

RESOLUTION NO. 2011 - 91

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO AWARD AND EXECUTE A CONTRACT FOR THE ADJACENT CONSTRUCTION WORK PROJECT LOCATED AT SITE SJ-1 ON BEHALF OF THE FLORIDA INLAND NAVIGATION DISTRICT.**

**WHEREAS**, the DISTRICT, and St. Johns County (the "COUNTY") have entered into an "Interlocal Agreement" dated February 1, 2011 (see Resolution 2011-8), designated by the COUNTY as Agreement/Contract No. LAN 06-3.263 (the "Agreement"); and

**WHEREAS**, the Interlocal Agreement references work to be completed for the DISTRICT's FEMA PW Number PA-04-FL-1785-PW-02104(1), and pertains to a project located in St. Johns County, Florida, known as SJ-1 Site, (the "PROJECT"); and

**WHEREAS**, Eastman Aggregate, LLC was selected through the formal bid process to enter into a contract with the County to perform the work referenced above; and

**WHEREAS**, the County desires to enter into a contract with Eastman Aggregate, LLC to perform the work associated with the PROJECT; and

**WHEREAS**, the County has reviewed the terms, provisions, conditions and requirements of the contract (attached hereto, and incorporated herein) and finds that entering into the contract serves a public purpose.

**NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, THAT:**

1. The above Recitals are hereby adopted as Findings of Fact.
2. The County Administrator, or designee, is hereby authorized to award a contract to Eastman Aggregate, LLC to complete work associated with FEMA PW Number PA-04-FL-1785-PW-02104(1).
3. The County Administrator, or designee is further authorized to execute the contract on behalf of the County for the purposes mentioned above.
4. To the extent that there are typographical and/or administrative errors and/or omissions that do not change the tone, tenor, or context of this Resolution, then this Resolution may be revised without subsequent approval of the Board of County Commissioners.

**PASSED AND ADOPTED** by the Board of Board of County Commissioners of  
St. Johns County, Florida this 19<sup>th</sup> day of April 2011.

BOARD OF COUNTY COMMISSIONERS OF ST.  
JOHNS COUNTY, FLORIDA

By: \_\_\_\_\_

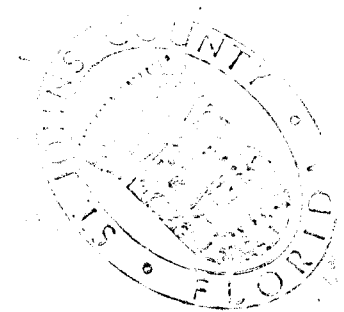
Ken Bryan--Chair

ATTEST: Cheryl Strickland, Clerk

By: \_\_\_\_\_

Pam Halterman  
Deputy Clerk

RENDITION DATE 04/21/11



**CONTRACT AGREEMENT  
FOR  
BID NO.: Misc 11' – FIND SJ-1 Sand Disposal Site Maintenance**

THIS AGREEMENT is made this \_\_\_\_ day of \_\_\_\_\_, 2011 between ST. JOHNS COUNTY, hereinafter called "COUNTY" and Eastman Aggregate Enterprises, LLC., 3705 Bellevue Avenue, Lake Worth, FL 33461 (561) 9697147 hereinafter called "CONTRACTOR".

WITNESSETH: That for and in consideration of the payment and agreements hereinafter mentioned:

1. The CONTRACTOR will provide services for the excavation of approximately 20,000 Cubic Yards of windblown sand hauled back into basin at FIND's (Florida Inland Navigation District) Site SJ-1 and miscellaneous services per Eastman Aggregate Enterprises proposal dated 2/15/11 (copy attached) for a Contract Value of \$ One Hundred Sixteen Thousand Five Hundred & Ten Dollars and XX/00 (\$116,510.00). Contractor will commence with the services as proposed upon receipt of Notice to Proceed. Price(s) shall remain firm for the contract term.

2. The CONTRACTOR will provide the service as identified in the CONTRACT DOCUMENTS to the COUNTY as negotiated by the COUNTY.

3. The CONTRACTOR will commence service as required by the CONTRACT DOCUMENTS upon Contractor receipt of a fully executed copy of this agreement which shall serve as the official Notice to Proceed. This contract time for this project shall be in accordance with the Proposed Timeline of Thirty (30) consecutive calendar days from Notice to Proceed to Final Completion. Authorization for additional services beyond the initial contract time or additional tasks/deliverables shall be provided in writing on an as requested basis in the form of a Contract Change Order.

