

APPENDIX D

**CONTRACT FOR PROFESSIONAL
CONSULTING SERVICES**

This Contract is made and entered into this _____ day of _____, 2025, by and between the CEDAR KEY WATER AND SEWER DISTRICT, an independent special district government entity, whose principal place of business is at 510 3rd Street, Cedar Key, Florida 32625 (the “District”), and _____, whose principal place of business is at _____ (the “Consultant”), whose Federal I.D. number is _____, in connection with Request for Qualifications (RFQ) No. 26-1 and the professional consulting services set forth therein.

WITNESSETH

WHEREAS, the District has pursued the professional services selection process contemplated under section 287.055, Florida Statutes in connection with RFQ 26-1 for the following project: engineering, construction engineering inspection, surveying/mapping, permitting, environmental review, and federal compliance for a CDBG-DR Potable Water System Hardening Project and a CDBG-DR Wastewater Treatment Facility Hardening Project (the “Project”), as more particularly described herein and in RFQ No. 26-1 and Consultant’s response to same, which is attached hereto as Exhibit “E” and incorporated herein by reference; and

WHEREAS, the District evaluated the proposals in accordance with Section 287.055, Florida Statutes; and

WHEREAS, following the District’s evaluation of the proposals, the District selected Consultant and directed negotiation of a contract with Consultant; and

WHEREAS, the District desires to obtain the professional consulting services of the Consultant for a term of three (3) years with two (2) optional one (1) year renewal periods.

NOW, THEREFORE, in consideration of the mutual promises herein, the District and the Consultant agree as follows:

**ARTICLE ONE
CONSULTANT’S RESPONSIBILITY**

1.1. Consultant shall provide to the District professional engineering consulting services for the duration of the Contract for the following Project:

The District requires comprehensive engineering, construction engineering inspection, and surveying/mapping services, permitting, environmental review, and federal compliance services to complete the scope of work contained in the State of Florida Department of Commerce Federally Funded Community Development Block Grant Disaster Recovery (CDBG-DR) Rebuild Florida Infrastructure Repair Program Subrecipient Agreement, Commerce Agreement No. MS027 -

Wastewater Treatment Facility Hardening Project (hereinafter the “Wastewater Grant”) and the State of Florida Department of Commerce Federally Funded Community Development Block Grant Disaster Recovery (CDBG-DR) Rebuild Florida Infrastructure Repair Program Subrecipient Agreement, Commerce Agreement No. MS029 - Potable Water System Hardening Project (hereinafter the “Water Grant”).

The District further requires Consultant to perform such other additional engineering, construction engineering inspection, and surveying/mapping services, permitting, environmental review, and federal compliance services as may be required by the District from time to time, as described in a Work Authorization issued by the District.

The scope of work contained in the Water Grant and the Wastewater Grant includes, but is not limited to Consultant’s performance of the following:

- 1) Create a full design package(s), signed and sealed by a Professional Engineer (PE) licensed in the State of Florida including engineering drawings, specifications, construction cost estimate, surveys, and any other reports, documents, or information relevant to this Project that meet all local current hurricane code ratings, local codes and building codes.
- 2) Obtain copies of all permit applications, correspondence with permitting agencies, final permits, and any other permit-related documentation for the Project.
- 3) Conduct an Environmental Review/Assessment in accordance with HUD and Commerce Policies and the National Environmental Policy Act referenced in Attachment D.4.b of this Agreement and carried out any mitigation measures required as a result of the Environmental Review findings.
- 4) Review contractor payrolls and interviewed employees to determine compliance with Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and the Copeland “Anti-Kickback” Act.

The Consultant shall perform these services, and such other services in furtherance of the completion of the scope of work for the Project as are further described in, and pursuant to, one or more Work Authorizations issued by the District.

1.2. The Basic Services required under this Contract to be performed by Consultant shall be those set forth in Article Two and shall be issued periodically as Work Authorizations for identified phases of the Project. The scope of work for each such phase of the Project will be outlined in a Work Authorization and all provisions of this Contract apply to the Work Authorization with full force and effect as if appearing in full within each Work Authorization. Each Work Authorization will set forth the Scope of Services, maximum limit of compensation, schedule, liquidated damages and completion date, and shall become effective upon the due execution after approval by the District. The Work Authorization form is attached hereto as Exhibit B, which is incorporated herein by reference.

1.3. The basis of compensation to be paid Consultant by the District for Basic Services is set forth in Article Five and Exhibit A, "Basis of Compensation" attached to each Work Authorization, which is attached hereto and incorporated herein. Work Authorization requests will be made to Consultant as may be warranted, including but not limited to updates of plans, designs of improvements, field and construction services, acquisition analysis, and permitting activities as may be reasonably contemplated hereunder.

1.4. The Consultant agrees to obtain and maintain throughout the period of this Contract all such licenses as are required to do business in the State of Florida, including, but not limited to, all licenses required by the respective state boards, and other governmental agencies responsible for regulating and licensing the professional services to be provided and performed by the Consultant pursuant to this Contract.

1.5. The Consultant agrees that, when the services to be provided hereunder relate to a professional service which, under Florida Statutes, requires a license, certificate of authorization or other form of legal entitlement to practice such services, it shall employ and/or retain only qualified personnel to provide such services.

1.6. Consultant agrees that the Project Manager for the term of this Contract shall be:

The Consultant agrees that the Project Manager shall devote whatever time is required to satisfactorily manage the services to be provided and performed by the Consultant hereunder. The person selected by the Consultant to serve as the Project Manager shall be subject to the prior approval and acceptance of the District, such approval or acceptance shall not be unreasonably withheld.

1.7 Consultant shall notify the District in the event of key personnel changes, which might affect this Contract. To the extent possible, notification shall be made within ten (10) days prior to changes. Consultant, at the District's request, shall remove without consequence to the District any subcontractor or employee of the Consultant and replace him/her with another employee having the required skill and experience. The District has the right to reject proposed changes in key personnel. The following personnel shall be considered key personnel:

Name: _____

Name: _____

1.8. Consultant agrees, within fourteen (14) calendar days of receipt of a written request from the District, to promptly remove and replace from the project team the Project Manager, or any other personnel employed or retained by the Consultant, or any subcontractors or subcontractors or any personnel of any such subcontractors or subcontractors engaged by the Consultant to provide and perform services or work pursuant to the requirements of this Contract, whom the

District shall request in writing to be removed, which request may be made by the District with or without cause.

1.9. The Consultant has represented to the District that it has expertise in the type of professional services that will be required for the Project. The Consultant agrees that all services to be provided by Consultant pursuant to this Contract shall be subject to the District's review and approval and shall be in accordance with the generally accepted standards of professional practice in the State of Florida, as well as in accordance with all published laws, statutes, ordinances, codes, rules, regulations and requirements of any governmental agencies which regulate or have jurisdiction over the Project or the services to be provided and performed by Consultant hereunder. In the event of any conflicts in these requirements, the Consultant shall notify the District of such conflict and utilize its best professional judgment to advise the District regarding resolution of the conflict. At the District's request, Consultant shall, at no additional cost to the District, re-perform services which fail to satisfy the foregoing standard of care or otherwise fail to meet the requirement of this Contract.

1.10. Consultant agrees not to divulge, furnish or make available to any third person, firm or organization, without the District's prior written consent, or unless incident to the proper performance of the Consultant's obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the services to be rendered by Consultant hereunder, and Consultant shall require all of its employees, agents, subcontractors and subcontractors to comply with the provisions of this paragraph.

1.11. Evaluations of the District's adopted capital improvement budget, preliminary estimates of construction cost and detailed estimates of construction cost prepared by the Consultant represent the Consultant's best judgment as a design professional familiar with the construction industry. The Consultant cannot and does not guarantee that bids or negotiated prices will not vary from any estimate of construction cost or evaluation prepared or agreed to by the Consultant. Notwithstanding anything above to the contrary, Consultant shall revise and modify Construction Documents and assist in the rebidding of the work at no additional cost to the District, if all responsive and responsible bids exceed the estimates of construction costs prepared by Consultant.

1.12. Consultant shall not be responsible for means, methods, techniques, sequences or procedures of construction selected by contractors or the safety precautions and programs incident to the work of contractors.

ARTICLE TWO BASIC AND ADDITIONAL SERVICES OF CONSULTANT

As authorized or required by the District in a Work Authorization, Consultant shall furnish or obtain from others Basic Services of the types listed in this Article Two. These services will be paid for by the District as indicated in Article Five and Exhibit A and as confirmed in each Work

Authorization. The following Sections 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, and 2.7 are considered Basic Services and Section 2.8 is considered Additional Services:

2.1. Design Studies and Reports.

Consultant shall:

- a. Consult with the District to define and clarify the District's requirements for the Project and available data.
- b. Advise the District as to the necessity of the District obtaining from Consultant Additional Services described in Article Two of this Contract, including, but not limited to probing's, subsurface explorations, special permits, or other similar investigations.
- c. Identify, consult with, and analyze requirements of the District to approve the portions of the Project designed or specified by Consultant, including but not limited to mitigating measures identified in the environmental assessment.
- d. Identify and evaluate all reasonable alternate solutions available to the District and, after consultation with the District, recommend to the District those solutions which in Consultant's judgment meet the District's requirements for the Project.
- e. Prepare a preliminary Consulting Report (the "Report") which will, as appropriate, contain schematic layouts, sketches, operation and maintenance costs, and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and those alternate solutions available to the District which Consultant recommends. For each recommended solution Consultant will provide the following, which will be separately itemized: opinion of probable Construction Cost; proposed allowances for contingencies; the estimated total costs of design, professional, and related services to be provided by Consultant and its Consultants; and, on the basis of information furnished by the District, a summary of allowances for other items and services included within the definition of Total Project Costs.
- f. Furnish three (3) review copies of the Report and any other deliverables to the District within the timeframe established in the Work Authorization and review it with the District.
- g. Revise the Report and any other deliverables in response to the District's comments, as appropriate, and furnish three (3) copies of the revised Report and any other deliverables to the District within the timeframe established in the Work Authorization.

