Provide a detailed cost proposal broken down by task or phase. SJRA may elect to complete any combination of tasks or phases. Indicate any cost savings available by completing one or more or any combination of tasks or phases.
2. Travel and other reimbursable fees must be estimated and submitted separately from professional fees.
3. The actual contract amount will be negotiated after the firm has been selected and the scope of work finalized.

TAB E COMMENTS/CHANGE REQUESTS TO STANDARD FORM OF AGREEMENT

A copy of SJRA's Standard Form of Agreement (SFA) is attachment A, SJRA retains the right to revise the SFA in order to comply with legal or regulatory requirements. Please provide any comments or change requests to the Agreement with the proposal submittal. Failure to submit requested changes will affirm that the firm willing to execute the Agreement without modification.

TAB F DISCLOSURE

Disclose any known claims for losses, damages, or indemnification, including any settled, threatened, or ongoing litigation, involving SJRA and the Firm, any employee of the Firm, and/or any proposed sub-consultant of the Firm, arising or occurring within the last year. SJRA reserves the right to disqualify any Firms and/or sub-consultants based on potential or perceived conflicts of interest related to prior and ongoing claims involving SJRA.

TAB G CERTIFICATION AND ACKNOWLEDGEMENT PAGE

EVALUATION AND SELECTION PROCESS

SJRA has attempted to provide a comprehensive statement of requirements through this RFP for the work contemplated. Written proposals must present Respondent's qualifications and understanding of the work to be performed. Respondents are asked to address each evaluation criteria and to be specific in presenting their qualifications. Proposals must be as thorough and detailed as possible so that SJRA may properly evaluate capabilities to provide the requested services.

By submission of a Proposal, Respondent acknowledges acceptance of the evaluation process, the evaluation criteria, scope of work, approach and methodology, and all other terms and conditions set forth in this RFP. Further, Respondents acknowledge that subjective judgements must be made by SJRA during this process.

The evaluation process may include, but is not limited to the following steps. Steps may be omitted or reordered depending on the proposal evaluation requirements. For example, Best and Final Offers may be required prior to Interviews and/or Presentations.

A. CLARITY AND QUALITY OF PROPOSAL **Pass/Fail**
Respondents must provide comprehensive responses to every section within this RFP in the described format. It is not the intent of SJRA to constrain Respondents with regard to content, but to assure that the specific requirements set forth in this RFP are addressed in a uniform manner amenable to review and evaluation. Failure to do so may result in your proposal being disqualified from further review and consideration.

B. PROPOSAL EVALUATIONS
SJRA has established specific, weighted criteria for selection. This section presents the evaluation criteria, description, and relative weight assigned to each (100 points maximum). An evaluation committee of SJRA and WWA representatives will evaluate each Respondent's responses to the requirements contained in this RFP.

- | | |
|--|------------------|
| Firm Background | 20 points |
| Project Experience and Qualifications | 40 points |
| Methodology and Technical Approach | 30 points |

C. COST EVALUATION
Price shall be considered, but shall not be the sole determining factor.

- | | |
|----------------------|------------------|
| Cost Proposal | 10 points |
|----------------------|------------------|

D. REFERENCE CHECKS

SJRA reserves the right to check any reference(s), regardless of the source of the reference information. Information may be requested and evaluated from references. SJRA reserves the right to use a third party to conduct reference checks. Only top scoring Respondents may receive reference checks and negative references may eliminate Respondents from further consideration.

E. INITIAL EVALUATION AND RANKING

Following the technical and cost proposal evaluation, SJRA will compile the final scores. If the Evaluation Committee determines that clarifying information is not required, the evaluation process is complete. The award recommendation will be made to the Respondent which, in SJRA's opinion, has submitted the proposal most beneficial to SJRA for award.

F. INVITATIONS FOR ORAL INTERVIEWS

The Evaluation Committee may conclude after completion of the technical and cost proposal evaluation(s) that oral interviews/presentations and/or demonstration are required in order to determine the most qualified Respondent. The selection of firms to make presentations will be based on the initial Evaluation and Ranking. All Respondents may not necessarily be extended an invitation for oral interviews. SJRA reserves the right to select firms to interview that are most susceptible of being selected for an award of a contract.

G. ORAL INTERVIEWS, PRESENTATIONS OR DEMONSTRATIONS

Selected firms will be given an opportunity for oral interviews, presentations and/or demonstrations. The presentation process will allow Respondents to demonstrate their proposal offering, explaining and/or clarifying any unusual or significant elements related to their proposals. At this stage, Respondents shall not be allowed to alter or amend their proposals. The Evaluation Committee will score each presenting Respondent:

Oral Interviews

25 points

H. FINAL EVALUATION AND RANKING AFTER ORAL INTERVIEWS

The Evaluation Committee will make its recommendation for award based on the Respondent with the highest point total. Total score being determined using the following formula:
(original technical score + oral interview score) + (original cost score) = final total score.

I. BEST AND FINAL OFFER

The Evaluation Committee may determine that Best and Final Offers are required. If Best and Final Offers are requested and submitted by Respondents, they will be evaluated using the stated criteria and scored by the Evaluation Committee. ***(Respondents are highly encouraged to provide its best offer in the original proposal. Respondents should not expect that SJRA will request a Best and Final Offer).***

J. FINAL SCORING AND RANKING AFTER BEST AND FINAL OFFERS

The Evaluation Committee will make its recommendation for award based on the Respondent with the highest point total. Total score being determined using the following formula:
(original technical score + oral interview score) + (best and final offer cost score) = final total score

K. AWARD OF CONTRACT

It is the intent of SJRA to award this Contract to the Respondent(s) whose Proposal for completion of the Work provides the best value for SJRA after consideration of the relative

importance of costs and other evaluation factors described in this Solicitation, in accordance with the provisions of SJRA Purchasing Policies and Procedures, and Texas Water Code, Chapter 49. The successful Respondent(s) will be required to enter into a *Standard Contract/Miscellaneous Services Agreement*, similar to **Attachment A Consulting Services Agreement**, of this Solicitation. This RFP and the successful Respondents' Response, or any part thereof, may be incorporated into and made a part of the final Contract. SJRA reserves the right to negotiate final terms and conditions of the Contract. SJRA also retains the right to revise the Agreement in order to comply with legal or regulatory requirements.

CERTIFICATION AND ACKNOWLEDGMENT

The undersigned, as an authorized agent of the Respondent, hereby certifies:

The Respondent is in receipt of _____ addenda.

The Respondent certifies:

- that (i) it does not Boycott Israel; and (ii) will not Boycott Israel during the term of the Contract. This section does not apply if the Company is a sole proprietor, a non-profit entity or a governmental entity; and only applies if: (i) the Company has ten (10) or more fulltime employees and (ii) this Contract has a value of \$100,000.00 or more to be paid under the terms of this Contract pursuant to Texas Government Code, Chapter 2271, Section 2271.002.
- that it does not do business with Iran, Sudan, or a foreign terrorist organization pursuant to Texas Government Code, Chapter 2252, Section 2252.153.
- that it does not boycott energy companies, and will not boycott energy companies during the term of the Agreement pursuant to Texas Government Code, Chapter 2274, Section 2274.002.
- that it (i) does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and (ii) will not discriminate against a firearm entity or firearm trade association during the term of the Agreement pursuant to Texas Government Code, Chapter 2274, Section 2274.002.
- that it is not (i) owned or controlled by (a) individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; or (b) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or (ii) headquartered in China, Iran, North Korea, Russia or a designated country pursuant to Texas Government Code, Chapter 2274.
- The Respondent is qualified to perform the work and services outlined in this RFQ.
- The Proposal has been arrived at independently and submitted without collusion with any other Respondent, SJRA staff or SJRA contractor, and the contents of the proposal have not been communicated by the Respondent or, to the Respondent’s best knowledge and belief, by any one of its employees or agents to any person not an employee or agent of the Respondent, and will not be communicated to any person prior to SJRA’s final action on this RFP prior to contract award. Nothing in this paragraph shall be construed to prevent or preclude two or more companies or persons from joining together to submit a proposal for the work.
- The offers, terms and conditions of the proposal will remain valid and effective and may be relied upon by SJRA for a period of ninety (90) days following the proposal closing date and time as identified in this RFP or addenda.
- that it has provided disclosure of all known claims for losses, damages, or indemnification, including any settled, threatened, or ongoing litigation, as required in Submission Requirements

Signed By: _____ Title: _____

Typed Name: _____ Company Name: _____

Phone No.: _____ Email: _____

Remit Address: _____

P.O. Box or Street City State Zip

Federal Tax ID No.: _____ DUNS No.: _____

Date: _____

ATTACHMENT A
CONSULTING SERVICES AGREEMENT



23-0036-A

Professional Public Communications Consulting Services

Issue Date: 5/19/2023

Questions Deadline: 6/1/2023 11:00 AM (CT)

Response Deadline: 6/16/2023 11:00 AM (CT)

San Jacinto River Authority

Contact Information

Contact: Grady Garrow Senior Buyer

Address: 1577 Dam Site Road
Conroe, TX 77304

Phone: (936) 588-7181

Email: ggarrow@sjra.net

Event Information

Number: 23-0036-A
Title: Professional Public Communications Consulting Services
Type: SJRA - Request for Proposal
Issue Date: 5/19/2023
Question Deadline: 6/1/2023 11:00 AM (CT)
Response Deadline: 6/16/2023 11:00 AM (CT)
Notes:

The San Jacinto River Authority seeks to enter into an agreement with a qualified individual, firm or corporation (Respondent) with substantial and relevant experience and expertise to provide Professional Public Communications Consulting Services for the Woodlands Division.

Bid Activities

Non Mandatory Pre-Proposal Conference

6/1/2023 10:00:00 AM (CT)

A virtual pre-proposal conference will be held via Microsoft Teams on Tuesday, May 30, 2023 at 10:00 AM. Respondents interested in participating must submit a request for information to participate.

To Submit the RFI please use the question modular for this solicitation. SJRA will then send you a Microsoft Teams invite prior to meeting.

Though this is a Non-Mandatory meeting it is highly encouraged.

Bid Attachments

RFP 23-0036-A_Woodlands Division Public Communications Consultant.pdf

[View Online](#)

RFP 23-0036-A

Consulting Services Agreement - 2.1.23.pdf

[View Online](#)

Sample Agreement Attachment A

Exhibit A-1 Insurance Requirements 2021 1229_FINAL.pdf

[View Online](#)

Exhibit A-1

Exhibit A-2 Project Specific Tiered Insurance Requirement Table FINAL_.pdf

[View Online](#)

Exhibit A-2

Requested Attachments

Proposal Submittal PDF Scan

(Attachment required)

Submit PDF Proposal Name it: RFP 23-0036-A Your Company Name

Supplier Information

Company Name: _____

Contact Name: _____

Address: _____

Phone: _____

Fax: _____

Email: _____

Supplier Notes

By submitting your response, you certify that you are authorized to represent and bind your company.

Print Name

Signature

PLEASE NOTE: These requirements should provide general guidance only, additional requirements based on project specifics of the contract may be required. Contract amounts over limits will require excess coverage to cover the difference. Combined single limits and excess coverage must equal the Contract Amount (CA).

