

**HARBOUR WATERWAY SPECIAL DISTRICT
HARBOUR WATERWAY ASSOCIATION, INC.
JACKSONVILLE, FLORIDA**

AND

**DREDGE AMERICA, INC.
KANSAS CITY, MISSOURI**

**MAINTENANCE DREDGING
AGREEMENT**

January 8, 2013

AGREEMENT FOR DREDGING SERVICES

THIS AGREEMENT is made by and between HARBOUR WATERWAY SPECIAL DISTRICT, a dependent special district created by City of Jacksonville, Florida Ordinance No.2010- 725-E, and Harbour Water Association, Inc., a homeowner’s association (collectively, “Owner”) and Dredge America, Inc., a Missouri Corporation authorized to do business in the State of Florida (“Contractor”).

Owner and Contractor, in consideration of the mutual covenants set forth herein, agree as follows:

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

1.01.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Project will essentially consist of the following:

1.01.02 Dredging a planned maintenance dredge which will remove up to 62,500 cubic yards of material and deposit the dredged material in Cell “F” at the Bartram Island spoil site (owned and operated by the Jacksonville Port Authority (JPA) which is approximately 15,000 feet from the furthest point in the canal system and 40+ feet above MLW. Dredging hours of operations may be conducted between 7:00 AM and 8:00 PM depending on visibility, or as approved by the Contracting Officer.

ARTICLE 2 – DEFINITIONS

All words and terms found in this contract and any attachments, exhibits, appendices, and documents merged or subsumed into, to this contract shall have their plain and ordinary meaning except as defined in this Article.

2.01 Agreement – means this written contract document.

2.02 Change Order- means any change in or deviation from the original plans, specifications, or scope of work requested by the Owner. All Change Orders must be made in writing to the Contractor.

2.02 Contractor - means the winning bidder from the Bid Package as selected by the Owner, and who properly executes this contract.

2.03 Contract Documents – means this written contract, the Bid Package (and specifications therein) , of November 5, 2012, the Contractor’s bid submitted in response to the bid package, any exhibits, attachments, or appendices to the documents mentioned fore with.

2.04 Contracting Officer—means Owner’s representative for administration of this Agreement, Stanley Pipes, 11554 Starboard Drive, Jacksonville, Florida, 32225-1015, shpipes@bellsouth.net.



2.05 Marine Surveyor – means Arc Surveying & Mapping, Inc. whose principle place of business is located at 5202 San Juan Avenue, Jacksonville, FL. 32210

2.06 Owner or Harbour Waterway – means, collectively, the Harbour Waterway Special District and the Harbour Waterway Association, Inc. or, any subsequent owner, successor or assignee.

2.07 Parties – means The Contractor and the Owner.

2.08 Payment – means the payment of amounts due one Party from another party to this contract per the terms of this written document. All payments, made subject to this contract, will be in \$USD, in immediate funds.

2.09 Project – means the completion of the Dredging project as defined by the scope of Work in this agreement and the bid packet specifications of November 5, 2012.

2.10 Required Bottom Depth – means a target depth of between 5.0 and 6.0 below mean low water (MLW) within the dredged channel or as specified in the Contract Documents and the 2012 Marine Survey.

2.11 Site – means the area to be dredged.

ARTICLE 3 – TIME OF COMPLETION

3.01 All work specified in the Contract Documents shall be completed by the Contractor, to the satisfaction of the Owner no later than June 30, 2013, unless agreed to in writing by both parties.

3.02 The Contractor agrees to complete the work in accordance with the anticipated work schedule described in Appendix “B”.

3.03 Time is of the essence. All time limits for milestones, if any, substantial completion, and completion and readiness for final payment as stated in the Contract Documents, are of the essence of this contract.

ARTICLE 4 – CONTRACT PRICE

4.01 The price to be paid by Owner for the services to be provided hereunder by Contractor is as follows:

Base Work

| Item | Description | Estimated Quantity | Unit | Unit Price | Amount |
|------|----------------|--------------------|----------|------------|-----------|
| 1 | Mobilization | 1 | Lump Sum | \$175,690 | \$175,690 |
| 2 | Demobilization | 1 | Lump Sum | \$150,460 | \$150,460 |
| 3 | Dredging | | | | |



| | | | | | |
|------------------------|--------------------------------------|--------------------|-------------|----------|------------------|
| 3A | First 21,000 cubic yards (Channel 1) | 21,000 | Cubic Yards | \$ 11.82 | \$248,220 |
| 3B | All over 21,000 cubic yards | TBD - Up to 41,500 | Cubic Yards | \$ 11.82 | \$490,530 |
| Total Base Work | | | | | 1,064,900 |
| | | | | | |

Other Work

| Item | Description | Estimated Quantify | Unit | Unit Price | Amount |
|-------------------------|-------------|--------------------|----------|--------------|-----------------|
| 4 | Spoil Site | 1 | Lump sum | \$ 40,000.00 | \$40,000 |
| Total Other Work | | | | | \$40,000 |

Total Base Work and Other Work

\$1,104,900

4.02 Change Orders

4.02.01 All Change Orders must be made in writing, and set forth all proposed changes in completion schedule, and compensation / contract price. All Parties must agree to the Change Order by Authorized Signature on the requested Change Order and acknowledgment of the requested Change Order.

4.02.02 The Contractor will not be under any obligation to proceed with a Change Order absent a properly executed and agreed to Change Order request.

4.02.03 Change Order requests that affect the schedule of work, shall note any changes to the completion date for the project; such changes shall be acknowledged by both Parties.

4.03 Liquidated Damages. Contractor and Owner recognize that time is of the essence of this agreement and that Owner will suffer financial loss if the work is not completed within the times specified in this agreement, in Paragraph 3.01 above, plus any extensions thereof allowed in accordance with Paragraph 4.02 of this Article. The Parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration preceding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner \$500.00 for each day that expires after the time specified in Paragraph 3.01 for completion until the Work is complete.

ARTICLE 5 – INDEMNIFICATION



5.01 The Contractor shall, in addition to any other obligation, indemnify Owner and to the fullest extent permitted by Florida law, protect, defend, indemnify and hold harmless Owner, its agents, and officials from and against all claims, actions, liabilities, losses, costs arising out of any actual or alleged bodily injury, sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting there from, or any other damage or loss arising out of or resulting from or claims to have resulted in whole or in part from any actual or alleged act or omission of the consultant, any subcontractor, anyone directly or indirectly employed by any of them, of anyone for whose acts any of them may be liable in the performance of the work; or violation of law, statute, ordinance, governmental administration order, rule, regulation or infringement of patent rights by the Contractor in the performance of the work; or liens, claims or actions made by the Contractor or any subcontractor or other party performing the work.

