



Metropolitan North Georgia Water Planning District  
International Tower | 229 Peachtree St., NE | Suite 100 | Atlanta, GA 30303

## **ADDENDUM #1**

### **2022 Water Resource Management Plan Update RFP**

**February 6, 2020**

The following question was received:

Question: Can you post a copy of the standard legal terms and conditions?

*Answer: Yes. The Metro Water District's standard boilerplate for the Contract for Professional Services is provided as Attachment A.*

# Attachment A

MNGWPD Contract  
No. \_\_\_\_\_

## CONTRACT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2015 by and between \_\_\_\_\_, of Atlanta, Georgia (hereinafter referred to as the "Consultant") and the Metropolitan North Georgia Water Planning District, (hereinafter referred to as "MNGWPD" or "the District").

### WITNESSETH THAT

WHEREAS, MNGWPD, pursuant to O.C.G.A. § 12-5-570 *et.seq.*, is obligated to develop regional and watershed-specific plans; and

WHEREAS, MNGWPD desires to engage the Consultant to render certain technical or professional services hereinafter described in connection with an undertaking or project (hereinafter referred to as the "Project") which is to be wholly or partially financed by funds from the State of Georgia, the United States Government, or participating Local Governments (hereinafter, along with the appropriate auditing agency of the entity providing such funds, referred to as the "Concerned Funding Agency or Agencies"); and

WHEREAS, the Consultant desires to render such services in connection with the Project;

NOW THEREFORE, in consideration of the premises, and the mutual covenants and agreements hereinafter contained, the parties hereto agree as follows:

1. Employment of the Consultant. MNGWPD hereby agrees to engage the Consultant and the Consultant hereby agrees to perform the services hereinafter set forth in accordance with the terms and conditions contained herein.

2. Time of Performance. The services of the Consultant are to commence no later than fifteen (15) days after the execution of this contract and shall be undertaken and pursued in such sequence as to assure their expeditious completion and as may be required in Attachment "A". All services required hereunder shall be completed by or before \_\_\_\_\_.

3. Compensation and Method of Payment. The Consultant shall be compensated for the work and services to be performed under this contract as set forth in Attachment "B" which is attached hereto and made a part hereof. In no event, however, will the total compensation and reimbursement, if any, to be paid the Consultant under this contract exceed the amount as further described in Attachment "B" of this contract.

4. Scope of Services. The Consultant shall do, perform and carry out in a satisfactory and proper manner, with the skill and diligence normally employed by Consultants performing similar work and services, the work and services described in Attachment "A", which is attached hereto and made a part hereof. The Consultant shall insure adequate review, coordination and

approval of the work with MNGWPD's Chief Executive Officer (CEO) or his authorized agent (as used herein the CEO's "authorized agent" shall mean that person designated by MNGWPD's CEO in Paragraph 27 of this contract).

5. Progress Payments. Unless otherwise provided in Attachment "B", the Consultant shall be entitled to receive progress payments on the following basis: As of the last day of each calendar month during the existence of this contract, the Consultant shall submit to MNGWPD an invoice for payment based on the percentage of completion of the Project through the invoice period. Subject to MNGWPD's right to verify the accuracy of the invoice and the satisfactory performance of the work evidenced thereby, MNGWPD will make payments to the Consultant as the work progresses but not more often than once a month. Invoices must cover a period ending with the end of a month and must be received within fifteen (15) days following the end of the invoice period. The Consultant will be paid an amount which bears the same ratio to the total compensation to be paid to the Consultant under this contract as the work and services actually performed as of the end of the invoice period bear to the total work and services to be performed by the Consultant under this contract, less all previous progress payments made pursuant hereto, and less an established retainage. Upon completion and acceptance by MNGWPD of the work, including the receipt of any final written submission of the Consultant, MNGWPD shall pay the Consultant a sum equal to one hundred per cent (100%) of the compensation to be paid under this contract, less the total of all previous payments made. Such payment shall be made no later than thirty days after MNGWPD's acceptance of the Consultant's invoice and MNGWPD's receipt of such funds from the Concerned Funding Agency.

