



CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

**ADDENDUM TO GENERAL ENGINEERING SERVICES AGREEMENT FOR  
CONTRACT FUNDED BY FEDERAL GRANT**

***(NON-CONSTRUCTION CONTRACTS)***

THIS ADDENDUM TO GENERAL ENGINEERING SERVICES AGREEMENT, dated October 10, 2017, by Resolution 17-207, is made by and between THE CITY OF KEY WEST, FLORIDA, a Florida municipal corporation, with a physical address of 1300 White Street, Key West, Florida 33040, hereinafter referred to as "City" and Perez Engineering and Development, Inc., a Florida corporation, with a physical address of 1010 Kennedy Drive, Suite 202, Key West, Florida 33040, hereinafter referred to as "Contractor" is made a part of the General Engineering Services Agreement between The City of Key West and Perez Engineering and Development, Inc., and hereby modifies the agreement to incorporate Federal contracting requirements, as necessary for Federal Emergency Management Agency (FEMA), to facilitate Hazard Mitigation Grant Program (HMGP) funding.

Federal regulations apply to all of The City of Key West contracts using Federal funds, as a source for the solicitation of goods and services. **Accordingly, the parties agree that the following terms and conditions are incorporated and made a part of the Agreement in all situations where the Contractor has been paid or will be paid with federal funds. Where there is a conflict between the terms of this Addendum and the terms of the underlying Agreement, the terms of this Addendum shall prevail.**

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**I. Appendix II to 2 CFR Part 200 – Contract Provisions for Non-Federal Entity  
Contracts Under Federal Awards**

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- (A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulation Council (Councils) as authorized by 41 U.S.C. § 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Pursuant to Federal Rule (A) above, when the City expends federal funds, the City reserves all rights and privileges under the applicable laws and regulations with respect to this agreement in the event of a breach of contract by either party.

- (B) Termination for cause and for convenience by the grantee or subgrantee including remedies, and the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000.)

*Key to the Caribbean – Average yearly temperature 77° F.*

1. Termination for Cause: Pursuant to Federal Rule (B) above, when the City expends federal funds, the City reserves the right to immediately terminate any contract in excess of \$10,000 resulting from this agreement, in the event of a breach or default of the agreement by the Contractor, in the event the Contractor fails to (1) meet schedules, deadlines, and/or delivery dates within the time specified in the agreement, contract, and/or purchase order; (2) make any payments owed; or (3) otherwise perform in accordance with the contract and/or the agreement.
2. Remedies for Termination for Cause: In the event of a breach by the Contractor of the terms and conditions of this Agreement, the City shall be entitled to recover any and all monetary damages arising therefrom, including the recovery of reasonable attorney fees at al trial and appellate levels.
3. Termination for Non-Appropriation of Funds for Multi-year or Multiple-year Contracts: Performance by the City under the Agreement for years subsequent to the current may be dependent upon the appropriation and allotment of funds by the Florida State Legislature (the "Legislature"), allocation of funds by the state, and/or if the Agreement is funded fully or partially by Federal grant awards, the receipt of the notice of grant award. If the Legislature fails to appropriate or allot the necessary funds, the state fails to allocate the necessary funds, and/or there is a change in the notice of grant award, then the City may terminate this contract without further duty or obligation under the Agreement.
4. Termination for Convenience: The City also reserves the right to terminate the contract immediately upon written notice to the Contractor for convenience, with or without cause, if the City believes in its sole discretion that it is in the best interest of the City to do so.
5. In the event this Agreement is terminated, Contractor shall be paid for any services performed to the date the Agreement is terminated. Compensation shall be withheld until all documentation, including, but not limited to studies, surveys, drawings, maps, models, photographs and reports prepared or provided, are provided to the City. Upon being notified of the City's election to terminate, Contractor shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Under no circumstances shall the City make payment of profit for services that have not been performed.

If the contract is terminated in accordance with any of the terms referenced in Section (B) above, the City shall compensate Contractor for any work performed and accepted by the City as of the termination date.

- (C) Clean Air Act, 42 U.S.C. § 7401-7671q. (as amended). Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Water Act (42 U.S.C. § 7401-7671q.). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).



Pursuant to Federal Rule (C) above, when federal funds are expended by the City, Contractor certifies that during the term of an award for all contracts by the City resulting from this Agreement, Contractor agrees to comply with all applicable requirements as reference in Federal Rule (C) above.

