

County Line Special Utility District

Request for Qualifications

Downtown Wastewater Project - Construction Management & Inspection Services

RFQ# 2021-11A

Responses Due:
November 29, 2021

Contact:

County Line SUD
Attn: Daniel Heideman
8870 Camino Real
Umland, TX 78640
Phone: (512) 398-4748
generalmanager@clsud.com

Request for Qualifications

Number: 2021-11A

Title: Downtown Wastewater Project -
Construction Management &
Inspection Services

Date Issued: November 8, 2021

Deadline for Questions: November 19, 2021@ 5:00 PM,
CST

Deadline for Responses: November 29, 2021@ 5:00 PM,
CST

**Responses & Questions to
Be Delivered to:** **Daniel Heideman**
County Line Special Utility District
General Manager
8870 Camino Real
Uhland, TX 78640
Phone: (512) 398-4748
generalmanager@clsud.com

County Line Special Utility District
Request for Qualifications:
Downtown Wastewater Project - Construction Management &
Inspection Services
RFQ # 2021-11A

The County Line Special Utility District (“**CLSUD**”) wishes to engage a qualified firm to provide Construction Management & Inspections Services for CLSUD’s Downtown Wastewater Project, taking place in Uhland, Texas.

Part 1. CLSUD Background Information

1.1 Nature of CLSUD. CLSUD is a potable water district created under Article XVI, Section 59 of the Texas Constitution and Texas Water Code, Chapter 65. CLSUD is a political subdivision of the State of Texas. CLSUD originally operated as County Line Water Supply Corporation (“CLWS”) formed in 1965 in response to a severe drought. CLWS was dissolved in May 2009 when it converted to a Special Utility District. You can review our website at www.CLSUD.com for more information about CLSUD.

1.2 Purposes of CLSUD. To provide potable water and wastewater services to our customers located within our water CCN and wastewater CCN. CLSUD also provides billing services to a neighboring wastewater CCN.

1.3 CLSUD Governance. CLSUD is governed by a 7-member Board of Directors (the “CLSUD Board”).

1.4 Board President. CLSUD Board President, Chris Betz, will serve as the secondary point of contact for this RFQ.

1.5 CLSUD Projects. CLSUD is currently experiencing rapid growth within our CCN. Numerous developers are in the process of designing and platting their properties. CLSUD is also working with a private company to provide wastewater services to the areas that have been on septic systems only.

Part 2. Downtown Uhland Wastewater Project Information

2.1. Gravity main to be constructed from High Road to the lift station site on the south side of Cotton Gin Rd.

2.2. Lift station to be constructed located on the south side of Cotton Gin Rd. near the intersection of Hwy 21 (Camino Real).

2.3. Force main to be constructed from the lift station to an existing lift station on South Plum Creek Rd.

2.4. Note that in this RFQ, the terms "Consultant" and "Proponent" may be used interchangeably.

Part 3. Scope of Work

CLSUD intends to contract with a Consultant to provide the broad scope of services necessary to successfully complete the Project.

3.1 Services Required. Below are the scopes of work that have been identified for the Project. The major scopes of work have an asterisk and proponents are encouraged to include project experience in their responses that aligns with the major scopes of work.

- Constructability Reviews*
- Construction Management*
- On-Site Construction Inspection*
- Materials Testing*
- Contractor Coordination
- Landowner Coordination

3.2 Phased Approach to Project. The Project is anticipated to follow the phased approach outlined below.

- a. Design Phase. The Consultant will provide reviews of design standards and contract documents as they are produced. In addition, the Consultant may be asked to provide constructability reviews of the plans and specifications for the projects at the 60% and 90% design submissions. The Consultant will meet with CLSUD and the Design Engineer to provide their evaluations and comments on the design documents.
- b. Bidding Phase. The Consultant may be asked to assist with scheduling and conducting a Pre-Bid Conference for each construction project and will review and provide comments on addenda prepared by the Design Engineer in response to questions from contractors.
- c. Construction Phase. The Consultant must provide project inspection services, as required, to include on-site inspection by personnel with relevant experience, materials testing services and any other specialty services that are necessary to ensure conformance with the plans and specifications throughout the construction of the projects described in Part 2. Additionally, the Consultant must provide one

or more Construction Managers to manage the deployment of the inspectors and to manage project costs and scheduling, coordination with and between contractors and coordination with affected landowners.