4. The term CONTRACT "DOCUMENTS" means and includes the following:

- (1) CONTRACT AGREEMENT
- (2) STANDARD ST. JOHNS CO. INSURANCE REQUIREMENTS (copy attached)
- (3) EASTMAN AGGREGATE, LLC'S proposal dated 2/15/11 (copy attached)

5. Permits and Licenses. To the extent that the Contractor needs to obtain/require, and maintain permits, certifications, and/or licenses, in order to perform the Scope of Services noted in this Contract, then the contractor shall be responsible for securing, obtaining/acquiring, and maintaining, at the Contractor's sole expense, any, and all, permits, certifications, licenses, and/or approvals required by Federal, State, and/or County law, rule, regulation, or ordinance.

6. The Contractor, is, and shall be, in the performance of all work, services, and activities, noted under this Contract, an Independent Contractor, and not an employee, agent, official, or servant of the County. As such, neither the Contractor, nor any employees, agents, officials, servants, or subcontractors of the Contractor are eligible for any benefits afforded employees or officials of the County. The Contractor shall exercise control over the means and manner in which the Contractor, and the Contractor's employees perform the work noted in the Scope of Services of this Contract. The Contractor does not have the power or authority to bind (legally or equitably), in any manner whatsoever

the County in any promise, agreement, or representation, other than as specifically provided in this Contract.

7. **Amendments to this Contract.** Both the County and the Contractor acknowledge that this Agreement constitutes the complete agreement and understanding of the parties. Further, both the County and the Contractor acknowledge that any change, amendment, modification, revision, or extension of this Contract (other than termination, as noted elsewhere in this Contract) shall be in writing, and shall be executed by duly authorized representatives of both the County, and the Contractor.

8. **Access to Records.** The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement/Contract shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes). Access to such public records may not be blocked, thwarted, or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

9. **Review of Records.** As a conditions of entering into this Agreement/Contract, and to ensure compliance, especially as it relates to any applicable law, rule, or regulation, the CONTRACTOR authorizes the County to examine, review, inspect, and/or audit the books and records, in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in this Agreement. It is specifically noted that the CONTRACTOR is under no duty to provide access to documentation not related to this Agreement, and/or is otherwise protected by County, State, or Federal law.

10. **Severability.** If any word, phrase, sentence, part, subsection, section or other portion of this Agreement/Contract, or any application thereof, to any person, or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, subsection, other portion, or the proscribed application thereof, shall be severable, and the remaining portions of this Agreement/Contract, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force, and effect.

11. **Termination.** This Contract may be terminated with or without cause, by the County, upon twenty-fours written notice to the Contractor.

12. **Governing Law and Venue.** This Agreement/Contract shall be construed according to the laws of the State of Florida. Venue for any administrative and/or legal action arising under this Agreement/Contract shall be in St. Johns County, Florida.

13. **Indemnity.** To the extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the County from, and against, any, and all claims, and reasonable expenses associated with the Scope of Services noted in this Contract.

14. **The COUNTY will pay to the CONTRACTOR in the manner at such times and amounts as set forth in the CONTRACT DOCUMENTS for services, unless otherwise agreed upon.**

15. **The Contract Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors and assigns.**

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IN WITNESS WHEREOF, the parties hereto have executed or caused to be executed by their duly authorized officials, this Agreement, five (5) copies of which shall be deemed an original on the date first above written.

**COUNTY**  
St. Johns County  
(Typed Name)

**Contractor**  
Eastman Aggregate, LLC.. (Seal)  
(Typed Name)

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name & Title

\_\_\_\_\_  
Printed Name & Title

\_\_\_\_\_  
Date of Execution

\_\_\_\_\_  
Date of Execution

Cheryl Strickland, Clerk of Courts

By: \_\_\_\_\_ (Seal)  
Deputy Clerk

\_\_\_\_\_  
Date of Execution

Legally Sufficient:

By: \_\_\_\_\_  
Assistant County Attorney

\_\_\_\_\_  
Date of Execution

## COUNTY Insurance Requirements - Standard Contract for Service

### Insurance Requirements

- a) Workers' compensation – to meet statutory limits in compliance with the Workers Compensation Law of Florida. This policy must include Employer Liability with a limit of \$100,000 for each accident, \$500,000 disease policy limit and \$100,000 disease each employee limit.
- b) Commercial general liability – coverage shall provide minimum limits of liability of \$1,000,000 per occurrence, \$2,000,000 Aggregate, for bodily injury and property damage. This shall include coverage for:
  - a. Premises/operations
  - b. Products/complete operations
  - c. Contractual liability
  - d. Independent contractors
- c) Business auto liability – coverage shall provide minimum limits of liability of \$100,000 per occurrence, \$300,000 aggregate for bodily injury and property damage. This shall include coverage for:
  - a. Owned autos
  - b. Hired autos
  - c. Non-owed autos

### Special Requirements

- a) Prior to execution of a contract, a certificate of insurance will be provided that shall provide for the following:
  - a. **St. Johns County will be named as additional insured on commercial general liability, business auto and excess/umbrella liability policies.**
  - b. St. Johns County will be given thirty (30) days notice prior to cancellation or modification of any stipulated insurance.
- b) It is the responsibility of the contractor to insure that all subcontractors comply with all insurance requirements.
- c) It should be remembered that these are minimum requirements which are subject to modification in response to high hazard operations.

In the event of unusual circumstances, the County Administrator or his designee may adjust these insurance requirements.

**EASTMAN AGGREGATE ENTERPRISES, LLC**  
**3705 BELLEVUE AVENUE**  
**LAKE WORTH, FL 33461**  
**(561) 969-7147**

Taylor Engineering  
 10151 Deerwood Park Blvd  
 Bldg. 300, Suite 300  
 Jacksonville, FL 32256

2/15/2011

**PROJECT - SJI FIND SITE**

	<b><u>JOB AS OUTLINED BELOW</u></b>	<b><u>QTY</u></b>	<b><u>PRICE</u></b>	<b><u>UNIT</u></b>	<b><u>TOTAL</u></b>
A	EXCAVATION OF WINDBLOWN SAND HAULED BACK INTO BASIN. APPROXIMATELY 20K CUBIC YARDS	20,000	3.85	CUBIC YARD	77,000.00
B	SURVEY NECESSARY TO ESTABLISH TOP & BOTTOM OF DIKE AND PERIMETER ROAD ONLY IN AREAS OF WINDBLOWN SAND APPROXIMATELY 2500 FEET OF DIKE	LS	6,000.00	LS	6,000.00
C	FINAL GRADE OF OUTER DIKE SLOPE PER SURVEY. APPROXIMATELY 2500 FEET. FINAL GRADING WITHIN WINDBLOWN AREAS ONLY.	LS	17,350.00	LS	17,350.00
D	ROUGH GRADE MATERIAL HAULED BACK INTO BASIN	LS	13,400.00	LS	13,400.00
E	PERFORMANCE & PAYMENT BOND	LS	2,760	LS	<u>2,760.00</u>
	<b>TOTAL</b>				<b>116,510.00</b>

**EXCLUSIONS/CLARIFICATIONS**

- 1 PRICING DOES NOT INCLUDE GRADING OR REPAIRING ERODED OR WASHED OUT AREAS WITHIN OR OUTSIDE OF BASIN
- 2
- 3 PRICING DOES NOT INCLUDE THE IMPORT OF ANY MATERIALS

THIS AGREEMENT IS SUBJECT TO ALL TERMS AND CONDITIONS OF ALL DOUMENTS HEREOF AND SHALL BECOME A CONTRACT WHEN ACCEPTANCE BELOW IS SIGNED BY AN AUTHORIZED AGENT OF BOTH PARTIES