Consultant's services under the Study and Report Phase will be considered complete on the date when the revised Report and any other deliverables have been delivered to and accepted by the District, as appropriate.

2.2. Preliminary Design.

After acceptance by the District of the Report and any other deliverables, selection by the District of a recommended solution and indication of any specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by the District, as applicable, and upon written authorization from the District, Consultant shall:

- a. Prepare Preliminary Design Phase documents consisting of final design criteria, preliminary drawings, outline specifications, and written descriptions of the Project.
- b. Provide necessary field surveys and topographic and utility mapping for design purposes. Utility mapping will be based upon information obtained from utility owners.
- c. Provide to the District three (3) copies of maps showing the general location of required construction easements and permanent easements and the land to be acquired.
- d. Advise the District as to the necessity of the District obtaining from Consultant, Additional Services described in Article Three of this Contract, such as, but not limited to probing's, subsurface explorations, special permits, or other similar investigations. Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and assist the District in collating the various cost categories which comprise Total Project Costs.
- e. Keep the District informed as to the status of the Project design through no less than monthly meetings at the District's offices.
- f. Furnish three (3) review copies of the Preliminary Design Phase documents and any other deliverables to the District within the timeframe established in the Work Authorization, and review them with the District.
- g. Revise the Preliminary Design Phase documents and any other deliverables in response to comments from the District, as appropriate, and furnish to the District three (3) copies of the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other deliverables within the timeframe established in the Work Authorization.

Consultant's services under the Preliminary Design Phase will be considered complete on the date when the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other deliverables have been delivered to the District.

2.3. Final Design.

After acceptance by the District of the Preliminary Design Phase documents, revised opinion of probable Construction Cost as determined in the Preliminary Design Phase, and any other deliverables subject to any the District-directed modifications or changes in the scope, extent,

character, or design requirements of or for the Project, and upon written authorization from the District, Consultant shall:

- a. Prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor. If appropriate, Specifications shall conform to the 16-division format of the Construction Specifications Institute.
- b. Provide technical criteria, written descriptions, and design data for the District's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design of the Project; assist the District in consultations with such authorities; and revise the Drawings and Specifications in response to directives from such authorities.
- c. Advise the District of any adjustments to the opinion of probable Construction Cost and any adjustments to Total Project Costs known to Consultant.
- d. Prepare and furnish Bidding Documents for review by the District, its legal counsel, its other advisors, and regulatory agencies, within the timeframe established in the Work Authorization, and assist the District in the preparation of other related documents. Review to ensure conformity with the technical specifications and incorporate into the Bidding Documents, the District's standard specifications.
- e. Revise the Bidding Documents in accordance with comments and instructions from the District, as appropriate, and submit three (3) final copies of the Bidding Documents, a revised opinion of probable Construction Cost, and any other deliverables to the District within the timeframe established in the Work Authorization. Consultant shall also provide an electronic copy of the Bidding Documents to the District.

Consultant's services under the Final Design Phase will be considered complete on the date when the submittals required by paragraph A.3.1 have been delivered to and accepted by the District.

2.4. Construction Bid Services.

After acceptance by the District of the Bidding Documents and the most recent opinion of probable Construction Cost as determined in the Final Design Phase Consultant shall:

- a. Assist the District in advertising for and obtaining bids or proposals for the Work and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, organize and conduct pre-Bid conferences, if any.
- b. Issue Addenda as appropriate to clarify, correct, or change the Bidding Documents.
- c. Provide information or assistance needed by the District in the course of any negotiations with prospective contractors.

- d. Consult with the District as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors for those portions of the Work as to which such acceptability is required by the Bidding Documents.
- e. Determine the acceptability of substitute materials and equipment proposed when substitution is necessary because the specified item is incompatible with the Project or fails to comply with applicable codes.
- f. Attend the Bid opening, prepare Bid tabulation sheets, and assist the District in evaluating Bids or proposals and in assembling and awarding contracts for the Work.
- g. Provide the District with a recommendation of contract award.

The Bidding or Negotiating Phase will be considered complete upon contract award by the District to the successful bidder.

2.5. Construction Contract Administration.

Upon successful completion of the Bidding and Negotiating Phase Consultant shall:

- a. Consult with the District and Contractors as reasonably required and necessary with regard to the construction of the Project and act as the District's representative. All of the District's instructions to Contractor will be issued through Consultant.
- b. Coordinate and conduct a Pre-Construction Conference prior to commencement of Work at the Site.
- c. Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to Consultant, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.
- d. As appropriate, establish baselines and benchmarks for locating the Work which in Consultant's judgment are necessary to enable Contractor to proceed.
- e. In connection with observations of a contractor's Work while it is in progress:
 - i. Make visits to the Site at intervals appropriate to the various stages of construction, as Consultant or the District deems necessary, but at least monthly, to observe as an experienced and qualified design professional the progress and quality of contractor's executed Work. Such visits and observations by Consultant are not intended to be exhaustive or to extend to every aspect of contractor's Work in progress or to involve detailed inspections of contractor's Work in progress beyond the responsibilities specifically assigned to Consultant in this Contract and the Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on

Consultant's exercise of professional judgment. Based on information obtained during such visits and observations, Consultant will determine in general if the Work is proceeding in accordance with the Contract Documents, and Consultant shall keep the District informed of the progress of the Work.

ii. The purpose of Consultant's visits to the Site will be to enable Consultant to better carry out the duties and responsibilities assigned to and undertaken by Consultant during the Construction Phase, and, in addition, by the exercise of Consultant's efforts as an experienced and qualified design professional, to provide for the District a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Consultant shall not, during such visits or as a result of such observations of contractor's Work in progress, supervise, direct, or have control over contractor's Work, nor shall Consultant have responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by contractor, for security or safety on the Site, for safety precautions and programs incident to contractor's Work, nor for any failure of contractor to comply with Laws and Regulations applicable to contractor's furnishing and performing the Work.

iii. The Consultant shall consult with the District's inspector and review all observations and inspection reports performed by the District's inspector to ensure the Work conforms in general to the Contract Documents. Consultant shall promptly notify the District as to any deviations from the Contract Documents.

f. Recommend to the District that contractor's Work be rejected while it is in progress if, on the basis of Consultant's observations, Consultant believes that such Work will not produce a completed Project that conforms generally to the Contract Documents or that it will threaten the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents.

g. Review materials and workmanship of the Project and report to the District any deviations from the Contract Documents which may come to the Consultant's attention; determine the acceptability of work and materials and make recommendation to the District to reject items not meeting the requirements of the Contract Documents.

h. Recommend to the District in writing that the work, or designated portions thereof, be stopped if, in Consultant's judgment, such action is necessary to allow proper inspection, avoid irreparable damage to the work, or avoid subsequent rejection of work which could not be readily replaced or restored to an acceptable condition, such stoppage to be only for a period reasonably necessary for the determination of whether or not the work will in fact comply with the requirements of the Contract Documents.

- i. Require that any work which is covered up without being properly observed be uncovered for examination and restored at contractor's expense if deemed appropriate by the Consultant.
- j. Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of contractor's work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. Consultant may issue Field Orders authorizing minor variations in the Work from the requirements of the Contract Documents.
- k. Negotiate with the contractor the scope and cost of any contract Change Order or Work Change Directive and provide a recommendation to the District. Prepare and issue Change Orders and Work Change Directives as required or directed by the District.
- l. Review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Consultant shall meet any Contractor's submittal schedule that Consultant has accepted.
- m. Evaluate and determine the acceptability of substitute or "or equal" materials and equipment proposed by contractor.
- n. Require special inspections or tests of contractor's work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by applicable laws and regulations of any governmental agency or the Contract Documents. Consultant's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. Consultant shall be entitled to rely on the results of such tests.
- o. Assist and coordinate with the District, contractor and, if applicable, their Operations Contractor, with regard to start-up and testing requirements of the Project. Review and approve all required start-up procedures required by the Contract. Observe all start-up activities to ensure conformity with the requirements of the Contract Documents. Review and approve any performance testing required by the Contract Documents.
- p. Assist the District with the coordination of any training of the District's Operations contractor or other such persons as designated by the District.
- q. Render formal written decisions on all duly submitted issues relating to the acceptability of contractor's work or the interpretation of the requirements of the Contract

Documents pertaining to the execution, performance, or progress of Contractor's Work; review each duly submitted claim by the District or Contractor, and in writing either deny such claim in whole or in part, approve such claim, or decline to resolve such claim if Consultant in its discretion concludes that to do so would be inappropriate. In rendering such decisions, Consultant shall be fair and not show partiality to the District or contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.

r. Monitor all required Project records, including but not limited to delivery schedules, inventories and construction reports. Based upon the Project records, as well as Consultant's observations at the site and evaluations of the data reflected in contractor's application for payment, Consultant shall render a recommendation to the District concerning the amount owed to the contractor and shall forward the contractor's application for such amount to the District. Such approval of the application for payment shall constitute a representation by Consultant to the District, based on observations and evaluations, that:

- i. The work has progressed to the point indicated.
- ii. The work is in substantial accordance with the Contract Documents.
- iii. The contractor is entitled to payment in the recommended amount.

s. Receive, review, and transmit to the District maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Contract Documents, certificates of inspection, tests and approvals, shop drawings, samples and other data, and all required record documents which are to be assembled by contractor in accordance with the Contract Documents to obtain final payment.

t. Promptly after notice from contractor that contractor considers the entire Work ready for its intended use, in company with the District and contractor, conduct a pre-final inspection to determine if the Work is substantially complete. If, after considering any objections of the District, Consultant considers the Work substantially complete Consultant shall deliver a certificate of Substantial Completion to the District and contractor. If not, Consultant shall develop a list of items needing completion or correction, forward said list to the Contractor and provide written recommendations to the District concerning the acceptability of Work done and the use of the Project.

u. Prepare and furnish to the District two (2) sets of project record drawings showing appropriate record information based on Record Drawing information from contractor and Project documentation received from the District's inspector. Consultant shall also provide the District with an electronic copy of the project record documents.

v. In company with the District, conduct a final inspection and assist the District in closing out the construction contract, including but not limited to, providing recommendations concerning acceptance of the Project and preparing all necessary documents, including but not limited to, lien waivers, contractor's final affidavit, close-out change orders, certificate of final completion, and final payment application.

w. The construction phase will terminate upon written recommendation by Consultant for final payment to Contractors.