The Consultant is to track and coordinate all construction correspondence to include submittals, RFIs, change order requests, progress payments, daily reports, etc. Upon completion of all construction projects, all documentation converted to PDF or other electronic format and be neatly organized in a project archive with a standard and uniform file naming convention and transmitted to CLSUD.

Through its onsite personnel, the Consultant will collect the locations of all critical infrastructure for inclusion in CLSUD's GIS system.

- d. Commissioning Phase. The Consultant will assist with the commissioning of all facilities to ensure that all systems are functioning appropriately, including documentation of all commissioning efforts and results.
- e. Shadowing by CLSUD Employee. The Consultant will assist and guide a CLSUD employee who will shadow Consultant with the goal being for that CLSUD employee to learn as much knowledge as possible about the tasks the Consultant is doing. CLSUD would like for this employee to eventually perform these Construction Management Inspection Services on behalf of CLSUD.
- f. Close-Out & Warranty Phase. The Consultant will assist in achieving close-out of each construction project through the completion of record drawings, a close-out report, final construction payment (including release of retainage) and the transmittal of all construction documents to CLSUD. The Consultant will track and work with the contractor(s) to correct all warranty items that are identified within the warranty period.

3.3 Term of Agreement. The term of the agreement is anticipated to be 18 months or less, or through the completion of the warranty phases of the project.

Part 4. Response to the Request for Qualifications

Each proponent should submit a detailed response to this RFQ and the detailed response should be referenced to the specific sections of this RFQ. The response should include sufficient information to enable CLSUD to fully evaluate the capabilities of the proponent and its approach to providing the specified services.

4.1 Proponent's Team and Qualifications. The response should at a minimum address the following:

- a. The proponent's full name, the proponent's type of business organization, the address and contact information of the proponent's principal office, and the address and contact information of the proponent's office that will be responsible for this matter.
- b. History of the proponent firm, including number of years it has been in business, present ownership and key management individuals.
- c. Identify key staff to be assigned to the Project, to include at a minimum the Principle-in-Charge, Project Manager and Construction Manager(s), and describe their professional qualifications (to include licenses, certifications, associations) and relevant experience.
- d. Identify any subcontractors that are included as part of the proposed team, their role and related experience for the Project.
- e. Describe the proponent's experience relevant to the Project as described by this RFQ.
- f. Identify any additional skills, experiences, qualifications of your proponent or team you wish to be considered.
- g. Resumes of all individuals identified in the response should be included in Appendix A and limited to one page per person, except for key personnel, which should be limited to two pages each.

4.2 Approach to Deployment of Construction Managers and Inspection Teams. The proponent should discuss in detail its approach to providing the services noted in Part 3 for the Project. The response should at a minimum address the following:

- a. Understanding of the project, approach to successful completion, specialized skills needed, special considerations and possible difficulties in completing the Project.
- b. Approach to identifying and committing the appropriate personnel to perform the on-site inspection services to coincide with the construction of the various concurrent projects. Inspections are anticipated to include the following disciplines at a minimum: pipeline, structural, electrical, mechanical and building.
- c. Identify your approach to coordinating with landowners to inform them of the construction schedule, potential impacts to their property and restoration.
- d. Discuss in detail the manner in which proper coordination and information exchange will be guaranteed among the proponent, its subconsultants, CLSUD, and the construction contractors. Include discussion on how you will track and manage the scheduling, management, and payment processes for the Program.
- e. Describe any alternative innovative approaches to the Project, if applicable.

4.3 Proponent's Past Performance. The response should at a minimum address the following:

- a. List and describe water and wastewater construction management projects for which the proponent has been involved in Texas and neighboring states over the past 5 years. Include the approximate construction cost (estimated if project is not complete) and identify the project owner, contact name, current phone number and e-mail address.

- b. Demonstrated record of performance, including completion schedule and quality of work product.
- c. List record of terminations for cause and/or defaults; disciplinary action, including suspension; safety record; client references; awards, and commendations.