Risk Level TIER 1	Coverage	Contract Amount					
		<=\$25k	>\$25k- \$75k	>\$75k- \$1M	>=\$1M- \$2M	>\$2M	
Administrative/ General Business Services <u>Services:</u> Routine/regularly scheduled services such as landscaping, janitorial, or maintenance- elevators <u>Contract Type:</u> ➤ General Services Contract ➤ Standby Services Agreement	Commercial General Liability (CGL) (Premises/Completed Operations)	Each Occurrence	\$300k	\$500K	\$1M	\$1.5M	= \$2M
		Fire Damage	\$100k	\$250k	\$1M	\$1.5M	= \$2M
		Personal & ADV injury	\$300k	\$500k	\$1M	\$1.5M	= \$2M
		Aggregate	\$600K	\$750k	\$2M	\$3M	= \$4M
		Premises/Operations	\$300k	\$500k	\$1M	\$1.5M	= \$2M
		Products/Completed Operations	\$300K	\$500k	\$1M	\$1.5M	= \$2M
	Workers Compensation	Per occurrence bodily injury	\$500k	\$500k	\$500k	\$500k	\$500k
		Per occurrence bodily injury by disease	\$500k	\$500k	\$500k	\$500k	\$500k
		Policy Limit for Bodily Injury Disease	\$500k	\$500k	\$500k	\$500k	\$500k
	Business Auto Liability Owned, Non-Owned, Hired, Injury and Property coverage for all	Bodily Injury	\$250k	\$500k	\$500k	\$1M	= \$2M
Property Damage		\$100k	\$500k	\$500k	\$1M	= \$2M	
Combined Single Limit (Bodily & Property Damage)		\$500k	\$1M	\$1M	\$2M	= \$2M	
Professional Liability	Professional required based on the scope of work	\$250k	\$500k	\$1M	\$2M	= \$2M	
Cyber Liability	Cyber required based on the scope of work	\$250k	\$500k	\$1M	\$2M	= \$2M	

PLEASE NOTE: These requirements should provide general guidance only, additional requirements based on project specifics of the contract may be required. Contract amounts over limits will require excess coverage to cover the difference. Combined single limits and excess coverage must equal the Contract Amount (CA).

Risk Level TIER 2	Coverage	Contract Amount					
		<=\$25k	>\$25k- \$75k	>\$75k- \$1M	>=\$1M- \$2M	>\$2M	
<p>Professional Services</p> <p>Services: Architect, Engineer, Surveyor, Professional Non-AES excluding legal services.</p> <p>Contract Type: ➤ Master Professional Services Agreement (MPSA)(AES)- Across all divisions/3 years</p> <p>➤ Professional Services Agreement (PSA)(AES)-project specific, multiple phases would be new work orders.</p> <p>➤ Consulting Agreement (Non- AES)</p> <p>➤ Engagement Letter</p>	<p>Commercial General Liability (CGL) (Premises/Completed Operations)</p>	Each Occurrence	\$300k	\$500k	\$1M	\$1.5M	= \$2M
		Fire Damage	\$100k	\$250k	\$1M	\$1.5M	= \$2M
		Personal & ADV injury	\$300k	\$500k	\$1M	\$1.5M	= \$2M
		Aggregate	\$600K	\$750k	\$2M	\$3M	= \$4M
		Premises/Operations	\$300k	\$500k	\$1M	\$1.5M	= \$2M
	<p>Workers Compensation</p>	Products/ Completed Operations	\$300K	\$500k	\$1M	\$1.5M	= \$2M
		Per occurrence bodily injury	\$500k	\$500k	\$500k	\$500k	\$500k
		Per Occurrence bodily injury by disease	\$500k	\$500k	\$500k	\$500k	\$500k
	<p>Business Auto Liability Owned, Non-Owned, Hired, Injury and Property coverage for all</p>	Policy Limit for Bodily Injury Disease	\$500k	\$500k	\$500k	\$500k	\$500k
		Bodily Injury	\$300k	\$500k	\$500k	\$1M	\$1M
Property Damage		\$300k	\$500k	\$500k	\$1M	\$1M	
<p>Professional/EO Liability</p>	Combined Single Limit	\$600k	\$1M	\$1M	\$2M	= \$2M	
	Professional and Cyber required based on the scope of work	500k	\$1M	\$1M	\$2M	= \$2M	

**Exhibit A-2
Project Specific Insurance Requirements**

PLEASE NOTE: These requirements should provide general guidance only, additional requirements based on project specifics of the contract may be required. Contract amounts over limits will require excess coverage to cover the difference. Combined single limits and excess coverage must equal the Contract Amount (CA).

Risk Level Tier 3	Coverage	Contract Amount			
		<=\$25k	>\$25k -\$75k	>\$75k- \$400k*	
<p align="center">Minor Construction</p> <p align="center">Small jobs/low hazards</p> <p>*May require Board approval</p> <p>Services: Need something minor to be built or reconstructed on land or over water.</p> <p>Contract Type: ➤ Minor Construction Services Agreement ➤ Standby Services Agreement</p>	Commercial General Liability (CGL) (Premises/ Completed Operations)	Each Occurrence Fire Damage Personal & ADV injury Aggregate Premises/Operations Products/ Completed Operations	\$300k	\$500k	\$1M
	Builder's Risk Coverage	Risk of Direct Physical Loss		\$500k	\$1M
	Workers Compensation	Per occurrence bodily injury Per Occurrence bodily injury by disease Policy Limit for Bodily Injury Disease	\$500k	\$500k	\$1M
	US Longshore & Harbor Insurance	Per occurrence bodily injury Per occurrence bodily injury by disease Policy Limit for bodily Injury by Disease	\$500k	\$500k	\$500k
	Business Auto Liability	Bodily Injury Property Damage Combined Single Limit	\$400k	\$500k	\$1M
	Marine Liability (Marine Based Projects)	Bodily Injury Property Damage Combined Single Limit	\$400k	\$500k	\$1M
	Contractor's Pollution Policy	Required dependent on the scope of work	\$500k	\$500k	\$1M
	Employers Liability	Per occurrence bodily injury Per occurrence bodily injury by disease Policy Limit for Bodily Disease	\$500k	\$500k	\$500k
	Excess/Umbrella				\$1M

PLEASE NOTE: These requirements should provide general guidance only, additional requirements based on project specifics of the contract may be required. Contract amounts over limits will require excess coverage to cover the difference. Combined single limits and excess coverage must equal the Contract Amount (CA).

Risk Level TIER 4	Coverage	Contract Amount					
		>\$400k- \$1M*	>\$1M \$2M*	>\$2M- \$5M*	>\$5M- \$20M*	>\$20M *	
<p align="center">Major Construction</p> <p align="center">Large construction jobs over \$400k on land/water or combo of land water jobs/ high hazards</p> <p align="center"><i>*Requires Board Approval</i></p> <p>Services: Construction projects on SJRA property over \$400k.</p> <p>Contract Type: ➤ Major Construction Services Agreement</p>	Per Project Aggregate Limits		\$1M	\$1M	\$2M	\$5M	\$5M
	Commercial General Liability (CGL) (Premises/Completed Operations)	Fire Damage	\$1M	\$1M	\$2M	\$5M	\$5M
		Personal & ADV injury	\$1M	\$1M	\$2M	\$5M	\$5M
		Aggregate Limit	\$2M	\$2M	\$4M	\$10M	\$10M
		Premises/Operations	\$1M	\$1M	\$2M	\$5M	\$5M
		Products/ Completed Operations per Occurrence	\$1M	\$1M	\$2M	\$5M	\$5M
	Builder's Risk Coverage	Risk of Direct Physical Loss	=CA	=CA	=CA	=CA	= CA
	Worker Compensation	Per occurrence bodily injury	\$500k	\$1M	\$1M	\$1M	\$1M
		Per Occurrence bodily injury by disease	\$500k	\$1M	\$1M	\$1M	\$1M
		Policy Limit for Bodily Injury Disease	\$500k	\$1M	\$1M	\$1M	\$1M
	US Longshore & Harbor Insurance (Marine Based Work Only)	Per occurrence bodily injury	\$1M	\$1M	\$1M	\$1M	\$1M
		Per occurrence bodily injury by disease	\$1M	\$1M	\$1M	\$1M	\$1M
		Policy Limit for bodily Injury by Disease	\$1M	\$1M	\$1M	\$1M	\$1M
	Business Auto Liability Owned, Non-Owned, Hired, Injury and Property coverage for all	Bodily Injury	\$1.5 M	\$2M	\$2.5M	\$3M	\$5M
		Property Damage	\$1.5 M	\$2M	\$2.5M	\$3M	\$5M
Combined Single Limit		\$3M	\$4M	\$5M	\$6 M	\$10M	
Marine Liability Owned, Non-Owned, Hired, Injury and Property coverage for all	Bodily Injury	\$1M	\$2M	\$5M	\$10M	\$20M	
	Property Damage	\$1M	\$2M	\$5M	\$10M	\$20M	
	Combined Single Limit	\$2M	\$4M	\$10M	\$20M		
Pollution/Environmental Impairment Liability Coverage	Coverage amounts dependent on scope of work.	\$1M	\$2M	\$5M	\$10M	\$TBD	
Employers Liability	Per occurrence bodily injury	\$1M	\$1M	\$1M	\$1M	\$1M	
	Per occurrence bodily injury by disease	\$1M	\$1M	\$1M	\$1M	\$1M	
	Policy Limit for Bodily Injury Disease	\$1M	\$1M	\$1M	\$1M	\$1M	
Excess /Umbrella		\$1M	\$2M	\$3M	\$5M	\$10M	

EXHIBIT A-1
General Insurance and Bond Requirements of Contractor

The San Jacinto River Authority (SJRA) takes a holistic approach to assignment of the types of coverages, and the limits of coverage based on the scope of work, location, and all factors related to the successful completion of the project by assigning risk tiers to a project (see Exhibit D-2). Once a risk tier has been assigned the contract amount will determine project specific limits that the contractor is required to have and maintain throughout the duration of the project.

The Contractor shall purchase and maintain insurance of the types and limits of liability determined by the risk tier assigned in the project specific insurance requirements table located in Exhibit D-2. The Contractor shall maintain and provide policy documents containing the endorsements, and subject to the terms and conditions, as described in the Agreement, herein, and elsewhere in the Contract Documents.

1) Surety and Insurance Company Requirements:

All Bonds and insurance required by the Contract Documents shall be obtained from solvent surety or insurance companies that are duly admitted and licensed by the State of Texas and authorized to issue bonds or insurance policies for the limits and coverages required by the Contract Documents. Bonds shall be in a form acceptable to Owner and shall be issued by a surety which complies with the requirements of Chapter 3503 of the Texas Insurance Code. The Surety must obtain reinsurance for any portion of the risk that exceeds 10% of the Surety's capital and surplus. For bonds exceeding \$100,000, the Surety must also hold a certificate of authority from the U.S. Secretary of the Treasury or have obtained reinsurance from a reinsurer that is authorized as a reinsurer in Texas and holds a certificate of authority from the U.S. Secretary of the Treasury and has an A.M. Best rating of A-, X or better.

2) General Insurance Requirements Applicable to All Contracts and Projects

- a. Contractor shall carry insurance in the types and amounts indicated below for the Duration of the Project or such longer periods of time set forth below and shall include coverage for items owned by Owner in the care, custody and control of Contractor prior to and during construction and the warranty period.
- b. Contractor shall forward Certificates of Insurance evidencing the coverage and limits of insurance required herein to Owner with copies to each additional insured and loss payee listed in the Supplemental Conditions (if any), before the Contract is executed. Contractor shall also provide copies of policy endorsements and excerpts from policies to evidence the required coverages. Contractor shall not commence Work until the required insurance is obtained and until such insurance has been reviewed and approved by Owner. Approval of insurance by Owner shall not relieve or decrease the liability of Contractor hereunder and shall not be construed to be a limitation of liability on the part of Contractor. Contractor must also forward new Certificates of Insurance to Owner whenever a previously identified policy period has expired as verification of continuing coverage.
- c. Contractor's insurance coverage is to be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of A-, or better.
- d. All endorsements naming the Owner as an additional insured, waivers of subrogation in favor of Owner, and notices of cancellation endorsements as well as the Certificates of Insurance shall specify Owner's name and address as: the San Jacinto River Authority, 1577 Dam Site Road, Conroe, Texas 77304.
- e. The "other" insurance clause shall not apply to the Owner where the Owner is an additional insured shown on any policy. Insurance policies required by the Contract shall be primary and non-contributing with respect to any other insurance coverage maintained by or available to the Owner and/or other additional insureds. The policies shall be endorsed to provide severability of interests.

