

RESOLUTION NO. 18-196

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA APPROVING TASK ORDER NO. 3-18 FROM CH2M HILL ENGINEERING, INC. IN AN AMOUNT NOT TO EXCEED \$50,800.16 FOR A MALLORY SQUARE MODERNIZATION TO CRUISE SHIP MOORING FACILITIES FEASIBILITY STUDY; AUTHORIZING A NECESSARY BUDGET TRANSFER; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, in Resolution No. 17-207, the City Commission approved a contract with CH2M Hill, Inc. for General Engineering Services; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That Task Order No. 3-18 for CH2M Hill Engineering, Inc. for a Mallory Square Modernization to Cruise Ship Mooring Facilities Feasibility Study is hereby approved in an amount not to exceed \$50,800.16.

Section 2: That funds for this project in the amount of \$50,000.00 are budgeted under budget line 001-4302-543-3100, a transfer of \$800.16 from another port fund is hereby authorized.

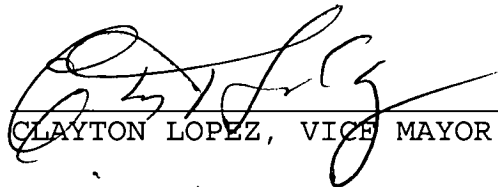
Section 3: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the Presiding Officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 19 day of June, 2018.

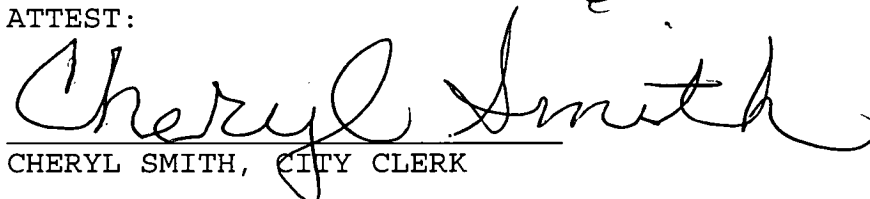
Authenticated by the Presiding Officer and Clerk of the Commission on 20 day of June, 2018.

Filed with the Clerk on June 20, 2018.

Mayor Craig Cates	<u>Absent</u>
Vice Mayor Clayton Lopez	<u>Yes</u>
Commissioner Sam Kaufman	<u>Absent</u>
Commissioner Richard Payne	<u>Yes</u>
Commissioner Margaret Romero	<u>Yes</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Yes</u>


CLAYTON LOPEZ, VICE MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK



THE CITY OF KEY WEST

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

TO: Jim Scholl, City Manager
Greg Veliz, Assistant City Manager

FROM: Doug Bradshaw, Port & Marine Services Director

DATE: May 10, 2018

SUBJECT: CH2M Hill: Task Order 3-18 Ports: Mallory Square Modernization to Cruise Ship Mooring Facilities Feasibility Study

ACTION STATEMENT

City Commission's approval of Task Order 3-18 Ports from CH2M Hill Engineers, Inc. for Mallory Square Modernization to Cruise Ship Mooring Facilities Feasibility Study in the amount of \$50,800.16 pursuant to General Engineering Services Contract.

BACKGROUND

Currently, the maximum sized ship to dock at Mallory Square is approximately 750 feet. The T-dock where the ships drop their gangways to load/offload passengers is extremely short at 115 feet which limits how a ship can dock. Additionally the Mallory dock lacks mooring points to safely dock ships in higher winds or stronger moving currents. The limited mooring points only allow for spring and breast lines and not bow/stern lines. These two limitations at times prevents the City from being able to use Mallory dock or requires a ship to relocate to the Outer Mole or Pier B which reduces revenues to the City.

PURPOSE & JUSTIFICATION

The City maintains a contract with CH2M Hill Engineers, Inc. for general engineering services that was established in 2017 by resolution 17-207. This task will contemplate various changes to the berth including addition of new mooring points, extension of the T-Dock, and realignment of the T-Dock with the intention of improving the accommodation of ships that currently call at Mallory Square. Operational considerations will be taken into account when examining the different layouts.

FINANCIAL IMPACT

The Port Operations budget has \$50,000 allocated to this project in cost center 001-4302-543.3100. The remaining \$800.16 will be transferred from another port fund. Staff has reviewed the task order and believe the cost is reasonable for the efforts necessary to complete the project. The rates match the approved rates within the resolution and the labor mix has been deemed appropriate.

RECOMMENDATION

Staff recommends that the City Commission's approve Task Order 3-18 Ports from CH2M Hill Engineers, Inc. for Mallory Square Modernization to Cruise Ship Mooring Facilities Feasibility Study in the amount of \$50,800.16

Key to the Caribbean - Average yearly temperature 77° F.