ARTICLE 6 – INSURANCE AND SURETIES

6.01 The Contractor, shall maintain, at all times, the following minimum levels of insurance and; shall, without in any way altering their liability, obtain, pay for and maintain insurance for the coverage's and amounts of coverage not less than those set forth below including insurance requirements specified by the Jacksonville Port Authority and provide to the Owner original Certificates of Insurance satisfactory to the District to evidence such coverage before any work commences. The Owner must be named as an additional insured with respect to liability arising from the work from this Project for Automobile and General Liability policies of insurance, excluding workers' compensation and professional liability. The Contractor must also provide a waiver of subrogation with regards to liability arising from the work from this Project for Automobile, General Liability, and Employers Liability policies of insurance. All insurance coverage shall be written with a company having an A.M. Best Rating of at least the "A" category and size category of VIII. The Contractor's self-insured retention or deductible per line of coverage shall not exceed \$25,000 without the permission of the Owner. The Certificates must clearly state that the Owner and the Jacksonville Port Authority, is an additional named insured with respect to liability arising from the work described in this Project. Such certificates of insurance must provide that there shall be no termination, non-renewal modification or expiration of such coverage without thirty (30) calendar day's prior written notice to the Owner. In the event of any failure by the contractor to comply with the provisions, the Owner may, at its option, on notice to the contractor suspend the project for cause until there is full compliance. Alternatively, the Owner may purchase such insurance at the contractor's expense, provided that the Owner shall have no obligation to do so and if the District shall do so, the contractor shall not be relieved of or excused from the obligation to obtain and maintain such insurance amounts and coverage. The following Insurance coverages shall be maintained at all times that this contract is binding upon the parties, at the following minimum levels:

6.01.01 Commercial General Liability – Occurrence Form

- 6.01.01.1 \$1,000,000 each occurrence
- 6.01.01.2 \$2,000,000 general aggregate



6.01.01.3 \$2,000,000 products and completed aggregate

6.01.01.4 \$500,000 Fire Legal Liability

6.01.01.5 \$1,000,000 advertising injury

6.01.02 Commercial Auto

6.01.02.1 \$1,000,000 Combined Single Limit

6.01.02.2 Statutory PIP 10/20/10

6.01.03 Workers' Compensation and Employer's Liability (including appropriate Federal Acts)

6.01.03.1 \$1M/\$1M/\$1M

6.01.04 Site Specific Pollution Liability

6.01.04.1 \$1,000,000 minimum

6.01.04.2 \$2,000,000 aggregate

6.01.05 Umbrella or Excess Liability

6.01.05.1 \$1,000,000 (Umbrella must go over GL, Auto, & WC)

6.01.06 Longshoremen's Insurance

6.01.06.1 \$1,000,000 minimum

6.01.07 Marine Protection & Indemnity Insurance

6.01.07.1 \$1,000,000 each occurrence

6.01.07.2 \$2,000,000 aggregate

6.02 Performance and Payment Bond

6.02.01 The Contractor shall furnish to the Owner, and keep current, a performance and payment bond for the faithful performance of the contract and all obligations arising hereunder in the amount of One Hundred Percent (100%) of the Project Cost in a form acceptable to the Owner. The Performance and Payment Bond shall be executed by a surety company licensed to do business in the State of Florida; having an "A" or better rating by A.M. Best or Standard and Poor's and included on the list of surety companies approved by the Treasurer of the United States.

ARTICLE 7- PAYMENTS



7.01 Periodic payments shall be made to the Contractor by the Owner for work completed in accordance with the Work specified in this contract and per the terms of this contract.

7.02 All requests for payment shall include documentation deemed sufficient by the Owner, and the Contract Documents, to verify the Work has been completed as specified in Section 9.02. The Work specified and the terms of this contract are not divisible.

ARTICLE 8 – CONTRACTOR’S DUTIES & RESPONSIBILITIES

8.01 GENERAL PROVISIONS

8.01.01 Damage to work. The sole responsibility for damage to any part the breakwater, bulkheads, docks, submerged or buried pipelines, or other structures shall be repaired at the Contractor’s expense. Except as herein provided; damage to all utilities, materials, equipment and plant shall be repaired to the satisfaction of the Contracting Officer at the Contractor's expense, regardless of the cause of such damage.

8.01.02 Safety Provisions. The safety provisions as specified herein refer to the September 2008 edition of EM 385-1-1. The latest edition can be located on the following website:

http://publications.usace.army.mil/publications/eng-manuals/EM_385-1-1_languages/EM_385-1-1_English_2008/toc.html

8.01.02.01 Accident Investigations and Reporting. Refer to EM 385- 1-1, Section 01.D. Accidents shall be investigated and reports completed by the immediate supervisor of the employee(s) involved and reported to the Contracting Officer or his/her representative within one (1) working day after the accident occurs. All data reported must be complete, timely and accurate.

8.01.02.02 Accident Prevention Program. Within seven (7) days after receipt of Notice of Award of the contract, and at least seven (7) days prior to the pre-work conference, two (2) copies of the Accident Prevention Program shall be submitted to the Contracting Officer for review and acceptance. The program shall be prepared in the following format.

8.01.02.02.01 Executed MVN Form 385-43 (Latest Edition), Accident Prevention Program Administrative Plan (available upon request).

8.01.02.02.02 Executed MVN 385-43/1 (Latest Edition), Accident Prevention Plan Checklist and MVN Form 385-43/2 (Latest Edition), Activity Hazard Analysis (available upon request), see Figure 1-1 of EM 385-1-1.

8.01.02.02.03 A copy of company policy statement regarding accident prevention.



8.01.02.02.04 Executed MVN 385-45 (Latest Edition), Floating Plant Inspection Checklist

8.01.02.02.05 When marine plant and equipment are in use, the method of fuel oil transfer shall be included on MVN Form 385-10 (Latest Edition), Fuel Oil Transfer, (available upon request. The Contractor shall not commence physical work at the site until the program has been accepted by the Contracting Officer, or his/her authorized representative. The Contractor may submit its Activity Hazard Analysis only for the first phase of construction provided that it is accompanied by an outline of the remaining phases of construction. All remaining phases shall be submitted and accepted prior to the beginning of work in each phase. Also refer to Section 1 of EM 385-1-1.

8.01.02.03 Comprehensive Hazard Communication Program. The Contractor shall develop, implement, and maintain at the workplace a written, Comprehensive Hazard Communication Program (see Section 06.B.01 of EM 385-1-1) that includes identification of potential hazards as prescribed in 29 CFR Part 1910.1200 and/or 1926.59, effects of exposure and control measures to be used for chemical products and physical agents that may be encountered during the performance of work on this contract, provisions for container labeling, Material Safety Data Sheets, and employee training program, and other criteria in accordance with 29 CFR Part 1910.1200 and/or 1926.59. Training shall include communication methods and systems to be used (i.e., voice, hand signals, radios or other means), and training in the use and understanding of material safety data sheets and chemical product hazard warning labels. Prior to bringing hazardous substances, as defined in 29 CFR 1910.1200 and/or 1926.59, onto the job site, a copy of the Hazard Communication Program and the Material Safety Data Sheets of each substance shall be submitted to the Contracting Officer and made available to the Contractor's employees as part of its Accident Prevention Program.

8.01.02.04 Daily Inspections. The Contractor shall perform daily safety inspections and record them on the forms approved by the Contracting Officer. Reports of daily inspections shall be maintained at the jobsite in accordance with Section 01 45 04.00 10, "CONTRACTOR QUALITY CONTROL". The reports shall be records of the daily inspections and resulting actions. Each report shall include, as a minimum, the following:

8.01.02.04.01 Phase(s) of construction underway during the inspection.

8.01.02.04.02 Locations of areas where inspections were made.

8.01.02.04.03 Results of inspections, including nature of deficiencies observed and corrective actions taken, or to be taken, date, and signature of the person responsible for its contents.

8.01.02.05 Safety Sign. The Contractor shall furnish, erect, and maintain a safety sign at the site where indicated by the Contracting Officer. The lettering shall be black, the safety circle and cross green, and the background white. When placed on a floating



plant, the sign may be half size. The sign shall be erected as soon as practicable, but not later than 15 calendar days after the date established for Commencement of work. The data required shall be current.

8.01.02.06 Ground Fault Protection. Electrical equipment used on this contract shall be equipped with ground fault circuit interrupters in accordance with EM 385-1-1, Section 11.D.05(a).