2.6. Detailed Observation of Construction.

Construction work shall be done under the full-time observation of at least one representative of Consultant; or by such additional representatives of the Consultant as may be necessary for observing the construction of the Project, as may be authorized and approved by the District. During detailed observation of construction Consultant shall act to protect the District's interests in Project and:

a. Take digital 3 x 5 color photographs of important aspects of the Project process and submit same on a regular basis to the District; such pictures to be properly categorized and identified as to date, time, location, direction and photographer, with subsequent notations on drawings.

b. Maintain appropriate field notes from which record drawings can be generated.

c. Maintain appropriate field records to document any and all disputes or claims, whether actual or potential with respect to construction of the Project.

d. Observe operation or performance testing and report findings to the District and contractor, including copies of bacteriological and pressure tests when potable water lines are involved upon completion of operable units.

2.7. Post-Construction Phase.

Upon written authorization from the District, Consultant, during the post-construction phase, shall:

a. Provide assistance in connection with the adjusting of Project equipment and systems.

b. Assist the District in training the District staff to operate and maintain Project equipment and systems.

c. Assist the District in developing procedures for control of the operation and maintenance of, and record keeping for Project equipment and systems.

d. Together with the District, visit the Project to observe any apparent defects in the Work, assist the District in consultations and discussions with Contractor concerning

correction of any such defects, and make recommendations as to replacement or correction of defective work, if present.

e. In company with the District or the District's Representative, provide an inspection of the Project within one month before the end of the correction period for Contractor's Work to ascertain whether any portion of the Work is subject to correction.

The post-construction phase services may commence during the construction phase and will terminate at the end of the Construction Contract's correction period.

2.8. Additional Services.

If not otherwise included in the Basic Services outlined in Sections 2.1 through 2.7 above and if authorized in an approved Work Authorization, Consultant shall furnish the following additional services:

a. Preparation of applications and supporting documents (except those already to be furnished under this Contract) for private or governmental grants, loans, bond issues or advances in connection with the Project.

b. Services resulting from significant changes in the general scope, extent or character of the Project or its design including, but not limited to, changes in size, complexity, the District's schedule or character of construction; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to and not reasonably anticipated prior to the preparation of such studies, reports or documents, or are due to any other causes beyond Consultant's control.

c. Preparation and submission of information to and necessary consultations with the local Transportation Department, Florida Department of Environmental Protection, Florida Department of Transportation, regional water management districts, U.S. Army Corps of Engineers or other appropriate regulatory agencies, in order to obtain necessary permits or approvals for construction of the Project, unless such permits are expressly included in Basic Services to be performed by Consultant hereunder as set forth in the Work Authorization issued hereunder.

d. Providing renderings or models for the District's use.

e. Investigations and studies involving detailed consideration of operations, maintenance and overhead expenses; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules and appraisals; and evaluating processes available for licensing and assisting the District in obtaining process licensing.

f. Furnishing services of independent professional associates and consultants for other than the contract services to be provided by Consultant hereunder.

- g. Services during out-of-town travel required of Consultant and directed by the District, other than visits to the Project site or the District's office.
- h. Assistance in connection with bid protests, rebidding or renegotiating contracts for construction, materials, equipment or services, except as otherwise provided for herein.
- i. Providing any type of property surveys, aerial photography or related engineering services needed for the transfer of interests in real property and field surveys for design purposes and engineering surveys and staking to enable contractors to proceed with their work and providing other special field surveys.
- j. Preparation of operating, maintenance and staffing manuals, except as otherwise provided for herein.
- k. Preparing to serve or serving as a consultant or witness for the District in any litigation, or other legal or administrative proceeding, involving the Project (except for assistance in consultations which are included as part of the Basic Services to be provided herein).
- l. Assist in the review of private development activities requiring review and approval by the District, including but not limited to comprehensive plan reviews, land development code amendments, and Development of Regional Impact studies.
- m. Represent the District on engineering topics before local governments and other governmental entities.
- n. Such additional services as may be requested by the District pursuant to a duly issued Work Authorization.
- o. Additional services rendered by Consultants in connection with a Project, not otherwise provided for in this Contract or not customarily furnished in accordance with generally accepted engineering practice.

2.9. Grant Writing and Administration

- a. Grant writing and Administration services which shall include, but not be limited to: grant application development and submission, identifying Project/program needs, formulating appropriate grant solutions, developing program linkages, reviewing and developing necessary policies and procedures, developing and administering the program(s), conducting environmental review(s), monitoring of contractors and Project activities to ensure program compliance, coordinating with all funding agencies, developing and administering agency contract(s), tracking and managing program funds in compliance with program guidelines, oversight of citizen complaint processes, providing reports and technical assistance required to complete grant/loan programs and as requested by the District, and Contract Management. Services provided pursuant to this paragraph shall be provided by the Consultant only after the District's

approval of a duly issued Work Authorization setting forth the specific tasks to be performed by the Consultant.

ARTICLE THREE THE DISTRICT'S RESPONSIBILITIES

3.1. The District shall designate in writing a representative to act as the District's representative with respect to the services to be rendered under this Contract (hereinafter referred to as the "the District's Representative"). The District's Representative shall have the District to transmit instructions, receive information, interpret and define the District's policies and decisions with respect to Consultant's services for the Project. However, the District's Representative is not authorized to issue any verbal or written orders or instructions to the Consultant that would have the effect, or be interpreted to have the effect, of modifying or changing in any way whatever:

- a. The scope of services to be provided and performed by the Consultant hereunder or in any approved Work Authorization;
- b. The time the Consultant is obligated to commence and complete all such services;
or
- c. The amount of compensation the District is obligated or committed to pay the Consultant.

3.2. The District's Representative shall:

- a. Review and make appropriate recommendations on all requests submitted by the Consultant for payment for services and work provided and performed in accordance with this Contract;
- b. Provide all criteria and information requested by Consultant as to the District's requirements, for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations;
- c. Upon request from Consultant, assist Consultant by placing at Consultant's disposal all available information in the District's possession pertinent to the Project, including existing drawings, specifications, shop drawings, product literature, previous reports and any other data relative to design or construction of the Project;
- d. Arrange for access to and make all provisions for Consultant to enter the Project site to perform the services to be provided by Consultant under this Contract; and
- e. Provide notice to Consultant of any deficiencies or defects discovered by the District with respect to the services to be rendered by Consultant hereunder.

3.3. Consultant acknowledges that access to the Project Site, to be arranged by the District for Consultant, may be provided during times that are not the normal business hours of the Consultant.

3.4. The District shall be responsible for the acquisition of all easements, property sites, rights-of-way, or other property rights required for the Project and for the costs thereof, including the costs of any required land surveys in connection with such acquisition.

3.5. For the purposes of this Contract, the District's Representative shall be:

John Rittenhouse or current District Manager
510 3rd St
Cedar Key, FL 32625

ARTICLE FOUR TERM AND TIME

4.1 The term of this Contract shall commence on the date signed by the last party to sign the Contract and continue for three (3) years from such date, unless otherwise terminated as provided herein. At the District's sole discretion, the term of this Contract may be extended for two (2) additional one (1) year terms under the same terms and conditions as provided herein.

4.2. Services to be rendered by Consultant shall be commenced subsequent to the execution of any Work Authorizations issued pursuant to this Contract, after receiving written Notice to Proceed from the District for all or any designated portion of the Project and shall be performed and completed in accordance with the Project Schedule attached to the Work Authorization for the Project.

4.3. Should Consultant be obstructed or delayed in the prosecution or completion of its services as a result of unforeseeable causes beyond the control of Consultant, and not due to its own fault or neglect, including but not restricted to acts of God or of public enemy, acts of government or of the District, fires, floods, epidemics, quarantine regulations, strikes or lock-outs, then Consultant shall notify the District in writing within five (5) working days after commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which Consultant may have had to request a time extension.

4.4. No interruption, interference, inefficiency, suspension or delay in the commencement or progress of Consultant's services from any cause whatsoever, including those for which the District may be responsible in whole or in part, shall relieve Consultant of its duty to perform or give rise to any right to damages or additional compensation from the District. Consultant's sole remedy against the District will be the right to seek an extension of time to its schedule. This paragraph shall expressly apply to claims for early completion, as well as claims based on late completion. Provided, however, if through no fault or neglect of the Consultant, the services to be provided hereunder have not been completed within the schedule identified in the Work Authorization, the Consultant's compensation shall be equitably adjusted, with respect to those services that have not yet been performed, to reflect the incremental increase in costs experienced by Consultant.

4.5. Should the Consultant fail to commence, provide, perform or complete any of the services to be provided hereunder in a timely and reasonable manner, in addition to any other rights or remedies available to the District hereunder, the District at its sole discretion and option may withhold any and all payments due and owing to the Consultant until such time as the Consultant resumes performance of its obligations hereunder in such a manner so as to reasonably establish to the District's satisfaction that the Consultant's performance is or will shortly be back on schedule.

4.6. When the Consultant and the District enter into a Work Authorization where the term of the Work Authorization expires on a date that is later than the date that this Contract expires, the Consultant and the District agree that the terms of this Contract and any amendments, attachments or provisions thereof are automatically extended until the expiration or full completion of the requirements of the Work Authorization have been performed. Cancellation by the District of any remaining work prior to the full completion of the requirements of the Work Authorization shall cause the terms of this Contract to terminate at the same time. This provision only applies when the expiration of the Work Authorization extends beyond the expiration of this Contract. It does not apply when a Work Authorization expires or is cancelled prior to the expiration of this Contract.

ARTICLE FIVE COMPENSATION

5.1. Compensation and the manner of payment of such compensation by the District for services rendered hereunder by Consultant shall be as prescribed in Exhibit A, entitled "Basis of Compensation," which is attached hereto and made a part hereof.