6. Consultant's Personnel. The Consultant represents that he has, or will secure at his own expense, all personnel required in performing the services under this contract. Such personnel shall not be employees of MNGWPD, nor shall such personnel have been employees of MNGWPD during any time within the twelve-month period immediately prior to the date of this contract, except with the express prior written consent of MNGWPD's CEO or his authorized agent. Further, the Consultant agrees that no such personnel shall be involved in any way with the performance of this contract, without the express prior written approval of MNGWPD's CEO or his authorized agent.

7. Approval of Subcontracts. None of the work or services to be performed under this contract by the Consultant shall be subcontracted without the prior written approval of MNGWPD's CEO or his authorized agent. If such subcontracting is authorized as herein provided, all subcontract documents shall be submitted to MNGWPD's CEO or his authorized agent, for his review and approval prior to the execution of such subcontract. Further, if requested by MNGWPD's CEO or his authorized agent, the Consultant shall provide such documentation as MNGWPD shall require, regarding the method the Consultant used in selecting its subcontractor. The Consultant acknowledges that if the work or services to be performed under this contract is financed solely or partially through Federal funds, the selection of subcontractors is governed by regulations requiring competition between potential subcontractors or adequate justification for sole source selection. The Consultant agrees to abide by such regulations in its selection procedure.

8. Review and Coordination. To insure adequate review and evaluation of the work, and proper coordination among interested parties, MNGWPD shall be kept fully informed concerning the progress of the work and services to be performed hereunder. MNGWPD may require the Consultant to meet with designated officials of MNGWPD and the Concerned Funding Agency from time to time to review the work. Reasonable prior notice of such review meeting shall be given the Consultant.

9. Reports. The Consultant shall furnish MNGWPD with a monthly narrative progress report, in such form as may be specified by MNGWPD's CEO or his authorized agent, outlining the work accomplished by the Consultant during the month of such report and the current status of the Project, including the percentage of the work which has been completed as of the end of the month of such report. Such report shall be furnished within fifteen (15) days of the end of the month of such report.

10. Inspections. Authorized representatives of MNGWPD and the Concerned Funding Agency may at all reasonable times review and inspect the Project activities and data collected pursuant to this contract. All reports, drawings, studies, specifications, estimates, maps and computations prepared by or for the Consultant shall be made available to authorized representatives of MNGWPD and the Concerned Funding Agency for inspection and review at all reasonable times in the Consultant's office where data is normally accumulated. Approval and acceptance of such material shall not relieve the Consultant of his professional obligation to correct, at his expense, any errors found in the work.

11. Maintenance of Cost Records. The Consultant shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred on the Project and shall make such material available at all reasonable times during the period of the contract, and for three years from the date of final payment under the contract, for inspection by MNGWPD, the Concerned Funding Agency, and if the work and services to be performed under this contract is wholly or partially funded with Federal funds, the Comptroller General of the United States, or any other party as may be directed by MNGWPD. Notwithstanding this Section 11 or any other provisions of this contract and pursuant to the Georgia Open Records Act, O.C.G.A. § 50-18-70 *et.seq.*, all records received or maintained by Consultant or any other private entity in the performance of work and services under this contract shall be subject to disclosure to the same extent that such records would be subject to disclosure if received or maintained by MNGWPD or any other agency, public agency, or public office. The Consultant shall include the provisions of this paragraph in any subcontract executed in connection with this Project.

12. Compliance with Requirements of the Concerned Funding Agency. The Consultant shall be bound by the applicable terms and conditions of the Grant Contract between MNGWPD and the Concerned Funding Agency, which said Grant Contract is on file in the offices of MNGWPD and is hereby made a part of this Agreement as fully as if the same were attached hereto.