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation, as required, to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

(D) Federal Water Pollution Control Act, 33 U.S.C. § 1251-1387 (as amended). Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Pursuant to Federal Rule (D) above, when federal funds are expended by the City, Contractor certifies that during the term of an award for all contracts by the City resulting from this Agreement, Contractor agrees to comply with all applicable requirements as reference in Federal Rule (D) above.

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.
- (2) The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation, as required, to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

(E) Debarment and Suspension (Executive Orders 12549 and 12689) – A contract award (see CFR § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines of 2 CFR 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.

Pursuant to Federal Rule (E) above, when federal funds are expended by the City, Contractor certifies that during the term of an award for all contracts by the City resulting from this Agreement, Contractor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any Federal department or agency.

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt.180 and 2 C.F.R. pt. 3000. As such, the Contractor is required to verify that none of the Contractor, its principals (defined 2 C.F.R. § 180.995), or its affiliates (defined 2 C.F.R. § 180.905) are excluded ((defined 2 C.F.R. § 180.940) or disqualified (defined 2 C.F.R. §180.935).
- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by City. If it is later determined that the contractor did not comply with 2 C.F.R. pt.180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Florida, and the City, the Federal Government may pursue available remedies, including, but not limited to suspension and/or debarment.
- (4) The Contractor agrees to comply with the requirements of 2 C.F.R. pt.180, subpart C and 2 C.F.R. pt. 3000, subpart C while this Agreement is valid and throughout the period of any contract that may arise from this Agreement. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.
- (5) Contractor represents and warrants that it is not debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension" or on the USEPA's List of Violating Facilities. Contractor agrees that neither Contractor nor any of its third party subcontractors shall enter into any third party subcontracts for any of the work under this Agreement with a third party subcontractor who is debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549 or on the USEPA's List of Violating Facilities. Gov. Code § 4477.
- (6) The Contractor must comply with 2 C.F.R. pt.180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. Contractor agrees to the provisions of the Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions, attached hereto and incorporated herein. For purposes of this Agreement and certification, Contractor is the prospective lower tier participant.
- (7) The Contractor agrees to include paragraphs (5) and (6) above in each third party subcontract financed in whole or in part with Federal assistance provided by FEMA. It is further agreed that the paragraphs shall not be modified, except to identify the subcontractor who will be subject to its provisions.



(F) Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Contractors 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 shall 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. Such disclosures are forwarded from tier to tier up to the recipient.

Pursuant to Federal Rule (F) above, when federal funds are expended by the City, Contractor certifies that during the term and after the award for all contracts by the City resulting from this Agreement, the contractor certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352). The undersigned further certifies that:

- (1) No Federal appropriated funds have been paid or will be paid for on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a 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 grant 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 covered sub-awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.
- (4) Contractor agrees to the provisions of the Anti-Kickback Affidavit, attached hereto and incorporated herein.

(G) Procurement of Recovered Materials – Contractor agrees to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, where applicable. 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

values of the quantity acquired during the preceding fiscal year exceeded \$10,000; 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.

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## **II. Records Retention Requirements for Contracts Involving Federal Funds**

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When federal funds are expended by the City for any contract resulting from this procurement process, Contractor certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. Contractor further certifies that it will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

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## **III. Certification of Compliance with the Energy Policy and Conservation Act**

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When the City expends federal funds for any contract resulting from this Agreement, Contractor certifies that it will comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.; 49 C.F.R. Part 18).

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## **IV. Certification of Equal Employment Statement**

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Contractor agrees not to discriminate on the basis of race, color, national origin, gender, limited English proficiency or handicapping condition against any employee or applicant for employment to be employed in the performance of the Agreement, with respect to hire, tenure, terms conditions and privileges of employment, or a matter directly or indirectly related to employment, because of age (except where based on a bona fide occupational qualification), sex (except where based on a bona fide occupational qualification) or race, color, religion, national origin, or ancestry.

Contractor further agrees that every subcontract entered into for the performance of this Contract shall contain a provision requiring non-discrimination in employment herein specified, binding upon each subcontractor. Breach of this covenant may be regarded as a material breach of the Agreement.