- f. If underlying insurance policies are not written with coverage limits for at least the amounts specified below, Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage and have the same inception and termination dates as the primary coverage.
- g. Owner shall be entitled, upon request and without expense, to receive certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies. Failure of Contractor to provide certified copies, as requested, is a material breach of the Contract.
- h. Owner reserves the right to review the insurance requirements set forth during the effective period of this Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by Owner based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as Contractor.
- i. All insurance policies required to be maintained will contain a provision or endorsement stating that the coverage afforded will not be cancelled until at least 30 days' prior written notice has been provided to the Contractor and to the Owner. Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.
- j. Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. The amounts of all deductibles or self-insured retentions shall be disclosed on the Certificates of Insurance. Any deductible or self-insured retention in excess of \$25,000 is subject to the written approval of Owner.
- k. Contractor shall provide Owner thirty (30) days written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages required by the Contract.
- l. If Owner-owned property is being transported or stored off-site by Contractor, then the appropriate property policy will be endorsed for transit and storage in an amount sufficient to protect Owner's property.
- m. The insurance coverages required under this contract are required minimums and are not intended to limit the responsibility or liability of Contractor. The inclusion of required minimum insurance limits in this Contract shall not be construed as limiting the Owner's or other additional insured's rights under any policy with higher limits. The minimum insurance limits set forth in this Contract shall be deemed to be amended to any higher limits actually contained in Contractor's insurance policies.
- n. The Contractor hereby waives its rights of recovery from the Owner, its officers, directors, agents and employees, and the Owner's Representative, the Principal Architect/Engineer, the Principal Architect/Engineer's Consultants and Subconsultants and their respective officers, directors, partners, employees and agents with regard to all causes of property and/or liability loss covered by insurance required by this Contract, and shall cause a waiver of subrogation endorsement to be provided in favor of the Owner, its officers, directors, agents and employees, and the Owner's Representative, the Principal Architect/Engineer, the Principal Architect/Engineer's Consultants and Subconsultants and their respective officers, directors, partners, employees and agents on all insurance coverage carried by the Contractor, whether required herein or not.
- o. Failure to obtain and maintain the required insurance shall constitute a material breach of, and default under, this Contract. If Contractor shall fail to remedy such breach, Contractor will be liable for any and all costs, liabilities, damages and penalties resulting to Owner from such breach, unless a written waiver of the specific insurance requirement(s) is provided to Contractor by Owner. In the event of any failure by Contractor to comply with the provisions of this Contract, Owner may, without in any way

compromising or waiving any right or remedy at law or in equity, on notice to Contractor, purchase such insurance, at Contractor's expense, provided that Owner shall have no obligation to do so and if Owner shall do so, Contractor shall not be relieved of or excused from the obligation to obtain and maintain such insurance amounts and coverages.

- p. Additional insured status shall be provided in favor of the Owner, its officers, directors, agents and employees, and the Owner's Representative, the Principal Architect/Engineer, the Principal Architect/Engineer's Consultants and Subconsultants and their respective officers, directors, partners, employees and agents on all insurance policies other than Workers' Compensation, Professional Liability and Builder's Risk, on ISO forms CG 20 10 10 01 and CG 20 37 10 01 or their combined equivalent. It is the intent of the parties to this Contract that this Additional Insured status shall include coverage for completed operations and for the additional insureds' concurrent and sole negligence. Notwithstanding the foregoing, if Subchapter C of Chapter 151 of the Texas Insurance Code applies to the Contract, this additional insured obligation shall not require or provide coverage the scope of which is prohibited under Subchapter C of Chapter 151 of the Texas Insurance Code.
- q. Contractor's obligations under this Contract to defend, indemnify and/or hold harmless Owner or other parties shall not be limited in any way by any insurance required of Contractor by this Contract or otherwise provided or maintained by Contractor. Any insurance obligations of Contractor under this Contract are independent from Contractor's obligations under this Contract to defend, indemnify and/or hold harmless Owner or other parties.

3) Policy Specific Requirements

a. **Workers' Compensation Insurance Coverage:**

Definitions

1. **Certificate of coverage ("certificate")**—A copy of a certificate of insurance, a certificate of authority to self-insure issued by the division, or a coverage agreement (DWC Form-81, DWC Form-82, DWC Form-83, or DWC Form-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a per Project basis, for the duration of the Project.
2. **Duration of the Project**—Includes the time from the beginning of the Work on the Project until the Contractor's/person's Work on the Project has been completed and accepted by Owner.
3. **Persons Providing Services on the Project**—Includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the Project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, Subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the Project.
4. **Services**—Includes without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
 - i. Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the Project, for the duration of the Project.
 - ii. Contractor must provide a certificate of coverage to Owner prior to being awarded the Contract.

- iii. If the coverage period shown on the Contractor's current certificate of coverage ends during the Duration of the Project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with Owner showing that coverage has been extended.
- iv. Contractor shall obtain from each person providing services on the Project, and provide to Owner:
 - A certificate of coverage, prior to that person beginning Work on the Project, so Owner will have on file certificates of coverage showing coverage for all persons providing services on the Project; and;
 - No later than seven (7) days after receipt by Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the Duration of the Project.
- v. Contractor shall retain all required certificates of coverage for the Duration of the Project and for one (1) year thereafter.
- vi. Contractor shall notify Owner in writing by certified mail or personal delivery, within ten (10) days after Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project.
- vii. Contractor shall post on each Project Site a notice, in the text, form and manner prescribed by the Texas Department of Insurance, Division of Workers' Compensation, informing all persons providing services on the Project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

By signing this Contract or providing or causing to be provided a certificate of coverage, Contractor is representing to Owner that all employees of the Contractor who will provide services on the Project will be covered by workers' compensation coverage for the Duration of the Project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the division. Providing false or misleading information may subject Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

Contractor's failure to comply with any of these provisions is a breach of the Contract by Contractor which entitles Owner to declare the Contract void if Contractor does not remedy the breach within ten (10) days after receipt of notice of breach from Owner.

Minimum Workers Compensation Requirements Only- See Exhibit D-2			
	Per occurrence Bodily injury	Per occurrence bodily injury by disease	Policy Limit for Bodily Injury Disease
Tier 1	\$500K	\$500k	\$500k
Tier 2	\$500k	\$500k	\$500k
Tier 3	\$200k	\$200k	\$200k
Tier 4	\$1M	\$1M	\$2M

b. US Longshore and Harbor Coverage:

Definition

1. Except as otherwise provided in this section, compensation shall be payable under this Act in respect of disability or death of an employee, but only if the disability or death results from an injury occurring upon the navigable waters of the United States (including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, dismantling, or building a vessel).
2. Marine contractors and those working on or adjacent to navigable waters should carry Workers' Compensation that is endorsed for the benefits provided by the United States Harbor Workers and Longshoremen's Act. Some employees who are considered "seaman" may be covered by the Jones Act which also covers on the job injuries on vessel.
3. Liability coverage should take the form of Marine Liability or Protection and Indemnity Coverage. Liability from operations onshore, over water, and from the operation of barges and other vessels should be covered.
4. Pollution coverage may also be requested and can be added to the Protection and Indemnity form.

Minimum US Longshore & Harbor Insurance Requirements Only- See Exhibit D-2			
	Per occurrence Bodily injury	Per occurrence bodily injury by disease	Policy Limit for Bodily Injury Disease
Tier 1	N/A	N/A	N/A
Tier 2	N/A	N/A	N/A
Tier 3	\$500k	\$500k	\$500k\$400
Tier 4	\$1M	\$1M	\$1M

c. Business Automobile Liability Insurance:

1. Provide coverage for all owned, non-owned and hired vehicles. The policy shall provide coverage based on the contract amount and risk tier assigned.
2. Minimum requirements only see tier chart and use contract amount to determine if more coverage is needed.
3. The policy shall contain the following endorsements in favor of Owner:
 - i. Waiver of Subrogation endorsement; and
 - ii. 30-day Notice of Cancellation endorsement; and
 - iii. Additional Insured endorsement.

Minimum Business Automobile Insurance Requirement Only- See Exhibit D-2			
	Bodily Injury	Property Damage	Combined Single Limit
Tier 1	\$250k	\$100k	\$500k
Tier 2	\$300k	\$300k	\$600k
Tier 3	\$400k	\$400k	\$800k
Tier 4	\$1.5M	\$1.5M	\$3M

d. Marine Liability:

1. Provide coverage for all owned, non-owned and hired boats. The policy shall provide coverage based on the contract amount and risk tier assigned:

2. The policy shall contain the following endorsements in favor of Owner:
 - i. Waiver of Subrogation endorsement; and
 - ii. 30-day Notice of Cancellation endorsement; and
 - iii. Additional Insured endorsement.

Minimum Marine Liability Requirements Only See Exhibit D-2			
	Owned, Non-Owned, Hired, Injury and Property Coverage for all		
	Bodily Injury	Property Damage	Combined Single Limit
Tier 1	N/A	N/A	N/A
Tier 2	N/A	N/A	N/A
Tier 3	\$400k	\$400k	\$800k
Tier 4	\$1M	\$1M	\$2M

e. Employers' Liability Insurance:

1. The minimum policy limits for Employers' Liability Insurance coverage shall be \$500,000 bodily injury per accident, \$500,000 bodily injury by disease policy limit and \$500,000 bodily injury by disease each employee.
2. Contractor's policy shall cover all States in which Work is performed and apply to the State of Texas and shall include these endorsements in favor of Owner:
 - i. Waiver of Subrogation; and
 - ii. 30-day Notice of Cancellation.

Minimum Employer's Liability Insurance Only- See Exhibit D-2			
	Per occurrence Bodily injury	Per occurrence bodily injury by disease	Policy Limit for Bodily Injury Disease
Tier 1	N/A	N/A	N/A
Tier 2	N/A	N/A	N/A
Tier 3	\$500k	\$500k	\$500k
Tier 4	\$1M	\$1M	\$1M

f. Commercial General Liability Insurance:

1. Provide coverages based on limits and risk tiers assigned on Exhibit D-2 the chart below is the minimum for the tier only actual requirements may be higher based on the contract amount please see Exhibit D-2:
2. The Contractor's policy shall include coverage for:
 - i. Blanket contractual liability coverage for liability assumed under the Contract and all contracts relative to this Project; and
 - ii. Completed Operations/Products Liability for at least three years after Substantial Completion; and
 - iii. Explosion, Collapse and Underground (X, C & U) coverage; and
 - iv. Independent Contractors coverage; and
 - v. Aggregate limits of insurance per project; and
 - vi. Additional insureds as required in Section 2.p.; and

- vii. 30-day notice of cancellation in favor of Owner; and
- viii. Waiver of Transfer of Recovery Against Others in favor of all required additional insureds; and
- ix. Primary and non-contributing endorsement.

Minimum Commercial General Liability Insurance Requirements Only See Exhibit D-2						
Premises/Completed Operations						
	Per Project Aggregate Limits	Fire Damage	Personal & ADV Injury	Aggregate	Premises/ Operations	Products/ Completed Operations
Tier 1	\$300k	\$100k	\$300k	\$600k	\$300k	\$300k
Tier 2	\$300k	\$100k	\$300k	\$600k	\$300k	\$300k
Tier 3	\$300k	\$300k	\$300k	\$600k	\$300k	\$300k
Tier 4	\$1M	\$1M	\$1M	\$2M	\$1M	\$1M

g. Builder’s Risk Insurance:

1. Contractor shall maintain Builder’s Risk Insurance or Installation Insurance on an all-risk physical loss form in the Contract Amount plus the value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Work at the site on a replacement cost basis without optional deductibles. Coverage shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, explosion, tornado, malicious mischief, collapse, earthquake, flood, surface water, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements and shall cover reasonable compensation for Principal Architect/Engineer’s and Contractor’s services and expenses required as a result of any insured loss. Coverage shall continue until final payment for the Work is made by the Owner. Coverage shall allow for partial occupancy/use by the Owner. Owner shall be an additional named insured on the policy. Policy must include expenses incurred in the repair or replacement of any insured property, including but not limited to fees and charges of the Principal Architect/Engineer and any other engineers and architects and their respective subconsultants. If off-site storage is permitted by the Owner, coverage shall include materials in transit and storage in an amount sufficient to protect property being transported or stored. Any losses covered by the Builder’s Risk or Installation Insurance shall be adjusted by the Owner.