13. Data to be Furnished Consultant. All information, data, reports, records and maps which are existing, readily available and reasonably necessary, as determined by MNGWPD's CEO or his authorized agent, for the performance by the Consultant of the work and services

required by this contract shall be furnished to the Consultant without charge by MNGWPD. MNGWPD, its agents and employees, shall fully cooperate with the Consultant in the performance of the Consultant's duties under this contract.

14. Rights in Documents Materials and Data Produced. Consultant agrees that all reports, drawings, studies, specifications, estimates, maps, computations and other data prepared by or for it under the terms of this contract shall be delivered to, become and remain the property of MNGWPD upon termination or completion of the work. MNGWPD shall have the right to use same without restriction or limitation and without compensation to the Consultant other than that provided for in this contract. For the purposes of this contract, "data" includes writings, sound recordings, or other graphic representations and works of a similar nature. No materials or data produced in whole or in part under this contract shall be the subject of an application for copyright by or on behalf of the Consultant or its subcontractors. If the work to be performed under this contract is financed wholly or partially by Federal funds, the Consultant acknowledges that matters regarding the rights to inventions and materials generated by or arising out of this contract may be subject to certain regulations issued by the Concerned Funding Agency. Information regarding these relevant regulations may be obtained upon written request to MNGWPD's CEO or his authorized agent. If this contract provides for the development of systems analysis products, models, electronic data processing systems, software and related services, the methods, material, logic and systems developed under this contract shall be the property of Consultant. However, MNGWPD, and the Concerned Funding Agencies shall retain the right, in perpetuity, to use, and to authorize others within the State of Georgia to use the systems analysis products, models, electronic data processing systems, software and related services, the methods, material, logic and systems without restriction or limitation and without compensation to the Consultant other than that provided for in this contract.

15. Identification of Documents. Unless otherwise provided in Attachment "A", all reports, maps and other documents completed as a part of this contract shall bear on the title page of such report, map or document, the following legend: "Prepared by (insert name of Consultant) under Contract with the Metropolitan North Georgia Water Planning District. The preparation of this (insert either report, map or document, as appropriate) was financed in part by funds provided by (insert name of the Concerned Funding Agency and an identification of the grant program)." The date (month and year) in which the document was prepared shall also be shown.

16. Publication and Publicity. Articles, papers, bulletins, reports or other material reporting the plans, progress, analysis or results and findings of the work conducted under this contract shall not be presented publicly or published without prior approval of MNGWPD's CEO or his authorized agent. All such reports, information, data, etc., shall be kept confidential by the Consultant and shall not be made available to any individual or organization by the Consultant, until MNGWPD's CEO or his authorized agent authorizes the release of same in writing. All articles, paper, bulletins, reports or other material reporting plans, progress, analysis or results and findings of the work conducted under this contract are subject to Georgia's Open Records Act, O.C.G.A. § 50-18-70 *et. seq.* Consultant shall notify MNGWPD, within twelve (12) hours of the receipt of any and all requests to review any such articles, paper, bulletins, reports or other material.

17. Interest of Consultant. The Consultant covenants that neither the Consultant, nor anyone controlled by the Consultant, controlling the Consultant, or under common control with the Consultant, nor their agents, employees or subcontractors, presently has an interest, nor shall acquire an interest, direct or indirect, which would conflict in any manner or degree with the performance of its service hereunder, or which would prevent or tend to prevent, the satisfactory performance of the Consultant's service hereunder in an impartial and unbiased manner. The Consultant further covenants that in the performance of this contract no person having any such interest shall be employed by the Consultant as an agent, subcontractor or otherwise. If the Consultant contemplates taking some action which may constitute a violation of this paragraph 17, the Consultant shall request in writing the advice of MNGWPD's CEO or his authorized agent, and if MNGWPD's CEO or his authorized agent shall notify the Consultant in writing that the Consultant's contemplated action will not constitute a violation hereof, then the Consultant shall be authorized to take such action without being in violation of this paragraph.

