

WORK ORDER NUMBER AA-LEAPS-1
GEOTECHNICAL INVESTIGATION FOR THE NORTH RELIEF CANAL
UNIVERSAL LOW ENERGY AQUATIC PLANT SYSTEM ULEAPS™


This Work Order Number AA-LEAPS-1 is entered into as of this ____ day of _____, 2019, pursuant to that certain Continuing Contract Agreement for Professional Services renewed on September 20, 2016 ("Agreement"), by and between Indian River County, a political subdivision of the State of Florida ("COUNTY") and Anderson Andre Consulting Engineers, Inc. ("CONSULTANT").

The COUNTY has selected the CONSULTANT to perform the professional services set forth in Part 1 of this Work Order. The CONSULTANT will perform the professional services for the fee schedule set forth in Part 2 of this Work Order. The CONSULTANT will perform the professional services within the timeframe set forth in Part 3 of this Work Order, all in accordance with the terms and provisions set forth in the Agreement. Nothing contained in this Work Order shall conflict with the terms of the Agreement and the terms of the Agreement are incorporated in this Work Order as if fully set forth herein.

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

CONSULTANT
ANDERSON ANDRE CONSULTING
ENGINEERS, INC.

BOARD OF COUNTY COMMISSIONERS
OF INDIAN RIVER COUNTY

By: 
Peter G. Andersen, P.E.
Title: VP/Principal

By _____
Bob Solari, Chairman

Attest: Jeffrey R. Smith, Clerk of Court and
Comptroller

By _____
Deputy Clerk

Approved:

Jason E. Brown, County Administrator

Approved as to form and legal sufficiency:

William K. Debraal, Deputy County Attorney

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GEOTECHNICAL INVESTIGATION FOR THE NORTH RELIEF CANAL
UNIVERSAL LOW ENERGY AQUATIC PLANT SYSTEM ULEAPS™

PART 1 - SCOPE OF WORK

The COUNTY has requested that the CONSULTANT provide a geotechnical engineering evaluation COUNTY's North Relief Canal Universal Low Energy Aquatic Plant System (U*LEAPS™) (hereinafter "ULEAPS™"). The Work is more particularly described in Exhibit A, included herein.

PART 2 – COMPENSATION AND PARTIAL PAYMENTS

1. Compensation

The COUNTY agrees to pay and the CONSULTANT agrees to accept, a not-to-exceed fee of **\$21,120.00** for services rendered according to Part 1 of this Work Order and as summarized in Exhibit A. Additional services shall be at the hourly rates as set forth in the Agreement.

2. Partial Payments

The COUNTY shall make monthly partial payments to the CONSULTANT for all authorized work pertaining directly to this project performed during the previous calendar month. The CONSULTANT shall submit invoices monthly for services performed and expenses incurred pursuant to this Agreement during the prior month.

The CONSULTANT shall submit duly certified invoices in duplicate to the Director of the Public Works Department. For lump sum line items, the amount submitted shall be the prorated amount due for all work performed to date under this phase, determined by applying the percentage of the work completed as certified by the CONSULTANT, to the total due for this phase of the work. For time and material line items, the amount submitted shall be based on the actual hours worked and expenses incurred for the billing period.

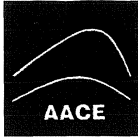
The amount of the partial payment due the CONSULTANT for the work performed to date under these phases shall be an amount calculated in accordance with the previous paragraph and less previous payments. Per F.S. 218.74(2), the COUNTY will pay approved invoices on or before the forty-fifth day after the COUNTY receives the CONSULTANT's invoice.

PART 3 - TIME FOR COMPLETION

The estimated completion time is thirty-five days following issuance of a Notice to Proceed.

END OF WORK ORDER

EXHIBIT A - ULEAPS™ SCOPE OF WORK



ANDERSEN ANDRE CONSULTING ENGINEERS, INC.

Geotechnical Engineering
Construction Materials Testing
Environmental Consulting

AACE Proposal No. P19-1256

February 19, 2019

Indian River County BOCC
Public Works - Stormwater Division
1801 27th Street
Vero Beach, FL 32960

Attention: Mr. Keith McCully, P.E.