EXECUTIVE SUMMARY

TASK ORDER 3-18 PORTS

**MALLORY SQUARE MODERNIZATION TO CRUISE SHIP MOORING
FACILITIES FEASIBILITY STUDY**

This TASK ORDER 3-18 PORTS is issued under the terms and conditions of the AGREEMENT TO FURNISH GENERAL ENGINEERING SERVICES TO THE CITY OF KEY WEST ("AGREEMENT") between the City of Key West ("CITY") and CH2M HILL, Engineers, Inc. ("CONSULTANT") dated November 3, 2017 which is incorporated herein by this reference.

A. SCOPE OF SERVICES

Specific services which the ENGINEER agrees to furnish are summarized on the attached statement entitled TASK ORDER 3-18 PORTS "SCOPE OF SERVICES." The "Scope of Services" defines the work effort anticipated for the Task Order.

This Task Order, when executed, shall be incorporated in and shall become an integral part of the November 3, 2017, Master Agreement.

B. TIME OF COMPLETION

Work under this Task Order will begin immediately following acceptance and completed expeditiously subject to coordination with the City of Key West staff. Work may be performed at any time as requested by the CITY within 12 months after the date of execution of this Task Order, at which time the Task Order will expire.

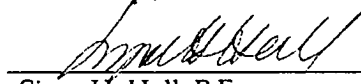
C. COMPENSATION


Compensation for the labor portions of TASK ORDER 3-18 PORTS, Tasks A and B will be on a lump sum fee basis as stipulated in Article 2, Paragraph 2.1 of the AGREEMENT. Compensation for all expenses will be on a Cost Reimbursable-Per Diem basis as stipulated in Article 2, Paragraph 2.2 of the AGREEMENT. The estimated compensation is shown on the attached statement entitled TASK ORDER 3-18 PORTS COMPENSATION.

D. ACCEPTANCE

By signature, the parties each accept the provisions of this TASK ORDER 3-18 PORTS, and authorize the ENGINEER to proceed at the direction of the CITY's representative in accordance with the "SCOPE OF SERVICES." Start date for this project will be no later than ten (10) days after execution of this authorization.


For CH2M HILL, INC.

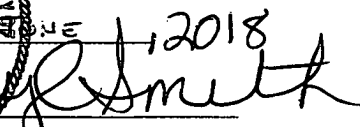
By: 

Sirpa H. Hall, P.E.
Senior Business Vice President


Sean McCoy, P.E.
Key West Project Manager

For CITY OF KEY WEST

By: 

Jim Schott
City Manager
Date: 11/15/2018
ATTEST: 

Attestor



TASK ORDER 3-18 PORTS

MALLORY SQUARE MODERNIZATION TO CRUISE SHIP MOORING FACILITIES FEASIBILITY STUDY

SCOPE OF SERVICES

Project Description

Purpose

The CITY has requested that the ENGINEER provide engineering services for the feasibility study for the Modernization of the Cruise Ship Mooring Facilities at the Mallory Square Cruise Berth. Various mooring and berthing arrangements will be investigated, environmental permitting requirements of these arrangements will be investigated as well.

Scope of Services

The scope of services provided below addresses the work to be completed for the project; and includes Task A (Background Investigation), Task B (Conceptual Layout Development), Task C (Permitting Investigation) and Task D (Conceptual Mooring Analysis)

Task A - Background Investigation

A.1 - Data Collection

The CONSULTANT will coordinate with the City to verify and collect data pertinent to the study. This would include land survey, facility as-builts, hydrographic surveys, design plans, submerged lands maps and legal descriptions, and geotechnical information. In addition, a summary should be made of the cruise vessels that call at Mallory Square and other Berths on Key West.

An analysis of this data will be performed to determine the suitability of the data for use on the project. A data gap memorandum will be produced if any additional information is required to complete the task.

A.2 - Kickoff Meeting

A kickoff meeting will be held with the CONSULTANT and the City staff in attendance. There will be one CONSULTANT staff in attendance in person with additional attendees connecting remotely via conference call. During this meeting, the data collection process will be discussed, preliminary vessel arrangements will be discussed. Also discussed will be the specific goals of the study with all stakeholders present. The range of potential vessels that may call at the site should be established as a foundation for the layout development in subsequent phases. It is expected that a maximum of 4 vessels of varying lengths and arrangements will be studied.

Deliverables

All Deliverables shall be in an appropriate electronic format, unless noted otherwise.