5.2. The total amount to be paid by the District under this Contract for all services and materials, including "out of pocket" expenses and any approved subcontracts, shall not exceed the amount set forth in the approved Work Authorizations without prior approval of the District. The Consultant shall notify the District's Representative in writing when 90% of an approved "not to exceed amount" has been reached.

5.3. Invoices received by the District from the Consultant pursuant to this Contract will be reviewed and approved in writing by the District's Representative, who shall indicate whether services have been rendered in conformity with the Contract, and then sent to the District clerk for processing payment. All invoices shall contain a detailed breakdown of the services provided for which payment is being requested. Invoices shall be paid in accordance with the Florida Prompt Payment Act. In addition to detailed invoices, upon request of the District's Representative, Consultant will provide the District with detailed periodic Status Reports on the Project.

5.4. "Out-of-pocket" expenses shall be reimbursed in accordance with Florida law and any approved Work Authorization. All requests for payment of "out-of-pocket" expenses eligible for reimbursement under the terms of this Contract shall include copies of paid receipts, invoices, or other documentation acceptable to the District's Representative. Such documentation shall be

sufficient to establish that the expense was actually incurred and necessary in the performance of the Scope of Work described in this Contract.

5.5. In order for both parties herein to close their books and records, the Consultant will clearly state "final invoice" on the Consultant's final/last billing to the District for each Work Authorization. This final invoice shall also certify that all services provided by Consultant have been performed in accordance with the applicable Work Authorization and all charges and costs have been invoiced to the District. Because this account will thereupon be closed, any and other further charges not included on this final invoice are waived by the Consultant. Acceptance of final payment by Consultant shall constitute a waiver of all claims and liens against the District for additional payment.

5.6 Consultant acknowledges that the District, during any fiscal year, shall not expend money, incur any liability, or enter into any agreement which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any agreement, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such agreement. Nothing herein contained shall prevent the making of agreements for a period exceeding one year, but any agreement so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years. Accordingly, the District's performance and obligation to pay under this agreement is contingent upon annual appropriation.

ARTICLE SIX WAIVER OF CLAIMS

6.1. Consultant's acceptance of final payment shall constitute a full waiver of any and all claims related to the obligation of payment by it against the District arising out of this Contract or otherwise related to the Project, except those previously made in writing and identified by Consultant as unsettled at the time of the final payment. Neither the acceptance of Consultant's services nor payment by the District shall be deemed to be a waiver of any of the District's rights against Consultant.

ARTICLE SEVEN TRUTH IN NEGOTIATION REPRESENTATIONS

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

7.2. In accordance with provisions of Section 287.055(5)(a), Florida Statutes, the signature of this Contract by the Consultant shall also act as the execution of a truth in negotiation certificate certifying that the wage rates, overhead charges, and other costs used to determine the

compensation provided for in this Contract are accurate, complete and current as of the date of the Contract and no higher than those charged the Consultant's most favored customer for the same or substantially similar service. Should the District determine that said rates and costs were significantly increased due to incomplete, noncurrent or inaccurate representation, then said rates and compensation provided for in this Contract shall be adjusted accordingly.

ARTICLE EIGHT TERMINATION OR SUSPENSION

8.1. Consultant shall be considered in material default of this Contract and such default will be considered cause for the District to terminate this Contract, in whole or in part, as further set forth in this section, for any of the following reasons: (a) failure to begin work under the Contract within a reasonable time after issuance of the Notice(s) to Proceed of a Work Authorization, or (b) failure to properly and timely perform the services to be provided hereunder or as directed by the District pursuant to this Contract, or (c) the bankruptcy or insolvency or a general assignment for the benefit of creditors by Consultant or by any of Consultant's principals, officers or directors, or (d) failure to obey laws, ordinances, regulations or other codes of conduct, or (e) failure to perform or abide by the terms of this Contract, or (f) for any other just cause. The District may so terminate this Contract, in whole or in part, by giving the Consultant seven (7) calendar days' written notice.

8.2. If, after notice of termination of this Contract as provided for in paragraph 8.1 above, it is determined for any reason that Consultant was not, in default, or that its default was excusable, or that the District otherwise was not entitled to the remedy against Consultant provided for in paragraph 8.1, then the notice of termination given pursuant to paragraph 8.1 shall be deemed to be the notice of termination provided for in paragraph 8.3 below and Consultant's remedies against the District shall be the same as and limited to those afforded Consultant under paragraph 8.3 below.

8.3. The District shall have the right to terminate this Contract, in whole or in part, without cause upon seven (7) calendar days' written notice to Consultant. In the event of such termination for convenience, Consultant's recovery against the District shall be limited to that portion of the fee earned through the date of termination, together with any retainage withheld and any costs reasonably incurred by Consultant that are directly attributable to the termination, but Consultant shall not be entitled to any other or further recovery against the District, including, but not limited to, anticipated fees or profits on work not required to be performed.

8.4. Upon termination, the Consultant shall deliver to the District all original papers, records, documents, drawings, models, and other material set forth and described in this Contract.

8.5. The District shall have the power to suspend all or any portions of the services to be provided by Consultant hereunder upon giving Consultant two (2) calendar days' prior written notice of such suspension. If all or any portion of the services to be rendered hereunder are so suspended, the Consultant's sole and exclusive remedy shall be to seek an extension of time to its schedule in accordance with the procedures set forth in Article Four herein.

**ARTICLE NINE
PERSONNEL**

9.1. The Consultant is, and shall be, in the performance of all work services and activities under this Contract, an Independent Contractor, and not an employee, agent, or servant of the District. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the Consultant's sole direction, supervision, and control. The Consultant shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Consultant's relationship and the relationship of its employees to the District shall be that of an Independent Contractor and not as employees or agents of the District.

9.2. The Consultant represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the District, nor shall such personnel be entitled to any benefits of the District including, but not limited to, pension, health and workers' compensation benefits.

9.3. All of the services required hereunder shall be performed by the Consultant or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

9.4. The Consultant warrants that all services shall be performed by skilled and competent personnel to professional standards applicable to firms of similar local and national reputation.

**ARTICLE TEN
SUBCONTRACTING**

10.1. Consultant shall not subcontract any services or work to be provided to the District without the prior written approval of the District's Representative. The District reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractors in order to make a determination as to the capability of the subcontractor to perform properly under this Contract. The District's acceptance of a subcontractor shall not be unreasonably withheld. The Consultant is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities.

**ARTICLE ELEVEN
FEDERAL AND STATE TAX**

11.1. The District is exempt from payment of Florida state sales and use taxes. Upon request, the District will provide an exemption certificate to Consultant. The Consultant shall not be exempted from paying sales tax to its suppliers for materials used to fulfill its obligations pursuant to this Contract, nor is the Consultant authorized to use the District's tax exemption number in securing such materials.

11.2. The Consultant shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this Contract.

ARTICLE TWELVE OWNERSHIP OF DOCUMENTS

12.1. Upon completion or termination of this Contract, all records, documents, tracings, plans, specifications, maps, evaluations, reports, computer assisted design or drafting disks and other technical data, other than working papers, prepared or developed by Consultant under this Contract shall be delivered to and become the property of the District. Consultant, at its own expense, may retain copies for its files and internal use. Consultant assumes no liability for the use of such documents by the District or others for purposes not intended under this Contract.

12.2 In addition to other requirements provided herein, Consultant shall comply with public records laws embodied in chapter 119, Florida Statutes, and specifically shall:

a. Keep and maintain public records required by the District in order to perform the Scope of Services identified herein.

b. Upon request from the District provide the District with any requested public records or allow the requested records to be inspected or copied within a reasonable time by the District.

c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and thereafter if the Consultant does not transfer all records to the District.

d. Transfer, at no cost, to the District all public records in possession of the Consultant upon termination of this Contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the District, upon request from the District, in a format that is compatible with the information technology systems of the District. If the Consultant keeps and maintains public records upon the conclusion of this Contract, the Consultant shall meet all applicable requirements for retaining public records that would apply to the District.

e. If Consultant does not comply with a public records request, the District shall treat that omission as breach of this Contract and enforce the contract provisions accordingly. Additionally, if the Consultant fails to provide records when requested, the Consultant may be subject to penalties under section 119.10, Florida Statutes and reasonable costs of enforcement, including attorney fees.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING

TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT ALICIA JOHNS, 510 3rd St Cedar Key, FL 32625, 352-543-5285, ALICIA@CKWATER.ORG

**ARTICLE THIRTEEN
MAINTENANCE OF RECORDS**

13.1. Consultant will keep adequate records and supporting documentation which concern or reflect its services hereunder. The records and documentation will be retained by Consultant for a minimum of five (5) years from the date of termination of this Contract or the date the Project is completed, whichever is later. The District, or any duly authorized agents or representatives of the District, shall have the right to audit, inspect and copy all such records and documentation as often as they deem necessary during the period of this Contract and during the five (5) year period noted above; provided, however, such activity shall be conducted only during normal business hours.

**ARTICLE FOURTEEN
INSURANCE**

14.1. During the life of the Contract the Consultant shall provide, pay for, and maintain, with companies satisfactory to the District, the types of insurance described herein. All insurance shall be from responsible companies duly authorized to do business in the State of Florida and/or responsible risk retention group insurance companies registered with the State of Florida. Prior to execution of this Contract by the District, the insurance coverages and limits required must be evidenced by properly executed Certificates of Insurance on forms which are acceptable to the District. The Certificates must be personally, manually signed by the Authorized Representatives of the insurance company/companies shown on the Certificates with proof that he/she is an authorized representative thereof. In addition, certified, true and exact copies of all insurance policies required shall be provided to the District, on a timely basis, if required by the District. These Certificates and policies shall contain provisions that thirty (30) days' written notice by registered or certified mail shall be given the District of any cancellation, intent not to renew, or reduction in the policies' coverages, except in the application of the Aggregate Limits Provisions. In the event of a reduction in the Aggregate Limit of any policy, the Consultant shall immediately take steps to have the Aggregate Limit reinstated to the full extent permitted under such policy. All insurance coverages of the Consultant shall be primary to any insurance or self-insurance program carried by the District applicable to this Project.