4.5 Format of Response

- a. Responses are limited to a maximum of **25** pages (page limitation applies to Sections 1 through 4 only). A single side equals a single page. **Appendices, such as resumes and the Qualifications Certification Sheet, do not count toward the page limit.** CLSUD reserves the right to include all or any part of the response in the final agreement.
- b. Responses should be clear, concise and complete. They should be submitted using 8 ½" x 11" paper size. The minimum font size used shall be 11 point. Illustrations, if required, may be submitted on 11" x 17" sheets. 11" x 17" sized pages will count as **two pages** toward the maximum page limit.
- c. Each of the eight sections listed below should include tabbed dividers labeled 1, 2, 3, etc. The tabbed dividers do not count toward the overall page count. The proposal response should be organized in the same sequence as noted in the table below in order to expedite the evaluation:
 - 1. Cover Letter. Provide a cover letter summarizing the qualifications of the proponent. The letter should be signed by an authorized representative of the proponent.
 - 2. Proponent's Team & Qualifications. Address the requirements included in Section 4.1.
 - 3. Project Approach. Address the requirements included in Section 4.2.
 - 4. Proponent's Past Performance. Address the requirements included in Section 4.3.
 - 5. Appendix A – Resumes of Team. Include resumes of designated team members as noted in Section 4.1.
 - 6. Appendix C – Required Forms (pages do not count toward the page limitation)
 - a. Qualifications Certification Sheet (see the form below Part 8)
 - b. Conflict of Interest Disclosure. Chapter 176 of the Texas Local Government Code requires that a vendor considering doing business with CLSUD submit a disclosure form regarding possible conflicts of interest. By law, a proponent that submits a response to this RFQ must file the form with CLSUD not later than the 7th business day after

submitting the response. **It is recommended that proponents submit this completed form with their responses.** For more information or to obtain the form (FORM CIQ), visit the Texas Ethics Commission web page at <https://www.ethics.state.tx.us/forms/conflict/>. The response will not count towards the page limitation.

- c. Proposed alternative language to the Terms and Conditions found in Attachment A, *if any*.

Part 5. Submitting a Response

5.1 RFQ Schedule. The schedule for this RFQ is as follows:

Date	Event
November 8, 2021	RFQ Issued
November 19, 2021, 5:00 pm	Deadline for written inquiries
November 29, 2021, 5:00 pm	Responses due
December or January, 2021	CLSUD Board awards the agreement

5.2 Delivery Instructions. All responses must be submitted in a sealed package. No other form of submission will be accepted (i.e., E-mail, Facsimile, etc.). Response packages must be identified on the outside as follows:

Response to CLSUD RFQ No. 2021-11A: Downtown Wastewater Project Construction Management & Inspection Services

From: _____
 Name of Proponent

Street Address

City, State, Zip Code

Each proponent must deliver one original response so that they are **received by 5:00 p.m. on November 29, 2021.** **The submission must include one digital copy on thumb drive in a searchable Adobe Acrobat (PDF) format.** Delivery will be to:

Daniel Heideman
 County Line SUD
 8870 Camino Real
 Uhland, TX 78640

5.3 Inquiries. Inquiries regarding this RFQ must be in written or electronic form only and must be received by 5:00 p.m. on November 19, 2021.

Part 6. Selection Process and Criteria

6.1 Evaluation/Negotiation Process. CLSUD intends to form a Selection Committee to review all responses which are timely submitted, and rank them according to the criteria below. CLSUD will select a proponent with which to enter into contract negotiations. In the event the negotiations with the selected proponent are not successful, then CLSUD may enter into negotiations with the next highest ranked proponent(s). The process will continue in this sequence until an agreement is finalized or proponent responses are rejected. If negotiations with a selected proponent on an agreement are successful, the General Manager will make a recommendation to the CLSUD Board for award of the agreement, and the CLSUD Board will make a decision on award of the agreement.

6.2 Evaluation Criteria. The Selection Committee will evaluate responses based on the following criteria:

a. Proponent's Team & Qualifications	40 points
b. Project Approach	30 points
c. Proponent's Past Performance	30 points
TOTAL	100 points

Part 7. General Provisions

7.1 Collusion. By submitting a response, you certify that you have not colluded with any other proponent or potential proponent in preparing your qualifications, nor have you knowingly disclosed any portion of your response to any other proponent prior to submission to CLSUD.