The following deliverables will be provided under this Task:

- Data Gap Analysis Memo
- Kick-off meeting minutes

Task B - Conceptual Layout and Analysis

Under this task, the CONSULTANT will develop conceptual layouts at the berth for the range of vessels developed during Task A. Currently, the maximum sized ship to call at Mallory Square is approximately 750' LOA. This task will contemplate various changes to the berth including addition of new mooring points, extension of the T-Dock, and realignment of the T-Dock with the intention of improving the accommodation of ships that currently call at Mallory Square. Operational considerations will be taken into account when examining the different layouts. For specific scope elements, please see the sub task descriptions below.

B.1 - Conceptual Layouts

The CONSULTANT will perform the work to develop conceptual berthing layouts for the proposed range of vessels. These layouts will consider port-to and starboard-to arrangements, will consider the locations of the vessel doors and the preferred current mooring line arrangement at other berths in Key West. There will be a maximum of 8 layouts produced.

Any additional mooring hardware, fendering, structure modifications and additions, structure realignments and dredging will be clearly marked. The structure changes will be driven by the results of the conceptual level mooring and berthing analysis performed in Task D.

B.2 - Alternatives Analysis

A memorandum describing the layouts, with pros and cons for each configuration listed. A conceptual level cost estimate will be produced for each layout and the options will be ranked for the suitability against the desired outcome.

B.3 - Layouts Review Meeting

A meeting will be held with the CONSULTANT and the City staff in attendance to review and discuss the conceptual layouts. There will be one CONSULTANT staff in attendance in person with additional attendees connecting remotely via conference call. The purpose of the meeting is to verify that the desired layouts have been developed. Feedback from the City may spawn additional layouts to be generated. Up to 4 additional layouts will be developed and studied as a result of this meeting.

Deliverables

All Deliverables shall be in an appropriate electronic format, unless noted otherwise.

The following deliverables will be provided under this Task:

- Layout Drawings
- Alternatives Analysis Memorandum
- Meeting Minutes from Layouts Review Meeting

Assumptions

The following assumptions were used in the development of this Task Order

- Existing topographic survey and geotechnical information is assumed to be available. No allowance has been included for Benthic Survey, or geotechnical investigations.
- No land or bottom land costs shall be included in cost estimating for the project.
- Concepts and design will be frozen at the end of each design phase and re-designs after those milestones may be considered additional services.

Obligations of the CITY

To assist meeting schedule and budget estimates contained in this proposal, the CITY will provide the following:

- Prompt review and comment on all deliverables.
- Facilitate access to any required facilities.
- Attendance of key personnel at meetings as requested.
- CITY to provide existing topographic maps, data or existing subsurface investigation information.

Exclusions - Additional Services (Optional)

The CONSULTANT will, as directed, provide additional services that are related to the project but not included within this Scope of Services. These and other services can be provided, if desired by the CITY, as an amendment to the Task Order. Work will begin for the Additional Services after receipt of a written notice to proceed from the CITY.

Additional services may include, but are not limited to, the following:

- Additional design of mooring improvements that are not part of the T-pier.
- Re-Bidding any, or all, portions of this project or bidding of multiple projects
- Additional environmental studies or analyses required by the permitting agencies.
- Additional permitting involving agencies other than the those listed under Task C