8.01.02.07 Means of Escape for Personnel Quartered, or Working on Floating Plant. Two (2) means of escape shall be provided for assembly, sleeping, and messing areas on floating plants. For areas involving 10 or more persons, both means of egress shall be through standard size doors opening to different exit routes. Where nine (9) or fewer persons are involved, one (1) of the means of escape may be a window (minimum dimensions 24 inches by 36 inches) which leads to a different exit route. Refer to Section 19 of EM 385-1-1.

8.01.02.08 Emergency Alarms and Signals.

8.01.02.08.01 Alarms. Emergency alarms shall be installed and maintained on all floating plant requiring a crew where it is possible for either a passenger or crewman to be out of sight or hearing from any other person. The alarm system shall be operated from the primary electrical system with standby batteries on trickle charge that will automatically furnish the required energy during an electrical-system failure. A sufficient number of signaling devices shall be placed on each deck so that the sound can be heard distinctly at any point above the usual background noise. All signaling devices shall be so interconnected that actuation can occur from at least one strategic point on each deck.

8.01.02.08.02 Signals.

8.01.02.08.02.01 Fire Alarm Signals. The general fire alarm signal shall be in accordance with paragraph 46 CFR Ch. I; Subpart E.109.503 of the Coast Guard Rules and Regulations for Cargo and Miscellaneous Vessels, Sub-Chapter I & Ia.

8.01.02.08.02.02 Abandon Ship Signals. The signal for abandon ship shall be in accordance with paragraph 109.503(b) of the reference cited in paragraph (a) above.

8.01.02.08.02.03 Man-Overboard Signal. Hail and pass the word to the bridge. All personnel and vessels capable of rendering assistance shall respond.

8.01.02.09 Equipment Operator Authorization. The Contractor shall submit a list of designated personnel qualified and authorized to operate machinery and mechanized equipment in accordance with Section 16 of EM 385-1-1.



8.01.02.10 Dredging Safety Management Program. If the Contractor is a currently accepted participant in the Dredging Contractors of America (DCA)/United States Army Corps of Engineers (USACE) Dredging Safety Management Program (DSMP), as determined by the DCA/USACE Joint Committee, and holds a current valid Certificate of Compliance for both the Contractor Program and the Dredge(s) to be used to perform the work required under this contract, the Contractor may, in lieu of the submission of an Accident Prevention Plan (APP):

8.01.02.10.01 make available for review, upon request, the Contractor's current Safety Management System (SMS) documentation,

8.01.02.10.02 submit to the Contracting Officer the current valid Company Certificate of Compliance for its SMS,

8.01.02.10.03 submit the current dredge(s) Certificate of Compliance based on third party audit, and

8.01.02.10.04 submit for review and acceptance, site-specific addenda to the SMS as specified in the solicitation.

8.01.03 Signal Lights. The Contractor shall display signal lights and conduct his/her operations in accordance with U. S. Coast Guard regulations governing lights and day signals to be displayed, as set forth in Commandant, U. S. Coast Guard Instruction M16672.2C, Navigation Rules, International - Inland (COMDTINST M16672); 33 CFR 81, appendix A (International); and 33 CFR 84 through 33 CFR 90 (Inland) as applicable.

8.01.04 Continuity of Work. No payment will be made for work done in any area designated by the Contracting Officer until the full depth required under the contract is secured in the whole of such area, nor will payment be made for excavation in any area not adjacent to and in prolongation of areas where full depth has been secured except by decision of the Contracting Officer. Should any such non-adjacent area be excavated to full depth during the operations carried on under the contract, payment for all work therein may be deferred until the required depth has been made in the area intervening. The Contractor may be required to suspend dredging at any time when for any reason the ranges cannot be seen or properly followed.

8.01.05 Inspection.

8.01.05.01 The presence of the Inspector shall not relieve the Contractor of the responsibility for the proper execution of the work in accordance with the specifications. The Contractor shall furnish on the request of the Contracting Officer or any inspector:

8.01.05.01.01 The use of such boats, boatmen, laborers and material forming a part of the ordinary and usual equipment and crew of the dredging plant as may be reasonably necessary in inspecting and supervising the work.



8.01.05.01.02 Suitable transportation from all points on shore designated by the Contracting Officer to and from the various pieces of plant, and to and from the disposal areas.

8.01.05.01.03 When the Contractor elects not to work on weekends, holidays or nights, notice shall be given to the Contracting Officer at least 24 hours in advance thereof. Adequate lighting for thorough inspection of night operations shall be provided by the Contractor at his/her expense.

8.01.05.03 Should the Contractor refuse, neglect, or delay compliance with these requirements, the specific facilities may be furnished and maintained by the Contracting Officer, and the cost thereof will be deducted from any amounts due or to become due to the Contractor.

8.01.06 Shoaling. If, before the contract is completed, shoaling occurs in any section previously accepted, including shoaling in the finished channel, because of the natural lowering of the side slopes, re-dredging at contract price, within the limit of available funds, may be done if agreeable to both the Contractor and the Contracting Officer.

8.01.07 Seaworthiness Certification. EM 385-1-1, Section 19.A.01.b. All dredges and quarter boats not subject to USCG inspection and certification or not having a current American Bureau of Shipping (ABS) classification shall be inspected annually by a qualified person. The inspection shall be appropriate for the intended use of the plant and shall, as a minimum, evaluate structural integrity and compliance with NFPA 302, Fire Protection Standard for Pleasure and Commercial Motor Craft.

8.01.08 Environmental Litigation.

8.01.08.01 If the performance of all or any part of the work is suspended, delayed, or interrupted due to an order of a court of competent jurisdiction as a result of environmental litigation, as defined below, the Contracting Officer, at the request of the Contractor, shall determine whether the order is due in any part to the acts or omissions of the Contractor or a Subcontractor at any tier and required by the terms of this contract. If the order is not due in any part to acts or omissions of the Contractor (or a Subcontractor at any tier) other than as required by this contract, such suspension, delay, or interruption shall be as if ordered by the Contracting Officer. The period of such suspension, delay or interruption shall be considered unreasonable, and an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) as provided in that clause, subject to all the provisions thereof.

8.01.08.02 The term "environmental litigation", as used herein, means a lawsuit alleging that the work has an adverse effect on the environment or that the HARBOUR WATERWAY has not duly considered, either substantively or procedurally, the effect of the work on the environment.



8.01.09 Rights of Way.

8.01.09.01 The rights of entry required for the work to be constructed under this contract, within the rights-of-way limits indicated on the drawings, have been obtained by the HARBOUR WATERWAY and are provided without cost to the Contractor. The Contractor shall make its own investigations to determine the conditions, restrictions, and difficulties which may be encountered in the transportation of equipment and material to and from the work site. The proposed work, including rights-of-way, as defined by these specifications and as shown on the drawings, is in compliance with all applicable Federal and state environmental laws and regulations. Upon completion of the Contractor's work, rights-of-way furnished by the HARBOUR WATERWAY shall be returned to its original condition prior to construction unless otherwise noted.

8.01.09.02 If the Contractor proposes a deviation from the HARBOUR WATERWAY furnished rights of- way for his convenience, the Contractor shall notify the Contracting Officer or its representative in writing. Contractor shall not provide any permanent rights of-way for the project. The Contractor is cautioned that any deviation to the HARBOUR WATERWAY furnished rights-of-way is subject to all applicable Federal and state environmental laws and regulations. Compliance with these environmental laws and regulations may require additional National Environmental Policy Act (NEPA) documents, cultural resources surveys, coordination with the Louisiana State Historical Preservation Officer, water quality certification, modification of the Federal consistency determination, etc. The HARBOUR WATERWAY is ultimately responsible for environmental compliance; therefore, the HARBOUR WATERWAY will determine the additional environmental coordination and documentation necessary for a proposed deviation to the HARBOUR WATERWAY furnished rights-of-way.