**PROPOSAL FOR GEOTECHNICAL ENGINEERING EVALUATION
PROPOSED UNIVERSAL LOW ENERGY AQUATIC PLANT SYSTEM (ULEAPS™)
NORTH RELIEF CANAL - 66TH AVENUE AND 53RD STREET
INDIAN RIVER COUNTY, FLORIDA**

As requested, Andersen Andre Consulting Engineers, Inc. (AACE) is pleased to present this proposal for preparing a subsurface exploration and geotechnical engineering evaluation for the above referenced project. The purpose of the exploration is to obtain general subsurface soil information so that geotechnical engineering recommendations can be provided for site preparation procedures, basin/berm construction, excavations, water control/conveyance structure installations, anticipated seepage losses, slope stability, and other geotechnical aspects of the project.

PROJECT UNDERSTANDING

The subject approximately 18-acre former citrus grove property is located on the northeast corner of 66th Avenue and 53rd Street in Indian River County, Florida. It is bordered to the west by the Indian River Farms Water Control District (IRFWCD) Lateral A Canal and to the north by the IRFWCD North Relief Canal (NRC). Based on our conversations and our review of the forwarded project-related information, we understand that Indian River County (IRC) is proposing to construct an aquatic plant system (named ULEAPS™) on this property, intended to reduce pollutants in the adjacent NRC.

Based on our conversations and our review of the provided rendering of the proposed ULEAPS™ (30 percent design), we understand that the system will include the following features:

- A pump station near the northwest corner of the site which will convey water from the NRC into the ULEAPS through piping and structures along the west side of the site.
- Two approximately 3.5-acre Lettuce Scrubber Basins with perimeter berms. These basins will have concrete bottom slabs (EL 20.5 ft) and 15-ft wide HDPE-lined perimeter berms top EL 23.5 ft) and a design water EL of 22.5 ft.
- Four concrete Algal Reaeration Units with associated Concrete Sludge Storage and Compositing areas, weirs, sluices and structure/pipe connections.
- Water will flow from these features into two Final Settling Basins (bottom EL 10 ft) which, in turn, connects to a Wetland Polishing Marsh (bottom EL ranges from 12 ft to 14 ft), after which the water is released back into the NRC through a structure and piping.
- Misc. perimeter concrete structures, box culverts, piping, etc. will also be constructed as part of connecting the various ULEAPS features.

We understand that no deep structures, such as sheet pile weirs, pile supported structures, etc. are currently planned for the project.

We understand that this system will be operated by either A) pumping 10 MGD continuously or B) pumping 10 MGD over 12 hours and then turning the pumps off at night and allowing the water to remain in the basins until the next morning where the cycle is then repeated.

As part of the system design, it is desired by IRC to estimate the seepage losses that would be expected for the 12-hour resting period of the system. As most of the system will be encased with concrete slabs and HDPE-lined berms, only the un-lined Final Settling Basins and the Wetland Polishing Marsh, as well as the un-lined berms separating the system from the NRC, will be subject to potential seepage losses. Further, slope stability of existing and new berms may be investigated (to be determined).

FIELD EXPLORATION PROGRAM

Proposed Field Work

Based on our understanding of the project, on our experience with similar projects, and on our experience with the soils in the general site vicinity, we propose to perform the following field exploration program:

- Eight (8) Standard Penetration Test (SPT) borings (ASTM D1586) to depths of about 25 feet and two (2) SPT borings to depths of about 60 feet below the existing ground surface.
- Ten (10) hand auger borings (ASTM D1452) to depths of 5-7 feet below the existing ground surface.
- Two (2) temporary well nests, each with up to 3 temporary 2-inch diameter PVC wells screened at different elevations. The number of wells per nest and the well screen depth intervals will depend on the encountered soil conditions. These wells will be utilized for field soil permeability testing so as to explore the permeability of the subsoils at select levels, for use in our seepage analysis. Preliminarily, we anticipate installing the wells to depths ranging from 5 to 30 feet, depending on encountered soil conditions.
- Complete up to four (4) double-ring infiltrometer tests (ASTM D3385) to ascertain the unsaturated vertical infiltration rate.
- Obtain samples for a suitable laboratory testing program to aid in the determination of prudent engineering properties of the levee soils for use in the stability and seepage analysis.