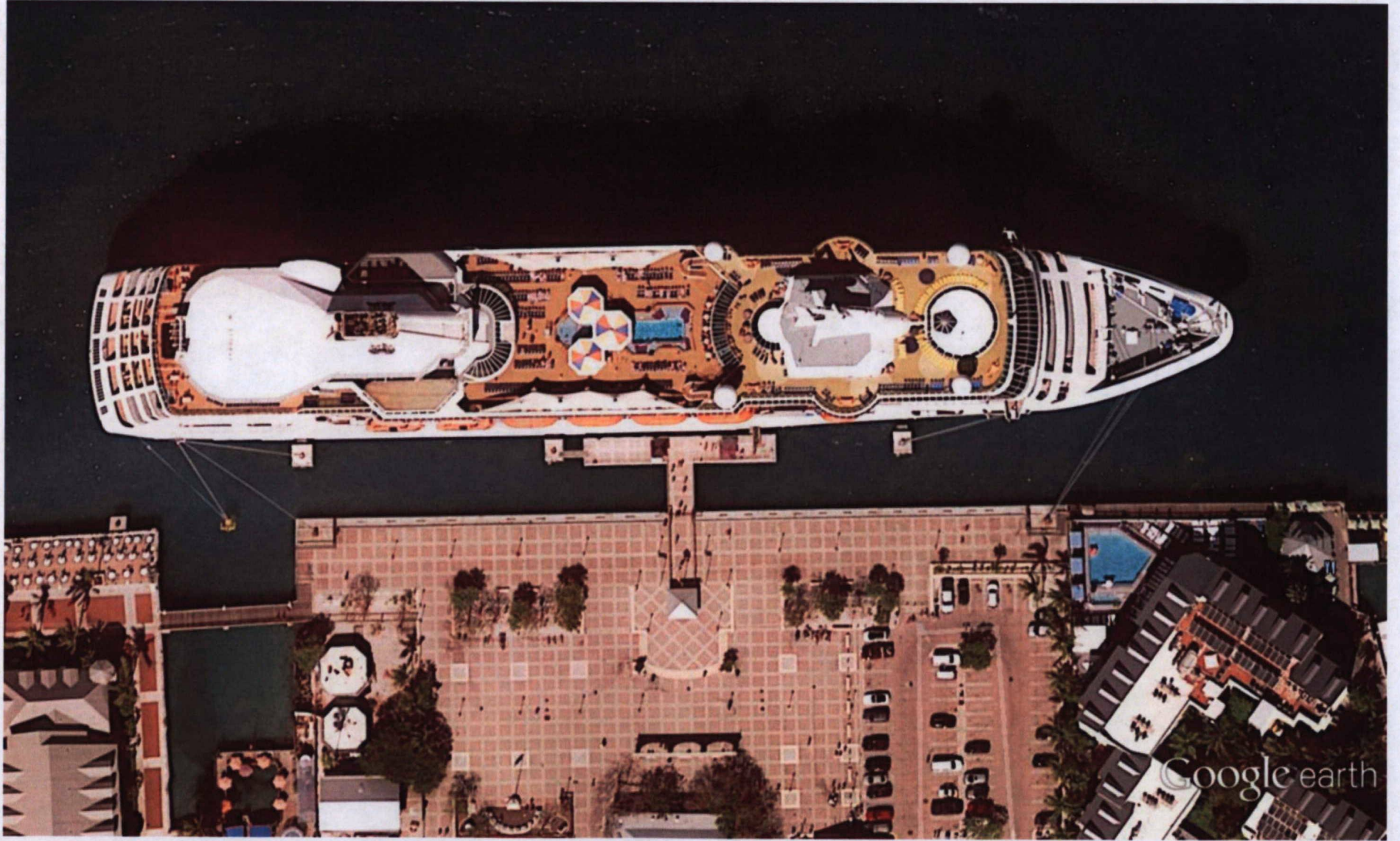
Compensation

The estimated compensation for TASK ORDER NO 3-18 PORTS, is shown on attachment A entitled TASK ORDER NO. 3-18 PORTS, COMPENSATION.

Attachment A
TASK ORDER 3-18 PORTS
COMPENSATION

Task Order 3-18 Ports MALLORY SQUARE MODERNIZATION TO CRUISE SHIP MOORING FACILITIES FEASIBILITY STUDY								
Title	Engineer 6	Engineer 5	Engineer 4	Engineer 3	Technician 4	Clerical / Office	Task/Line Item Subtotal	
Rate	\$ 198.72	\$ 181.88	\$ 157.18	\$ 134.72	\$ 102.17	\$ 71.85		
A.1 - Data Collection								
Data Collection	4	4	4	4		2	\$2,833.70	
Hours Subtotal	4	4	4	4	0	2	18	
Cost Subtotal	\$ 794.88	\$ 727.52	\$ 628.72	\$ 538.88	\$ -	\$ 143.70	\$2,833.70	
A.2 - Kickoff Meeting								
Kickoff Meeting	2	2				2	\$904.90	
Meeting Minutes	2	2					\$761.20	
Hours Subtotal	4	4	0	0	0	2	10	
Cost Subtotal	\$ 794.88	\$ 727.52	\$ -	\$ -	\$ -	\$ 143.70	\$1,666.10	
B.1 - Conceptual Layout and Analysis								
Conceptual Layouts	16	8	32	24		2	\$13,041.30	
Drawings					32		\$3,269.44	
Hours Subtotal	16	8	32	24	32	2	114	
Cost Subtotal	\$ 3,179.52	\$ 1,455.04	\$ 5,029.76	\$ 3,233.28	\$ 3,269.44	\$ 143.70	\$16,310.74	
B.2 - Alternatives Analysis								
Alternatives Analysis	8		24	32			\$9,673.12	
Alternatives Memo	8		8	8			\$3,924.96	
Hours Subtotal	16	0	32	40	0	0	88	
Cost Subtotal	\$ 3,179.52	\$ -	\$ 5,029.76	\$ 5,388.80	\$ -	\$ -	\$13,598.08	
B.3 - Alternatives Meeting								
Alternatives Meeting	8	4	24	24		2	\$9,466.58	
Meeting Minutes	8		8	8			\$3,924.96	
Hours Subtotal	16	4	32	32	0	2	86	
Cost Subtotal	\$ 3,179.52	\$ 727.52	\$ 5,029.76	\$ 4,311.04	\$ -	\$ 143.70	\$13,391.54	
Total Hours by Per Diem Rate	56	20	100	100	32	8		
Total Fee Estimate by Per Diem Rate	\$ 11,128.32	\$ 3,637.60	\$ 15,718.00	\$ 13,472.00	\$ 3,269.44	\$ 574.80		
							TO Total Labor	\$47,800.16
							TO Total Expenses	\$3,000.00
							TO 3-18 Contract Total	\$ 50,800.16

