

**NON-EXCLUSIVE CONTINUING CONTRACT BETWEEN OWNER AND CONSULTANT FOR
GEOTECHNICAL TESTING AND MATERIALS TESTING,
OR ANY PART THEREOF, AND THRESHOLD BUILDING INSPECTION SERVICES**

THIS AGREEMENT, made this **22ND** day of **January, 2019**, between Sarasota County Schools (hereinafter called the "Owner") and **Universal Engineering Sciences, Inc.**, hereinafter called the "Consultant") whose address is **1748 Independence Boulevard, Suite B-1, Sarasota, Florida, 34234**.

WHEREAS, the Owner desires to contract with a firm on a continuing contract basis for the providing of **geotechnical testing and materials testing, or any part thereof, and threshold building inspection** consulting services (hereinafter referred to as "professional services") for Owner assigned projects;

WHEREAS, the Owner is authorized under Florida law to enter into such continuing contracts and has chosen to use a qualifications based selection process in accordance with Florida Statute 287.055(3), (4) and (5) and School Board Policy 7.71, to select the consulting firms which will be contractually available to provide the necessary professional consulting services for Owner assigned projects;

WHEREAS, the Consultant was one of the entities chosen by the Sarasota County School Board Professional Services Selection Committee, and the Owner and Consultant desire to enter into this Agreement to memorialize the terms under which Consultant will provide professional consulting services on Owner assigned projects during the term of this Agreement;

WHEREAS, Consultant acknowledges that another **three (3)** consulting **firms** have also been selected to provide professional consulting services on Owner assigned projects and that the Owner has the absolute discretion to designate which projects will be assigned to a particular firm;

In consideration of the mutual covenants contained herein, the Owner and Consultant agree as follows:

ARTICLE 1

TERM OF AGREEMENT AND RIGHT TO TERMINATE

- 1.1** Subject to the right of termination contained in paragraph 1.2, this Agreement is valid for a period of three (3) years beginning **1/23/2019** and ending **1/22/2022**. This agreement shall terminate and expire at the end of such three-year period.
- 1.2** In accordance with Florida Statute 287.055(1)(g), this Agreement may be terminated by the Owner, with or without cause, at any time, by Owner providing the Consultant with thirty (30) days-notice of such termination in writing. Termination of this Agreement by the Owner shall not terminate any contractual agreement Owner and Consultant may have with respect to a particular project which had previously been assigned to Consultant, unless the notice of termination so provides.
- 1.3** This Agreement represents the entire agreement between the Owner and the Consultant as to the scope of services contemplated by this Agreement and supersedes all prior negotiations, representations or agreements. However, if, as more specifically set forth herein, a proposal as to a particular project is accepted, the parties' relationship as to that project shall thenceforth be governed by the proposal, the purchase order issued by the Owner for that particular project and the terms of this Agreement.
- 1.4** Consultant acknowledges and understands that the projects contemplated by this Agreement are being constructed on public property owned by the Owner, which property may at various times during construction be occupied by students, teachers, parents and school administrators. Accordingly, in order to secure the property, and otherwise comply with applicable law, the Consultant agrees to the following provisions and also agrees that the failure to comply with any of these provisions may result in the termination of this Agreement:

- (a) Unauthorized Aliens. Owner considers the employment of unauthorized aliens by the Consultant, or any of its subcontractors, a violation of Section 274A(e) of the Immigration and Naturalization Act. If it is determined that an unauthorized alien is working on the Project, the Consultant shall take all steps necessary to remove such unauthorized alien from the property and the project. Owner shall have the right to terminate this Contract if the Consultant does not comply with this provision.
- (b) Possession of Firearms. Possession of firearms will not be tolerated on the project or the Owner's property. No person who has a firearm in their vehicle may park their vehicle on the Owner's property. Furthermore, no person may possess or bring a firearm on School District property. If any employee/independent contractor of the Consultant, or any of its sub-contractors, is found to have brought a firearm on to the Owner's property, said employee/independent contractor shall be removed and terminated from the project by the Consultant. If a sub-contractor fails to terminate said employee/independent contractor, the Consultant shall terminate its agreement with the sub-contractor. If the Consultant fails to terminate said employee/independent contractor or fails to terminate the agreement with the sub-contractor who fails to terminate said employee/independent contractor, this Agreement may be terminated by the Owner. "Firearm" means any weapon (including a starter gun or antique firearm) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any destructive device, or any machine gun. Powder actuated construction nailers and fasteners are excluded from this definition.
- (c) Criminal Acts. Employment on the project by the Consultant, or any of its sub-contractors, of any employee, or independent contractor, with any prior convictions of any crimes against children, crimes of violence or crimes of moral turpitude will not be tolerated. If it is determined that any person with such criminal history is on the project site, the Consultant agrees to take all steps necessary to remove such person from the project and the property. Owner shall have the right to terminate this Agreement if the Consultant does not comply with this provision.
- (d) Sexual Predators/Sexual Offenders. In order to insure that no sexual predators or sexual offenders are working on the project site, Consultant shall perform a query of all its employees/independent contractors working at the project site, and require all of its sub-contractors to perform a query of their employees/independent contractors working at the project site, against the Florida Department of Law Enforcement Sexual Predator/Offender Registry (www.fdle.state.fl.us). Any person who is on the Sexual Predator/Offender Registry shall not be allowed on the project, and Consultant shall immediately remove such person from the project and the property. Consultant shall, upon request by the Owner, provide evidence that such queries have been done on all personnel working at the project site. Owner shall have the right to terminate this Agreement if the Consultant, or any sub-contractor, does not comply with this provision.
- (e) Possession/Use/Under the Influence of Mind Altering Substances. Possession/use and/or being under the influence of any illegal mind altering substances, such as, but not limited to alcohol and/or substances delineated in Chapter 893, Florida Statutes, by Consultant's employees/independent contractors or its sub-contractors' employees/independent contractors will not be tolerated on the Owner's property. If any employee/independent contractor is found to have brought and/or used or is under the influence of any illegal mind altering substances as described above on the Owner's property, said employee/independent contractor shall be removed and terminated from the project by the Consultant. If a sub-contractor fails to terminate said employee/independent contractor, the Consultant shall terminate its agreement with the sub-contractor for the project shall be terminated. If the Consultant fails to terminate said employee/independent contractor or fails to terminate the agreement with the sub-contractor who fails to terminate said employee/independent contractor, this Agreement may be terminated by the Owner.
- (f) Background Screening Requirements. Consultant agrees that before any of its employees, agents or sub-consultants will be permitted on school grounds while students are present, such

employees, agents or sub-consultants will be fingerprinted and have their backgrounds checked as provided by Florida law. Consultant's employees, agents and sub-consultants will coordinate with the Owner to arrange a mutually convenient time for the Owner to conduct the fingerprinting. Consultant agrees to bear the cost of the fingerprinting/background checks. The Owner has the right to refuse entry onto any school grounds to any individual whose background check does not meet the requirements established by the Owner pursuant to Florida law.

ARTICLE 2

SCOPE OF CONSULTANT'S SERVICES

- 2.1** Consultant shall diligently and in a timely manner perform professional consulting services for a variety of minor projects which may be assigned by the Owner's designated representatives.
- 2.2** After assignment of a specific project by the Owner's designated representative, the Consultant will consult with the Owner's representative to determine and define the Owner's requirements and the Consultant's responsibility for such project. The Owner shall identify the project and shall define the responsibility of the Consultant for work performed on the project. Consultant shall then supply Owner's designated representative with a proposal for the work contemplated by the assigned project. The proposal shall include a detailed description of the scope of work, a total price for the work based on the attached fee schedule (Exhibit "A") and, if requested, a completion schedule.
- 2.3** If the Owner accepts the proposal, the Owner shall issue a purchase order for the work. The proposal, the purchase order, and this Agreement shall then govern the relationship between the parties as to the assigned project.
- 2.4** The services of the Consultant may involve design preparation and/or review, inspections, consultations, and recommendations as may be appropriate. As work progresses, and upon completing the professional consulting services at various stages of each project, the Consultant will promptly make written reports of his findings describing the project, work performed and results of such work, together with any pertinent observations that should be brought to the attention of the Owner. Unless otherwise agreed between the parties, the Consultant will furnish one electronic submission of such reports which will be e-mailed directly to the Owner's designated representative, and, when required, one signed and sealed original which shall be delivered to the Owner's designated representative. All reports will become the exclusive property of the Owner and may be used as the Owner determines.
- 2.5** Familiarity and Compliance with Governmental Laws & Requirements
- (a) The Consultant shall be familiar with and comply with applicable state laws, statutes, building codes, rules and regulations and lawful orders of governmental, public and quasi-public authorities and agencies having jurisdiction over any Owner assigned Project or in any way affecting the professional engineering services.
- (b) The Consultant shall be familiar with and comply with Federal laws, rules and regulations that may in any way affect the Work, including but not limited to the following:
- (1) U.S. EPA Asbestos Containing Materials in Schools, final Rule and Notice 40CRF763, Reference 736.99(a)(7);
 - (2) Contract Work Hours and Safety Standards Act of 1962, 40 U.S.C. 327, et seq.;
 - (3) Federal Fair Labor Standards Act, 29 U.S.C. Section 201, et seq.;
 - (4) Title VI of the Civil Right Act of 1975;
 - (5) Executive Order 11246, as amended by Executive Orders 11375 and 12086, related to discrimination;
 - (6) Americans with Disabilities Act;
 - (7) Anti-Kickback Act of 1986, 41 U.S.C. Section 51;
 - (8) The Hatch Act, 18 U.S.C. 594, 598, 600-605;