Minimum Builder’s Risk Insurance Requirements Only See Exhibit D-2	
Tier 1	N/A
Tier 2	N/A
Tier 3	=CA
Tier 4	=CA

h. Environmental Impairment Liability or Pollution Liability Insurance:

1. Contractor shall comply with the following insurance requirements in addition to those specified above:
 - i. Provide an Environmental Impairment Liability policy with minimum limits baes on the corresponding insurance tier and contract amount. Coverage shall contain a “per project” aggregate, 30-day notice of cancellation to Owner and waiver of subrogation in favor of Owner.

Coverage to include non-owned disposal sites. Coverage shall include clean-up costs, bodily injury, property damage and defense costs.

- ii. Policy shall contain proper endorsement wording to comply with Federal or TCEQ requirements. Policy will also cover vessels and marine operations. Contractor shall submit complete copies of the policy providing pollution liability coverage to Owner.

Minimum Environmental/Pollution Requirements Only See Exhibit D-2	
Tier 1	N/A
Tier 2	N/A
Tier 3	\$500k
Tier 4	\$1M

i. Professional Liability Insurance:

- 1. For Work which requires professional engineering or architectural or professional survey services to meet the requirements of the Contract, including but not limited to excavation safety systems, traffic control plans, and construction surveying, the Contractor or Subcontractors, responsible for performing the professional services shall provide Professional Liability Insurance with a minimum limit listed below, actual limits required will vary based on the contract amount. The coverage shall pay on behalf of the assured all sums which the assured shall become legally obligated to pay as damages by reason of any negligent act, error, or omission committed in connection with professional services provided for or in connection with the Work of this Contract.

Minimum Professional Liability Requirements Only See Exhibit D-2	
Tier 1	N/A
Tier 2	\$500k
Tier 3	N/A
Tier 4	N/A

j. Umbrella Liability:

- 1. Umbrella Liability will be assigned based on the risk tier and contract amount, see chart below for minimums, the actual amount will vary. The Owner as an additional insured and with waiver of subrogation and 30-day notice of cancellation. The Umbrella Liability policy shall follow form, be excess over and be no less broad than all coverages described above (with the exception of Workers' Compensation, Professional Liability and Pollution Liability), shall include a drop-down provision and contain a per job aggregate. This policy shall have the same inception and expiration dates as the Commercial General Liability insurance required above. Contractor shall maintain such insurance in identical coverage, form and amount, including required endorsements, for at least three (3) years following Date of Substantial Completion of the Work to be performed under the Contract.

Minimum Umbrella Liability Requirements Only See Exhibit D-2	
Tier 1	N/A
Tier 2	N/A
Tier 3	\$1M
Tier 4	\$1M

k. Marine General Liability:

1. Protection and Indemnity coverage for any over water operations, vessels, barges, divers. This policy shall have limits based on risk tiers and contracts amounts, and policy endorsed to provide coverage for losses related to illness, injury, loss of life, medical expenses, damage to other vessels and property, damage to cargo, wreckage removal, and quarantine expenses.

Minimum Marine Liability Requirements Only See Exhibit D-2	
Tier 1	N/A
Tier 2	N/A
Tier 3	\$400k
Tier 4	\$1M

l. Excess P&I:

1. Excess P&I is required for tier 3 and tier 4 projects based on the risk tier and contract amount for the project. Excess P & I policy should for each occurrence with additional insured, waiver of subrogation and 30-day notice of cancellation to the Owner.

Minimum Excess Requirements Only See Exhibit D-2	
Tier 1	N/A
Tier 2	N/A
Tier 3	\$1M
Tier 4	\$1M

4) Additional Insurance Requirements

a. Contractor And Subcontractor Provided Insurance:

A risk level has been assigned and the project specific insurance requirements can be found in Exhibit D-2. Contractor and Subcontractors shall obtain and maintain insurance coverages described in Section 3 and to the extent applicable, the project specific insurance requirements described in Exhibit D-2, through the end of the warranty period (with the exception of Builders' Risk, which is required to remain in effect at least until final payment) or such longer periods of time as may be set forth herein. Subcontractors' limits of coverage for Commercial General Liability shall be no less than the Contractors required coverage and limits. Subcontractors shall not be required to maintain separate Builder's Risk Insurance. Subcontractors shall not be required to maintain Environmental Impairment Liability or Pollution Liability Insurance unless their Scope of Work involves Hazardous Conditions in which event such Subcontractors shall maintain such insurance equal to the Contractor's required coverage and limits. Subcontractors shall not be required to maintain Professional Liability coverage unless their Scope of Work includes professional services in which event such Subcontractors shall maintain such insurance with limits of coverage not less the Contractor's required coverage and limits. Subcontractors' limits of coverage for Umbrella Liability shall be no less than the Contractor's required coverage and limits. All insurance secured by Contractor, Subcontractors and Sub-Subcontractors pursuant to Owner's requirements under this provision shall be in accordance with this Exhibit D-1 and Section 2. a. through q. as follows:

i. Waiver of Rights

All policies purchased in accordance with Section 3. g. shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional named insureds thereunder. Owner and Contractor waive all rights of recovery for damages against each other and their respective officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them,

the Principal Architect/Engineer, the Principal Architect/Engineers Consultants and Subconsultants and Owner's Representative and any named insured or additional named insured or loss payee to the extent (a) of losses and damages caused by, arising out of or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work and (b) that such losses and damages are actually paid by such policies or other property insurance applicable to the Work. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner as adjuster or recipient thereof or otherwise payable under any such policy.

ii. Receipt and Application of Insurance Proceeds

Any insured loss under the policies of insurance required by Section 3. g. will be adjusted with Owner and made payable to Owner for the named insureds, additional named insureds, and loss payees, as their interests may appear, subject to the requirements of any applicable mortgage clause. Owner shall deposit any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof, to the extent of loss payments received, covered by an appropriate Change Order. Owner shall have power to adjust and settle any loss with the builder's risk or other property insurers.

iii. Partial Utilization, Acknowledgment of Property Insurer:

If Owner desires to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to Section 3. g. have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, and the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

m. Bonds:

1. General:

Contractor shall furnish performance, payment, and one-year maintenance Bonds, each in an amount at least equal to the Contract Amount as security for the faithful performance and payment of all of Contractor's obligations under the Contract Documents. The one-year maintenance Bond shall remain in effect until completion of the correction period. If required, a second-year maintenance Bond shall equal ten percent (10%) of the Contract Amount. The second-year maintenance Bond shall remain in effect until 2-years from the date of Substantial Completion. Contractor shall also furnish such other Bonds as are required by the Contract Documents.

- i. Bonds shall be executed on forms furnished by Owner, as included in the Specifications. All Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each Bond.
- ii. If the Surety on any Bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in the State of Texas or it is placed into receivership, Contractor shall within ten (10) days thereafter substitute other Bonds and Surety, each of which must be acceptable to Owner.
- iii. The Performance Bond and Payment Bond shall be issued in an amount of one hundred percent (100%) of the Contract Amount as security for the faithful performance and/or payment of all Contractor's obligations under the Contract Documents. All Bonds, including but not limited to

the Performance Bond and Payment Bond shall be issued by a solvent corporate surety company authorized to do business in the State of Texas, and shall meet any other requirements established by law or by Owner pursuant to applicable law. Any surety duly authorized to do business in Texas may write Performance and Payment Bonds on a project without reinsurance to the limit of ten percent (10%) of its capital and surplus. Such a surety must reinsure any obligations over the ten percent (10%) limit.

2. Performance Bond

- i. Contractor shall furnish Owner with a Performance Bond in the form set out in the Contract Documents.
- ii. The Performance Bond shall include the one (1) year warranty correction period obligation from the date of Substantial Completion of the Work.

3. Payment Bond:

- i. Contractor shall furnish Owner with a Payment Bond in the form set out in the Contract Documents.

4. One-Year Maintenance Bond:

- i. Contractor shall furnish Owner with a One-Year Maintenance Bond in the form set out in the Contract Documents.

5. Second-Year Maintenance Bond (if required):

- i. Contractor shall furnish Owner with a Second-Year Maintenance Bond in the form set out in the Contract Documents.
- ii. The Second-Year Maintenance Bond shall be in an amount equal to ten percent (10%) of the Contract Amount and shall remain in effect until 2-years from the date of Substantial Completion.



**Procurement Department
1577 Dam Site Road
Conroe, Texas 77304**

**STANDARD FORM OF AGREEMENT
PROFESSIONAL PUBLIC
COMMUNICATIONS CONSULTING
SERVICES FOR THE WOODLANDS
DIVISION**

CONTRACT # 23-0036-A

**CONSULTING SERVICES AGREEMENT
CONTRACT NO. 23-0036-A**

This Consulting Services Agreement (the "Agreement") is made and entered into effective as of the ____ day of ____, 2023__, by and between the San Jacinto River Authority, a conservation and reclamation district of the State of Texas, ("SJRA") with general and administration offices located at 1577 Dam Site Road, Conroe, Texas 77304,

and

_____, a [corporation, limited partnership, limited liability company] organized under the laws of the State of _____, ("CONSULTANT") with principal offices located at _____.

SJRA and CONSULTANT are sometimes referred to herein collectively as the "Parties" or individually as a "Party."

The Parties hereby agree as follows:

ARTICLE 1 – SCOPE OF SERVICES

1.1 CONSULTANT agrees to perform services (the "Services") related to _____ as are requested from time to time by SJRA, which Services shall be set forth more particularly in separate work orders, the form of which is attached hereto as **Attachment B**, which may be issued from time to time by SJRA and accepted by CONSULTANT (each, a "Work Order"). Each Work Order shall constitute a separate and independent agreement between CONSULTANT and SJRA, and collectively each Work Order together with this Agreement and its Attachments may be referred to herein as the "Contract Documents".

1.2 Work Orders shall contain the schedule, price, and payment terms applicable to the Services within the scope of such orders. **TIME IS OF THE ESSENCE TO THIS AGREEMENT AND ALL WORK ORDERS.** Work Orders shall become effective when an acknowledged copy thereof is signed by a duly authorized officer of CONSULTANT, returned to SJRA and countersigned by SJRA. The specific terms of a Work Order may not be modified unless such modifications are agreed to in writing by SJRA and CONSULTANT.

1.3 All Work Orders incorporate and shall be governed by and subject to the terms, conditions, and other provisions of this Agreement; provided, however, that a Work Order may specifically state a term, condition, or other provision of this Agreement that is being modified thereby. Unless so stated, the terms, conditions, or other provisions contained in any Work Order or any proposal attached to or incorporated into a Work Order that conflict with any terms, conditions, or other provisions of this Agreement shall have no effect and shall be deemed stricken and severed from such Work Orders, and the balance of the terms, conditions, and other provisions contained in such Work Orders shall remain in full force and effect. Modifications of the terms, conditions, or other provisions of this Agreement with respect to a particular Work Order shall not modify the terms, conditions, or other provisions of this Agreement with respect to any other Work Order.

1.4 Nothing herein shall obligate SJRA to issue, or CONSULTANT to accept, any Work Orders. Further, the Parties agree that nothing in this Agreement shall prohibit the Parties, or either of them, from entering into agreements other than this Agreement for services or other work similar to the Services that are the subject of this Agreement.

ARTICLE 2 – TERM OF AGREEMENT

2.1 This Agreement shall be effective from the date first set forth above with the initial term of one (1) year with the option to renew for two (2) additional one (1) year terms for a total of three (3) years unless terminated earlier in writing in accordance with Article 12. Any renewal must be in writing and executed by both the Parties.