7.2 Addenda. Any changes to this RFQ, whether resulting from the inquiries submitted by proponents or otherwise, including any extension to the RFQ due date, will be provided to proponents in the form of an addendum to this RFQ. Addenda can only be viewed at www.CLSUD.com. It is the responsibility of each proponent to check the above site to determine if CLSUD has issued any addenda.

7.3 Lobbying Prohibited. Potential proponents are prohibited from directly or indirectly communicating with CLSUD Board members regarding their qualifications or the award of an agreement. Potential proponents are prohibited from contacting CLSUD officials or staff members regarding their qualifications or the award of an agreement, unless in response to an inquiry from a staff member or official. Any violation may result in immediate disqualification of a proponent from the selection process.

7.4 Disclaimers. CLSUD reserves the right to reject any and all responses, and the right to waive any irregularities in any response if CLSUD deems this to be in its best interest. CLSUD makes no commitment to any proponent beyond consideration of responses. CLSUD will not reimburse any proponent for costs incurred in connection with this RFQ.

7.5. Information in Responses. Responses will be received and maintained so as to avoid disclosure of contents to proponents during evaluation and contract negotiation processes. After the award of an agreement, responses will be subject to disclosure under the state Public Information Act, so proponents should avoid including trade secrets, proprietary information or other confidential information in their responses. CLSUD will endeavor to notify a proponent whose proposal is requested for disclosure to allow the proponent an opportunity to respond to the request.

Part 8. Terms of the Engagement

8.1 CLSUD Standard Terms and Conditions. CLSUD's standard terms and conditions for this engagement are included as Attachment A. If a proponent wishes to propose alternative language for any provision in these terms and conditions, the proponent must include the proposed language in its response. CLSUD reserves the right to accept or reject any proposed alternative language. CLSUD also reserves the right to modify provisions in these terms and conditions, prior to finalization of an agreement with a proponent, to account for the scope of services to be performed by an agent selected by CLSUD.

Qualifications Certification Sheet

Proponent Firm Name:

Proponent Contact Person:

Mailing Address:

Telephone:

E-Mail Address:

Certifications:

1. The signing individual certifies that he/she is authorized to execute contracts on behalf of the proponent.
2. The signing individual certifies on behalf of the Proponent that he/she has read and understands all of the information in the Request for Qualifications and in this response.
3. The signing individual certifies on behalf of the Proponent that all information submitted in this response is true and correct.
4. The signing individual certifies that the Proponent firm will enter into an agreement with CLSUD which includes CLSUD's contract provisions in Attachment A of this RFQ, except as to alternative language for specific provisions as stated in this response.
5. By signing below and submitting a response, the signing individual on behalf of the Proponent irrevocably:
 - grants CLSUD the right to investigate all references identified in this response;
 - authorizes all references identified in this response, and their officers, employees and agents to furnish any and all information known to them about the quality of services provided by the proponent firm; and
 - releases and waives any claims the Proponent or individual members of the Proponent's firm may have against CLSUD, its officers, employees or agents, and against all references identified in this response, and their officers, employees and agents, related to information furnished in the course of reference checks.
6. The signing individual certifies, in accordance with the provisions of Texas Government Code Chapter 2270, that the Proponent firm does not boycott Israel currently, and will not boycott Israel during the term of any agreement with CLSUD. For this purpose, the term "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

Proponent Firm Name:

By: _____
Signature

Date

Printed Name, Title

Subscribed and sworn to before me this ____ day of _____, 20____.

Notary Public signature

Notary stamp

Attachment A
County Line Special Utility District

Terms and Conditions for Professional Services Agreements

1. Standards of Performance

- A. The performance of all services by the Consultant under this Agreement will be by persons appropriately licensed or registered under State, local and Federal laws.
- B. In performing all services under this Agreement, the Consultant will use the standards of care and skill exercised for similar engagements by professional firms possessing a statewide or national reputation for the types of services involved under this Agreement.
- C. Any provisions in this Agreement pertaining to CLSUD's review, approval or acceptance of written materials prepared by the Consultant in connection with this Agreement will not diminish the Consultant's responsibility for the materials.
- D. The Consultant will perform all of its services in coordination with CLSUD. The Consultant will advise CLSUD of data and information the Consultant needs to perform its services, and the Consultant will meet with CLSUD representatives at mutually convenient times to assemble this data and information.
- E. In performing all services under this Agreement, the Consultant will comply with all local, state and federal laws.