- (9) Uniform Federal Accessibility Standards, 41 C.F.R. Section 101-19.6;
- (10) Title IX of the Education Amendments of 1972, 20 U.S.C.: 1681-1683 and 1685-1686 prohibiting discrimination on the basis of sex;
- (11) Comprehensive Alcohol and Alcoholism Prevention Treatment and Rehabilitation Act of 1970, 42 U.S.C. 4521-45-94;
- (12) Public Health Service Act of 1912, 42 U.S.C. 290dd-3 and 290ee-3;
- (13) Lead-Based Paint Poison Prevention Act
- (14) Energy Policy and Conservation Act, P.L. 94-163: 42 U.S.C.
- (15) Clean Air Act of 1955, 42 U.S.C. 7401-7642
- (16) Clean Water Act of 1977
- (17) Immigration and Nationality Act, 8 U.S.C. Section 1324a(e) Section 274A(e);
- (18) Records Retention, 34 C.F.R.

2.6 When required, all work done by the Consultant will be signed and sealed by a professional registered in the State of Florida.

ARTICLE 3

OWNER'S DESIGNATED REPRESENTATIVE

3.1 The Owner shall designate a representative to act in its behalf as to each project assigned in accordance with this Agreement. This representative, or his/her designee, will assign projects to Consultant, monitor the progress of each assigned project, serve as liaison with the Consultant, receive and process communications and paperwork, examine and approve invoices, reports, estimates, proposals or other documents presented by the Consultant, and represent the Owner in the day-to-day conduct of the project. The Consultant will be notified in writing of the representative and of his/her designee or any changes thereto.

ARTICLE 4

PAYMENTS TO CONSULTANT

4.1 The Owner agrees to pay the Consultant for work completed and reported by the Consultant in accordance with the fee schedule attached hereto as Exhibit "A".

4.2 For each project, Consultant agrees to submit an invoice covering the work completed and reported with detail satisfactory to the Owner describing the work performed during the applicable period. Owner agrees to pay said invoices within fifteen (15) days of approval. Consultant agrees that such invoices shall be submitted on a monthly basis.

ARTICLE 5

DISPUTE RESOLUTION

5.1 All claims, disputes and other matters in question between the Consultant and Owner arising out of or relating to this Agreement, any subproject assigned in accordance with this Agreement, or Contract Documents shall be resolved by mediation or litigation in the Circuit or County Court in and for Sarasota County, Florida. Any reference herein to arbitration is deemed void.

5.2 Unless a delay in initiating or prosecuting a claim, dispute or other matter in question between the Consultant and Owner arising out of or relating to this Agreement would irrevocably prejudice the Owner or the Consultant, any such matter which is not resolved by direct discussions between the parties shall be submitted to mediation under the Florida Rules of Civil Procedure or such other rules as the parties may promptly agree to employ, before recourse to litigation. The Owner and the Consultant shall, within ten

(10) days of the request of either party for mediation, agree in writing as to the identity of the mediator. If the parties do not agree, the Director of Construction Services for the Owner shall designate a mediator from the list of approved mediators for the Twelfth Judicial Circuit in and for Sarasota County, Florida.

- 5.3 The parties agree to conduct and conclude mediation proceedings under this Article within thirty (30) days from the initiation of same by request of one of the parties. In the event that such proceedings have not been successfully concluded with such period, either party shall have the right to initiate further dispute resolution proceedings including litigation.
- 5.4 Provided the parties comply with the requirement of this Agreement for providing notice of the existence of a claim or dispute, no delay in disposing of such claim or dispute while the parties pursue resolution as provided in this Article shall prejudice the rights of either party; however, nothing contained in this Article shall be deemed to relax any requirement for the giving of notice between the parties.