8.01.09.03 For any environmental investigations the HARBOUR WATERWAY is to perform on areas outside of HARBOUR WATERWAY furnished rights-of-way, the Contractor shall provide sufficient rights of entry to the HARBOUR WATERWAY. The Contracting Officer will advise the Contractor of the additional environmental coordination and documentation that must be completed. The HARBOUR WATERWAY shall be responsible for any additional environmental compliance; however, the Contractor may conduct specific tasks identified by the HARBOUR WATERWAY. The HARBOUR WATERWAY will offer advice and assistance to the Contractor in conducting these tasks. Depending on the environmental impact of the proposed deviation, obtaining the coordination and documentation may not be approved or could take as much as 90 calendar days for approval by the HARBOUR WATERWAY. The HARBOUR WATERWAY must review, approve and ensure distribution of all environmental compliance documentation and ensure all comments on the same have been resolved before any utilization of any areas outside of the HARBOUR WATERWAY furnished rights-of-way. The Contractor shall reimburse the HARBOUR WATERWAY for actual expenses incurred for assistance in completing or attempting to complete additional environmental coordination and documentation, which expenses will not exceed one



hundred thousand (\$100,000.) dollars. There is no guarantee that environmental compliance will be obtained; therefore, the Contractor shall assume all risks and liabilities associated with pursuing a deviation. Any delays resulting from the deviation and/or the environmental coordination and documentation shall not be made the basis of any Contractor claim for increase in the contract cost and/or increase in contract time. Deviations will be at Contractor's sole risk and liability, including, but not limited to, such liabilities associated with items such as hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et. seq.), and at no cost to the HARBOUR WATERWAY. HARBOUR WATERWAY assistance in obtaining additional environmental clearances does not relieve the Contractor of responsibility for complying with other Federal, state or local licenses and permits.

8.01.10 Contractor responsibility. The Contractor shall be responsible for ensuring that all its employees strictly comply with all laws and permit requirements that may apply to operations under this contract. The Contractor assumes full responsibility for the safety of its employees, plant, and materials and for any damage or injury done by or to them from any source or cause, except damage caused by acts of the HARBOUR WATERWAY, its officers, agents or employees. Such damages will be the responsibility of the HARBOUR WATERWAY in accordance with applicable Federal laws. The terms "officer", "agent", and "employee" of the HARBOUR WATERWAY do not include persons in the employment of the Contractor and whose services have been furnished to the HARBOUR WATERWAY.

8.01.11 Mobilization of attendant plant / booster pump. Mobilization of attendant plant, if required, shall be concurrent with dredge mobilization. Failure to timely mobilize such auxiliary/attendant plant may result in one or more of the following actions by the Contracting Officer: reasonable suspension (without HARBOUR WATERWAY cost) of work until required plant is provided; formulation of credit to offset deficient plant; imposition of liquidated damages for late overall completion of the contract after excusable delays, if any. The HARBOUR WATERWAY's rights under any other Contract Clause are preserved.

8.01.12 Supervision. At all times during performance of this contract and until the work is completed and accepted by the HARBOUR WATERWAY, the Contractor shall have on the worksite a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor. Inspectors appointed by the Contracting Officer will enforce strict compliance with the terms of the contract. The inspectors will keep a record of the work done, but neither the presence nor absence of inspectors shall relieve the Contractor of responsibility for the proper execution of the work in accordance with the contract and directives issued by the Contracting Officer.

8.01.13 Work in the vicinity of other contractors. The Contractor shall coordinate his/her operations, through the Contracting Officer with any other Contractors who may be working in



the vicinity (i.e. dredging, surveys, spoil site contractors, Jacksonville Port Authority (JPA), structure operation, etc.). The Contractor shall coordinate his staging operations, access routes, etc with any Contractor currently performing work in the general vicinity.

8.01.14 Regulations and Laws. The Contractor and his/her subcontractors shall comply with all applicable Federal, State, and Local laws, and regulations concerning dredging operations including but not limited to the obligations set forth in Appendix "D", U.S. Army Corp of Engineers Dredging Permit SAJ-1993-1030 and in Appendix "E", Florida Department of Environmental Protection Permit 16-151419-003-EE .

8.02 ENVIRONMENTAL PROTECTION DURING DREDGING

8.02.01 SCOPE

The work covered by this section consists of furnishing all labor, materials and equipment, and performing all work required for the prevention of environmental pollution during and as the result of construction operations under this contract except for those measures set forth in other provisions of these specifications. For the purpose of this specification, environmental pollution is defined as the presence of chemical, physical, or biological elements or agents which adversely affect human health or welfare; unfavorably alter ecological balances of importance to man; or degrade the utility of the environment for esthetic and recreational purposes. The control of environmental pollution requires consideration of air, water, and land, and involves noise, solid waste-management and management of radiant energy and radioactive materials, as well as other pollutants.

8.02.02 APPLICABLE REGULATIONS

In order to prevent, and to provide for abatement and control of any environmental pollution arising from construction activities in the performance of this contract, the Contractor and his/her subcontractors shall comply with all applicable Federal, State, and Local laws, and regulations concerning environmental pollution control and abatement.

8.02.03 MEASUREMENT AND PAYMENT

8.02.03.01 Environmental Protection

No separate measurement or payment will be made for environmental protection including protection of fish and wildlife. Payment for the work covered under this section shall be distributed throughout the existing bid items.

8.02.04 QUALITY CONTROL

8.02.04.01 General

The Contractor shall establish and maintain quality control for environmental protection to assure compliance with contract specifications and maintain records of his quality control for all construction operations including but not limited to the following:



8.02.04.01.01 Submit plan of Environment Pollution Control/Environmental Protection Plan. For Contractor on-site activities that pose a risk of an oil spill, include in the plan a Spill Reporting and Response plan.

8.02.04.01.02 Procure applicable Federal, State, and Local regulations on pollution control.

8.02.04.01.03 Air Pollution - Checks made on dust, smoke, noise.

8.02.04.01.04 Water Pollution - Checks made on disposal of water, oil, etc.

8.02.04.01.05 Land Pollution - Checks made on disposal of debris and materials, restoration of temporary construction sites, etc.

8.02.04.01.06 Training course for employees.

8.02.04.02 Reporting

The original and two copies of these records, as well as the records of corrective action taken, shall be furnished the HARBOUR WATERWAY daily.

8.02.05 NOTIFICATION

The Contracting Officer will notify the Contractor in writing of any non-compliance with the foregoing provisions and the action to be taken. The Contractor shall, after receipt of such notice, immediately take corrective action. Such notice, when delivered to the Contractor or his/her authorized representative at the site of the work, shall be deemed sufficient for the purpose. If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop orders shall be made the subject of a claim for extension of time or for excess cost of damages by the Contractor.

8.02.06 SUBCONTRACTORS

Compliance with the provisions of this section by subcontractors will be the responsibility of the Contractor.

8.02.07 IMPLEMENTATION

Within 10 days after receipt of Notice of Award, the Contractor shall:

8.02.07.01 Submit, in writing, proposals for environmental pollution control, disposal of debris, and an Environmental Protection plan. The Contractor shall provide one (1) copy each to the Contracting Officer.

8.02.07.02 Upon review and approval of requirements above, the Contractor shall meet with representatives of the Contracting Officer to develop mutual understandings relative to compliance with these provisions and administration of the environmental pollution control program and Environmental Protection Plan.