14.2. The acceptance by the District of any Certificate of Insurance for this Project evidencing the insurance coverages and limits required in this Contract does not constitute approval or agreement by the District that the insurance requirements have been met or that the insurance policies shown on the Certificates of Insurance are in compliance with the requirements of this Contract.

14.3. Before starting and until acceptance of the work by the District, Consultant shall maintain insurance of the types and to the limits specified in paragraph 14.7 entitled "Required Insurance."

Consultant shall require each of its subcontractors and subcontractors to procure and maintain, until the completion of that subcontractor's or subcontractor's work, insurance of the types and to the limits specified in paragraph 14.7, unless such insurance requirement for the subcontractor or subcontractor is expressly waived in writing by the District. Said waiver shall not be unreasonably withheld upon Consultant representing in writing to the District that Consultant's existing coverage includes and covers the subcontractors and subcontractors for which a waiver is sought, and that such coverage is in conformance with the types and limits of insurance specified in paragraph 14.7. All liability insurance policies, other than the Professional Liability, Worker's, Compensation and Employers' Liability policies, obtained by Consultant to meet the requirements of this Contract shall name the District as an additional insured as to the operations of the Consultant under this Contract and the Contract Documents and shall contain severability of interests provisions.

14.4. If any insurance provided pursuant to this Contract expires prior to the completion of the work, renewal Certificates of Insurance and, if requested by the District, certified, true copies of the renewal policies shall be furnished by Consultant thirty (30) days prior to the date of expiration. Should at any time the Consultant not maintain the insurance coverages required in this Contract, the District may cancel this Contract or at its sole discretion shall be authorized to purchase such coverages and charge the Consultant for such coverages purchased. The District shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverages purchased or the insurance company or companies used. The decision of the District to purchase such insurance coverages shall in no way be construed to be a waiver of its rights under this Contract.

14.5. Certificates of insurance, reflecting evidence of the required insurance, shall be filed with the District's Representative prior to the commencement of the work. The Consultant shall not commence work under this Contract until it has obtained all insurance required under this paragraph and such insurance has been approved by the District's Representative, nor shall the Consultant allow any subcontractor to commence work on its sub-contract until all similar such insurance required of the subcontractor has been obtained and approved.

14.6. Policies shall be issued by companies authorized to do business under the laws of the State of Florida and shall have adequate Policyholders and Financial ratings in the latest ratings of A.M. Best rating of A- or better.

14.7. Required Insurance

- a. Workers' Compensation insurance as required by the State of Florida.
- b. Employers Liability Insurance with limits of \$1,000,000 per Accident, \$1,000,000.00 Disease, policy limits, \$1,000,000 Disease each employee.
- c. Comprehensive business automobile and vehicle liability insurance covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, and owned, hired or non-owned vehicles, with minimum limits of \$1,000,000 Combined Single Limit, and if split limits are provided, the minimum acceptable limits shall be \$250,000 per person, \$500,000 per occurrence, \$250,000 property damage.

d. Commercial general liability covering claims for injuries to members of the public or damage to property of others arising out of any covered act or omission of Consultant or any of its employees, agents or subcontractors or sub consultants, including Premises and/or Operations, Independent Contractors; Broad Form Property Damage and a Contractual Liability Endorsement with \$1,000,000 Combined Single Limit, and if split limits are provided, the minimum acceptable limits shall be \$250,000 per person, \$500,000 per occurrence, \$500,000 property damage.

e. Professional liability insurance of at least \$1,000,000.00 for design errors and omissions, exclusive of defense costs. Consultant shall be required to provide continuing Professional Liability Insurance to cover the Project for a period of two (2) years after the Project is completed. The District may require the Consultant to provide a higher level of coverage for a specific project and time frame.

f. Consultant shall require its subcontractors to be adequately insured at least to the limits prescribed above, and to any increased limits of Consultant if so required by the District during the term of this Contract. The District will not pay for increased limits of insurance for subcontractors.

The District reserves the right to require any other insurance coverage it deems necessary depending upon the exposures.

14.8. The Consultant, and its insurance carrier, waives all subrogation rights against the District, their officials, employees, and agents for all losses or damages which occur during the contract and for any events occurring during the contract period, whether the suit is brought during the contract period or not. The District requires all policies to be endorsed with a Waiver of our Right to Recover from Others or equivalent.

ARTICLE FIFTEEN INDEMNIFICATION

15.1. The Consultant shall indemnify and hold harmless the District, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Consultant and other persons employed or utilized by the Consultant in the performance of the Contract.

15.2 The first ten dollars (\$10.00) of remuneration paid to Consultant under this Contract shall be in consideration for the indemnification provided for in this article.

**ARTICLE SIXTEEN
SUCCESSORS AND ASSIGNS**

16.1. The District and the Consultant each binds itself and its successors, executors, administrators and assigns to the other party of this Contract and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the District which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the District and the Consultant.

**ARTICLE SEVENTEEN
REMEDIES**

17.1. This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Contract shall be held in the Levy County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

**ARTICLE EIGHTEEN
CONFLICT OF INTEREST**

18.1. The Consultant represents that it has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in the Code of Ethics for Public Officers and Employees (Chapter 112, Part III, Florida Statutes). The Consultant further represents that no person having any interest shall be employed for said performance.

18.2. The Consultant shall promptly notify the District Administrator, in writing, by certified mail, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the Consultant's judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the Consultant may undertake and request an informed determination from the District Administrator as to whether the association, interest or circumstance would be reviewed by the District Administrator as constituting a conflict of interest if entered into by the Consultant. The District Administrator agrees to notify the Consultant of its opinion by certified mail within thirty (30) days of receipt of notice by the Consultant. Such determination may be appealed to the District of Directors by the Consultant within thirty (30) days of the District Administrator's notice to the Consultant. If, in the opinion of the District Administrator or the District, the prospective business association, interest or circumstance would not constitute a conflict of interest by the Consultant, the District Administrator or the District shall so state in the notice and the Consultant shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the District by the Consultant under the terms of this Contract.

**ARTICLE NINETEEN
DEBT**

19.1. The Consultant shall not pledge the District's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien or any form of indebtedness. The Consultant further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

**ARTICLE TWENTY
NONDISCRIMINATION**

20.1. The Consultant warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

**ARTICLE TWENTY-ONE
ENFORCEMENT COSTS**

21.1. If any legal action or other proceeding is brought for the enforcement of this Contract, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

**ARTICLE TWENTY-TWO
NOTICE**

22.1. All notices required in this Contract shall be sent by certified mail, return receipt requested to the Consultant's Representative and the District Representative at the addresses shown in Articles One and Three hereof. Service of process shall further be effected upon such Representatives.

**ARTICLE TWENTY-THREE
MODIFICATION OF SCOPE OF WORK**

23.1. It is the intent of this Contract that the District shall from time to time issue Work Authorizations for Consultant to perform work. Work Authorizations shall be duly approved by the District prior to issuance. Consultant shall expediently perform such work within the schedule indicated in the work order in accordance with Article Four above. Consultant shall timely cooperate with the District Representative in negotiating the cost and schedule of said work orders prior to submission for approval. The District reserves the right to make changes in the Scope of Work, including alterations, reductions therein or additions thereto. Upon receipt by the Consultant of the District's notification of a contemplated change, the Consultant shall, in writing:

(1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the District of any estimated change in the completion date, and (3) advise the District if the contemplated change shall effect the Consultant's ability to meet the completion dates or schedules of this Contract.

23.2. If the District so instructs in writing, the Consultant shall suspend work on that portion of the Scope of Work or work order affected by a contemplated change, pending the District's decision to proceed with the change. Consultant shall be entitled to invoice the District for that portion of the work completed prior to receipt of the written notice.

23.3. If the District elects to make the change, the District shall initiate an amendment and the Consultant shall not commence work on any such change until such written amendment is signed by the Consultant and the District.

ARTICLE TWENTY-FOUR MODIFICATION

24.1. The District and the Consultant agree that this Contract together with the Exhibits hereto, sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto in accordance with Article Twenty Four - Modification of Scope of Work. In the event of any conflict or inconsistency between this Contract and the provisions in the incorporated Exhibits, the terms of this Contract shall supersede and prevail over the terms in the Exhibits.

ARTICLE TWENTY FIVE MISCELLANEOUS

25.1. Consultant, in representing the District, shall promote the best interest of the District and assume towards the District a duty of the highest trust, confidence and fair dealing.

25.2. No modification, waiver, suspension or termination of the Contract or of any terms thereof shall impair the rights or liabilities of either party.

25.3. This Contract is not assignable, in whole or in part, by Consultant without the prior written consent of the District.

25.4. Waiver by either party of a breach of any provision of this Contract shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Contract.

25.5. The headings of the Articles, Exhibits, Parts and Attachments as contained in this Contract are for the purpose of convenience only and shall not be deemed to expand, limit or change the provisions in such Articles, Exhibits, Parts and Attachments.

25.6. This Contract, including the referenced Exhibits and Attachments hereto, constitutes the entire agreement between the parties hereto and shall supersede, replace and nullify any and all prior agreements or understandings, written or oral, relating to the matter set forth herein, and any such prior agreements or understanding shall have no force or effect whatever on this Contract.

25.7. The Consultant understands and acknowledges that this Contract will be void, in the event the conditions under Section 287.133, Florida Statutes applies to the Consultant, relating to conviction for a public entity crime.

25.8. This Contract shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. All parties agree and accept that jurisdiction of any dispute or controversy arising out of this Contract, and any action involving the enforcement or interpretation of any rights hereunder shall be brought exclusively in Levy County, Florida or Leon County, Florida, and venue for litigation arising out of this Contract shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device.