ARTICLE 6

INSURANCE

- 6.1 The Consultant will secure and maintain such insurance as will protect it and the Owner from claims under Workmen's Compensation Acts, claims for damages because of bodily injury including personal injury, sickness or disease, or death of any of his employees, or of any person other than his employees, and from claims for damages because of injury or to destruction of tangible property, including loss of use resulting therefrom.
- 6.2 Within ten (10) days after execution of this Agreement, the Consultant will furnish the Owner with a Certificate of Insurance indicating the amounts of coverage and containing a provision that the coverage afforded under the policies will not be cancelled until not less than ten (10) days' prior written notice has been given to the Owner, **and shall name the Owner as an additional insured.** The Certificates of Insurance shall contain the following minimum limits:

Limits on Insurance -

Professional Liability	\$1,000,000.00
General Liability	\$1,000,000.00
Vehicle Liability	\$1,000,000.00

ARTICLE 7

MISCELLANEOUS PROVISIONS

- 7.1 Consultant agrees to indemnify and hold harmless the Owner, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the Consultant or other persons employed or utilized by the Consultant in the performance of this Agreement.
- 7.2 The Owner and Consultant respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither Owner nor Consultant shall assign this Agreement without the written consent of the other.
- 7.3 This Agreement shall be governed by the laws of the State of Florida. Sole and exclusive venue of any action brought under or arising from this Agreement shall be in the Circuit or County Court in and for Sarasota County, Florida.
- 7.4 The Consultant warrants that it has not employed or retained any company or person (other than a bona

fide employee working solely for the Consultant) to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation individual or firm (other than a bona fide employee working solely for the Consultant) any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

- 7.5 As required by Section 287.058, Florida Statutes, this Agreement may be unilaterally canceled by the Owner for refusal by the Consultant to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119 and made or received by the Consultant in conjunction with the Agreement.
- 7.6 It is expressly acknowledged that the Consultant is an independent Contractor and as such, has no authority to act for or on behalf of the Owner or to bind the Owner to any agreement or in any other manner.
- 7.7 In the event either party is required to commence any litigation to enforce the term of this Agreement, or a purchase order issued in accordance with this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party its attorney's fees incurred in such action, including for trial and appellate proceedings.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

SARASOTA COUNTY SCHOOLS

BY: _____
Jane Goodwin, Chair

UNIVERSAL ENGINEERING SCIENCES, INC.

BY: _____
Robert Gomez, P.E.

Its _____
Branch Manager

Approved for Legal Content: 4/22/2016 – MG
Matthews, Eastmoore, Hardy, Crauwels & Garcia
Attorneys for The School Board of Sarasota County, Florida
Signed: MG



UNIVERSAL ENGINEERING SCIENCES

Consultants In: Geotechnical Engineering-Environmental Engineering
Construction Materials Testing-Threshold Inspection

1748 Independence Boulevard, Suite B-1 - Sarasota, FL 34234 - Ph: 941-358-7410, Fx: 941-358-7353

**EXHIBIT "A"
SCHOOL BOARD OF SARASOTA COUNTY**

**UNIT RATE FEES FOR CONSTRUCTION MATERIALS TESTING,
THRESHOLD INSPECTION & GEOTECHNICAL SERVICES**

2018

A. Geotechnical Engineering/Professional, Testing & Inspection Services

A.1 Engineering Technician	\$47.00 per hour
A.2 Senior Engineering Technician	\$55.00 per hour
A.3 Threshold Building Inspector	\$65.00 per hour
A.4 Threshold Engineer Special Inspector, P.E., S.I.	\$110.00 per hour
A.5 Structural Steel/Weld Inspector	\$65 per hour
A.6 QC Manager/FDOT Manager/CSD Manager	\$65.00 per hour
A.7 Staff Engineer	\$95.00 per hour
A.8 Senior Project Engineer, P.E.	\$110.00 per hour
A.9 Principal Engineer	\$130.00 per hour
A.10 Environmental Scientist	\$85.00 per hour
A.11 Senior Geologist, P.G.	\$100.00 per hour
A.12 Technical Draftsperson	\$50.00 per hour
A.13 Technical Secretary	\$40.00 per hour

B. Construction Materials Field Testing Services

B.1 Engineering Technician (performing soil & concrete testing & sampling)	\$47.00 per man-hour
B.2 In-Place Density Tests	\$17.00 each
B.3 Concrete Extra Slump Test (ASTM C-143)	\$5.00 each
B.4 Concrete Air Content Test (ASTM C-231)	\$10.00 each
B.5 Mobilization of Core Rig & Equipment	\$220.00 each
B.6 Coring 4" or 6" Diameter Asphalt Cores	\$47.00 per man-hour
B.7 Coefficient of Friction/Slip Test for Floor	\$180.00 per test
B.8 Floor Slab Flatness and Levelness Test	\$750.00 per test