8.02.08 REFERENCES



The publications listed below form a part of this specification to the extent referenced. The publications are referred to within the text by the basic designation only. U.S. NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) 33 CFR 153.203 Procedure for the Notice of Discharge

8.02.09 ENVIRONMENTAL ASSESSMENT OF CONTRACT DEVIATIONS

The Contractor is advised that deviations from the drawings or specifications (e.g., proposed alternate disposal areas, staging areas, alternate access routes, etc.) could result in the requirement for the HARBOUR WATERWAY to reanalyze the project from an environmental standpoint. Deviations from the construction methods and procedures indicated by the plans and specifications, which may have an environmental impact will require an extended review, processing, and approval time by the HARBOUR WATERWAY. The Contracting Officer reserves the right to disapprove alternate methods, even if they are more cost effective, if the Contracting Officer determines that the proposed alternate method will have an adverse environmental impact.

8.02.10 PROTECTION OF LAND RESOURCES

8.02.10.01 General

The land resources within the project boundaries and outside the limits of permanent work performed under this contract shall be preserved in their present condition or be restored to a condition after completion of construction that will appear to be natural and not detract from the appearance of the project. The Contractor shall confine his/her construction activities to areas defined by the plans and/or specifications.

8.02.10.02 Prevention Of Landscape Defacement

Except in areas to be cleared and as provided in paragraph "Temporary Excavation and Embankments," the Contractor shall not deface, injure, or destroy trees or shrub, nor remove or cut them without the approval of the Contracting Officer. Felling of trees shall be performed in such a manner as to avoid damage to trees to be left standing. Where trees may possibly be defaced, bruised, injured, or otherwise damaged by the Contractor's operations or equipment; he shall protect adequately such trees.

8.02.10.03 Temporary Excavation And Embankments

If the Contractor proposes to construct temporary roads or embankments and excavation for plant and/or work areas, he shall obtain approval of the Contracting Officer prior to start of such temporary work.

8.02.10.04 Post-Construction Cleanup Or Obliteration

The Contractor shall obliterate all signs of temporary construction facilities such as work areas, structures, foundations of temporary structures, and stockpiles of excess or waste materials upon completion of construction. The Contractor will be required to restore the construction area to near natural conditions which will permit the growth of vegetation.



8.02.10.05 Recording And Preserving Historical And Archeological Finds

All items having any apparent historical or archeological interests which are discovered in the course of any construction activities shall be carefully preserved. The Contractor shall leave the archeological find undisturbed and shall immediately report the find to the Contracting Officer so that the proper authorities may be notified.

8.02.11 PROTECTION OF WATER RESOURCES

8.02.11.01 Contamination Of Water

The Contractor shall not pollute lakes, ditches, rivers, bayous, canals, groundwater, waterways, or reservoirs with fuels, oils, bitumen, calcium chloride, insecticides, herbicides, or other similar materials harmful to fish, shellfish, or wildlife, or materials which may be a detriment to outdoor recreation.

8.02.11.02 Disposal Of Materials

The methods and locations of disposal of materials, wastes, effluent, trash, garbage, oil, grease, chemicals, etc., within the right-of-way limits shall be such that harmful debris will not enter lakes, ditches, rivers, bayous, canals, groundwater, waterways, or reservoirs by erosion, and thus prevent the use of the area for recreation or present a hazard to wildlife.

8.02.12 PROTECTION OF FISH AND WILDLIFE

The Contractor shall at all times perform all work and take such steps required to prevent any interference of disturbance to fish and wildlife. The Contractor will not be permitted to alter water flows or otherwise disturb native habitat adjacent to the project area that are critical to fish and wildlife.

8.02.12.01 Manatee

Manatees are known to exist in the project vicinity. To minimize potential impacts of dredging and disposal operations on Manatee, the Contractor shall:

8.02.12.01.01 Maintain a watch for manatee within the immediate vicinity of the dredge and shut down operations immediately if manatees are within 150 feet of the cutterhead.

8.02.12.01.02 Ensure the cutterhead remains completely buried in the channel bottom during dredging operations.

8.02.13 RESTROOM SERVICES

The Contractor shall furnish toilet facilities for Contractor employees and perform any required maintenance of the facilities and grounds during the life of the contract. Toilet facilities shall be kept clean and sanitary at all times. The Contractor shall also provide daily trash collection and cleanup of Contractor utilized areas and adjacent outside areas, and shall dispose of all discarded debris in a manner approved by the Contracting Officer.

8.02.14 REPORTING OF POLLUTION SPILLS



In the event that an oil spill or chemical release occurs during the performance of this contract, the Contractor is required to contact the National Response Center, telephone number 1-800-424-8802 as soon as possible, or if telephone communication is not immediately possible, the nearest U.S. Coast Guard office may be contacted by radio to report the spill, (33 CFR 153.203). The Contractor shall comply with any instructions from the responding agency concerning containment and/or cleanup of the spill.

8.03 DREDGING OPERATIONS

8.03.01 SCOPE

The work provided for herein consists of furnishing all plant, labor, materials, and equipment and performing all operations necessary for the removal of all materials within the Harbour Waterway Channel(s) System to the required dimensions as shown on the contract drawings, satisfactory disposal thereof within the Cell "F" Bartram Island spoil site, and all operations incidental thereto.

8.03.02 MEASUREMENT AND PAYMENT FOR THE PRELIMINARY FIELD STUDY

No separate measurement and payment will be made to the Contractor for the Preliminary Field Surveys. The cost of the Preliminary Field Surveys required by this section shall be included in the applicable contract unit price per cubic yard.

8.03.02.01 PRELIMINARY FIELD SURVEYS

The Contractor shall run a controlled preliminary field survey locating all potential obstructions (towers, piles, signs, buoys, channel markers, breakwater structures, pipelines, bulkheads, sewer lines, etc.) within the limits of the work in addition to all structures adjacent to the limits of channel dredging which may impact dredging operations. The data from these field surveys shall be added to the Marine Surveys and submitted to the Contracting Officer for determination of the final channel alignment. The Contractor shall not proceed with any dredging work until the Contracting Officer determines the final channel alignment and furnishes this information to the Contractor.

8.03.04 QUALITY CONTROL

The Contractor shall establish and maintain quality control for dredging operations to assure compliance with contract requirements and maintain records of his/her quality control for all dredging operations including but not limited to the following:

8.03.04.01 Dredging. Visual classification of material; limits of dredging as to bottom grades and widths; side slopes; alignment of channel.



8.03.04.02 Dredged Material Disposal. Surveillance and location of the dredge discharge outlet.

8.03.04.03 Discharge Effluent. Any shoaling or leak in pipeline.

8.03.04.04 Reporting

8.03.04.04.01 Quality Control Reports

The original and one (1) copy of these reports, as well as the records of corrective action taken, shall be furnished to the HARBOUR WATERWAY weekly.

8.03.04.04.02 Report Of Operations

8.03.04.04.02.01 The Contractor shall prepare and submit a Report of Operations for each dredge working. This report shall be submitted on a weekly basis and in groups, e.g. several daily reports packaged together at one time.

8.03.04.04.02.02 The Contractor shall prepare a Weekly Dredge Location Report. Information in this report will be outlined by the Contracting Officer prior to the start of construction.

8.03.04.04.02.04 The Contractor shall distribute one (1) copy of each report to each of the following: Contracting Officer and the Harbour Waterway Association President.

8.03.04.04.02.05 All required reports shall be made available in electronic format and one (1) copy of each Report of Operations shall be maintained by the Contractor.

8.03.04.04.02.06 Upon completion of construction, a complete set of all aforementioned electronic reports shall be compiled and furnished on compact disc or flash drive to the Contracting Officer.

8.03.05 RADIO AND TELEPHONE COMMUNICATIONS

8.03.05.01 Maritime Radio Transceiver

The Contractor shall furnish and maintain throughout the contract, one (1) FM ship's radio transceiver with power not in excess of 25 watts, and at least 15 watts output on the maritime frequencies of 156.800 (Channel 16) and 156.375 (Channel 67) MHz 16F3 emission, with a tolerance of plus or minus 5 kHz deviation at 100 percent modulation for communication concerning navigation in the vicinity of the dredge. The radio shall be operated in accordance with FCC rules and regulations.