General Notes

All field work will be completed using truck-mounted drill rig(s), support trucks, and related equipment and materials. All borings will be backfilled following their completion, and all temporary wells will be removed once field permeability testing has been completed. The number of borings and wells, as well as depths, are estimated based on our experience from similar projects. Should the encountered soil conditions prove to be more homogeneous than anticipated, less borings and possibly shallower borings may be utilized, resulting in overall cost savings. Alternatively, if highly variable soils are encountered, we may recommend that additional borings and/or wells be installed.

AACE will take reasonable efforts to reduce damage to property, such as rutting of the ground surface. However, it should also be understood that in the normal course of our work some such disturbance could occur. We have not budgeted to restore the site beyond backfilling our boreholes. If there are any restrictions or special requirements regarding this site or exploration, these should be known prior to commencing the field work.

The site is currently not accessible to our truck-mounted drilling equipment due to the presence of former citrus trees. As such, we understand that IRC will conduct a gopher tortoise survey and then clear paths in the vegetation to allow our equipment and crews to access the desired locations on the site.

Safety

AACE has a commitment to safety of all its employees. As such, and in accordance with our safety culture, we will prepare a “Pre-Task Plan” to identify the potential site safety and job hazards associated with the proposed scope of work. Prior to commencement, and during on-site activities, we will re-evaluate potential job hazards and appropriate safe working procedures. At this time, we anticipate that a United States Occupational Safety and Health Administration (OSHA) Level D work uniform consisting of hard hats, traffic vests, safety glasses, protective gloves, and steel-toed boots will be required by all personnel in the work area.

LABORATORY TESTING PROGRAM

AACE’s project engineer will perform visual classification on the recovered samples and will coordinate a suitable laboratory testing program of select samples. Laboratory testing may include determinations of moisture content, organic content, grain-sizes and percent fines, etc.

ENGINEERING ANALYSIS & REPORT

AACE will perform engineering analysis of all data obtained to evaluate general subsurface conditions and to develop engineering recommendations relative to site preparation procedures, basin and flow-way excavations, structure/pipe installation, suitability of the excavated materials for use as off-site fill materials, etc. Further, a limited seepage and slope stability analyses will be completed for an anticipated maximum of two cross-sections (to be determined) so as to estimate the seepage loss within the Settling Basins and Polishing Marsh, and also to check for the stability of the perimeter berms and the adjacent NRC canal banks.

Our recommendations will be presented in a written report upon conclusion of the study, along with all data developed during the exploration and our laboratory testing.

SCHEDULE

We will perform the initial site visit(s) within 3 to 5 business days after receiving written authorization to proceed. Weather conditions permitting, we will then mobilize our crew and drilling equipment within an additional 3 to 5 business days and commence drilling. We estimate that we can complete all field work within 7 working days. We further estimate that our laboratory testing, engineering analysis, and report preparation will likely require an additional 10 to 14 business days to complete following the completion of the field and laboratory exploration program.

COST ESTIMATE

Based on our knowledge of the project to-date, the attached summary of services and corresponding fees will be necessary to meet our goals. We expect that the total fee for our services will not exceed **\$21,120.00**. Should we encounter conditions on the site that warrant more investigative effort than anticipated, we will inform you immediately. AACE will not proceed with additional work without your approval. Charges will be made for the work actually performed using the unit fees given in the attached Exhibit A "Project Services and Fees" which were obtained from our Continuing Services Contract with Indian River County.

TERMS & CONDITIONS

The proposed scope of services is subject to the following terms and conditions: (1) access to boring locations is to be readily available to our conventional (4x4) truck-mounted drilling equipment, (2) we have right-of-entry onto the project right-of-way, (3) the proposed number of borings/wells and their depths will be sufficient for our analysis, and (4) AACE will contact the Sunshine 811 service in an attempt to locate underground utilities if utility clearance has not already been performed. We cannot take responsibility for damages to underground structures and/or services which do not subscribe to Sunshine 811; their locations are to be provided by the client prior to commencement of the field work.