25.9. BY ENTERING INTO THIS AGREEMENT, CONSULTANT AND DISTRICT HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

**ARTICLE TWENTY-SEVEN
PROHIBITION AGAINST CONTRACTING WITH SCRUTINIZED COMPANIES**

26.1 Pursuant to Section 287.135, Florida Statutes, contracting with any entity that is listed on the Scrutinized Companies or Other Entities that Boycott Israel List or that is engaged in the boycott of Israel, that is listed on the Scrutinized Companies with Activities in Sudan List, that is listed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, the Scrutinized Companies with Activities in Iran Terrorism Sectors List, or is engaged in business operations in Cuba or Syria (collectively the “Scrutinized Companies’ Lists”) is prohibited. Consultant shall certify that the company is not on any of the Scrutinized Companies’ Lists. If this Agreement is for One Million Dollars (\$1,000,000) or more, it may be terminated at the District’s option if it is discovered that the Consultant submitted false documents of certification or is listed on any of the Scrutinized Companies’ Lists. If this Agreement is less than One Million Dollars (\$1,000,000), this Agreement may also be terminated at the District’s option if the company is listed on the Scrutinized Companies or Other Entities that Boycott Israel List or engaged in the boycott of Israel. By entering into this Agreement, Consultant is certifying that they are not on any of the Scrutinized Companies’ Lists and are not participating in a boycott of Israel. Submitting a false certification shall be deemed a material breach of contract. The District shall provide notice, in writing, to Consultant of the District’s determination concerning the false certification. Consultant shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination was in error. If Consultant does not demonstrate that the District’s determination of false certification was made in error, then the District shall have the right to terminate the contract and seek civil remedies.

ARTICLE TWENTY-SEVEN

E-VERIFY, IMMIGRATION AND NATIONALITY ACT REQUIREMENTS

27.1. As a mandatory condition precedent to entering into this Contract and in compliance with Section 448.095, Florida Statutes, Consultant and its subcontractors shall register with and use the E-Verify system to verify work authorization status of all employees hired after January 1, 2021.

27.2. Consultant shall require each of its subcontractors to provide Consultant with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Consultant shall maintain a copy of the subcontractor's affidavit as part of and pursuant to the records retention requirements of this Contract.

27.3. County, Consultant, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), Florida Statutes, or the provisions of this section shall terminate the contract with the person or entity.

27.4. County, upon good faith belief that a subcontractor knowingly violated the provisions of this section, but Consultant otherwise complied, shall promptly notify Consultant and Consultant shall immediately terminate the contract with the subcontractor.

27.5. A contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Any contract termination under the provisions of this section may be challenged pursuant to Section 448.095(2)(d), Florida Statute, Consultant acknowledges that upon termination of this Contract by County for a violation of this section by Consultant, Consultant may not be awarded a public contract for at least one (1) year. Consultant further acknowledges that Consultant is liable for any costs incurred by County as a result of termination of any contract for a violation of this section.

27.6 The District shall consider the employment by Consultant of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If Consultant knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement.

27.7. Consultant or subcontractor shall insert in any subcontracts the clauses set forth in this section, including this subsection, requiring the subcontractors to include these clauses in any lower tier subcontracts. Consultant shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

ARTICLE TWENTY-EIGHT FEDERAL PROVISIONS

28.1. Federal grants will be used to fund services performed under this Contract in whole or in part. Consultant shall comply with the contractual provisions set forth in Exhibit C, Federal Provisions Applicable to Contractor. Provided, should any contractual provision set forth in Exhibit C be determined to be invalid, unenforceable, and/or inconsistent with Federal law, any such contractual provision(s) shall be deemed void and severed from Exhibit C, and such determination shall not affect the validity of the remainder of Exhibit C. Further, the Consultant

acknowledges that the Federal government is not a party to this agreement and is not subject to any obligations or liabilities to the non-Federal entity, Consultant, or any other party pertaining to any matter resulting from this Contract.

28.2 The Consultant and all its agents shall comply with all applicable federal, state and local regulations, including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements.

**ARTICLE TWENTY-NINE
SEVERABILITY**

26.1. If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract, or the application of such term or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

IN WITNESS WHEREOF, the parties hereto have set their hands and official seals the day and year first above written.

CEDAR KEY WATER AND SEWER DISTRICT

(printed name and title)

Attest:

NORTH FLORIDA PROFESSIONAL SERVICES, INC.
a Florida Profit Corporation

By: _____
Corporate Secretary

By: _____

[Print Name]

[Print Name]

DATE: _____

[Title]

SEAL

DATE: _____

ACKNOWLEDGEMENT OF FIRM, IF A CORPORATION

STATE OF _____ COUNTY OF _____

The foregoing instruments was acknowledged before me this

_____ By _____

(Date)

(Name of officer or agent, title of officer or agent)

on behalf of the corporation, pursuant to the powers conferred upon said officer or agent by the corporation. He/she personally appeared before me at the time of notarization, and is personally known to me or has produced

_____ as identification and did certify to have knowledge of the matters

(Type of Identification)

stated in the foregoing instrument and certified the same to be true in all respects.

Subscribed and sworn to (or affirmed) before me this _____

(Date)

_____ Commission Number _____

(Official Notary Signature and Notary Seal)

_____ Commission Expiration Date _____

(Name of Notary typed, printed or stamped)



ACKNOWLEDGEMENT OF FIRM, IF A PARTNERSHIP

STATE OF _____ COUNTY OF _____

The foregoing instrument was acknowledged before me this

_____ By _____

(Date)

(Name of acknowledging partner or agent)

on behalf of _____ a partnership.

He/She personally appeared before me at the time of notarization, and is personally known to me or has produced

_____ as identification and did certify to have knowledge of the

(Type of Identification)

matters in the foregoing instrument and certified the same to be true in all respects.

Subscribed and sworn to (or affirmed) before me this _____

(Date)

_____ Commission Number _____

(Official Notary Signature and Notary Seal)

_____ Commission Expiration Date _____

(Name of Notary typed, printed or stamped)

EXHIBIT A

BASIS OF COMPENSATION

- A.1.** Basic Services Outlined In Sections 2.1, 2.2, 2.3, 2.4, and 2.5 of this Contract:
- A.1.1. As consideration for providing Basic Services as set forth in Article Two, Sections 2.1, 2.2, 2.3, 2.4, and 2.5, the District agrees to pay, and Consultant agrees to accept, the lump sum fees to be negotiated and included within each applicable Work Authorization. The lump sum fees shall be based upon the Consultant's estimated work effort to complete the work described in the Work Authorization, utilizing the Consultant's Employee Hourly Rate Schedule, which is attached hereto.
- A.1.2. Payment for Basic Services under Sections 2.1, 2.2, 2.3, 2.4, and 2.5 of this Contract shall be paid on a lump sum basis in accordance with set milestones or in equal monthly installments based upon the estimated time for completion of the services, as determined in an approved Work Authorization:
- A.2.** Basic Services Outlined in Section 2.6 and 2.7 and Additional Services Outlined in Section 2.8 of this Contract:
- A.2.1. As consideration for providing Basic Services under Section 2.6 entitled "Detailed Observation of Construction", Section 2.7 entitled Post Construction Services, and for properly approved Additional Services set forth in Section 2.8 of this Contract, the District agrees to pay and Consultant agrees to accept payment on a time and reimbursable cost basis, subject to a not-to-exceed amount. Payments for services provided under Sections 2.6, 2.7, and 2.8 of this Contract shall be made monthly on a time and reimbursable cost basis computed in accordance with Consultant's Employee Hourly Rate Schedule for employees working under this Contract, which is attached hereto. Alternatively, if the scope of the work to be performed and the work effort associated with same can be determined with reasonable certainty, a lump sum fee may be negotiated by the Parties pursuant to Section A.1 above. Payment shall be made monthly on an as needed basis, not to exceed 40 hours per person per week. Payment for services performed by individuals beyond 40 hours per week or Saturdays, Sundays or holidays shall be increased by a factor of 1.5 applied to "Consultant's Employee Hourly Rate Schedule," provided such overtime work is approved by the District in advance and not due to Consultant's own fault or neglect. Notwithstanding the foregoing, if mutually agreed upon by the Parties, payment for Basic Services under Section 2.6 entitled "Detailed Observation of Construction", Section 2.7 entitled Post Construction Services, and for Additional Services set forth in Section 2.8 of this Contract may also be structured on a lump sum fee basis based upon the Consultant's estimated work effort to complete the work described in the Work Authorization, utilizing the Consultant's Employee Hourly Rate Schedule, which is attached hereto.

A.2.2. Reimbursable costs shall mean the actual expenditures made by the Consultant while providing Basic Services under Section 2.6 and 2.7 of Additional Services under Section 2.8, in the interest of a Project, listed in the following sub-paragraphs:

- (a) expenses for transportation and subsistence incidental to out-of-town travel required by Consultant and directed by the District, other than visits to the Project Site or the District's main office in Cedar Key, FL;
- (b) expenses for preparation, reproduction, photographic production techniques, postage and handling of drawings, specifications, bidding documents and similar Project-related items in addition to those otherwise required in Sections 2.1, 2.2, 2.3, 2.4, and 2.5 of Basic Services;
- (c) when authorized in advance by the District, except as specifically otherwise provided herein, the expense of overtime work requiring higher than regular rates; and
- (d) expenses for renderings, models and mock-ups requested by the District.

A.2.3. By way of example and not limitation, reimbursable costs shall specifically not include expenditures, except as otherwise described in paragraph A.2.2, such as:

- (a) expenses for transportation and subsistence;
- (b) overhead, including field office facilities;
- (c) overtime not authorized by the District; or
- (d) expenses for copies, reproductions, postage, handling, express delivery, and long distance communications.

A.3. Payments

A.3.1. Payments will be made for services rendered, no more than on a monthly basis, in accordance with the Florida Prompt Payment Act. The number of the purchase order by which the District the services have been made, shall appear on all invoices. All invoices shall be reasonably substantiated, identify the services rendered and must be submitted in triplicate in a form and manner required by the District.

A.3.2. Consultant acknowledges that Consultant's Employee Hourly Rate Schedule attached to this Exhibit are incorporated herein and, will be the basis for the District's budgeting, authorizing and monitoring of expenditures under this Contract.