CURRENT DOCKING ARRANGEMENT AT MALLORY



AGREEMENT

between

CITY OF KEY WEST

and

CH2M HILL ENGINEERS, INC.

for

GENERAL ENGINEERING SERVICES

KEY WEST, FLORIDA

This is an Agreement between: CITY OF KEY WEST, its successors and assigns, hereinafter referred to as "CITY," and ___ CH2M HILL ENGINEERS, INC. ___, a corporation organized under the laws of the State of DELAWARE, its successors and assigns, hereinafter referred to as "CONSULTANT".

WITNESSETH, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, CITY and CONSULTANT agree as follows:

ARTICLE 1

DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the definitions and identifications set forth below are assumed to be true and correct and are agreed upon by the parties.

- 1.1. **Agreement:** This document, Articles 1 through 7, inclusive. Other terms and conditions are included in the CITY's RFQ 17-002 General Engineering Services, CONSULTANT's Response to RFQ dated ___April 19, 2017___, exhibits, Task Orders, and supplemental documents that are by this provision expressly incorporated herein by reference.
- 1.2. **Commissioners:** Members of the City Commission with all legislative powers of the CITY vested therein.
- 1.3. **CONSULTANT:** The engineering firm selected to perform the services pursuant to this Agreement.
- 1.4. **Contract Administrator:** The ranking managerial employee of the CITY or some other employee expressly designated as Contract Administrator by the City Manager, who is the representative of the CITY. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services.
- 1.5. **Contractor:** The person, firm, corporation or other entity that enters into an agreement with CITY to perform the construction work for the Task Order.
- 1.6. **CITY:** City of Key West.
- 1.7. **Task Order:** A detailed description of a particular service or services to be performed by CONSULTANT under this Agreement.

ARTICLE 2

PREAMBLE

In order to establish the background, context and frame of reference for this Agreement and generally to express the objectives and intentions of the respective parties hereto, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

- 2.1. The CONSULTANT is not entitled to receive, and the CITY is not obligated to pay, any fees or expenses in excess of the amount budgeted for Task Orders authorized under this Agreement in each fiscal year (October 1-September 30) by CITY. The budgeted amount may only be modified per City Ordinance(s).
- 2.2. The CITY has met the requirements of the Consultants' Competitive Negotiation Act, as set forth in Section 287.055, Florida Statutes, and has selected CONSULTANT to perform the services hereunder based on the Request for Qualifications 17-002 incorporated by reference and made a part hereof and the Response to the Request for Qualifications from Consultant dated April 19, 2017 incorporated by reference and made part of.
- 2.3. Negotiations pertaining to the services to be performed by CONSULTANT were undertaken between CONSULTANT and staff selected by the Commission, and this Agreement incorporates the results of such negotiations.

ARTICLE 3

SCOPE OF SERVICES AND STANDARD OF CARE

- 3.1. CONSULTANT's services may include but are not limited to the following in regard to the Agreement:
 - 3.1.1. Civil Engineering Services
 - 3.1.2. Utility Engineering Services
 - 3.1.3. Solid Waste Engineering Services
 - 3.1.4. Coastal Engineering Services
 - 3.1.5. Structural Engineering Services
 - 3.1.6. Marine Engineering Services
- 3.2. CONSULTANT's services shall include comprehensive full-scale engineering, design, surveying, permit preparation, preparing contract specifications, preparing bid and proposal documents and assisting the City with technical review and ranking of the same to attain qualified contractors for work, environmental assessments, construction

administration and owner project representation services relating to operation, new construction, permit modification, construction improvements, rehabilitation and or retrofits, and any other lawful professional Engineering services that the CONSULTANT is qualified to provide and that the CITY authorizes the CONSULTANT to undertake in connection with this Agreement. CONSULTANT shall provide all necessary, incidental and related activities and services as required.