Underground Utility Location Services

Florida Statute 240, Section 556.101 through 556.111 established a state-wide service, whereby persons or companies who plan to excavate the earth may advise the Sunshine 811 service of the location, date and other operation particulars, to allow affected utility companies the opportunity to mark the location of their buried lines prior to excavation. The statute provides for fines and other sanctions to be imposed in the event that such notification is not given. To comply with this statute, if deemed necessary, representatives of AACE will notify Sunshine 811 of our proposed explorations. In addition, non-participating utility companies, as identified by us, will be notified of our proposed explorations. This service will require a lead time of between 2 and 5 business days, prior to the mobilization of exploration equipment, to comply with Sunshine 811 operation procedures.

CLOSURE

We sincerely appreciate the opportunity to present this proposal. If the terms above are acceptable to you, please sign and return the attached Professional Services Agreement as an indication of your acceptance and authorization to proceed with the work. Please contact us if you should have any questions concerning this cost estimate.

ANDERSEN ANDRE CONSULTING ENGINEERS, INC.



Peter G. Andersen, P.E.
Principal Engineer



David P. Andre, P.E.
Principal Engineer

Attachments: Project Services and Fees
Professional Services Agreement & General Conditions



Exhibit A: Project Services and Fees

Our estimated geotechnical services and associates are itemized below. The utilized unit fees were obtained from our Continuing Services Contract with Indian River County.

| | | |
|----|--|--|
| 1. | Initial Site Visit, Layout of Field Work, and Field Work Coordination/Monitoring: Staff Engineer - 40 hours @ \$80.00/hour | \$3,200.00 |
| 2. | Mobilization/Demobilization of truck-mounted drilling equipment | \$250.00 |
| 3. | SPT Borings (8 borings to 25 feet and 2 borings to 60 feet): • 250 feet of borehole of depths <25 feet @ 14.00/foot • 50 feet of borehole of depths 26-50 feet @ \$15.00/foot • 20 feet of borehole of depths 51-75 feet @ \$17.00/foot | \$3,500.00 \$750.00 \$340.00 |
| 4. | Hand auger borings (10 borings to 5-7 feet): • 70 feet of borehole of depths <10 feet @ \$10.00/foot | \$700.00 |
| 5. | Temporary well installation and field permeability tests: Anticipated 6 wells ranging from 5 to 30 feet; average well depth of 20 feet. • Mobilization for well installation • Estimated 120 feet of temporary well @ \$28.00/foot • Estimated 6 well permeability tests @ \$375.00/test • Removal/abandonment of wells; 4 hours @ \$80.00/hour | \$250.00 \$3,360.00 \$2,250.00 \$320.00 |
| 6. | Double-Ring Infiltrometer Tests: 4 @ \$500.00/test | \$2,000.00 |
| 7. | Laboratory Testing Program: Visual Classification and Laboratory Test for Classification and Determination of Strength, Compressibility and Permeability Characteristics. • Budget Allowance | \$1,200.00 |
| 8. | Engineering Services & Report Preparation: Principal Engineer (P.E.): Senior Project Engineer (P.E.): Project Engineer (P.E.): Staff Engineer: Senior Engineering Technician: CAD/Clerical Services: Estimate: . . . | \$150.00/hour \$125.00/hour \$95.00/hour \$75.00/hour \$55.00/hour \$40.00/hour \$3,000.00 |
| | Total | \$21,120.00 |



PROFESSIONAL SERVICES AGREEMENT

AAACE Proposal No: P19-1256

Project Name: PROPOSED UNIVERSAL LOW ENERGY AQUATIC PLANT SYSTEM (ULEAPS™)
NORTH RELIEF CANAL - 66TH AVENUE AND 53RD STREET

Client: Indian River County BOCC
Public Works - Stormwater Division

Address: 1801 27th Street
Vero Beach, FL 32960

Attn: Mr. Keith McCully, P.E.