2.2 Notwithstanding the foregoing Paragraph 2.1, this Agreement shall apply to and remain in effect for Work Orders issued and accepted during the term of this Agreement until such time as Consultant's obligations in connection with the Services under such Work Orders have been completed and fulfilled; provided however, that, pursuant to Article 12, either Party shall have the right to terminate any Work Order for cause and SJRA shall have the right to terminate any Work Order for convenience.

2.3 Without limiting the generality of the foregoing Paragraph 2.2, Consultant's obligations under Articles 5, 6, 8, 9, 10, 11, 18, 19 and 20 shall survive the expiration of termination of this Agreement or any Work Order.

ARTICLE 3 – COMPENSATION AND PAYMENT

3.1 SJRA agrees to pay CONSULTANT, and CONSULTANT agrees to accept, as full and complete compensation for Services properly performed by CONSULTANT in accordance with this Agreement and the applicable Work Order, the rates and charges agreed upon for a specific Work Order. Paragraphs A.1 or A.2 of **Attachment A**, which is attached hereto and incorporated herein by reference, shall be used to negotiate the compensation payable for each Work Order issued hereunder.

3.2 On or before the tenth day of each calendar month, CONSULTANT shall submit an invoice to SJRA, together with backup documentation required by SJRA and releases and waivers in forms acceptable to SJRA, covering all Services performed under any Work Order by CONSULTANT and its subconsultants, subcontractors and suppliers during the preceding calendar month. CONSULTANT shall separately itemize on each invoice: (i) each Work Order for which payment is sought, (ii) the amount budgeted for each such Work Order, (iii) the amount of payment requested pursuant to each such Work Order, (iv) the amount previously paid pursuant to each such Work Order, (v) descriptions of Services performed during the prior month pursuant to each such Work Order, and (vi) the total payment requested by such invoice. SJRA shall pay the amount it agrees to be due within forty-five (45) days after receipt of such complete invoice and backup documentation. SJRA shall notify CONSULTANT in writing of a disputed amount in an invoice within twenty-one (21) days of receipt. Such notice shall include a detailed statement of the amount of the invoice which is disputed.

3.3 SJRA shall have the right but not the obligation to withhold or nullify all or part of any payment requested in any invoice to such extent as may be necessary, but in no event greater than 110% of the disputed amount, on account of:

- (a) Services that are not in compliance with this Agreement or the applicable Work Order or any failure of CONSULTANT to perform Services in accordance with the provisions of this Agreement or the applicable Work Order;
- (b) third party suits, stop notices, claims or liens arising out of Services performed for which CONSULTANT is responsible pursuant to this Agreement and asserted or filed against SJRA or any of its property or portion thereof or improvements thereon provided that CONSULTANT fails to provide SJRA with sufficient evidence that CONSULTANT's insurance is adequate or shall cover the claim(s);
- (c) uninsured damage to any INDEMNITEE (hereinafter defined) which results from CONSULTANT's failure to obtain or maintain the insurance required by this Agreement or from any action or inaction by CONSULTANT or any of its subcontractors, subconsultants, or suppliers which excuses any insurer from liability for any loss or claim which would, but for such action or inaction, be covered by insurance; or
- (d) any failure of CONSULTANT to pay any subcontractor, subconsultant, or supplier of CONSULTANT the correct, undisputed, and contractually obligated amount for acceptable services received and for acceptable supplies received. CONSULTANT will not include in its billings to SJRA any amount in a subcontractor or supplier invoice which it has not paid or does not intend to pay within the terms and conditions of the applicable subcontract agreement or supplier purchase order.

Any failure by SJRA to exercise its right to withhold all or any part of payment requested in any invoice as provided in this Paragraph 3.3 shall not be and shall not be construed as (i) a waiver of SJRA's right to do so in the future, or (ii) evidence that any of the circumstances identified in

Subparagraphs 3.3(a) through (d) above have not occurred. When the above reasons for withholding payment are remedied or no longer exist, CONSULTANT shall resubmit an invoice for the withheld amounts. Payment will be made within thirty (30) calendar days of receipt by SJRA of an approved invoice, subject to Paragraph 3.4 below.

3.4 CONSULTANT agrees to pay in full (less any applicable retainage) as soon as reasonably practicable, but in no event later than thirty (30) days following payment from SJRA, all subcontractors, subconsultants, and any other persons or entities supplying labor, supplies, materials, or equipment in connection with Services that are owed payment by CONSULTANT out of such payment made to CONSULTANT by SJRA. Further, provided that SJRA has paid CONSULTANT in accordance with the terms of this Agreement and any particular Work Order, **CONSULTANT SHALL DEFEND AND INDEMNIFY SJRA FROM AND AGAINST ANY CLAIMS FOR PAYMENT ASSERTED OR FILED BY ANY SUCH PERSON OR ENTITY AGAINST SJRA, ITS PROJECT OR PROPERTY OR CONSULTANT.**

ARTICLE 4 – STANDARD OF CARE; COORDINATION OF SERVICES; SAFETY; COST ESTIMATES; LEGAL COMPLIANCE; THIRD PARTY REVIEW

4.1 CONSULTANT shall: (a) perform, supervise and direct the Services, using reasonable skill and attention, in a good, workmanlike and timely manner and in a reasonable and expeditious and economical manner consistent with the interests of SJRA; (b) exercise the degree of care, skill, and diligence in the performance of the Services in accordance with and consistent with the skill, care and diligence ordinarily provided by consultants providing similar services to governmental entities in major metropolitan areas under the same or similar circumstances; and (c) utilize reasonable skill, efforts, and judgment in furthering the interests of SJRA (collectively, the CONSULTANT's "Standard of Care").

4.2 Consistent with its Standard of Care, CONSULTANT shall (a) perform its Services in accordance with all applicable laws, codes, ordinances and regulations; (b) perform its Services in an efficient manner; and (c) keep SJRA apprised of the status of Services, coordinate its activities with SJRA, and accommodate other activities of SJRA at sites that the Services impact. CONSULTANT shall designate an authorized representative to be available for consultation, assistance, and coordination of activities.

4.3 As between SJRA and CONSULTANT, the CONSULTANT shall be solely responsible for its own activities at sites including the safety of its employees, and that of its subconsultants, subcontractors and suppliers. Construction contractors of SJRA shall have sole responsibility for providing materials, means, and methods of construction, for controlling their individual work areas and safety of said areas for all persons, and for taking all appropriate steps to ensure the quality of their work and the safety of their employees and of the public in connection with their performance of work or services provided under contracts with SJRA. Without assuming any control over, responsibility for or liability whatsoever with respect to the construction contractor obligations of the foregoing sentence, CONSULTANT shall notify SJRA if it observes violations of safety regulations or ordinances or quality of work deficiencies by SJRA's construction

contractors. CONSULTANT shall comply with the site safety program and rules established by the construction contractors.

4.4 To the extent that CONSULTANT provides to SJRA any estimate of costs associated with construction, any such estimate shall be developed in accordance with CONSULTANT's Standard of Care, but it is recognized by the Parties that neither CONSULTANT nor SJRA has control over the cost of the labor, materials, or equipment, over a construction contractor's methods of determining bid prices, or over competitive bidding, market, or negotiating conditions. Accordingly, CONSULTANT cannot and does not warrant or represent that bids or negotiated prices will not vary from SJRA's budget for the project or from any estimate of the cost of work or evaluation prepared or agreed to by CONSULTANT.

4.5 CONSULTANT hereby agrees that the following terms, conditions, verifications, certifications, and representations apply to and are incorporated into this Agreement for all purposes, and CONSULTANT shall deliver to SJRA signed and notarized verifications prior to commencement of any Services:

(a) With respect to providing Services hereunder, CONSULTANT shall comply with any applicable Equal Employment Opportunity and/or Affirmative Action ordinances, rules, or regulations during the term of this Agreement.

(b) Pursuant to Texas Local Government Code Chapter 176, CONSULTANT shall submit a signed Texas Ethics Commission ("TEC") Conflict of Interest Questionnaire ("CIQ") at the time CONSULTANT submits this signed Agreement to SJRA. TEC Form CIQ and information related to same may be obtained from TEC website by visiting <https://www.ethics.state.tx.us/forms/conflict/>. If CONSULTANT certifies that there are no Conflicts of Interest, CONSULTANT shall indicate so by writing name of CONSULTANT's firm and "No Conflicts" on the TEC Form CIQ.

(c) If CONSULTANT is a privately held entity, then pursuant to Texas Government Code Section 2252.908 and the rules promulgated thereunder by the TEC, CONSULTANT shall submit a completed and signed TEC Form 1295 with a certificate number assigned by the TEC to SJRA at the time CONSULTANT submits this signed Agreement to SJRA. TEC Form 1295 and information related to same may be obtained from TEC website by visiting <https://www.ethics.state.tx.us/filinginfo/1295/>. CONSULTANT agrees and acknowledges that this Agreement shall be of no force and effect unless and until CONSULTANT has submitted said form to SJRA, if and to the extent such form is required under Government Code § 2252.908 and the rules promulgated thereunder by the TEC.

(d) As required by Chapter 2271, Texas Government Code, CONSULTANT hereby verifies that CONSULTANT, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same, does not boycott Israel and will not boycott Israel through the term of this Agreement. The term "boycott Israel" in this

Paragraph has the meaning assigned to such term in Section 808.001 of the Texas Government Code, as amended.

(e) Pursuant to Chapter 2252, Texas Government Code, CONSULTANT represents and certifies that, at the time of execution of this Agreement, neither CONSULTANT, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same, is engaged in business with Iran, Sudan, or any terrorist organization, and is a company listed by the Texas Comptroller of Public Accounts under Sections 2270.0201 or 2252.153 of the Texas Government Code.

(f) As required by Section 2274.002, Texas Government Code (as added by Senate Bill 13, 87th Texas Legislature, Regular Session), as amended, CONSULTANT hereby verifies that CONSULTANT, including any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same, does not boycott energy companies, and will not boycott energy companies during the term of this Agreement. The term "boycott energy companies" in this Paragraph shall have the meaning assigned to the term "boycott energy company" in Section 809.001, Texas Government Code, as amended.

(g) As required by Section 2274.002, Texas Government Code (as added by Senate Bill 19, 87th Texas Legislature, Regular Session, "SB 19"), as amended, CONSULTANT hereby verifies that CONSULTANT, including any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same, (i) does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association, and (ii) will not discriminate against a firearm entity or firearm trade association during the term of this Agreement. The term "discriminate against a firearm entity or trade association" in this Paragraph shall have the meaning assigned to such term in Section 2274.001(3), Texas Government Code (as added by SB 19), as amended.

(h) Pursuant to Chapter 2274 of the Texas Government Code (as added by Senate Bill 2116, 87th Legislature, Regular Session), as amended, and to the extent this Agreement grants to CONSULTANT direct or remote access to the control of critical infrastructure, excluding access specifically allowed for product warranty and support, CONSULTANT verifies that neither CONSULTANT, including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of the same, nor any of its sub-contractors are: (i) owned or controlled by (a) individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; or (b) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or (ii) headquartered in China, Iran, North Korea, Russia or a designated country. The term "designated country" in this Paragraph means a country designated by the Governor as a threat to critical infrastructure under Section 2274.0103, Texas Government Code. The term "critical infrastructure" in this Paragraph shall have the meaning assigned to such term in Section 2274.0101, Texas Government Code.

4.6 CONSULTANT acknowledges and agrees that projects of SJRA may be subject to review and approval by other third parties. Accordingly, as and when requested by SJRA, CONSULTANT shall submit such information and cooperate with the other third parties to the extent necessary to undergo any such review or obtain any such approval.

4.7 CONSULTANT does not represent Work Product (as defined herein) to be suitable for reuse on any other project or for any other purpose(s). If SJRA reuses any Work Product without CONSULTANT's specific written verification or adaptation, such reuse will be at the risk of SJRA, without liability to CONSULTANT.