C. Laboratory Testing Services

C.1 Proctors: Modified/Standard (ASTM D-1557/D-698)	\$85.00 each
C.2 Limerock Bearing Ratio Test	\$275.00 each
C.3 Sieve Analysis/Gradation Test	\$45.00 each
C.4 -200 Wash Test (percent fines)	\$35.00 each
C.5 Natural Moisture Content Test	\$10.00 each
C.6 Organic Content Test	\$45.00 each
C.7 Atterberg Limits (LL, PL, PI)	\$75.00 each
C.8 Hydrometer Test	\$75.00 each

EXHIBIT “A” continued

C.9 Consolidation Tests	\$475.00 each
C.10 Permeability Test - Sand	\$180.00 each
C.11 Permeability Test - Clay/silt	\$350.00 each
C.12 Compressive Strength of Soil Cement Pills	\$25.00 each
C.13 Soil Cement Mix Design	\$600.00 each
C.14 Compressive Strength of Concrete Cylinder (cure & test per ASTM C-31, C-39)	\$15.00 per cylinder
C.15 Compressive Strength of Grout Specimens	\$15.00 each
C.16 Compressive Strength of Mortar Cubes	\$15.00 each
C.17 Compressive Strength of Concrete Core Sample	\$35.00 each
C.18 Asphalt Cores (thickness & density)	\$25.00 each
C.19 Asphalt Extraction/Gradation Test	\$200.00 each
D. <u>Masonry Testing Services</u>	
D.1 Compressive Strength, Block or Brick, ASTM C-140	\$45.00 each
D.2 Absorption and Moisture Content, Block or Brick, ASTM C-140	\$45.00 each
D.3 Compressive Strength of Hollow Prisms, ASTM E-477	\$150.00 per prism
D.4 Compressive Strength of Grouted Masonry Prisms	\$175.00 per prism
D.5 Engineering Technician (making, sampling & transporting samples)	\$47.00 per hour
E. <u>Geotechnical Testing Services, Test Borings</u>	
E.1 Drill Rig Mobilization/Demobilization	\$400.00 each
E.2 Standard Penetration Test Borings (ASTM D-1586) (Sampling continuous to 10' depth & at 5' intervals thereafter)	
E.2.1 0 – 50 foot depth interval	\$13.00 per foot
E.2.2 51 – 100 foot depth interval	\$14.50 per foot
E.2.3 101 – 150 feet	\$16.00 per foot
E.3 Additional Split Spoon Samples	\$12.00 each
E.4 Grouting SPT Boreholes	\$3.00 per foot
E.5 Installation of Temporary Steel Casing (0 to 100 feet)	\$6.25 per foot
E.6 Undisturbed Thin-Walled Tube Sampling	\$75.00 per tube
E.7 Auger Boring	\$10.00 per foot
E.8 Goundwater Level Piezometer	\$22.00 per foot
E.9 Muck Probing Crew	\$125.00 per hour
E.10 Double Ring Infiltrometer Test	\$350.00 each
E.11 Field Permeability	\$250.00 each
E.12 Standby of Drill Crew and Equipment (reasons beyond our control or difficult access)	\$150.00 per hour
E.13 Pile Load Testing-Compressive or Tensile (instrumentation & monitoring)	\$2,500.00 per test
E.14 PDA (Pile Driving Analyzer) Testing	\$2,500 per day

EXHIBIT "A" continued

F. Environmental Sciences Services

F.1 Environmental Scientist	\$85.00 per hour
F.2 Senior Geologist, P.G.	\$110.00 per hour
F.3 Environmental Technician	\$65.00 per hour
F.4 Asbestos Surveyor	\$75.00 per hour
F.5 Sr. Asbestos Consultant	\$125.00 per hour
F.6 Sampling for Radium-226 and Arsenic	\$65.00 per hour
F.7 Radium-226 Laboratory Test	\$225.00 each
F.8 Arsenic Laboratory Test	\$65.00 each

Notes

1. Hourly testing services will be invoiced portal to portal with a minimum of 2 hours per trip. Services scheduled beyond normal work hours (nights) will be invoiced at the same applicable unit rates listed above.
2. Additional services, consultations, or meetings, when requested, will be invoiced at Universal Engineering Sciences' standard rates.
3. This unit fee estimate includes a PDF Email copy of the daily and laboratory reports. Please be sure to include the appropriate email addresses on the Distribution List. Upon the completion of the project, a final book of signed and sealed report copies will be compiled and mailed. Additional hard copies can be provided at the Technical Secretary unit rate.