Client hereby requests and authorizes Andersen Andre Consulting Engineers, Inc. ("AAACE") to perform the following services:

Complete subsurface explorations and geotechnical engineering services for the PROPOSED UNIVERSAL LOW ENERGY AQUATIC PLANT SYSTEM (ULEAPS™) - 66TH AVENUE AND 53RD STREET, as detailed herein.

Estimated Budget:

\$21,120.00

Payment Terms:

Net 30 days from invoice date; invoices will be sent every four weeks for continued or extended projects. Interest charges, 1½% per month following the due date.

Proposal Acceptance:

By accepting this Proposal, the Terms and Conditions of this Proposal, including the Terms on this page, and Andersen Andre Consulting Engineers, Inc.'s General Conditions appearing on the reverse side of this page are incorporated herein by reference. In the event this Professional Services Agreement was received by facsimile or via email, Client hereby confirms that the above described Proposal, the Terms and Conditions of this Proposal, including the Terms on this page, and Andersen Andre Consulting Engineers, Inc.'s General Conditions have been made available and are incorporated in this agreement.

PURSUANT TO FLORIDA STATUTES SECTION 558.0035 (2013) AN INDIVIDUAL EMPLOYEE OR AGENT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE.

Accepted by **CLIENT:**

Accepted for **AAACE:**

By: _____

By: 

Name: _____

Name: Peter G. Andersen, P.E.

Title: _____

Title: Principal Engineer

Date: _____

Date: February 19, 2019

Billing Address: _____

AACE GENERAL CONDITIONS

1 - Parties And Scope Of Work: Andersen Andre Consulting Engineers, Inc. (hereinafter referred to as "AACE") shall include said company, its individual professionals, particular division, subsidiary or affiliate performing the Work. "Work" means the specific geotechnical, analytical, testing, environmental or other service to be performed by AACE as set forth in AACE's proposal, the Client's acceptance thereof, both incorporated herein by this reference, and these General Conditions. "Client" refers to the person or business entity ordering the Work to be done by AACE. If the client is ordering the Work on behalf of another, the Client represents and warrants that the Client is the duly authorized agent of said party for the purpose of ordering and directing said Work. Further, Client shall disclose any such agency relationship to AACE in writing before the commencement of AACE's Work hereunder. Client agrees that AACE's professional duties are specifically limited to the Work as set forth in AACE's proposal. The Client assumes sole responsibility for determining whether the quantity and the nature of the Work ordered by the Client is adequate and sufficient for the Client's intended purpose. Client shall communicate these General Conditions to each and every third party to whom the Client transmits any part of AACE's Work. AACE's Work is for the exclusive use of Client, and its properly disclosed principal. In no event shall AACE have any duty or obligation to any third party. The ordering of Work from AACE shall constitute acceptance of the terms of AACE's proposal and these General Conditions.

2 - Scheduling of Work: If AACE is required to delay commencement of the work, or if, upon embarking on its work, AACE is required to stop, delay or otherwise interrupt the progress of work as a result of changes in the scope of work requested by the client, to fulfill the requirements of third parties, interruptions in the progress of construction, or other causes beyond the exclusive reasonable control of AACE, additional charges will be applicable and payable by the Client.

3 - Responsibility: AACE's work shall not include determining, supervising, or implementing the means, methods, techniques, sequences or procedures of construction. AACE shall not be responsible for evaluating, reporting or affecting job conditions concerning health, safety or welfare. AACE's work or failure to perform same shall not in any way excuse any contractor, subcontractor or supplier from performance of its work in accordance with the contract documents.

4 - Payment: Payment shall be due within 30 days after date of invoice. Interest at the rate of 18% per annum (or the highest rate allowable by law) from 30 days after date of invoice to date payment is received will be added to all amounts not paid within 30 days after date of invoice. All attorney fees and expenses associated with collection of past due invoices will be paid by Client.