ARTICLE 5 – COST RECORDS

5.1 CONSULTANT shall maintain records and books in accordance with generally accepted accounting principles and practices. For Services provided by CONSULTANT under cost reimbursable, time and material or unit price Work Orders, during the period of this Agreement and for five (5) years thereafter, CONSULTANT shall maintain records of direct costs for which SJRA is charged. SJRA shall at all reasonable times have access to such records for the purpose of inspecting, auditing, verifying, or copying the same, or making extracts therefrom. SJRA's audit rights for fixed unit rate or time and materials Work Orders shall extend to review of records for the purpose of substantiating man-hours worked, units employed, and third party charges only. Except to the extent audit rights are granted to SJRA by applicable law, SJRA shall have no audit rights with respect to the portion of Work Orders or Services compensated on a lump sum basis.

ARTICLE 6 – OWNERSHIP OF WORK PRODUCT AND TECHNOLOGY

6.1 All studies, plans, reports, drawings, specifications, cost estimates, software, computations, and other information and documents prepared by CONSULTANT, its subconsultants, subcontractors, and/or suppliers, in connection with Services or any project of SJRA are and shall remain SJRA's property upon creation (collectively, "Work Product"); provided, however, that Work Product shall not include pre-existing proprietary information of CONSULTANT, its subconsultants, subcontractors, and/or suppliers ("CONSULTANT Proprietary Information"). To this end, CONSULTANT agrees to and does hereby assign, grant, transfer, and convey to SJRA, its successors and assigns, CONSULTANT's entire right, title, interest and ownership in and to such Work Product, including, without limitation, the right to secure copyright registration. CONSULTANT confirms that SJRA and its successors and assigns shall own CONSULTANT's right, title and interest in and to, including without limitation the right to use, reproduce, distribute (whether by sale, rental, lease or lending, or by other transfer of ownership), to perform publicly, and to display, all such Work Product, whether or not such Work Product constitutes a "work made for hire" as defined in 17 U.S.C. Section 201(b). In addition, CONSULTANT hereby grants SJRA a fully paid-up, royalty free, perpetual, assignable, non-exclusive license to use, copy, modify, create derivative works from and distribute to third parties CONSULTANT Proprietary Information in connection with SJRA's exercise of its rights in the Work Product, operation, maintenance, repair, renovation, expansion, replacement, and modification of projects of SJRA or otherwise in connection with property or projects in which SJRA has an interest (whether by SJRA or a third party). CONSULTANT shall obtain other assignments,

confirmations, and licenses substantially similar to the provisions of this Paragraph from all of its subconsultants, subcontractors, and suppliers. Work Product is to be used by CONSULTANT only with respect to the project in connection with which such Work Product was created and is not to be used on any other project. CONSULTANT and its subconsultants, subcontractors, and suppliers are granted a limited, nonexclusive, non-transferable, revocable license during the term of their respective agreements under which each is obligated to perform Services to use and reproduce applicable portions of the Work Product appropriate to and for use in the execution of Services. Submission or distribution to comply with official regulatory requirements for other purposes in connection with Services is not to be construed as publication in derogation of SJRA's copyright or other reserved rights. CONSULTANT agrees that all Work Product will be maintained according to the provisions of the Public Information Act, Chapter 552, Texas Government Code, and the Local Government Records Act, Chapters 201 through 205, Texas Local Government Code, each as amended. CONSULTANT shall deliver all copies of the Work Product to SJRA upon the earliest to occur of (i) SJRA's request, (ii) completion of Services in connection with which Work Product was created, or (iii) termination of this Agreement. CONSULTANT is entitled to retain copies of Work Product for its permanent project records.

6.2 CONSULTANT agrees that all information provided by SJRA in connection with Services shall be considered and kept confidential ("Confidential Information"), and shall not be reproduced, transmitted, used, or disclosed by CONSULTANT without the prior written consent of SJRA, except as may be necessary for CONSULTANT to fulfill its obligations hereunder; provided, however, that such obligation to keep confidential such Confidential Information shall not apply to any information, or portion thereof, that:

- (a) was at the time of receipt by CONSULTANT otherwise known by CONSULTANT by proper means;
- (b) has been published or is otherwise within the public domain, or is generally known to the public at the time of its disclosure to CONSULTANT;
- (c) subsequently is developed independently by CONSULTANT, by a person having nothing to do with the performance of this Agreement and who did not learn about any such information as a result of CONSULTANT's being a Party to this Agreement;
- (d) becomes known or available to CONSULTANT from a source other than SJRA and without breach of this Agreement by CONSULTANT or any other impropriety of CONSULTANT;
- (e) enters the public domain without breach of the Agreement by or other impropriety of CONSULTANT;
- (f) becomes available to CONSULTANT by inspection or analysis of products available in the market;

- (g) is disclosed with the prior written approval of SJRA;
- (h) was exchanged between SJRA and CONSULTANT and ten (10) years have subsequently elapsed since such exchange; or
- (i) is disclosed to comply with the Texas Open Records Act or in response to a court order to comply with the requirement of a government agency.

6.3 CONSULTANT shall not be liable for the inadvertent or accidental disclosure of Confidential Information, if such disclosure occurs despite the exercise of at least the same degree of care as CONSULTANT normally takes to preserve and safeguard its own proprietary or confidential information.

6.4 CONSULTANT will advise SJRA of any patents or proprietary rights and any royalties, licenses, or other charges which CONSULTANT knows or should know in the exercise of its Standard of Care impacts any design provided by CONSULTANT in connection with any Services, and obtain SJRA's prior written approval before proceeding with such Services. CONSULTANT shall not perform patent searches or evaluation of claims, but will assist SJRA in this regard if requested, pursuant to a written change order in accordance with Paragraph 12.1, below. There will be no charge for CONSULTANT's existing patents.

ARTICLE 7 – INDEPENDENT CONTRACTOR RELATIONSHIP

7.1 In the performance of Services hereunder, CONSULTANT shall be an independent contractor with the authority to control and direct the performance of the details of Services and its own means and methods. CONSULTANT shall not be considered a partner, affiliate, agent, or employee of SJRA and shall in no way have any authority to bind SJRA to any obligation.

ARTICLE 8 – WARRANTY PERIOD; GUARANTEES

8.1 If within a period of one (1) year following completion of Services under a Work Order, it is discovered that such Services were not performed in accordance with CONSULTANT's Standard of Care or the Contract Documents, SJRA, in its sole discretion, may: (1) direct CONSULTANT to re-perform and CONSULTANT shall re-perform such Services at its own expense, and as expediently or in the manner required for SJRA's needs; or (2) retain such other consultant or consultants as necessary to perform such corrective services, and CONSULTANT agrees to pay SJRA's costs associated with having such other consultant or consultants perform such corrective services, and any other damages incurred by SJRA as a result of such default. The obligations of CONSULTANT under this Paragraph 8.1 are in addition to other rights and remedies of SJRA available to it pursuant to this Agreement or applicable law.

8.2 CONSULTANT agrees to assign SJRA the warranty or guarantee of any subconsultant, subcontractor, supplier or manufacturer of items of services, supplies, machinery, equipment, materials, or products provided by CONSULTANT hereunder and cooperate and assist SJRA in

SJRA's enforcement thereof. CONSULTANT's responsibility with respect thereto is limited to such assignment, cooperation, and assistance.

ARTICLE 9 – INDEMNIFICATION

9.1 TO THE FULLEST EXTENT PERMITTED BY LAW, CONSULTANT SHALL INDEMNIFY AND HOLD HARMLESS SJRA AND ITS BOARD, DIRECTORS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES (EACH AN “INDEMNITEE” AND COLLECTIVELY, THE “INDEMNITEES”), FROM AND AGAINST CLAIMS, LOSSES, DAMAGES, DEMANDS, SUITS, CAUSES OF ACTION, SETTLEMENTS, LIABILITIES, COSTS, FINES, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE AND NECESSARY COURT COSTS, EXPERTS’ FEES AND ATTORNEYS’ FEES) (COLLECTIVELY, “LOSSES”), INCLUDING WITHOUT LIMITATION THOSE BROUGHT AGAINST OR INCURRED OR SUFFERED BY ANY ONE OR MORE OF THE INDEMNITEES AND THOSE ARISING IN FAVOR OF OR BROUGHT BY ANY THIRD PARTY, TO THE EXTENT CAUSED BY OR RESULTING FROM AN ACT OF NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER, COMMITTED BY CONSULTANT, ITS AGENT, ITS CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH CONSULTANT EXERCISES CONTROL, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY WORK ORDER, EVEN IF SUCH LOSSES ARE CAUSED IN PART BY THE NEGLIGENCE OR FAULT, BREACH OR VIOLATION OF A STATUTE, ORDINANCE, GOVERNMENTAL REGULATION, STANDARD OR RULE OR BREACH OF CONTRACT OF AN INDEMNITEE OR ANY THIRD PARTY UNDER THE CONTROL OR SUPERVISION OF AN INDEMNITEE; PROVIDED, HOWEVER, THAT CONSULTANT’S OBLIGATION TO INDEMNIFY AND HOLD HARMLESS SHALL NOT EXTEND TO THE PORTION (IF ANY) OF SUCH LOSSES THAT ARE CAUSED BY THE NEGLIGENCE OR FAULT, BREACH OR VIOLATION OF A STATUTE, ORDINANCE, GOVERNMENTAL REGULATION, STANDARD OR RULE OR BREACH OF CONTRACT OF AN INDEMNITEE OR ANY THIRD PARTY UNDER THE CONTROL OR SUPERVISION OF AN INDEMNITEE OTHER THAN CONSULTANT OR ITS AGENT OR EMPLOYEE OR SUBCONTRACTORS OF ANY TIER.

9.2 TO THE FULLEST EXTENT PERMITTED BY LAW, AND TO THE EXTENT A DEFENSE IS NOT PROVIDED FOR THE INDEMNITEES UNDER AN INSURANCE POLICY AS REQUIRED UNDER SECTION 1(f) OF ATTACHMENT C, ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE, OR THE INDEMNITEES’ ATTORNEYS’ FEES ARE NOT OTHERWISE RECOVERED UNDER THE INDEMNITY PROVISION SET FORTH IN PARAGRAPH 9.1 HEREOF, CONSULTANT SHALL, UPON FINAL ADJUDICATION OF THE LOSSES AS DEFINED IN PARAGRAPH 9.1 HEREOF AND WITHIN THIRTY (30) DAYS FOLLOWING THE DATE OF A WRITTEN DEMAND, REIMBURSE THE INDEMNITEES FOR ALL REASONABLE ATTORNEYS’ FEES INCURRED TO DEFEND AGAINST THE LOSSES IN PROPORTION TO CONSULTANT'S LIABILITY TO ANY THIRD PARTY FOR SUCH LOSSES.

ARTICLE 10 – LIMITATION OF LIABILITY

10.1 NEITHER PARTY HERETO SHALL BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES FOR ANY LOSS OF PROFIT, LOSS OF REVENUE, LOSS OF USE OR ANY OTHER INDIRECT,

CONSEQUENTIAL OR SPECIAL DAMAGES (EXCLUDING FINES AND PENALTIES LEVIED BY A REGULATORY AGENCY), EVEN IF CAUSED BY THE SOLE OR CONCURRENT NEGLIGENCE OF A PARTY, WHETHER ACTIVE OR PASSIVE, AND EVEN IF ADVISED OF THE POSSIBILITY THEREOF.

10.2 NOTHING HEREIN SHALL BE CONSTRUED AS CREATING ANY PERSONAL LIABILITY ON THE PART OF ANY BOARD MEMBER, OFFICER, EMPLOYEE, OR AGENT OF SJRA.

SAMPLE

ARTICLE 11 – INSURANCE

11.1 CONSULTANT shall obtain and maintain insurance as provided in **Attachment C**, attached hereto and incorporated herein.

ARTICLE 12 – CHANGES; TERMINATION FOR CONVENIENCE; TERMINATION FOR CAUSE

12.1 SJRA may, at any time and from time to time, make written changes to Work Orders in the form of modifications, additions, or omissions. In the event that any such change, through no fault of CONSULTANT, shall impact CONSULTANT's compensation or schedule, then (a) such changes shall be authorized by written change order issued by SJRA and accepted by CONSULTANT, and (b) an equitable adjustment shall be made to the Work Order in writing duly executed by both Parties, to reflect the change in compensation and schedule.