- 3.3. CONSULTANT and CITY acknowledge that the Scope of Services does not delineate every detail and minor work task required to be performed by CONSULTANT to complete any particular task order. If, during the course of the performance of the services included in this Agreement, CONSULTANT determines that work should be performed to complete the Task Order which is, in the CONSULTANT's opinion, outside the level of effort originally anticipated, whether or not the Scope of Services identifies the work items, CONSULTANT shall notify Contract Administrator in writing in a timely manner before proceeding with the work. If CONSULTANT proceeds with such work without notifying the Contract Administrator, the work shall be deemed to be within the original level of effort, whether or not specifically addressed in the Scope of Services. Notice to Contract Administrator does not constitute authorization or approval by CITY to perform the work. Performance of work by CONSULTANT outside the originally anticipated level of effort without prior written CITY approval or modification of Task Order is at CONSULTANT's sole risk.
- 3.4. The specific services to be provided by the CONSULTANT and the compensation for such services shall be as mutually agreed to in separate Task Orders to this AGREEMENT. Each Task Order when fully executed shall become a supplement to and a part of this AGREEMENT.
 - 3.4.1. Each Task Order shall be supported by appropriate cost and pricing data and such other documentation as required by the CITY.
 - 3.4.2. Task Orders shall be numbered consecutively as specified by CITY. Each Task Order shall include a description of the scope of services and specified deliverables, time of completion, total estimated costs of services, and method of compensation. Additional information shall be provided to the CITY if required. Amended Task Orders shall include substantially the same information and be submitted to the CITY for approval.
 - 3.4.3. The CITY may make or approve changes within the general Scope of Services in any Task Order. If such changes affect the CONSULTANT's cost of or time required for performance of the services, an equitable adjustment shall be made through an amendment to the Task Order.
 - 3.4.4. A Task Order may be terminated at any time, with or without cause, by the CITY upon written notice to CONSULTANT. CONSULTANT shall perform no further work upon receipt of this notice unless specifically authorized by the City Manager of the City of Key West. On termination, the CONSULTANT shall be paid for all authorized services performed up to the termination date plus, if terminated for the convenience of the CITY, reasonable expenses incurred during the close-out of the Task Order. The CITY shall not pay for anticipatory profits. The termination of this Agreement pursuant to Paragraph 7.2, hereof, shall constitute the termination of any and all outstanding Task Orders.

- 3.4.5. The CONSULTANT shall begin services under any Task Order when authorized by a Purchase Order issued by the CITY and delivered to CONSULTANT.
- 3.5. The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for each Task Order as allowed by this Agreement. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services from another source.
- 3.6. CONSULTANT shall perform the professional services under this Agreement at the level customary for competent and prudent professionals in CONSULTANT'S field performing such services at the time and place where the services are provided. In the event CONSULTANT does not comply with this standard, and omissions or errors are made by CONSULTANT, CONSULTANT will correct such work that contains errors or omissions and reimburse CITY through compensation for damages.
- 3.7. CONSULTANT is required to perform the Task Orders consistent with current applicable Federal, State and City laws, codes and regulations that pertain to the Task Order. In all Task Orders, where changes to any laws, codes or regulations affecting the Task Order have a Task Ordered effective date or are anticipated to be effective at a future date, or if knowledge of anticipated changes is available to CONSULTANT or any sub-consultant, CONSULTANT shall present options for their use or implementation.
- 3.8. Construction Responsibility - Notwithstanding anything in this Agreement, CONSULTANT shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety measures, precautions and programs including enforcement of Federal and State safety requirements, in connection with construction work performed by CITY's construction contractors.
- 3.9. Estimates - Since CONSULTANT has no control over local conditions, the cost of labor, materials, equipment or services furnished by others, or over competitive bidding or market conditions, CONSULTANT does not guarantee the accuracy of any opinions of probable construction cost as compared to construction contractor's bids or the actual cost to the CITY.

ARTICLE 4

TERM OF AGREEMENT; TIME FOR PERFORMANCE; CONTRACTOR DAMAGES:

The term of this Agreement shall be for a period of three (3) years from the effective date of the Agreement with the option of one (1) two (2) year renewal. The Agreement will be in effect upon execution by both parties. The Agreement may be renewed at the discretion of the CITY.

- 4.1. CONSULTANT shall perform the services described in each Task Order within the time periods specified. Each such time period shall commence from the date of the purchase order issued for such services.