2. Consultant's Responsibilities

- A. The Consultant will perform all of the services described in the final agreed scope of services in a timely, professional manner in accordance with the work schedule and the Standards of Performance.
- B. The Consultant will submit detailed monthly invoices to CLSUD during the period of the Consultant's performance of services showing either the percentage of work completed (fixed fee agreements), or the services performed and the personnel and hourly rates (hourly rate agreements). Reimbursable expenses, if not included in other fees, will be charged at cost.
- C. The Consultant will secure CLSUD's prior written approval for the Consultant's subcontracting of any services under this Agreement. The Consultant will ensure that any services subcontracted are specified by separate written agreement that will expressly be subject to each provision of this Agreement.

3. CLSUD's Responsibilities

- A. CLSUD will provide information to the Consultant regarding CLSUD's requirements for the Consultant's services under this Agreement. CLSUD will furnish the Consultant with copies of official CLSUD policies and procedures, and other data and information in CLSUD's possession needed by the Consultant, at the Consultant's request.
- B. CLSUD will designate an authorized representative to act on CLSUD's behalf with respect to this Agreement. CLSUD reserves the right in its sole discretion to modify this designation with respect to all or part of the Phase 1B Program.
- C. CLSUD will examine documents and information submitted by the Consultant, and promptly render responses to the Consultant on issues requiring a decision by CLSUD.
- D. CLSUD will make payments to the Consultant on a monthly basis during the period of the Consultant's performance of services. Payments will be made within 30 days of receipt of invoices by CLSUD. If a material question arises about a portion of an invoice, CLSUD will pay the remainder of the invoice pending resolution of the question.

4. Consultant's Records

- A. All expense records of the Consultant related to this Agreement will be kept on a recognized accounting basis acceptable to CLSUD and will be available to CLSUD at mutually convenient times.
- B. CLSUD and federal and state agencies that have monitoring or auditing responsibilities for this Agreement will have access to any books, documents, papers and records of the Consultant which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, copying and transcriptions.
- C. The Consultant will retain all of its records and supporting documentation relating to this Agreement, and not delivered to CLSUD, for a period of three years, except that in the event the Consultant goes out of business during that period, it will turn over to CLSUD all of its records relating to the Project for retention by CLSUD.
- D. The Consultant will furnish to CLSUD at such time and in such form as CLSUD may require, financial statements including audited or CPA prepared financial statements, records, reports, data and information, as CLSUD may request pertaining to the matters covered by this Agreement.

5. Ownership of Documents

All documents prepared by the Consultant in connection with this Agreement will become the property of CLSUD whether or not any project related to this Agreement is executed.

CLSUD agrees such documents are not intended or represented to be suitable for reuse for another project by CLSUD or others. Any such reuse by CLSUD or anyone who obtains the documents from CLSUD without written verification or adaptation by the Consultant will be without liability or legal exposure to the Consultant.

6. Bid Phase Services

During the bid phase of the Project, the Consultant will provide the following services:

A. The Consultant will assist CLSUD in the distributing of bid documents to prospective bidders and to plan rooms, and in preparing and issuing of addenda (if any) with CLSUD's prior approval.

B. The Consultant will assist CLSUD in conducting a pre-bid conference, answer all questions of prospective bidders and CLSUD's staff, and make all necessary clarifications and interpretations of the bid documents and construction contract documents. The Consultant will review and provide comments on any needed addendums to the bid documents.

C. The Consultant will assist CLSUD in reviewing tabulated bids, evaluating bids, and in awarding the contract for construction.

D. The Consultant will assist CLSUD in reviewing statements of bidder qualifications, financial statements of bidders, lists of bidders' proposed subcontractors, and all other documents required to be submitted with the bids.

7. Construction Phase Services

During the construction phase of the Project, the Consultant will provide the following services:

A. The Consultant will administer the construction phase services as set forth in CLSUD's construction contract documents. The Consultant will not pursue a course of conduct that might jeopardize any of CLSUD's rights under those documents.

B. The Consultant will have authority to act on behalf of CLSUD as provided in this Agreement and in the construction contract documents. The Consultant will be a representative but not an agent of CLSUD, and will advise and consult with CLSUD and provide written progress reports and advice to CLSUD. The Consultant has no authority to modify contract amount or contract time.