Contractor agrees to ensure that Disadvantage Business Enterprises, as defined in 49 C.F.R. Part 23, as amended, have the maximum opportunity to participate in the performance of contracts and this agreement. In this regard, Contractor shall take all necessary and reasonable steps, in accordance with 49 C.F.R. Part 23, as amended, to ensure that the Disadvantaged Business Enterprises have the maximum opportunity to compete for and perform contracts. Contractor shall not discriminate on the basis of race, color, national origin or sex, in the award and performance of Federal assisted contracts.



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**V. Certification of Compliance with Buy American Provisions**

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The City has a preference for domestic end products for supplies acquired for use in the United States when spending federal funds (purchases that are made with non-federal funds or grants are excluded from the Buy American Act). Contractor certifies that it is in compliance with all applicable provisions of the Buy American Act.

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**VI. Certification of Access to Records – 2 C.F.R. § 200.336**

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Contractor agrees that the City, FEMA, Federal grantor agency, the Comptroller General of the United States or any of their authorized representatives shall have access to any books, documents, papers, and records of the Contractor which are directly pertinent to Contractor's discharge of its obligations under the Agreement for the purpose of making audit, examination, excerpts, and transactions. The right also includes timely and reasonable access to Contractor's personnel for the purpose of interviewing and discussion relating to such documents.

1. The Contractor agrees to provide the City, FEMA, Federal grantor agency, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transactions.
2. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
3. The Contractor agrees to maintain all books, records, accounts, and reports required under this Agreement for a period of not less than three years after the later of: (a) the date of termination or expiration of this Agreement; or (b) the date City makes final payment under this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case, Contractor agrees to maintain same until City, FEMA, Federal grantor agency, the Comptroller General, any of their authorized representatives, have disposed of all such litigation, appeals, claims, or exceptions related thereto.
4. The requirements set forth in paragraphs A, B, C and above are all in addition to, and should not be considered to be in lieu of, those requirements set forth in Section 7.3 of the Agreement.

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**VII. Certification of Applicability to Subcontractors**

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Contractor agrees that all contracts it awards to any subcontractor pursuant to the Agreement with the City shall be bound by the foregoing terms and conditions.

IN WITNESS WHEREOF, the parties hereto have made and executed this Addendum to Agreement, as of the day and year last executed below.

  
\_\_\_\_\_  
Allen E. Perez, P.E.  
President  
Perez Engineering & Development, Inc.

4/6/2020  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Gregory W. Veliz  
City Manager  
City of Key West, Florida

\_\_\_\_\_  
Date



## SUSPENSION AND DEBARMENT CERTIFICATION

### CERTIFICATION REGARDING DEBARMENTS, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER FEDERALLY FUNDED TRANSACTIONS

1. The undersigned hereby certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. The undersigned also certifies that it and its principals:
  - a. Have not within a three-year period preceding this certification been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - b. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 2.(a.) of this Certification; and
  - c. Have not within a three-year period preceding this certification had one or more public transactions (Federal, State or local) terminated for cause or default.
3. Where the undersigned is unable to certify to any of the statements in this certification, an explanation shall be attached to this certification.

Dated this 6<sup>th</sup> day of April, 2020.

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

Authorized Signature/Contractor

Allen E. Perez, P.E., President

Typed Name/Title

Perez Engineering & Development, Inc.

Contractor's Firm Name

1010 Kennedy Drive, Suite 202, Key West, Florida 33040

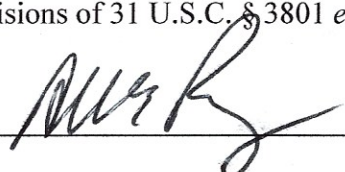
Address

# ANTI-KICKBACK AFFIDAVIT

STATE OF FLORIDA                   )  
  : SS  
COUNTY OF MONROE               )

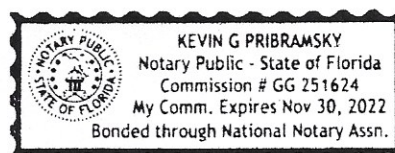
I, the undersigned hereby duly sworn, depose and say that no portion of the payment will be paid to any employees of the City of Key West as a commission, kickback, reward or gift, directly or indirectly by me or any member of my firm or by an officer of the corporation.

I, the undersigned hereby dully sworn, certifies or affirms the truthfulness and accuracy of each statement of this certification and disclosure, if any. In addition, I understand and agree that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

By:   
Allen E. Perez, P.E., President

Sworn and subscribed before me this 6<sup>th</sup> day of April, 2020.

  
NOTARY PUBLIC, State of Florida at Large



My Commission Expires: Nov 30, 2022