8.03.05.02 Cellular Telephone

The Contractor shall provide at least one (1) cellular telephone aboard the dredge. Final approval of the plant will not be made until this equipment is installed and in good working order.

8.03.06 PLANT



8.03.06.01 General Requirements

The Contractor shall keep on the job the necessary dredge equipment and attendant plant or repeater pumps to meet the requirements of the work. The dredge equipment and attendant plant shall be in satisfactory operating condition and capable of safely and efficiently performing the work as set forth in specifications and shall be subject to inspection by the Contracting Officer's representative at all times. The Contractor shall submit to the HARBOUR WATERWAY within 48 hours showing any changes made to the equipment, along with the date(s) the changes were made.

8.03.06.02 Capacity

No reduction in the capacity of the dredge equipment and attendant plant employed to execute the work shall be made except by written permission of the Contracting Officer. The measure of the "Capacity of the Dredge and Attendant Plant" shall be its actual performance on the work to which these specifications apply.

8.03.07 DREDGING

8.03.07.01 General

Dredging shall consist of the removal and satisfactory disposal of all material encountered to achieve the design section shown on the contract drawings and as specified herein.

8.03.07.02 Hydraulic Dredging

Hydraulic dredging operations shall be performed between Channel 1A Station 7+50 to 24+00; Channel 1B Station 24+00 to 33+20; Channel 2 A Station 0+00 to 8+32.71; Channel 2B Station 8+32.71 to 12+98.49; Channel 2C Station 12+98.49 to 16+00 including (Basin); Channel 2D Station 16+00 to 25+11.78; Channel 3A Station 0+00 to 7+50; and Channel 3B Station 7+50 to 17+83. All work shall be performed as specified herein and as shown on the contract drawings. To minimize potential of channel wall failures, the required dredging shall be performed in steps, with each face of dredging not to exceed a 5 foot thickness or exceed a three (3) to one (1) side slope along the channel wall.

8.03.07.03 Channel Dimensions

The channel shall be dredged to the required dimensions shown on the contract drawings. A cut will be permitted with a three (3) to one (1) side slope along the channel wall. The extent of required dredging and control of the cut is illustrated in the Cut detail shown at the end of this section, and shall be controlled as shown on the Detail provided in the contract drawings. Sloped cuts shall be applied to each subsequent dredge cut.

8.03.07.04 Tolerance

The side slope shall be dredged/shaved as nearly as practicable to the required dimensions as specified herein and as shown on the contract drawings. To cover



the inaccuracies of the dredging process, a working tolerance of one (1) foot below the required side slope, will be permitted. Dredging inside of this allowable tolerance shall be paid for at the applicable dredging unit price.

8.03.07.05 Excessive Dredging

Excessive dredging is defined to be any dredging which is in excess of the Required Bottom Depth, as shown on the contract drawings and listed in Appendix A, Acceptance Reach and Dredge Required Bottom Depth. Any material removed below the Average Required Bottom Depth will not be measured for payment. The Average Required Bottom Depth shall be calculated by averaging two adjacent 50 feet Station depths. ANY MATERIAL REMOVED IN EXCESS OF ONE (1.0) FOOT BELOW THE AVERAGE REQUIRED BOTTOM DEPTH SHALL INCUR AN "EXCESSIVE DEPTH PENALTY" OF FIVE DOLLARS (\$5.00) PER CUBIC YARD, which shall be deducted from Contractor payments.

Example (1) - If the Required Bottom Depth is 6.0 feet below mean low water (MLW) and the Contractor dredges to 8.5 feet MLW at Channel 3A Station 2+00 and 6.5 feet MLW at Channel 3A Station 2+50 the average depth between the Stations is 7.5 MLW. The Contractor will incur the Excessive Depth Penalty equal to the ((average of the Station depths, $((8.5+6.5)/2)=7.5$ minus the Required Bottom Depth, 6.0) multiplied by the width of the Channel, 36 feet; multiplied by the length between the Stations, 100 feet); divided by 27) multiplied by \$5.00.

Excessive Depth Penalty = $(((((8.5+6.5)/2)-6.0)*36*100)/27)*\$5.00= \$1000.00.$

Example (2) – Assume all of the variables are the same as in Example (1) except Channel 3A Station 2+00 is dredged to 7.5 MLW. The Average Required Bottom Depth is $((7.5+6.5)/2)=7.0$ MLW subtract 6.0 MLW = 1.0 feet. The Average Required Bottom Depth is not greater than one (1.0) foot therefore the Contractor does not incur the Excessive Depth Penalty.

The side slope allowances are described in the previous paragraph. The Contractor shall be responsible for damages caused by excessive dredging.

8.03.07.06 Slides

In the event sliding occurs in any part of any excavation after its completion but prior to its acceptance, the Contractor shall remove such portions of the slide as the Contracting Officer may direct. In the event, the slide is caused through the fault of the Contractor as determined by the Contracting Officer, the slide shall be removed by the Contractor at no additional expense to the HARBOUR WATERWAY. In the event the slide is not due to the fault of the Contractor, payment for removal will be made at the applicable contract unit price.

8.03.07.07 Character Of Materials

The material to be removed within the required dimensions specified consists of shoaling that has occurred since initial construction of the inflow channels. Sand, silt, shell, logs, stumps, snags, debris, and other obstructions may be encountered. The Contractor is expected to examine the site of the work and, after



investigation, decide for themselves the character of the materials.

8.03.08 WORKING IN THE VICINITY OF STRUCTURES, DOCKS, AND UTILITY CROSSINGS

8.03.08.01 General

The Contractor shall exercise caution when working in the vicinity of structures, docks, breakwaters adjacent to the channel, and any signs, lights or channel markers. Repair of any damage resulting from excessive or improper excavation in the bottom or on the side slopes of the channel shall be the responsibility of the Contractor. Where dredging to obtain the required dimensions might endanger any structure, the Contracting Officer, upon request, may reduce the required excavation in the vicinity of such structure.

8.03.08.02 Existing Pipelines, Structures Or Utilities

No pipelines, structures, or utilities are known to exist within the work area other than specified on the contract drawings.

8.03.08.03 Unidentified Pipelines, Structures, Or Utilities

Any unidentified pipelines, structures, or utilities that may be found within the limits of the work, during the course of dredging shall not be disturbed nor shall excavation be performed at this location unless approved by the Contracting Officer.

8.03.09 DISPOSAL OF DREDGED MATERIAL

8.03.09.01 General

The dredged material will be deposited in Cell "F" at the Bartram Island spoil site as specified in the contract drawings. The Jacksonville Port Authority (JPA) shall determine placement of discharge pipelines and discharge outlets at the spoil site. The Contractor shall comply with all requirements set forth by the Jacksonville Port Authority regarding the spoil site. The discharge location within Cell "F" shall be monitored continuously to assure uniform distribution of dredged material within the spoil site as directed by JPA.

8.03.09.02 Excess Deposit of Dredged Material

Under no circumstances shall the Contractor deposit in excess of 62,500 cubic yards of material in the spoil site without written authorization from the Contracting Officer. In the event greater than 62,500 cubic yards is deposited in the spoil site, the Contractor shall at its sole expense remove and dispose of the excess material at the direction of the Jacksonville Port Authority.

8.03.09.03 Prevention Of Damage

The dredged material shall be transported and deposited in such a manner as to insure that no damage will occur to dikes, levees, river markers, lights, structures, or other improvements, and that impacts to passing navigation are minimized.