18. Interest of Member of MNGWPD and Others. No officer, member or employee of MNGWPD, and no public official of any local government which is affected in any way by the Project, who exercises any function or responsibilities in the review or approval of the Project or any component part thereof, shall participate in any decision relating to this contract which affects his personal interest or the interest of any corporation, partnership or association in which he is, directly or indirectly, interested; nor shall any such officer, member or employee of MNGWPD, or public official of any local government affected by the Project, have any interest, direct or indirect, in this contract or the proceeds arising therefrom.

19. Official Not to Benefit. No member of or delegate to the Congress of the United States of America, resident Commissioner or employee of the United States Government shall be admitted to any share or part of this contract or to any benefit to arise herefrom.

20. Nondiscrimination.

(A) The Consultant will not discriminate against any qualified employee, applicant for employment or subcontractor because of age, handicap, religion, creed or belief, political affiliation, race, color, sex or national origin. The Consultant shall take affirmative action to insure that qualified applicants are employed and qualified subcontractors are selected, and that qualified employees are treated during employment, without regard to their age, handicap, religion, creed or belief, political affiliation, race, color, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; selection for training including apprenticeship; and participation in recreational and educational activities. If the Consultant has fifty or more employees and if the total compensation and reimbursement to be paid to the Consultant as specified in paragraph 3 of this contract is Fifty Thousand Dollars (\$50,000) or more, the Consultant certifies that: (1) It has developed a written Affirmative Action Program (AAP) which includes: (a) an analysis of the Consultant's work force showing by job category the extent to which minorities and females are being underutilized, and (b) where minorities and females are being underutilized, realistic goals and timetables in each job category for correcting the underutilization; and (2) It presently has such a plan in effect and such plan will remain in effect at least until the Project completion date

specified in paragraph 2 of the contract. The Consultant agrees to post in a conspicuous place available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause. The Consultant will in all solicitations or advertisements for subcontractors or employees placed by or on behalf of the Consultant, state that all qualified applications will receive consideration for employment without regard to age, handicap, religion, creed or belief, political affiliation, race, color, sex or national origin. The Consultant will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this contract so that such provisions will be binding upon each subcontractor provided that the foregoing provisions shall not apply to subcontracts for less than \$10,000.00.

(B) The Consultant shall keep such records and submit such reports concerning the racial and ethnic origin of employees and applicants for employment as MNGWPD or the Concerned Funding Agency may require.

(C) The Consultant agrees to comply with such rules, regulations or guidelines as MNGWPD or the Concerned Funding Agency may issue to implement the requirements of this paragraph 20.

21. Changes. MNGWPD may require changes in the work and services that the Consultant is to perform hereunder. Such changes, including any increase or decrease in the amount of the Consultant's compensation which are mutually agreed upon by and between MNGWPD and the Consultant, shall be incorporated in written amendments to this contract.

22. Assignability. The Consultant shall not assign, sublet or transfer all or any portion of its interest in this Agreement without the prior written approval of MNGWPD's CEO or his authorized agent.

23. Indemnification. The Consultant shall hold harmless and indemnify MNGWPD, its officers, directors, and employees from and against losses, reasonable attorney's fees and costs, that may be based on any injury to persons or property caused to the proportionate extent by the negligent performance of services under this agreement by the consultant or any person employed by the consultant. Consultant's liability to MNGWPD for all the aforesaid matters is limited to proceeds recovered from insurance and within the coverage limits specified in article 24 below.

24. Insurance. Consultant shall, as a minimum, place and maintain with responsible insurance carriers the following insurance. Consultant shall deliver to MNGWPD, upon request, certificates of such insurance which shall provide thirty days written notice to be given to MNGWPD in the event of cancellation, in accordance with standard ACORD Form wording. Consultant shall require all subcontractors to maintain adequate insurance coverage.