C. The Consultant will be responsible for forwarding CLSUD's instructions to the construction contractor. However, if the Consultant is unavailable in person or by telephone or email to issue instructions, or if a situation exists involving possible harm to

CLSUD or jeopardy to life and/or property, CLSUD may forward instructions directly to the construction contractor. CLSUD will advise the Consultant of any instructions issued directly by CLSUD to the construction contractor.

D. The Consultant will make on-site inspections of the Project to ensure the progress and quality of the work, to determine if the work is proceeding in acceptable conformance with the construction contract documents, and to review the work with CLSUD's representatives. On the basis of these inspections, the Consultant will keep CLSUD informed of the progress and quality of the work through written status reports.

E. The Consultant will not have control or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work, for the acts or omissions of the construction contractor, subcontractors or any other persons performing any of the work, or for the failure of any of them to carry out the work in accordance with the construction contract documents, unless the acts or omissions are due to the negligence of the Consultant or are acts or omissions under the Consultant's control. The Consultant will exercise its authority on behalf of CLSUD so that all work performed by the construction contractor results in the Project being completed in accordance with the construction contract documents. If the Consultant becomes aware of the construction contractor's utilization of means, methods, techniques, sequences and/or procedures of construction which, in the Consultant's opinion, will not result in completion of the Project in accordance with the construction contract documents or which are unsafe, the Consultant will immediately inform CLSUD and will take all necessary action which the Consultant is authorized to take under the construction contract documents to correct the matter.

F. The Consultant will determine the amounts owing to the construction contractor based on its on-site inspections and on evaluations of the construction contractor's applications for payment, including comparisons of the construction contractor's monthly progress reports and cost reports with its applications for payment. The Consultant will make recommendations to CLSUD for payment as provided in the construction contract documents, or take such other appropriate action the Consultant deems necessary. The Consultant's recommendations for payment will constitute representations by the Consultant to CLSUD based on the Consultant's inspections and on the data comprising the construction contractor's application for payment, that 1) the work has progressed to the point indicated, 2) the quality of the work is in acceptable conformance with the construction contract documents (subject to an evaluation of the work of conformance with the construction contract documents upon substantial completion, subject to the results of any subsequent tests to be performed under the construction contract documents, subject to minor variations from the construction contract documents correctable prior to completion, and subject to any specific qualifications stated in the recommendation for payment), and 3) the construction contractor is entitled to payment in the amount recommended. However, the issuance of a recommendation for payment will not be a representation that the Consultant has made any examination to ascertain

how and for what purpose the construction contractor has used the monies paid by CLSUD.

G. The Consultant will have authority to reject work that does not conform to the construction contract documents. Whenever it is necessary or advisable in the Consultant's opinion for the proper implementation of the intent of the construction contract documents, and with the approval of CLSUD, the Consultant will have authority to require special inspection or testing of the work in accordance with the construction contract documents, whether or not the work is then fabricated, installed or completed. The Consultant will review the work and results of all special inspections and testing in accordance with the construction contract documents.

H. The Consultant will prepare necessary change orders for approval and execution by CLSUD in accordance with the construction contract documents. The Consultant will not issue change orders without prior written approval of CLSUD, and no course of conduct on the part of the Consultant or CLSUD will amend, waive or alter this provision.

I. The Consultant will review the completed Project with CLSUD and the Contractor prior to the end of the one-year warranty period and have all deficient items corrected by the construction contractor. The extent of the duties, responsibilities and authority of the Consultant as CLSUD's representative during construction will not be modified or extended after the bid documents have been approved by CLSUD without written consent of CLSUD and the Consultant, and with notice to the Contractor.

8. Term; Termination of Agreement

A. The term of this Agreement begins upon its execution by CLSUD, and will end upon the Consultant's completion, and CLSUD's acceptance, of all services described in this Agreement.

B. This Agreement may be terminated by either party upon 15 days prior written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination.

C. This Agreement may be terminated at will by CLSUD upon 30 days prior written notice to the Consultant.

D. In the event of termination as provided in this Section, the Consultant will be compensated for all services performed to the termination date which are deemed by CLSUD to be in accordance with this Agreement. This amount will be paid by CLSUD upon the Consultant's delivering to CLSUD a final report of the status of its services under this Agreement, whether completed or in progress.