- 4.2. CONSULTANT must receive written approval from the Contract Administrator prior to beginning the performance of services in any subsequent Task Order. Prior to granting approval for CONSULTANT to proceed to a subsequent Task Order, the Contract Administrator may, at his or her sole option, require CONSULTANT to submit any deliverables/documents for the Contract Administrator's review.
- 4.3. In the event CONSULTANT is unable to complete the above services because of delays resulting from untimely review by CITY or other governmental authorities having jurisdiction over the Task Order, and such delays are not the fault of CONSULTANT, or because of delays which were caused by factors outside the control of CONSULTANT, CITY shall grant a reasonable extension of time for completion of the services and shall provide reasonable compensation, if appropriate. It shall be the responsibility of CONSULTANT to notify CITY within 10 days in writing whenever a delay in approval by a governmental agency, including CITY, is anticipated or experienced, and to inform the Contract Administrator of all facts and details related to the delay.
- 4.4. In the event the Contractor fails to substantially complete the Task Order on or before the substantial completion date specified in its agreement with CITY or if Contractor is granted an extension of time beyond said substantial completion date, and CONSULTANT's services are extended beyond the substantial completion date, through no fault of CONSULTANT, CONSULTANT shall be compensated in accordance with Article 5 for all services rendered by CONSULTANT beyond the substantial completion date.
- 4.5. In the event Contractor fails to substantially complete the Task Order on or before the substantial completion date specified in its agreement with CITY, and the failure to substantially complete is caused in whole or in part by a negligent act, error or omission of CONSULTANT, then CONSULTANT shall pay to CITY its proportional share of any claim or damages to Contractor or CITY arising out of the delay. This provision shall not affect the rights and obligations of either party as set forth in Paragraph 7.8, INDEMNIFICATION OF CITY.

ARTICLE 5

COMPENSATION AND METHOD OF PAYMENT

5.1. AMOUNT AND METHOD OF COMPENSATION

The types of compensation methods, which shall be used to pay for the CONSULTANT's services, are limited to the following:

- 5.1.1. Lump sum payment/Not-to-Exceed, which includes compensation for all the CONSULTANT'S salaries, general overhead costs, direct expenses, and profit.

- 5.1.1.1. If the TASK ORDER timing deviates from the assumed schedule for causes beyond CONSULTANT's control, CONSULTANT and/or the CITY reserves the right to request renegotiation of those portions of the lump sum affected by the time change. During construction contract administration, if tasked, it is agreed by both parties that whether construction is completed earlier or later, that a proportional part of the compensation will be adjusted and either given to CONSULTANT for additional work or deleted from the amount owed CONSULTANT for less time required.
 - 5.1.1.2. In the event of a change of scope, CITY shall authorize in writing an appropriate decrease or increase in compensation.
 - 5.1.1.3. Monthly invoicing will be based on an estimate of the percent of work completed at the end of the preceding month.
 - 5.1.1.4. The CONSULTANT shall submit wage rates and other actual unit costs supporting the compensation. The CONSULTANT shall submit a Truth in Negotiation Certificate stating that all data supporting the compensation is accurate, complete, and current at the time of contracting.
- 5.1.2. Cost Reimbursable-Per Diem (Time and Expenses)
- 5.1.2.1. Per diem rates are those hourly or daily rates charged for work performed on the TASK ORDER by CONSULTANT's employees of the indicated classifications and include all salaries, overheads, and profit, but do not include allowances for Direct Expenses. These rates are subject to annual adjustments based on the Consumer Price Index Urban U.S. City Average All Items U.S. Department of Labor Bureau of Labor Statistics.
 - 5.1.2.2. Hourly rates for the first year of the contract (CONSULTANT AND Sub-consultants): See attached Exhibit A
 - 5.1.2.3. CONSULTANT and Sub-consultants allowed annual wage adjustment shall not exceed the Data Resource Institute (DRI) forecast of wage and price escalation (the U.S. Bureau of Labor Statistics [BLS] Employment Cost Index [ECI] for Private Industry)
 - 5.1.2.4. A budgetary amount will be established for each Task Order. This budgetary amount shall not be exceeded unless prior written approval is provided by the CITY. CONSULTANT shall make reasonable efforts to complete the work within the budget and will keep CITY informed of progress toward that end so that the budget or work effort can be adjusted if found necessary.
 - 5.1.2.5. CONSULTANT is not obligated to incur costs beyond the indicated budgets, as may be adjusted, nor is CITY obligated to pay CONSULTANT beyond these limits.
 - 5.1.2.6. When any budget has been increased, CONSULTANT's excess costs expended prior to such increase will be allowable to the same extent as if such costs had been incurred after the approved increase.