Eastman Aggregate Enterprises, LLC  
 Contractor

ACCEPTED BY: \_\_\_\_\_  
 Contractor

BY: \_\_\_\_\_  
 Bernard Eastman

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

**EASTMAN AGGREGATE ENTERPRISES, LLC**  
**ATTACHED CONDITIONS TO ABOVE REFERENCED PROPOSAL**

- \* ALL PERMITS, TESTS AND OTHER CHARGES TO BE PROVIDED BY OWNER. ALL INFORMATION OBTAINED BY MICHAEL TRUDNAK.
- \* UNLESS OTHERWISE INDICATED IN WRITING, THIS QUOTATION EXPIRES THIRTY (30) DAYS FROM DATE OF QUOTE IF NOT ACCEPTED IN WRITING BEFORE THAT TIME. AT THE SOLE OPTION OF EASTMAN AGGREGATE ENTERPRISES LLC (HEREINAFTER EASTMAN), THIS QUOTATION MAY BE EXTENDED FOR ADDITIONAL PERIODS OF TIME. UPON BOTH PARTIES SIGNING THIS PROPOSAL IT BECOMES A CONTRACT.
- \* IT IS EXPRESSLY AGREED THAT THERE ARE NO PROMISES, AGREEMENTS, OR UNDERSTANDINGS NOT SET OUT IN THIS CONTRACT. ANY SUBSEQUENT CANCELLATIONS, OR MODIFICATIONS, MUST BE MUTUALLY AGREED UPON IN WRITING.
- \* IN THE EVENT OF A MISUNDERSTANDING OR CONFLICT BETWEEN THE TERMS AND CONDITIONS STATED IN THE PLANS AND SPECIFICATIONS, THIS CONTRACT SHALL GOVERN.
- \* EASTMAN SHALL BE PROVIDED WITH SUITABLE ACCESS TO THE WORK AREA. IF EASTMAN'S WORK IS DEPENDENT UPON OR MUST BE UNDERTAKEN IN CONJUNCTION WITH THE WORK OF OTHERS, SUCH WORK SHALL BE PERFORMED AND COMPLETED SO AS TO PERMIT EASTMAN TO PERFORM ITS WORK THEREUNDER IN A SINGLE UNINTERRUPTED SINGLE SHIFT OPERATION.
- \* OUR PRICES ARE BASED ON MOBILIZING ONE TIME AND PERFORMING ALL WORK IN A CONTINUOUS OPERATION. SHOULD ANY ITEM OR ITEMS BE DELETED, PRICES QUOTED ARE SUBJECT TO REVISION. SHOULD CUSTOMER'S SCHEDULING DICTATE REMOBILIZATION, A REASONABLE FEE WILL BE ADDED PER OCCURRENCE.
- \* WHEN HIGHWAY DIESEL FUEL EXCEEDS THE PREVIOUS MONTHLY AVERAGE BASED ON PUBLISHED DATA FROM THE U.S. DEPT OF ENERGY (DOE) FOR THE LOWER ATLANTIC REGION A 2% FUEL SURCHARGE PER \$0.10 INCREASE WILL BE CHARGED TO ALL PRICING ABOVE. ADDITIONAL DATA IS AVAILABLE UPON REQUEST. DOES WEBSITE: [www.eia.doe.gov](http://www.eia.doe.gov). APPLIES TO "HAULING" ONLY
- \* THERE WILL BE A 3% PRICE ESCALATION SEMI-ANNUALLY ON ALL PRICING ABOVE.
- \* UNLESS A TIME FOR THE PERFORMANCE OF EASTMAN'S WORK IS SPECIFIED, EASTMAN SHALL UNDERTAKE ITS WORK IN THE COURSE OF ITS NORMAL OPERATING SCHEDULE. EASTMAN SHALL NOT BE LIABLE FOR ANY FAILURE TO UNDERTAKE OR COMPLETE WORK DUE TO CAUSES BEYOND ITS CONTROL, INCLUDING, BUT NOT LIMITED TO FIRE, FLOOD OR OTHER CASUALTY, LABOR DISPUTES, ACCIDENTS, AND ACTS OF GOD.
- \* EASTMAN SHALL NOT BE RESPONSIBLE FOR, AND CUSTOMER AGREES TO HOLD EASTMAN HARMLESS FOR ANY LIABILITY RESULTING FROM DAMAGE TO UTILITIES, AND FROM DAMAGE TO OR DETERIORATION OF ANY OF EASTMAN'S WORK, RESULTING FROM CAUSES BEYOND EASTMAN'S CONTROL.
- \* UNLESS OTHERWISE AGREED HEREIN, PAYMENT TERMS ARE NET CASH, UPON RECEIPT OF EASTMAN INVOICE.