8.03.09.04 Deposition In Non-Approved Areas



Any dredged material that is deposited elsewhere than in disposal areas shown on the contract drawings may be required to be removed and deposited in approved areas at no additional expense to the HARBOUR WATERWAY. Should the Contractor refuse, or delay compliance with the above requirement, such material may be removed by the Contracting Officer, and the cost of such removal may be deducted from any money due or to become due to the Contractor.

8.03.09.05 Protection Of HARBOUR WATERWAY Monuments, Markers, Or Breakwater

At no time shall dredging plant be anchored, moored, or attached to any HARBOUR WATERWAY pilings or breakwater along the route of work.

8.03.09.06 Submerged Discharge Lines

A submerged discharge line shall be required across the channel that flows between the Bartram Island spoil site to the west and Reed Island to the east which is approximated 1750 feet. A submerged discharge line shall at no time reduce the depth by greater than two (2) feet of the existing channel in which it is placed. When the submerged pipeline is placed in shallow water and where the possibility exists for motor boats to cross the pipeline, the pipeline shall be marked at 50ft intervals for the entire length of the pipeline with Coast Guard approved buoys with signs stating "DANGER SUBMERGED PIPELINE."

8.03.09.07 Work In The Vicinity Of Other HARBOUR WATERWAY Contractors

The Contractor shall coordinate his/her operations through the Contracting Officer, with any other HARBOUR WATERWAY Contractors who may be working in the vicinity (i.e. marine surveyor, etc.).

ARTICLE 9 – OWNER’S DUTIES & RESPONSIBILITIES

9.01 GENERAL PROVISIONS

9.02 MARINE SURVEY

9.02.01 SCOPE

HARBOUR WATERWAY or their designated Marine Surveyor shall provide for herein all plant, labor, equipment, and materials, and performing all operations necessary for conducting the Before and After Marine Surveys as specified herein and as indicated on the contract drawings. All other survey work including the Preliminary Field Survey shall be provided by the Contractor herein consists of furnishing all plant, labor, equipment, and materials, and performing all operations necessary for surveying as specified herein and as indicated on the contract drawings.

9.02.02 MEASUREMENT



9.02.02.01 Quantity Surveys

A survey of the sites for dredging shall be made in accordance with the provisions of Section 9.02 MARINE SURVEYS and all measurements to determine dredging quantities will be based on the "before and after dredging" cross sections and the theoretical design template. The soundings and contours shown on the contract drawings are representative of conditions that existed October 2010 and do not necessarily represent existing conditions. The updated Before Marine Survey in Appendix "C" was conducted in December 2012 and will be provided to the Contractor. Adjustments may be made to the Channel depths to compensate for the incremental silting based on the December 2012 Before Marine Survey. The width of the channels are delineated in the December 2012 Before Marine Survey, Appendix "C", and are subject to changes mutually agreed upon due to obstacles identified in the Preliminary Field Survey. Under no circumstance shall the maximum amount of dredged material exceed 62,500 cubic yards due to limitations at the spoil site, except as provided in Section 4.02. Determinations of quantities to be paid for in the area specified, after having once been made based on the December 2012 Before Marine Survey, will not be reopened.

9.02.02.02 After Dredging Cross Sections and Profiles

Should the after dredging cross sections and/or profiles and/or soundings described in Section 9.02 MARINE SURVEYS, paragraphs "Before and After Dredging Cross Sections" and/or "After Dredging Profiles," disclose any lack of the required dimensions, the Contractor shall redredge the area at no additional expense to the HARBOUR WATERWAY. After redredging, the required dimensions shall be verified by rerunning the after dredging cross sections and after dredging profiles. Redredging shall be performed until the acceptance cross sections and profiles and/or soundings show that the required dimensions have been obtained.

9.02.02.03 Quantity Computations

The quantity of dredged material removed and to be paid for will be measured by the cubic yard by computing the volume along the centerline between the "before-dredging" cross sections and the required dimensions as shown on the contract drawings using the average end area method. **NO ALLOWANCE WILL BE MADE FOR EXCESSIVE DREDGING EXCEPT AS PROVIDED IN PARAGRAPH "EXCESSIVE DREDGING."**

9.02.02.04 Acceptance Reach

For the purpose of acceptance, the completed work will be accepted in three (3) acceptance reaches defined as Acceptance Reach 1 comprised of Channel 1A and 1B, Acceptance Reach 2 comprised of Channel 2A, 2B, 2C, and 2D, and Acceptance Reach 3 comprised of Channel 3A and 3B, as specified and shown on the contract drawings. The Marine Surveyor shall take after-dredging cross sections as soon as possible after the entire acceptance reach has been completed behind the dredge. After dredging cross section data for that acceptance reach has been compiled, the Marine Surveyor shall compute the quantity removed by comparing the December 2012 Before Dredge Survey to the After Dredge Survey.



9.02.02.05 Timely Performance Of Quantity Surveys

After dredging cross sections and profiles shall be made within 500-feet behind the dredge, but not more than three (3) weeks after completion of work in any acceptance reach. After dredging quantity surveys and after dredging profiles shall be taken in conjunction of each other. Deviations from this limiting time element may be necessary because of unusual job conditions or adverse weather, but shall be subject to approval by the Contracting Officer. Before and after dredging surveys shall be plotted and submitted to the HARBOUR WATERWAY within seven (7) calendar days after the surveys are taken.

9.02.02.06 Progress Payments

Progress payments will be made based on quantities determined using "Before Dredging Surveys" taken in accordance with Section 9.02 titled "Marine Surveys" and "After Dredging Surveys" after the Contractor has met the required dimensions and acceptance reach length, and the Contracting Officer has approved the acceptance reach.

9.02.02.07 Radio And Telephone Communication Equipment

No separate measurement and payment will be made for furnishing and maintaining radio and telephone communication equipment.

9.02.03 PAYMENT

9.02.03.01 Mobilization And Demobilization

An item to cover the cost of initial mobilization and final demobilization of the Contractor's plant and equipment under this contract will be paid as follows: the initial mobilization fee shall be paid to the Contractor within 10 business days after day 1 of dredging operations has begun; and the demobilization fee shall be paid within 30 days after all materials, pipe, equipment, and vessels have been removed from the Harbour Waterway Canal System and the Bartram Spoil Site, subject to inspection and acceptance by the Contracting Officer and the Jacksonville Port Authority, respectively. Under no circumstance shall greater than 60% of the sum of the initial mobilization fee and the demobilization fee be paid to the Contractor as the initial mobilization fee. Initial mobilization fees in excess of the limit shall be added to the demobilization fee.

9.02.03.02 Dredging

Payment for dredging will be made at the applicable contract unit price for dredging. Price and payment shall constitute full compensation for furnishing all plant, labor and materials and performing all work, including any excavation, disposal of materials as specified herein, pollution control, furnishing and maintaining radio and telephone communications equipment, and all operations incidental thereto. Payments shall be distributed to Contractor within 10 business days after the marine surveyor has computed the quantity of material removed



from each acceptance reach and the Contracting Officer has approved the acceptance reach.

9.02.04 PROFESSIONAL CERTIFICATION

All surveys shall be performed under the direction of and certified by a Professional Marine Surveyor, Arc Surveying & Mapping, Inc., currently licensed by a state of the United States. In addition, the surveyor shall document at least three years of experience in hydrographic surveying of navigable channels.

9.02.05 BEFORE AND AFTER DREDGING CROSS SECTIONS

9.02.05.01 Before and after dredging cross sections of the channel shall be taken at approximately 50-foot intervals.

9.02.05.02 A layout of the before dredging cross sections shall be prepared on the survey tracking chart and approved by the Contracting Officer. This layout shall also be used in performing the required after dredging surveys.