12.2 SJRA may for convenience terminate this Agreement, any Work Order issued under this Agreement, or CONSULTANT's right to perform Services under this Agreement or any Work Order by at any time giving seven (7) days written notice of such termination. In such event, SJRA shall have the right but not the obligation to assume all obligations and commitments that CONSULTANT may have in good faith undertaken or incurred in connection with the Services terminated, and SJRA shall pay CONSULTANT, as its sole and exclusive remedy, for Services properly performed to date of termination and for reasonable costs of closing out such Services provided SJRA has pre-approved such costs. CONSULTANT shall not be entitled to lost profit on unperformed Services or any consequential damages of any kind. Upon termination, CONSULTANT shall invoice SJRA for all Services performed by CONSULTANT prior to the date of termination which have not previously been compensated. Payment of undisputed amounts in the final invoice shall be due and payable within thirty (30) days after receipt by SJRA of such invoice and all Work Product.

12.3 This Agreement or any Work Order may be terminated by either Party in the event that the other Party fails to perform in accordance with its requirements and such Party does not cure such failure within ten (10) days after receipt of written notice describing such failure. In the event that SJRA terminates this Agreement or any Work Order for cause, CONSULTANT shall not be entitled to any compensation until final completion of the then ongoing Services and any such entitlement shall be subject to SJRA's right to offset and/or recoup all damages and costs associated with finally completing such Services. If for any reason, CONSULTANT is declared in default and/or terminated by SJRA under any Work Order with SJRA, SJRA shall have the right, subject to Paragraph 3.3, to offset and apply any amounts which might be owed to SJRA by CONSULTANT against any earned but unpaid amounts owed to CONSULTANT by SJRA under any Work Order. In the event any Work Order is terminated by SJRA, CONSULTANT shall promptly deliver to SJRA all Work Product with respect to such terminated Work Order.

ARTICLE 13 – FORCE MAJEURE

13.1 Any delay in performance or non-performance of any obligation other than an obligation to make a payment as required under this Agreement or any Work Order, of CONSULTANT contained herein shall be excused to the extent such delay in performance or non-performance is caused by Force Majeure. “Force Majeure” shall mean fire, flood, act of God, earthquakes, extreme weather conditions, epidemic, pandemic, war, riot, civil disturbance or unrest, imposition of martial law, restrictions imposed by civil authority, loss of control of civil authority, illegal activity, extreme unreliability or failure of the utility infrastructure, failure of the US banking system, loss of access to communication systems, sabotage, terrorism, or judicial restraint, but only to the extent that such event (i) is beyond the reasonable control of and cannot be reasonably anticipated by or the effects cannot be reasonably alleviated by CONSULTANT and (ii) prevents the performance of Services.

13.2 If CONSULTANT is affected by Force Majeure, CONSULTANT shall promptly provide written notice to SJRA, explaining in detail the full particulars and the expected duration thereof. Notice will be considered prompt if delivered within five (5) days after CONSULTANT first becomes aware or should have become aware through performance in accordance with the standard of care, that the event of Force Majeure will affect the performance of Services. CONSULTANT shall use its commercially reasonable efforts to mitigate the interruption or delay if it is reasonably capable of being mitigated.

ARTICLE 14 – SUCCESSORS, ASSIGNMENT AND SUBCONTRACTING

14.1 SJRA and CONSULTANT bind themselves and their successors, executors, administrators and permitted assigns to the other Party of this Agreement and to the successors, executors, administrators and permitted assigns of such other party, in respect to all covenants of this Agreement.

14.2 No right or interest in this Agreement or any Work Order shall be assigned by CONSULTANT or SJRA without the prior written consent of the other Party.

14.3 Prior to commencement of any part of the Services to be provided under any Work Order with respect to which CONSULTANT has elected to subcontract, CONSULTANT will notify SJRA in writing of the identity of the particular subcontractor, subconsultant or supplier CONSULTANT intends to employ for the performance of such part of the Services and the scope of Services it will perform. SJRA shall have the right within twenty-one (21) calendar days of such written notice to disallow CONSULTANT’s employment of any particular subcontractor, subconsultant or supplier, provided that any reasonable additional costs incurred by CONSULTANT as a result of such disallowance shall be borne by SJRA. All damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by CONSULTANT or any subcontractor, supplier or any person or organization directly or indirectly employed by any of them to perform or furnish any of the Services or anyone for whose acts any of them may be liable, shall be remedied by CONSULTANT (except to the extent of damage or loss attributable to errors or omissions in the drawings or specifications (unless CONSULTANT had knowledge of the error or omission or using reasonable care should have known of the

error or omission and CONSULTANT failed to report same), or to the acts or omissions of SJRA or anyone employed by SJRA, or anyone for whose acts any of them may be liable other than CONSULTANT or its agent, or employee, or subcontractors of any tier).

ARTICLE 15 – SEVERABILITY; NON-WAIVER

15.1 If any provision or portion thereof of this Agreement or any Work Order is deemed unenforceable or void, then such provision or portion thereof shall be deemed severed from the Agreement or such Work Order and the balance of the Agreement or Work Order shall remain in full force and effect.

15.2 Failure by SJRA in any instance to insist upon observance or performance by CONSULTANT of any term, condition or obligation of this Agreement shall not be deemed a waiver by SJRA of any such observance or performance. No waiver by SJRA of any term, condition, obligation or breach of this Agreement will be binding upon SJRA unless in writing, and then will be for the particular instance specified in such writing only. Payment of any sum by SJRA to CONSULTANT with knowledge of any breach will not be deemed a waiver of such breach or any other breach.

ARTICLE 16 – LICENSE REQUIREMENTS

16.1 The CONSULTANT and any subconsultant shall have and maintain any licenses, registrations and certifications required by the State of Texas or recognized professional organizations governing the Services performed under this Agreement and any Work Order.

ARTICLE 17 – ENTIRE AGREEMENT

17.1 This Agreement and all Work Orders issued under it contain the full and complete understanding of the Parties pertaining to their subject matter and supersede any and all prior and contemporaneous representations, negotiations, agreements or understandings between the Parties, whether written or oral. The Agreement and Work Orders may be modified only in writing, signed by both Parties.

ARTICLE 18 – GOVERNING LAW; VENUE

18.1 This Agreement and Work Orders, and its and their construction and any disputes arising out of, connected with, or relating to this Agreement or Work Orders shall be governed by the laws of the State of Texas, without regard to its conflicts of law principles. Venue of all dispute resolution proceedings arising out of, connected with or relating to this Agreement, shall be in Montgomery County, Texas.

ARTICLE 19 – DISPUTE RESOLUTION

19.1 In the event of any dispute arising out of or relating to this Agreement, any Work Order or any Services which SJRA and CONSULTANT have been unable to resolve within thirty (30) days

after such dispute arises, a senior representative of CONSULTANT shall meet with the General Manager of SJRA at a mutually agreed upon time and place not later than forty-five (45) days after such dispute arises to attempt to resolve such dispute. In the event such representatives are unable to resolve any such dispute within fifteen (15) days after such meeting, either Party may, by written notice to the other, submit such dispute to non-binding mediation before a mutually agreeable mediator. If the Parties are unable to agree upon a mediator within twenty (20) days after such written notice of submission to mediation, the American Arbitration Association shall be empowered to appoint a qualified mediator pursuant to the American Arbitration Association Construction Industry Mediation Rules. If the dispute is technical in nature, the mediator appointed by the American Arbitration Association shall be qualified by at least ten (10) years' experience in construction, engineering, and/or public works operations. The mediation shall be conducted within thirty (30) days of the selection or appointment of the mediator, as applicable. The mediation shall be held at a mutually agreeable location in Montgomery County, Texas. If the Parties are unable to agree on a location, the mediation shall be held at the offices of the American Arbitration Association closest to Conroe, Texas.

19.2 Any dispute arising out of or relating to this Agreement or any Work Order or any Services not resolved pursuant to Paragraph 19.1, shall be resolved, by litigation in a court of competent jurisdiction.

19.3 Notwithstanding the foregoing, in the event SJRA and any other consultant and/or any contractor are involved in a dispute in connection with a project for which CONSULTANT has provided Services, and SJRA, in its sole discretion, determines that CONSULTANT's participation in any dispute resolution meeting or mediation proceeding between SJRA and any such consultant and/or contractor is necessary to the resolution of such dispute, CONSULTANT agrees to attend and participate at its own cost in any such dispute resolution meeting or mediation proceeding.

19.4 If CONSULTANT brings any claim against SJRA and CONSULTANT does not prevail with respect to such claim, CONSULTANT shall be liable for all attorneys' fees and costs incurred by SJRA as a result of such claim.

ARTICLE 20 – ELECTRONIC SIGNATURES; COUNTERPARTS

20.1 This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement. Duplicate copies of duly executed and delivered counterparts of this Agreement shall be deemed to have the same full force and effect as originals and may be relied upon as such. Notwithstanding the foregoing, the Parties agree that this Agreement and any Work Order may be executed using electronic signatures at the option and discretion of SJRA, and, in such event, the provisions of the Uniform Electronic Transaction Act, Chapter 332, Texas Business and

Commerce Code, as amended, and any applicable policies and procedures of SJRA regarding electronic signatures shall apply.

ARTICLE 21 – CONFIDENTIALITY

21.1 Neither CONSULTANT nor any of its subconsultants shall publish or release any publicity or public relations materials of any kind concerning or relating to this Agreement, the Services or the activities of SJRA, unless such materials have first been reviewed and approved in writing by SJRA. This provision shall not apply to mandatory reports which CONSULTANT or its subconsultants are required by law to file with governmental authorities.

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the day and year herein above first written.

CONSULTANT:

Name

By: _____

Name
Title

Date: _____

ATTEST:

SJRA:

San Jacinto River Authority

By: _____

Jace A. Houston
General Manager

Date: _____

ATTEST:

ATTACHMENT A

Compensation terms for cost reimbursable and lump sum Services:

A.1. COMPENSATION BASED ON COST WITH MULTIPLIER

For management and support staff, SJRA will compensate CONSULTANT on the basis of a multiplier added to the Raw Salary Cost as shown in the table below for the Scope of Work specified in the Work Order. Management is defined as a manager, supervisor, engineer, scientist or other recognized profession. Typically, management employees are salaried exempt employees. Typically, support staff employees are hourly non-exempt employees. The Raw Salary Cost for salaried employees is defined as the annual base salary excluding bonuses, burdens, and benefits divided by 2080. For hourly personnel, the Raw Salary Cost is defined as the hourly wage paid to the employee exclusive of burdens and benefits. Any shift premiums or premiums paid for hours worked in excess of 40 per week will be added to the base hourly wage and will be considered a part of the Raw Salary Cost.

(a) RAW SALARY MULTIPLIERS

X.XX for management and support staff working at CONSULTANT or its subcontractor, subconsultant, or vendor offices

2.86 for management and support staff working in the field during construction or at SJRA offices for a minimum period of six (6) consecutive months

(b) EXPENSES

“Billable Expenses” include all costs and expenses directly attributable to performance of the Services, which are in good accounting practice direct costs of the Services and not covered by the allowance for payroll burden and general office overhead and profit. Costs of outside services will be charged at actual invoice cost plus ten percent (10%). “Billable Expenses” include: subconsultants; travel expenses to and from locations outside Harris and Montgomery Counties; and copies of all deliverables submitted to SJRA. All local vehicle use outside Harris and Montgomery Counties will be reimbursed at the current IRS allowable rate with no markup. All other expenses are considered to be covered by the allowance for payroll burden and general office overhead and profit and are non-billable expenses.