- \* UNLESS A LUMP SUM PRICE IS TO BE PAID FOR THE FOREGOING WORK AND IS CLEARLY SO STATED IT IS UNDERSTOOD AND AGREED THAT THE QUANTITIES REFERRED TO HEREIN ARE ESTIMATES ONLY AND THAT PAYMENT SHALL BE MADE AT THE STATED UNIT PRICE FOR THE ACTUAL QUANTITIES OF MATERIALS UTILIZED AND WORK PERFORMED.
- \* UNLESS OTHERWISE AGREED, ANY ADDITIONAL EXPENSE NOT COVERED BY THIS QUOTATION WHICH IS INCURRED BY EASTMAN AS A RESULT OF PERFORMING WORK UNDER CONDITIONS ADVERSE TO THE EXPEDIENT PROSECUTION OF EASTMAN'S WORK WHICH ARE BEYOND EASTMAN'S CONTROL, INCLUDING ADVERSE WEATHER AND DELAYS BY OTHERS WILL BE BORNE BY OWNER.
- \* PRICE QUOTED ABOVE IS CONTINGENT UPON THE AVAILABILITY OF MATERIAL AND OR EQUIPMENT
- \* THIS QUOTATION AND AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF FLORIDA WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS. VENUE OF ALL PROCEEDINGS SHALL BE IN PALM BEACH COUNTY, FLORIDA AND CUSTOMER WAIVES WHATEVER RIGHTS IT MAY HAVE IN THE SELECTION OF VENUE AND HEREBY CONSENTS TO JURISDICTION.
- \* THE EXCAVATION, TREATMENT OR DISPOSAL OF CONTAMINATED SOIL, (AS DEFINED BY THE GUIDELINES OF THE ENVIRONMENTAL PROTECTION AGENCY) THAT MAY BE ENCOUNTERED DURING THE COURSE OF THIS PROJECT SHALL NOT BE CONSIDERED INCIDENTAL TO THE WORK. THE COST OF SUCH EXCAVATION, TREATMENT, OR DISPOSAL BY THOSE PROPERLY LICENSED WILL BE THE RESPONSIBILITY OF THE OWNER.
- \* PRICES QUOTED DO NOT INCLUDE EXCAVATION OR DISPOSAL OF HARDPAN, ROCK, MUCK OR OTHER UNDESIRABLE MATERIAL OR BACKFILL REPLACEMENT FOR SAME WITH SUITABLE FILL MATERIAL. IF REQUIRED, SAID WORK MAY BE PERFORMED ON AN EQUIPMENT RENTAL, TIME AND MATERIAL BASIS.
- \* SHOULD CUSTOMER REQUIRE ANY ADDITIONAL WORK NOT SPECIFICALLY COVERED BY THIS PROPOSAL, SUCH ADDITIONAL WORK WILL BE PERFORMED AT THE DIRECTION OF CUSTOMER'S REPRESENTATIVE ON AN EQUIPMENT RENTAL, TIME AND MATERIAL BASIS, IN ACCORDANCE WITH EASTMAN'S CURRENT PUBLISHED RATE.
- \* ALL WORK DONE WITH THE UNDERSTANDING THAT THE CUSTOMER IS FULLY RESPONSIBLE FOR VERIFYING THAT ALL LABOR, MATERIALS, QUANTITIES, EQUIPMENT TIME AND ALL OTHER WORK PERFORMED MEETS THE REQUIREMENTS OF THE JOB STATED ABOVE. UPON CUSTOMER SATISFACTION, CUSTOMER AND/OR HIS AUTHORIZED PERSON (S) WILL ACKNOWLEDGE BY SIGNING THE WORK TICKETS FOR ALL WORK PERFORMED OR FURNISHED. UPON SIGNING OF THE TICKETS THE CUSTOMER IS FULLY LIABLE FOR ALL WORK STATED ON TICKETS. ALL AGREEMENTS CONTINGENT UPON STRIKES, ACCIDENTS OR DELAYS BEYOND OUR CONTROL.
- \* IF AN AGENT/OR ATTORNEY IS EMPLOYED BY EASTMAN FOR COLLECTION OF ANY DELINQUENT PAYMENT, CUSTOMER AGREES TO PAY ALL FEES FOR THE SERVICES OF SUCH AGENT AND/OR ATTORNEY (INCLUDING BUT NOT LIMITED TO ALL FEES AND COSTS INCIDENT TO ANY APPEALS) TOGETHER WITH ALL COSTS, CHARGES, AND EXPENSES.

INITIALED BY CUSTOMER: \_\_\_\_\_ DATE: \_\_\_\_\_