A. Workers' Compensation and Employer's Liability Insurance:

1. Workers' Compensation in compliance with applicable state and federal laws.

B. Liability Insurance (not less than \$100,000.00 for injuries including death to any one person and not less than \$300,000.00 per occurrence) including:

1. Professional Liability;

2. Blanket contractual;
3. Broad Form Property Damage (not less than \$50,000.00 per occurrence with aggregate limit of \$1,000,000.00)
4. Completed Operations;
5. Independent Contractor's Liability
6. Valuable Papers.

C. Automobile Liability Insurance including owned, hired, and non-owned automobiles, Bodily Injury and Property Damage to a combined single limit of \$1,000,000 each occurrence.

25. Termination of the Contract for Cause. If the Consultant, due to its action or failure to act, shall fail to fulfill in a timely and proper manner his obligations under this contract, or if the Consultant has or shall violate any of the covenants, agreements, representations or stipulations of this contract, MNGWPD shall thereupon have the right to terminate this contract by giving written notice to the Consultant of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents and other materials collected or produced under this contract (as more fully described in paragraph 14 hereof) shall, at the option of MNGWPD, become its property and the Consultant shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials. Notwithstanding the foregoing, the Consultant shall not be relieved of liability to MNGWPD for damages sustained by MNGWPD by virtue of any breach of this contract by the Consultant, and MNGWPD may withhold any payment to the Consultant for the purpose of set-off for damages caused by the Consultant's breach, until such time as the exact amount of damages to MNGWPD from the Consultant is determined.

26. Termination for Convenience. MNGWPD may terminate this contract at any time by giving written notice to the Consultant of such termination and specifying the effective date thereof, at least fifteen (15) days before the effective date of such termination. In that event, all finished or unfinished documents and other materials produced or collected under this contract (as more fully described in paragraph 14 above) shall, at the option of MNGWPD, become its property. If this contract is terminated by MNGWPD as provided in this paragraph 26, the Consultant will be paid either (a) an amount which bears the same ratio to the total compensation to be paid to the Consultant under this contract as the services actually performed prior to the termination of this contract bear to the total services to be performed by the Consultant under this contract, less payments of compensation previously made, provided, however, that if less than sixty percent (60%) of the services covered by this contract have been performed by the effective date of such termination, the Consultant shall be reimbursed (in addition to the foregoing payment) for that portion of the actual out of pocket expenses (not otherwise reimbursed under this contract) incurred by the Consultant during the contract period, which are directly attributable to the uncompleted portion of the services covered by this contract; or if payment under this contract is on a cost reimbursement basis, (b) the actual expenses incurred by the Consultant prior to the effective date of such termination, as authorized in Attachment "B", plus any profit shown in Attachment "B". Provided, however, if this contract is terminated due to the fault of the Consultant, the provisions of paragraph 25 hereof shall prevail.



27. Designation of Authorized Agent: Under an existing agreement between the MNGWPD and the Atlanta Regional Commission (ARC) certain administrative, financial and technical staff support functions are performed by ARC for the MNGWPD. The following terms apply to this contract:

- a. ARC shall administer this contract on behalf of the MNGWPD, including but not limited to approval and acceptance of work or services, approval of subcontracts, and authorization of payment.
- b. ARC's Manager, Natural Resources Division is designated as the Authorized Agent for such administration.

28. Georgia Security and Immigration Compliance: The Consultant agrees and hereby certifies that it will comply with the Georgia Security and Immigration Compliance requirements of O.C.G.A. § 13-10-91.

29. Applicable Law. This contract shall be deemed to have been executed and performed in the State of Georgia, and all questions of interpretation and construction shall be construed by the laws of such State.

IN WITNESS WHEREOF, the Consultant and MNGWPD have executed this Agreement as of the day first above written.

ATTEST:

\_\_\_\_\_

\_\_\_\_\_

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

Title: \_\_\_\_\_

EIN: \_\_\_\_\_

METROPOLITAN NORTH GEORGIA  
WATER PLANNING DISTRICT

ATTEST:

\_\_\_\_\_  
Secretary - Treasurer

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

Chairperson & CEO