A.2. LUMP SUM COMPENSATION

SJRA will compensate CONSULTANT on the basis of a mutually agreed upon lump sum price for the scope of work specified in the Work Order. SJRA may ask CONSULTANT for a cost estimate for the scope of work prior to issuing the Work Order. The cost estimate will include a summary breakdown showing the labor hours and cost, subconsultant costs, and other direct

costs included in the estimate. Labor rates to be used in preparing the estimate will be the actual salary or wage of the employee times the appropriate multiplier specified in Paragraph A.1(a) above. CONSULTANT will submit and SJRA will pay monthly invoices based on the mutually agreed upon percentage of the Services completed.

ATTACHMENT B

This Work Order is issued subject to, is governed by, and incorporates by reference that certain Consulting Services Agreement, Contract No. _____, between the SJRA and CONSULTANT effective _____, 2023__.

Work Order Date: _____

CONSULTANT: _____

Type of Compensation: _____

Compensation: _____

Location of Services: (County) _____

Description of Services: _____

Deliverables: See Attached.

Schedule Requirements:

Commence Services: _____

Completion of Services: _____

Submittal Dates for Each Deliverable: See Attached.

Agreed to by:

SJRA

By: _____

Name: Jace A. Houston

Title: General Manager

and

[CONSULTANT]

By: _____

Name: _____

Title: _____

ATTACHMENT C
SJRA'S INSURANCE REQUIREMENTS OF CONSULTANT

1. General Requirements. CONSULTANT shall, at all times during the performance of Services pursuant to Work Orders issued under this Agreement and for not less than two years after the completion of any Services, provide and require all subconsultants and subcontractors to provide insurance coverage with companies lawfully authorized to do business in Texas and acceptable to SJRA and with forms of policies acceptable to SJRA, which coverage will protect CONSULTANT from claims set forth below which may arise out of or result from CONSULTANT's Services and operations under this Agreement and any Work Order for which CONSULTANT may be legally liable, whether such Services or operations are by CONSULTANT or a subconsultant or subcontractor of CONSULTANT or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and meeting not less than the minimum requirements set forth in this Attachment C. Such insurance is to be provided at the sole cost of CONSULTANT and all subconsultants and subcontractors. The terms "subconsultant" and "subcontractor" for the purposes of this Attachment C shall include subconsultants and subcontractors of any tier.

(a) Kinds of Claims

- (1) claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to CONSULTANT's Services to be performed;
- (2) claims for damages because of bodily injury, occupational sickness or disease, or death of CONSULTANT's employees;
- (3) claims for damages because of bodily injury, sickness or disease, or death of any person other than CONSULTANT's employees;
- (4) claims for damages insured by usual personal injury liability coverage which are sustained (i) by a person as a result of an offense directly or indirectly related to employment of such person by CONSULTANT, or (ii) by another person;
- (5) claims for damages other than to CONSULTANT's work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- (6) claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- (7) claims involving contractual liability insurance applicable to CONSULTANT's indemnification obligations under this Agreement; and
- (8) claims for errors and omissions in the provision of consulting services of the kind rendered by CONSULTANT pursuant to this Agreement.

(b) Policies and Minimum Limits of Liability

PLEASE NOTE: These requirements should provide general guidance only, additional requirements based on project specifics of the contract may be required. Contract amounts over limits will require excess coverage to cover the difference. Combined single limits and excess coverage must equal the Contract Amount (CA).							
Risk Level TIER 2	Coverage	Contract Amount					
		<=\$25k	>\$25k- \$75k	>\$75k- \$1M	>=\$1M- \$2M	>\$2M	
Professional Services Services: Architect, Engineer, Surveyor, Professional Non-AES excluding legal services. Contract Type: > Master Professional Services Agreement (MPSA)(AES)- Across all divisions/3 years > Professional Services Agreement (PSA)(AES)-project specific, multiple phases would be new work orders. > Consulting Agreement (Non-AES) > Engagement Letter	Commercial General Liability (CGL) (Premises/Completed Operations)	Each Occurrence	\$300k	\$500k	\$1M	\$1.5M	= \$2M
		Fire Damage	\$100k	\$250k	\$1M	\$1.5M	= \$2M
		Personal & ADV injury	\$300k	\$500k	\$1M	\$1.5M	= \$2M
		Aggregate	\$600K	\$750k	\$2M	\$3M	= \$4M
		Premises/Operations	\$300k	\$500k	\$1M	\$1.5M	= \$2M
	Workers Compensation	Products/ Completed Operations	\$300K	\$500k	\$1M	\$1.5M	= \$2M
		Per occurrence bodily injury	\$500k	\$500k	\$500k	\$500k	\$500k
		Per Occurrence bodily injury by disease	\$500k	\$500k	\$500k	\$500k	\$500k
	Business Auto Liability Owned, Non-Owned, Hired, Injury and Property coverage for all	Policy Limit for Bodily Injury Disease	\$500k	\$500k	\$500k	\$500k	\$500k
		Bodily Injury	\$300k	\$500k	\$500k	\$1M	\$1M
Property Damage		\$300k	\$500k	\$500k	\$1M	\$1M	
Professional/EO Liability	Combined Single Limit	\$600k	\$1M	\$1M	\$2M	= \$2M	
	Professional and Cyber required based on the scope of work	500k	\$1M	\$1M	\$2M	= \$2M	

*Aggregate limits are per 12-month policy period unless otherwise indicated; defense costs shall be excluded from limits of liability of each policy other than Professional Liability Insurance; Commercial General Liability Insurance coverage limits shall be on a per-project basis.

- (c) All required insurance shall be maintained with responsible insurance carriers acceptable to SJRA and lawfully authorized to issue insurance of the types and amounts set forth in this Attachment C. Carriers should have a Best's Financial Strength Rating of at least "A-" and a Best's Financial Size Category of Class VIII or better, according to the most current edition of Best's Key Rating Guide, Property-Casualty United States or be of sufficient size and financial strength as adjudged by SJRA to meet the financial obligations evidenced in the certificate of insurance.
- (d) All certificates shall be in a form reasonably acceptable to SJRA and each certificate must state to the extent permitted by Texas Insurance Code Chapter 1811 that the policy may not expire or be cancelled, materially modified, or nonrenewed unless the carrier and/or CONSULTANT gives SJRA thirty (30) days advance written notice. When any required insurance, due to the attainment of a normal expiration date or renewal date, shall expire, CONSULTANT shall, prior to such expiration, supply SJRA with certificates of insurance and amendatory riders or endorsements that clearly evidence the continuation of all coverage in the same manner, limits of protection, and scope of coverage as is required by this Agreement. Any renewal or replacement policies shall be in form and substance satisfactory to SJRA and written by carriers acceptable to SJRA and meeting the requirements of this Attachment C. CONSULTANT shall or shall cause the applicable

carrier or carriers to give written notice to SJRA within thirty (30) days of the date on which total claims by any Party against insurance provided pursuant to this Attachment C reduce the aggregate amount of coverage below the amounts required by this Attachment C. In addition, CONSULTANT shall or shall cause the applicable carrier or carriers to provide SJRA with amendatory riders or endorsements to the Commercial General Liability Insurance policy that specify that the coverage limits apply on a per-project basis.

- (e) With respect to all policies required in this Attachment C, as soon as practicable prior to execution of this Agreement, CONSULTANT shall deposit with SJRA true and correct original certificates thereof, bearing notations or accompanied by other evidence satisfactory to SJRA that the requirements of this Attachment C are being met, and such certificates shall be attached hereto as Attachment D. If requested to do so by SJRA, CONSULTANT shall also furnish the originals or certified copies of the insurance policies for inspection including but not limited to copies of endorsements.
- (f) All policies of insurance and certificates, with the exception of Professional Liability and Workers' Compensation Insurance, shall name the INDEMNITEES as additional insureds. Without limiting the foregoing, CONSULTANT's Commercial General Liability Insurance policy shall name the INDEMNITEES as additional insureds pursuant to ISO Additional Insured Endorsements CG 20-10-10-01 and CG 20-33-10-01 or their combined equivalents. Further, the CONSULTANT shall provide the INDEMNITEES any defense provided by its Commercial General Liability Insurance policy to the fullest extent allowed by law.
- (g) CONSULTANT hereby waives all rights of recovery and damages against the INDEMNITEES to the extent such damages are covered or should have been covered by the insurance obtained or required to be obtained by CONSULTANT under this Agreement. All of CONSULTANT's policies of insurance, with the exception of Professional Liability Insurance, shall include a waiver of subrogation in favor of the INDEMNITEES.
- (h) The Parties intend that the CONSULTANT'S insurance shall be primary and non-contributing with respect to any other insurance maintained by SJRA and all policies of insurance obtained by CONSULTANT shall be endorsed to be primary and non-contributing with respect to any other insurance maintained by SJRA.
- (i) If any policy required to be purchased pursuant to this Attachment C is subject to a deductible, self-insured retention or similar self-insurance mechanism which limits or otherwise reduces coverage, the deductible, self-insured retention, or similar self-insurance mechanism shall be the sole responsibility of CONSULTANT in the event of any loss and CONSULTANT hereby waives any claim therefor against any INDEMNITEE.
- (j) CONSULTANT shall require and cause its subconsultants and subcontractors to purchase and maintain the insurance policies set forth in Section 1(b) above with limits of liability commensurate with the amount of each subconsulting or subcontract agreement, but in no case less than \$500,000 per occurrence. CONSULTANT shall provide copies of insurance certificates for all such insurance to SJRA prior to any subconsultant's or subcontractor's performance of any Services.

- (k) If CONSULTANT fails to procure or to maintain in force the insurance required by this Attachment C, SJRA may secure such insurance and the costs thereof shall be borne by CONSULTANT. CONSULTANT shall reimburse SJRA the cost of such insurance plus a ten percent (10%) administrative charge within ten (10) days after billing by SJRA. Any sum remaining unpaid fifteen (15) days after billing by SJRA shall bear interest at the rate of twelve percent (12%) per annum until paid by CONSULTANT. Except to the extent prohibited by Subchapter C of Chapter 151 of the Texas Insurance Code, **CONSULTANT SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE INDEMNITEES FROM AND AGAINST ANY AND ALL LOSSES, CLAIMS, DAMAGES, AND EXPENSES (INCLUDING, WITHOUT LIMITATIONS, COURT COSTS, COSTS OF DEFENSE, AND ATTORNEYS' FEES), THAT ANY INDEMNITEE MAY INCUR AS A RESULT OF CONSULTANT'S FAILURE TO OBTAIN OR CAUSE TO BE OBTAINED THE SPECIFIC ENDORSEMENTS OR INSURANCE REQUIRED PURSUANT TO THIS AGREEMENT.** Failure of any INDEMNITEE to identify any deficiency in the insurance forms provided shall not be construed as a waiver of CONSULTANT's obligation to maintain such insurance and to cause such insurance to be maintained.
- (l) CONSULTANT's compliance with the provisions of this Attachment C shall not be deemed to constitute a limitation of CONSULTANT's liability with respect to claims covered by insurance provided or required pursuant to this Attachment C or in any way limit, modify, or otherwise affect CONSULTANT's obligation under this Agreement or otherwise. CONSULTANT's obligations under this Agreement to defend, indemnify and/or hold harmless INDEMNITEES shall not be limited in any way by any insurance required of CONSULTANT by this Agreement or otherwise provided or maintained by CONSULTANT. Any insurance obligations of CONSULTANT under this Agreement are independent from CONSULTANT's obligations under this Agreement to defend, indemnify and/or hold harmless INDEMNITEES. The insolvency, bankruptcy, or failure of any insurance company carrying insurance for CONSULTANT or any subcontractor, or the failure or any insurance company to pay claims accruing shall not be held to waive any of the provisions of this Agreement.
- (m) If requested by SJRA, CONSULTANT shall furnish or shall cause to be furnished any such other insurance or limits as SJRA may reasonably deem necessary for any Work Order or Orders and the cost thereof shall be charged to SJRA by appropriate modification of any such Order(s).

**ATTACHMENT D
CONSULTANT'S CERTIFICATE OF INSURANCE**

[ATTACHED HERETO].