5 - Right-of-Entry: Unless otherwise agreed, Client will furnish right-of-entry on the property for AACE to make the planned borings, surveys, and/or explorations. AACE will take reasonable precautions to minimize damage to the property caused by its equipment and sampling procedures, but the cost of restoration or damage which may result from the planned operations is not included in the contracted amount. If Client desires to restore the property to its former condition, AACE will accomplish this and add the cost to its fee.

6 - Damage to Existing Man-made Objects: It shall be the responsibility of the Owner or his duly authorized representative to disclose the presence and accurate location of all hidden or obscure man-made objects relative to field tests, sampling, or boring locations. When cautioned, advised or given data in writing that reveal the presence or potential presence of underground or overground obstructions, such as utilities, AACE will give special instructions to its field personnel. As evidenced by your acceptance of this proposal, Client agrees to defend, indemnify and save harmless AACE from all claims, suits, losses, personal injuries, death and property liability resulting from subsurface conditions or damages to subsurface structures or man made objects, owned by Client or third parties, occurring in the performance of the proposed work, whose presence and exact locations were not revealed to AACE in writing, whether such claims or damages are caused in whole or in part by AACE, and agree to reimburse AACE for expenses in connection with any such claims or suits, including reasonable attorney's fees. Client's obligation to indemnify is limited to \$1 million per occurrence, which Client agrees bears a reasonable commercial relationship to the Work undertaken by AACE. Client further agrees that these general conditions are a part of the Work's specifications or bid documents, if any.

7 - Warranty and Limitation of Liability: AACE shall perform services for Client in a professional manner, using that degree of care and skill ordinarily exercised by and consistent with the standards of competent consultants practicing in the same or a similar locality as the project. In the event any portion of the services fails to comply with this warranty obligation and AACE is promptly notified in writing prior to one year after completion of such portion of the services, AACE will re-perform such portion of the services, or if re-performance is impracticable, AACE will refund the amount of compensation paid to AACE for such portion of the services.

This warranty is in lieu of all other warranties. No other warranty, expressed or implied, including warranties of merchantability and fitness for a particular purpose is made or intended by the proposal for consulting services, by furnishing an oral response of the findings made or by any representations made regarding the services included in this agreement. In no event shall AACE be liable for any special, indirect, incidental, or consequential loss or delay or time-related damages. The remedies set forth herein are exclusive and the total liability of consultant whether in contract, tort (including negligence whether sole or concurrent), or otherwise arising out of, connected with or resulting from the services provided pursuant to this Agreement shall not exceed the total fees paid by Client or \$50,000.00, whichever is greater. Client may, upon written request received within five days of Client's acceptance hereof, increase the limit of AACE's liability by agreeing to pay AACE an additional sum as agreed in writing prior to the commencement of AACE's services. This charge is not to be construed as being a charge for insurance of any type, but is increased consideration for the greater liability involved.

For services involving or relating to pollution, it is further agreed that the Client shall indemnify and hold harmless AACE and their consultants, agents and employees from and against all claims, damages, losses and expenses, direct and indirect or consequential damages, including but not limited to fees and charges of attorneys and court and arbitration costs, arising out of or resulting from the performance of the work by AACE, or claims against AACE arising from the work of others. This indemnification provision extends to claims against AACE which arise out of, are related to, or are based upon, the disposal, discharge, escape, release or saturation of vapors, fumes, acids, alkalis, toxic chemicals, liquids, gases or any other material, irritant, contaminant or pollutant in or into the atmosphere or on, onto, upon, in or into the surface or subsurface. Client's obligation to indemnify is limited to \$1 million per occurrence, which Client agrees bears a reasonable commercial relationship to the Work undertaken by AACE. Client further agrees that these general conditions are a part of the Work's specifications or bid documents, if any.

8 - Sampling or Testing Location: Unless specifically stated to the contrary, the fees included in this proposal do not include costs associated with professional land surveying of the site or the accurate horizontal and vertical locations of tests. Field tests or boring locations described in our report or shown on our sketches are based on specific information furnished to us by others or estimates made in the field by our technicians. Such dimensions, depths or elevations should be considered as approximations unless otherwise stated in the report.