9.02.05.03 After dredging cross sections shall be taken at the same locations as the before dredging surveys. The actual location of each sounding taken on each before and after dredging cross section range shall be provided. This information shall be in the form of printout tabulation giving the actual distance of the soundings from the baseline on an azimuth normal to the centerline of the cut. Soundings shall be to the nearest 0.25-foot referred to the water surface. This information shall also be plotted on a printout sheet, along with a section showing the required dredging dimensions. In addition, a plan view shall also be plotted on a printout sheet showing the actual location of each sounding taken on each "before" dredging cross section range.

9.02.06 AFTER DREDGING PROFILES

Upon completion of dredging in an acceptance reach, as specified in Section 9.02.02.04, "After Dredging Profiles" profiles shall be taken over the same acceptance reach. The depth sounding instrument used to make the before and after dredging cross sections shall be used to make the after dredging profiles. Distances between soundings on each profile shall not exceed 50-feet. Controlled profiles of the channel shall be made along the channel centerline and one at each outside bottom edge of the cut.

ARTICLE 10- CONTRACTOR'S REPRESENTATIONS

In order to induce Owner to enter into this Agreement Contractor makes the following representations:



- 10.01 Contractor has examined and carefully studied the Contract Documents and other related documents.
- 10.02 Contractor has visited the site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect costs, progress, and performance of the Work.
- 10.03 Contractor is familiar with and is satisfied with all federal, state and local Laws and Regulations that may affect costs, progress, and performance of the Work.
- 10.04 Contractor has carefully studied all the following:
- 10.04.01 reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except underground facilities) which have been identified in the Contract Documents.
 - 10.04.02 reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Contract Documents.
- 10.05 Contractor has obtained and carefully studied (or assumes responsibility for doing so) all additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect costs, progress or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction (dredging) to be employed by Contractor including any specific means, methods, techniques, sequences, and procedures of construction (dredging) expressly required by the Bid package, and safety precautions and programs incident thereto.
- 10.06 Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Time, and in accordance with the other terms and conditions of the Contract Documents.
- 10.07 Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- 10.08 Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.
- 10.09 The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.



ARTICLE 11- DISPUTE RESOLUTION

11.01 Methods and Procedures. Any complaint or claim by either Party to this Contract shall be decided by binding arbitration. Such arbitration shall be governed by the Construction Industry Arbitration Rules of the American Arbitration Association in effect as of the effective date of this Agreement. The request for Arbitration shall be submitted to the American Arbitration Association and the other Party to the Contract.

11.02 Owner and Contractor shall participate in the Arbitration process in good faith. The process shall be concluded within 90 days from the filing of the request for arbitration.

11.03 The filing of the arbitration request and the arbitration process shall not stay or excuse the performance of either party to this Agreement, beyond the extent that such performance is the subject of the arbitration request.

ARTICLE 12 – TERMINATION

12.01 Owner's rights to terminate or suspend the Work

12.01.01 Owner may suspend, for any reason, the Work for a period of no more than 90 consecutive days by notice in writing to Contractor, which shall fix the date that work shall be resumed. Contractor shall be granted adjustments in Contract price, Completion Times, or both, directly attributable to the suspension at the Owner's option.

12.01.02 Owner May Terminate for Cause. The occurrence of one or more of the following events will justify termination for cause:

12.01.02.01 Contractor's persistent failure to perform the Work in accordance with the Contract Documents; or

12.01.02.02 Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or

12.01.02.03 Contractor's violation in any substantial way of any provisions of the Contract Documents.

12.01.03 If any one or more of the events identified in 12.01.02 occur, owner may, after giving Contractor (and surety) seven days written notice of its intent to terminate the services of Contractor;

12.01.03.01 exclude Contractor from the Site, and take possession of the Work, and all of Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or Conversion),



12.01.03.02 incorporate in the Work all materials stored at the Site or for which Owner has paid Contractor but which are stored elsewhere,

12.01.03.03 complete the Work as Owner may deem expedient.

12.01.04 Owner May Terminate for Convenience. Upon seven (7) days written notice to Contractor, Owner may, without cause and without prejudice to any other right or remedy of owner, terminate Contract. In such case Contractor shall be paid for (without duplication):

12.01.04.01 completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such work;

12.01.04.02 expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work;

12.01.04.03 all claims, costs, losses, and damages incurred in settlement of terminated contracts with sub-contractors, suppliers, and others; and

12.01.04.04 reasonable expenses directly attributable to termination; however

12.01.04.05 Owner shall in no way be liable for loss of anticipated profit or revenue or other economic losses arising out of or resulting from such termination.

12.02.01 Contractor may Terminate for Cause. Contractor may terminate this Agreement as follows:

12.02.01.01 if , through no fault of Contractor, work is suspended in excess of ninety consecutive days by Owner, or by order of court or other public authority; or

12.02.01.02 Owner has failed to make any payment to Contractor ninety (90) days after such payment is due and requested as stated in the Contract Documents.

ARTICLE 13- CHOICE OF LAW AND FORUM

13.01 This contract shall be governed by the laws of the State of Florida.

13.02 For any legal dispute arising under this contract or the contract documents, the parties agree that, the sole court for the resolution for State law claims shall be the Florida Fourth Circuit Court in Duval County, Florida, and the sole court for the resolution of any Federal law claims is the United States District Court for the Middle District of Florida in Jacksonville.

ARTICLE 14- ATTORNEY'S FEES



14.01 In the event of any arbitration or litigation relating to the project, project performance, or this contract, the prevailing party shall be entitled an award of reasonable attorney’s fees, costs, and expenses.

ARTICLE 15 – MERGER

15.01 Merger of documents. The terms, conditions, requirements, specifications of the Bid Documents are merged into this contract and are considered part of this contract unless they directly conflict with a term of this contract document. The terms, and conditions written in this contract document shall displace those terms in conditions in any other contract document in the instance of a conflict between the terms, condition or meaning thereof.

15.02 Complete and Final intent of the Parties. This contract document is the entirety of the agreement between the parties and represents the final terms of the contract between the Contractor and the Owner. No oral modifications or representations, not subsequently agreed to by the Parties in writing, shall alter or modify this contract.

ARTICLE 16 - MISCELLANEOUS

16.01 Assignment of Contract. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the express written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law) , and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

16.02 Successor and Assigns. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, it partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

16.03 Severability. Any provision or part of this Contract, or of the Contract Documents, held to be void, or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.



(the rest of this page left intentionally blank)

IN WITNESS WHEREOF, Owner and Contractor have signed this agreement in quadruplicate. One counterpart has been delivered to the Contractor, the three remaining counterparts have been delivered to the Owner for appropriate distribution. All portions of the Contract Documents have been signed or identified by Owner and Contractor or on their behalf.

This Agreement shall be effective as of date of the last signature below.

HARBOUR WATERWAY SPECIAL DISTRICT

William Hibbard
Board Chair

Dated: _____

HARBOUR WATERWAY ASSOCIATION, INC.

William Hibbard
President

Dated: _____

DREDGE AMERICA, INC.

Daniel S. McDougal
President

Dated: _____



APPENDIX “A”

ACCEPTANCE REACH AND REQUIRED BOTTOM DEPTH

APPENDIX “B”

DREDGE AMERICA

PROJECT WORK SCHEDULE

APPENDIX “C”

ARC SURVEYING & MAPPING, INC.

PRE-DREDGE MARINE SURVEY

DECEMBER, 2012

APPENDIX “D”

U.S. ARMY CORP OF ENGINEERS

DREDGING PERMIT

SAJ-1993-1030

APPENDIX “E”

**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

PERMIT: 16-151419-003-EE