A.3.3. As compensation for coordinating subcontractor activities for the District, Consultant shall be allowed an administrative fee not to exceed ten percent (10%) of the actual cost of services rendered pursuant to Sections 2.6, 2.7, and 2.8 of this Contract. For the purposes of this provision the actual cost of services rendered shall not include any mark-up between the vendor who actually performed the services and any sub-consultant. No administrative fee or mark-up shall be paid in conjunction with the provision of Basic Services as set forth in Sections 2.1, 2.2, 2.3, 2.4, and 2.5.

A.3.4. Consultant acknowledges and understands that payments for all services will be contingent on the release and receipt of grant funds from the Florida Department of Transportation and the Florida Department of Economic Opportunity.

CONSULTANT'S EMPLOYEE HOURLY RATE SCHEDULE

EXHIBIT B

WORK AUTHORIZATION FORM

Work Authorization No. ENG 26-1

to

Professional Services Contract Between the

Cedar Key Water and Sewer District

and

[insert firm]

A. SUMMARY OF SERVICES TO BE RENDERED

This work authorization addresses the necessary engineering and design services for (*Project Name/Description and Number*). The project includes...

The project is required...

Tasks associated with this project include [MUST Reference Sections 2.1 through 2.8, as applicable]...

B. PROJECT COST:

PROJECT: XX XXX

	Billed At	Number of Hours	Cost Extended
Principal	\$\$	2	\$\$
Associate	\$\$	4	\$\$
Project Engineer	\$\$	6	\$\$

LUMP SUM FEE: \$

or

NOT-TO-EXCEED FEE: \$

The work to be provided hereunder is funded by _____ grant. All payments pursuant to this work authorization are contingent on the release and receipt of these grant funds.

C. PROJECT SCHEDULE:

Preliminary Design (30%) - complete XX days from notice to proceed

Preliminary Design (60%) - complete XX days from notice to proceed

Preliminary Design (90%) - complete XX days from notice to proceed

Final Design - complete XX days from notice to proceed

Bid Services - complete XX days from notice to proceed
Construction - Contract Admin complete XX months after construction notice to proceed

D. NOTICE/PROJECT MANAGER OF CONSULTANT

APPROVED BY

Engineering Firm

For Cedar Key Water and Sewer
District

Print Name: _____

Name, Title of Signer:

Address:

City, State ZIP:

Phone:

Dated this ____ day of _____, 20 ____.

EXHIBIT C-1

FEDERAL PROVISIONS APPLICABLE TO CONSULTANT

The Consultant acknowledges and agrees that certain work to be performed under this Agreement may be fully or partially funded by Federal grants and therefore, the Consultant shall comply with the following provisions in performance of such Federally grant funded work, as applicable:

1. Contracting with small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms. When possible, the Consultant should ensure that small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms (See U.S. Department of Labor's list) are considered as set forth below. Such consideration means:

1. These business types are included on solicitation lists;
2. These business types are solicited whenever they are deemed eligible as potential sources;
3. Dividing procurement transactions into separate procurements to permit maximum participation by these business types;
4. Establishing delivery schedules (for example, the percentage of an order to be delivered by a given date of each month) that encourage participation by these business types;
5. Utilizing organizations such as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
6. Applying these requirements to subcontractors.
7. As used herein, the term "minority and women business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. Prior to award of any subcontract under this Agreement, Consultant shall document its efforts made to comply with the requirements of this paragraph. The Consultant shall state that it is an Equal Opportunity or Affirmative-Action employer in all solicitations or advertisements for subcontractors or employees who shall perform work under this Agreement.

2. Equal Employment Opportunity (As per 2 CFR Part 200, Appendix II(C); 41 CFR § 61-1.4; 41 CFR § 61-4.3) During the performance of this Agreement, the Consultant agrees as follows:

1. The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available

to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

2. The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

3. The Consultant will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Consultant's legal duty to furnish information.

3. **Drug Free Workplace Requirements:** All Consultants and contractors entering into Federal funded contracts over the simplified acquisition threshold (as defined at 41 U.S.C. § 134) must comply with the Drug Free Workplace Act of 1988 (41 U.S.C. 8102), which requires the Consultant to take certain actions to provide a drug-free workplace.

4. **Davis-Bacon Act:** If applicable, the Consultant agrees to comply with all provisions of the Davis Bacon Act as amended (40 U.S.C. §§ 3141-3144 and 3136-3148), and to require all of its subcontractors performing work under this Agreement to adhere to same. The Consultant and its subcontractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the Consultant and its subcontractors are required to pay wages not less than once a week. If the grant award contains Davis Bacon provisions, the Consultant shall place a copy of the current prevailing wage determination issued by the Department of Labor in the solicitation documents. The decision to award a contract shall be conditioned upon the acceptance of the wage determination. The Consultant shall must report all suspected or reported violations of the Davis-Bacon Act to the District.

5. **Copeland Anti Kick Back Act:** Consultant and its subcontractors shall comply with all the requirements of the Copeland Anti-Kickback Act (18 U.S.C. § 874 and 40 U.S.C. § 3145, as supplemented by Department of Labor regulations at 29 CFR Part 3), which are incorporated by reference to this Agreement. Consultant and its subcontractors are prohibited from inducing by any means any person employed in the construction, completion or repair of public work to give up any part of the compensation to which he or she is otherwise entitled.

6. **Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701–3708):** Where applicable, all contracts awarded in excess of \$100,000 that involve the employment of mechanics or laborers must be in compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented

by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. § 3702 of the Act, each contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

7. **Debarment and Suspension (Executive Orders 12549 and 12689):** A contract award (see 2 CFR 180.220) must not be made under this Agreement to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR part 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), Debarment and Suspension. SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The Consultant shall certify compliance. The Consultant further agrees to include a provision requiring such compliance in its lower tier covered transactions and subcontracts, which shall read as follows:

Applicants or bidders for a lower tier covered transaction (except procurement contracts for goods and services under \$25,000 not requiring the consent of a Council official) are subject to 2 C.F.R. Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)." In addition, applicants or bidders for a lower tier covered transaction for a subaward, contract, or subcontract greater than \$100,000 of Federal funds at any tier are subject to relevant statutes, including among others, the provisions of 31 U.S.C. 1352, as well as the common rule, "New Restrictions on Lobbying," published at 55 FR 6736 (February 26, 1990), including definitions, and the Office of Management and Budget "Governmentwide Guidance for New Restrictions on Lobbying," and notices published at 54 FR 52306 (December 20, 1989), 55 FR 24540 (June 15, 1990), 57 FR 1772 (January 15, 1992), and 61 FR 1412 (January 19, 1996)

8. **Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352):** Consultants that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. The Consultant shall certify compliance.

9. **501(c)(4) Entities.** The Lobbying Disclosure Act of 1995, as amended (2 U.S.C. §1601 *et seq.*), prohibits any organization described in Section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities, from receiving federal funds, including through an award, grant, and/or subgrant. Consultant shall ensure that its subcontractors and comply with this requirement.

10. **Federal Changes:** Consultant shall comply with all applicable Federal agency regulations, policies, procedures and directives, including without limitation those listed directly or by reference, as they may be amended or promulgated from time to time during the term of the contract.

11. **Safeguarding Personal Identifiable Information:** Consultant and its subcontractors will take reasonable measures to safeguard protected personally identifiable information and other information designated as sensitive by the awarding agency or is considered sensitive consistent with applicable Federal, state and/or local laws regarding privacy and obligations of confidentiality.

12. **Energy Policy and Conservation Act (43 U.S.C. §6201):** Contracts shall comply with mandatory standards and policies relating to energy efficiency, stating in the state energy conservation plan issued in compliance with the Energy Policy and Conservation act. (Pub. L. 94-163, 89 Stat. 871) [53 FR 8078, 8087, Mar. 11, 1988, as amended at 60 FR 19639, 19645, Apr. 19, 1995].

13. **Right to Inventions Under Federal Grants.** If applicable, Consultant shall comply with the requirements of 37 C.F.R. part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

14. **Mandatory Disclosures (2 CFR 200.113).** The non-Federal entity or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that have received a Federal award including the term and condition outlined in appendix XII to this part are required to report certain civil, criminal, or administrative proceedings to SAM (currently FAPIIS). Failure to make required disclosures can result in any of the remedies described in § 200.339.

15. **Domestic preferences for procurements (2 CFR 200.322).**

(a) As appropriate and to the extent consistent with law, the Consultant should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

16. **Trafficking Victims Protection Act (2 CFR Part 175)**

The Consultant shall include adhere to the the following and shall include the following language in all subawards if funding could be provided to a private entity under such subaward, as defined below:

I. Trafficking in persons.

a. Provisions applicable to a recipient that is a private entity.

1. You as the recipient, your employees, Consultants under this award, and Consultants' employees may not -

i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;

ii. Procure a commercial sex act during the period of time that the award is in effect; or

iii. Use forced labor in the performance of the award or subawards under the award.

2. We as the awarding/subawarding agency may unilaterally terminate this award, without penalty, if you or a Consultant that is a private entity -

i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or

ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either -

A. Associated with performance under this award; or

B. Imputed to you or the Consultant using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR

part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at [agency must insert reference here to its regulatory implementation of the OMB guidelines in 2 CFR part 180 (e.g., “2 CFR part XX”)].

b. Provision applicable to a recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a Consultant that is a private entity -

1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or

2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either -

i. Associated with performance under this award; or

ii. Imputed to the Consultant using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at [agency must insert reference here to its regulatory implementation of the OMB guidelines in 2 CFR part 180 (e.g., “2 CFR part XX”)].

c. Provisions applicable to any recipient.

1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.

2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:

i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and

ii. Is in addition to all other remedies for noncompliance that are available to us under this award.

3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. Definitions. For purposes of this award term:

1. “Employee” means either:

i. An individual employed by you or a Consultant who is engaged in the performance of the project or program under this award; or

ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

2. “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

3. “Private entity”:

i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

ii. Includes:

A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

B. A for-profit organization.

4. “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

17. **No Obligation By Federal Government.** The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the District, Consultant, or any other party pertaining to any matter resulting from this Agreement.