9. Insurance and Indemnity

A. The Consultant will hold harmless, indemnify and defend CLSUD and its employees, agents, officers and servants from any and all lawsuits, claims, demands and causes of action of any kind arising from the negligent or intentional acts, errors or omissions of the Consultant, its officers, employees or agents under this Agreement. This will include, but not be limited to, the amounts of judgments, penalties, interest, court costs, reasonable legal fees, and all other expenses incurred by CLSUD arising in favor of any party, including the amounts of any damages or awards resulting from claims, demands and causes of action for breach of fiduciary duty or malfeasance, or personal injuries, death or damages to property.

B. The Consultant will procure and maintain at its expense insurance with insurance companies authorized to do business in the State of Texas, covering all operations under this Agreement, whether performed by the Consultant or its agents, subcontractors or employees. Before commencing the work the Consultant will furnish to CLSUD a certificate or certificates in a form satisfactory to CLSUD, showing that the Consultant has complied with this paragraph. All certificates will provide that the policy will not be canceled until at least 30 days written notice has been given to CLSUD, and will name CLSUD as an additional insured on all coverages except workers' compensation and professional liability. The kinds and amounts of insurance required are as follows:

Workers' Compensation Insurance: In accordance with the provisions of the Workers' Compensation Act of the State of Texas.

Liability Insurance: (1) Commercial general liability insurance with a combined single limit of \$1,000,000 for each occurrence, (2) Motor vehicle liability insurance in an amount not less than \$250,000 for injuries to any one person, not less than \$500,000 for all injuries in a single accident, and not less than \$250,000 for property damage, and (3) Professional liability insurance in an amount not less than \$1,000,000.

C. The stated limits of insurance required by this Paragraph are **minimum only**--they do not limit the Consultant's indemnity obligation, and it will be the Consultant's responsibility to determine what limits are adequate. These limits may be met by basic policy limits or any combination of basic limits and umbrella limits. CLSUD's acceptance of certificates of insurance that do not comply with these requirements in any respect does not release the Consultant from compliance with these requirements.

10. Miscellaneous Provisions

A. This Agreement is governed by the law of the State of Texas. Exclusive venue for any dispute arising under this Agreement is in Hays County, Texas.

B. As to all acts or failures to act by either party to this Agreement, any applicable statute of limitations will commence to run and any alleged cause of action will be deemed to have accrued when the party commencing the cause of action knew or should have known of the existence of the subject act or failure to act.

C. In performing the services required under this Agreement, the Consultant will not discriminate against any person on the basis of race, color, religion, sex, national origin, age or disability.

D. All references in this Agreement to any particular gender are for convenience only and will be construed and interpreted to be of the appropriate gender. The term "will" is mandatory in this Agreement.

E. The provisions of this Agreement are deemed to be severable. If any provision in this Agreement is found to be invalid, this Agreement will be construed as not containing the provision, and all other provisions which are otherwise lawful will remain in full force and effect.

F. All services provided pursuant to this Agreement are for the exclusive use and benefit of CLSUD.

G. CLSUD is governed by the Texas Public Information Act, Chapter 552 of the Texas Government Code. This Agreement and all written information generated under this agreement may be subject to release under the Public Information Act. However, the Consultant will not make any reports, information, data, etc. generated under this Agreement available to any individual or organization without the written approval of CLSUD.

H. CLSUD and the Consultant, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. CLSUD and the Consultant may not assign, sublet or transfer any interest in this Agreement without the written consent of the other.

I. This Agreement represents the entire and integrated agreement between CLSUD and the Consultant, and it supersedes all prior negotiations, representations or agreements either written or oral. Changes in the Consultant's scope of services or compensation under this Agreement are subject to the written approval of CLSUD in accordance with its policies. Otherwise, this Agreement may be amended only by written instrument approved by CLSUD's governing body and signed by both CLSUD and the Consultant.

J. Any exhibits and/or attachments attached to this Agreement are incorporated by reference into this Agreement as though included verbatim herein.

K. In the event of any conflict between these Terms and Conditions and the provisions of any exhibit or attachment to this Agreement, the provisions imposing greater responsibility on the Consultant will control.

END