9 - Sample Handling and Retention : Generally test samples or specimens are consumed and/or substantially altered during the conduct of tests and AACE, at its sole discretion, will dispose (subject to the following) of any remaining residue immediately upon completion of test unless required in writing by the Client to store or otherwise handle the samples. (a) NON HAZARDOUS SAMPLES: At Client's written request, AACE will maintain preservable test samples and specimens or the residue therefrom for thirty (30) days after submission of AACE's report to Client free of storage charges. After the initial 30 days and upon written request, AACE will retain test specimens or samples for a mutually acceptable storage charge and period of time. (b) HAZARDOUS OR POTENTIALLY HAZARDOUS SAMPLES: In the event that samples contain substances or constituents hazardous or detrimental to human health, safety or the environment as defined by federal, state or local statutes, regulations, or ordinances ("Hazardous Substances" and "Hazardous Constituents", respectively), AACE will, after completion of testing and at Client's expense: (i) return such samples to Client; (ii) using a manifest signed by Client as generator, will have such samples transported to a location selected by Client for final disposal. Client agrees to pay all costs associated with the storage, transport, and disposal of such samples. Client recognizes and agrees that AACE is acting as a bailee and at no time does AACE assume title of said waste.

10 - Discovery of Unanticipated Hazardous Materials: Hazardous materials or certain types of hazardous materials may exist at a site where there is no reason to believe they could or should be present. AACE and Client agree that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. AACE and Client also agree that the discovery of unanticipated hazardous materials may make it necessary for AACE to take immediate measures to protect health and safety. AACE agrees to notify Client as soon as practicable should unanticipated hazardous materials or suspected hazardous materials be encountered. Client encourages AACE to take any and all measures that, in AACE's professional opinion, are justified to preserve and protect the health and safety of AACE's personnel and the public. Client agrees to compensate AACE for the additional cost of working to protect employees' and the public's health and safety. In addition, Client waives any claim against AACE, and agrees to defend, indemnify and save AACE harmless from any claim or liability for injury or loss arising from AACE's discovery of unanticipated hazardous materials or suspected hazardous materials. Client also agrees to compensate AACE for any time spent and expenses incurred by AACE in defense of any such claim, with such compensation to be based upon AACE's prevailing fee schedule and expense reimbursement policy relative to recovery of direct project costs.

11 - Joint and Several Liability: The concept of joint and several liability is basically this: When two or more parties are considered responsible for causing injury or damage, any one of the parties may be made to provide compensation for as much as 100% of the damages assessed. When applied to hazardous materials projects, it is possible that the concept of joint and several liability could be construed to make AACE partly or wholly responsible for damages created directly or indirectly by the hazardous materials. Client agrees that it would be unfair for AACE to be exposed to such an action, because AACE had nothing whatsoever to do with the creation of the hazardous condition. Accordingly, Client waives any claim against AACE, and agrees to defend, indemnify and save AACE harmless from any claim or liability for injury or loss arising from application of a joint and several liability concept that would, in any manner, hold or seek to hold AACE responsible for creating a hazardous condition or permitting one to exist. Client also agrees to compensate AACE for any time spent and expenses incurred by AACE in defense of any such claim, with such compensation to be based upon AACE's prevailing fee schedule and expense reimbursement policy relative to recovery of direct project costs.

12 - Legal Jurisdiction: The parties agree that any actions brought to enforce any provision of this Agreement shall only be brought in a court of competent jurisdiction located in St. Lucie County, Florida. All causes of action arising out of AACE's Work shall be deemed to have accrued and the applicable statutes of limitation shall commence to run not later than either the date of substantial completion of the Work for acts or failures to act occurring prior to substantial completion, or the date of issuance of final payment for acts or failures to act occurring after substantial completion of the Work.

13 - Force Majeure: AACE shall not be held responsible for any delay or failure in performance of any part of this Agreement to the extent such delay or failure is caused by fire, flood, explosion, war, strike, embargo, government requirement, civil or military authority, acts of God, act or omission of subcontractors, carriers, client or other similar causes beyond its control.