18. **Federal Agency Seals, Logos and Flags.** The Consultant shall not use any Federal Agency seal(s), logos, crests, or reproductions of flags or likenesses of any federal agency officials without specific federal agency pre-approval.

19. **Prohibition On Certain Telecommunications And Video Surveillance Services Or Equipment (2 CFR § 200.216):** Consultant and any subcontractors are prohibited to obligate or spend grant funds to: (1) procure or obtain, (2) extend or renew a contract to procure or obtain; or (3) enter into a contract to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Pub. L. 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). i. For the purpose of public safety, security of government facilities, physical security surveillance of

critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities). ii. Telecommunications or video surveillance services provided by such entities or using such equipment. iii. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise, connected to the government of a covered foreign country.

20. **Never Contract With The Enemy (2 CFR Part 183).** Consultant must exercise due diligence to ensure that none of the funds, including supplies and services, received are provided directly or indirectly (including through subawards or contracts) to a person or entity who is actively opposing the United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, which must be completed through 2 CFR 180.300 prior to issuing a subcontract.

21. **Access to Records and Reports:** Consultant will make available to the District's granting agency, the granting agency's Office of Inspector General, the Government Accountability Office, the Comptroller General of the United States, the District or any of their duly authorized representatives any books, documents, papers or other records, including electronic records, of the Consultant that are pertinent to the District's grant award, in order to make audits, investigations, examinations, excerpts, transcripts, and copies of such documents. The right also includes timely and reasonable access to the Consultant's personnel during normal business hours for the purpose of interview and discussion related to such documents. This right of access shall continue as long as records are retained.

22. **HUD Green Building Standards.**

a. *Green Building Standard for Replacement and New Construction of Residential Housing.* Consultant shall meet the Green Building Standard for: (i) All new construction of residential buildings and (ii) all replacement of substantially damaged residential buildings. Replacement of residential buildings may include reconstruction (*i.e.*, demolishing and rebuilding a housing unit on the same lot in substantially the same manner) and may include changes to structural elements such as flooring systems, columns, or load bearing interior or exterior walls.

b. *Meaning of Green Building Standard.* For purposes of this requirement, the "Green Building Standard" means the Consultant will require that all construction covered by subparagraph a, above, meet an industry-recognized standard that has achieved certification under at least one of the following programs: (i) ENERGY STAR (Certified Homes or Multifamily High-Rise), (ii) Enterprise Green Communities; (iii) LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development), (iv) ICC-700 National Green Building Standard, (v) EPA Indoor AirPlus (ENERGY STAR a prerequisite), or (vi) any other equivalent comprehensive green building program acceptable to HUD.

c. *Standards for rehabilitation of nonsubstantially damaged residential buildings.* For rehabilitation other than that described in subparagraph (a), above, Consultants must follow the guidelines specified in the HUD CPD Green Building Retrofit Checklist, available at <https://www.hudexchange.info/resource/3684/guidance-on-the-cpd-green-building-checklist/>. Consultants must apply these guidelines to the extent applicable to the rehabilitation work undertaken, including the use of mold resistant products when replacing surfaces such as drywall. When older or obsolete products are replaced as part of the rehabilitation work, rehabilitation is required to use ENERGY STAR-labeled, WaterSense-labeled, or Federal Energy Management Program (FEMP)-designated products and appliances. For example, if the furnace, air conditioner, windows, and appliances are replaced, the replacements must be ENERGY STAR-labeled or FEMP-designated products; WaterSense-labeled products (e.g., faucets, toilets, showerheads) must be used when water products are replaced. Rehabilitated housing may also implement measures recommended in a Physical Condition Assessment (PCA) or Green Physical Needs Assessment (GPNA).

d. *Implementation of green building standards.* (i) For construction projects completed, under construction, or under contract prior to the date that assistance is approved for the project, the Consultant is encouraged to apply the applicable standards to the extent feasible, but the Green Building Standard is not required; (ii) for specific required equipment or materials for which an ENERGY STAR- or WaterSense-labeled or FEMP-designated product does not exist, the requirement to use such products does not apply.

23. Section 3 Clause

a. The work to be performed under this Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are Subrecipients of HUD assistance for housing.

b. The Parties to this Agreement agree to comply with HUD's regulations in 24 CFR part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with part 75 regulations.

c. The Consultant agrees to send to each labor organization or representative of workers with which the Consultant has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Consultant's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

d. The Consultant agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding

that the subcontractor is in violation of the regulations in 24 CFR part 75. The Consultant will not subcontract with any subcontractor where the Consultant has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.

e. The Consultant will certify that any vacant employment positions, including training positions, that are filled (1) after the Consultant is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the Consultant's obligations under 24 CFR part 75.

f. Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default and debarment or suspension from future HUD assisted contracts.

g. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

24. Build America Buy America Act

a. The Build America Buy America Preference (BABA) applies to Federal awards where funds are appropriated or otherwise made available for infrastructure projects in the United States, regardless of whether infrastructure is the primary purpose of the Federal award. BABA requires the following: 1) All iron and steel used in the project funded by this Agreement are produced in the United States; 2) All listed manufactured products used in the project are produced in the United States; 3) All (listed and non-listed) construction materials are manufactured in the United States. The BABA Preference must be included in all solicitations, subawards, contracts, and purchase orders for the work performed, or products supplied under the Federal award. Contractors working on federally funded infrastructure projects for which BABA applies shall be required to submit a completed Buy American Certificate in substantially the following form:

Buy American Certificate (FAR 52.225-2). Contractor certifies that each end product, except those listed in paragraph 25.28.2 of this provision, is a domestic end product. Contractor shall list as foreign end products in paragraph 25.28.2 those end products manufactured in the United States that do not qualify as domestic end products. The terms "domestic end product," "end product," and "foreign end product" are defined in FAR 52.225-1 entitled "Buy American-Supplies."

Foreign End Products:	Line Item No.	Country of Origin
_____	_____	
_____	_____	

EXHIBIT C-2

FEDERAL NON-DISCRIMINATION PROVISIONS

The Consultant acknowledges and agrees that certain work to be performed under this Agreement may be fully or partially funded by Federal grants and therefore, in performing such federally funded work, the Consultant shall comply with the following federally mandated non-discrimination requirements, as applicable:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.)
2. Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681 et seq.)
3. Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. §§ 12101 et seq.)
4. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794)
5. Revised ADA Standards for Accessible Design for Construction Awards
 - a. Title II of the Americans with Disabilities Act (ADA) (28 C.F.R. part 35; 75 FR 56164, as amended by 76 FR 13285)
 - b. Title III of the ADA (28 C.F.R. part 36; 75 FR 56164, as amended by 76 FR 13286)
6. Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.)
7. EO 13166 (August 11, 2000), “Improving Access to Services for Persons With Limited English Proficiency”
8. Pilot Program for Enhancement of Employee Whistleblower Protections. The National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. No. 112-239, enacted January 2, 2013 and codified at 41 U.S.C. § 4712)

EXHIBIT D-3

ENVIRONMENTAL COMPLIANCE

The Consultant acknowledges and agrees that certain work to be performed under this Agreement may be fully or partially funded by Federal grants and therefore, in performing such federally funded work Consultant shall comply with all of the federal environmental statutes, regulations, and executive orders listed below, as applicable:

1. The National Environmental Policy Act (42 U.S.C. § 4321 et. seq.)
2. The Endangered Species Act (16 U.S.C. § 1531 et seq.)
3. Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801 et seq.)
4. Clean Water Act Section 404 (33 U.S.C. § 1344 et seq.)
5. The Migratory Bird Treaty Act (16 U.S.C. §§ 703-712); Bald and Golden Eagle Protection Act (16 U.S.C. § 668 et seq.), and Executive Order No. 13186, Responsibilities of Federal Agencies to Protect Migratory Birds
6. National Historic Preservation Act (54 U.S.C. § 300101 et seq.) and the Advisory Council on Historic Preservation Guidelines (36 CFR part 800)
7. Clean Air Act (42 U.S.C. § 7401 et seq.), Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) (Clean Water Act), and Executive Order 11738 (“Providing for administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal contracts, grants or loans”)
8. The Flood Disaster Protection Act (42 U.S.C. § 4002 et seq.)
9. Executive Order 11988 (“Floodplain Management”) and Executive Order 11990 (“Protection of Wetlands”)
10. Executive Order 13112 (“Invasive Species”)
11. The Coastal Zone Management Act (16 U.S.C. § 1451 et seq.)
12. The Coastal Barriers Resources Act (16 U.S.C. § 3501 et seq.)
13. The Wild and Scenic Rivers Act (16 U.S.C. § 1271 et seq.)
14. The Safe Drinking Water Act (42 U.S.C. § 300 et seq.)
15. The Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.)

16. The Comprehensive Environmental Response, Compensation, and Liability Act (Superfund) (42 U.S.C. § 9601 et seq.)

17. Executive Order 12898 (“Environmental Justice in Minority Populations and Low Income Populations”)

18. Rivers and Harbors Act (33 U.S.C. § 407)

19. Marine Protection, Research and Sanctuaries Act (Pub. L. 92-532, as amended), National Marine Sanctuaries Act (16 U.S.C. § 1431 et seq.), and Executive Order 13089 (“Coral Reef Protection”)

20. Farmland Protection Policy Act (7 U.S.C. 4201 et seq.)

21. Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.)

22. Pursuant to 2 CFR §200.322, Consultant and its subcontractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$1 0,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

EXHIBIT D-4
BYRD ANTI-LOBBYING AMENDMENT CERTIFICATION

On behalf of the Consultant, the undersigned certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Consultants shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Consultant certifies or affirms the truthfulness and accuracy of each statement of this certification and disclosure, if any. In addition, the Consultant understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

Signature of Consultant's Authorized Official

Name and Title of Consultant's Authorized Official

Date

EXHIBIT E
RFQ 26-1 AND CONSULTANT'S RESPONSE