5.2. REIMBURSABLE EXPENSES

- 5.2.1.1. Direct non-salary expenses, entitled Reimbursable Expenses, directly attributable to the Task Order shall be charged at actual cost, and shall be limited to the following:
 - 5.2.1.2. Identifiable transportation expenses in connection with the Task Order, subject to the limitations of Section 112.061, Florida Statutes. There shall be no mileage reimbursement for travel within the City of Key West. Transportation expenses to locations outside the City area or from locations outside the City will not be reimbursed unless specifically pre-authorized in writing by the Contract Administrator.
 - 5.2.1.3. Identifiable per diem, meals and lodgings, taxi fares, automobile rental, and miscellaneous travel-connected expenses for CONSULTANT's personnel subject to the limitations of Section 112.061 Florida Statutes. Meals for class C travel inside the City of Key West will not be reimbursed. Lodging will be reimbursed only for room rates equivalent to Holiday Inn, Hampton Inn, or Best Western located within the City of Key West city limits.
 - 5.2.1.4. Identifiable communication expenses approved by Contract Administrator, long distance telephone, courier and express mail utilized to render the services required by this Agreement.
 - 5.2.1.5. Cost of printing, reproduction or photography that is required by or of CONSULTANT to deliver services set forth in this Agreement. Unit costs must be specified on the Task Order.
 - 5.2.1.6. Identifiable testing costs approved by Contract Administrator. Unit costs must be specified on the Task Order.
 - 5.2.1.7. All permit fees paid to regulatory agencies for approvals directly attributable to the Task Order. These permit fees do not include those permits required for the Contractor.
- 5.2.2. It is acknowledged and agreed to by CONSULTANT that the dollar limitation set forth in Paragraphs 5.2.1.1 through 5.2.1.7 is a limitation upon, and describes the maximum extent of, CITY's obligation to reimburse CONSULTANT for direct, non-salary expenses. If CITY or Contract Administrator requests CONSULTANT to incur expenses not contemplated in the amount for Reimbursable Expenses, CONSULTANT shall notify Contract Administrator in writing before incurring such expenses. Any such expenses shall be reviewed and approved by CITY prior to incurring such expenses.
- 5.2.3. All sub-consultants' hourly rates shall be billed in the actual amount paid by CONSULTANT. These amounts shall not increase each fiscal year to the CITY by more than the Consumer Price Index Urban U.S. City Average All Items U.S. Department of Labor Bureau of Labor Statistics. Sub-consultant Reimbursable Expenses are limited to the items in Paragraphs 5.2.1.1 through 5.2.1.7 described above when the sub-consultant's agreement provides for reimbursable expenses.

5.3. METHOD OF BILLING

5.3.1. Lump Sum Compensation

CONSULTANT shall submit billings that are identified by the specific Task Order number if applicable on a monthly basis in a timely manner. These billings shall identify the nature of the work performed and the estimated percent of work accomplished. The statement shall show a summary of fees with accrual of the total and credits for portions paid previously. When requested, CONSULTANT shall provide backup for past and current invoices that record hours, personnel, and expense costs on a task basis, so that total hours and costs by task may be determined.

5.3.2. Cost Reimbursable-Per Diem (Time and Expenses) Compensation

CONSULTANT shall submit billings that are identified by the specific Task Order number on a monthly basis in a timely manner for all personnel hours and reimbursable expenses attributable to the Task Order. These billings shall identify the nature of the work performed, the total hours of work performed and the employee category and name of the individuals performing same. Billings shall itemize and summarize reimbursable expenses by category and identify same as to the personnel incurring the expense and the nature of the work with which such expense was associated. Where prior written approval by Contract Administrator is required for reimbursable expenses, a copy of the approval shall accompany the billing for such reimbursable. The statement shall show a summary of salary costs and reimbursable expenses with accrual of the total and credits for portions paid previously. External reimbursable expenses and sub-consultant fees must be documented by copies of invoices or receipts that describe the nature of the expenses and contain a Task Order number or other identifier that clearly indicates the expense is identifiable to the Task Order. Subsequent addition of the identifier to the invoice or receipt by the CONSULTANT is not acceptable except for meals and travel expenses. Appropriate CONSULTANT's cost accounting forms with a summary of charges must document internal expenses by category. When requested, CONSULTANT shall provide backup for past and current invoices that records hours and rates by employee category, reimbursable expenses by category, and subcontractor fees on a task basis, so that total hours and costs by task may be determined.

5.3.3. If requested, CONSULTANT shall provide copies of past paid invoices to any subcontractor or sub-consultant prior to receiving payment. CITY reserves the right to pay any subcontractor or sub-consultant, if CONSULTANT has not paid them timely and the services of the subcontractor or sub-consultant are necessary to complete the TASK ORDER or any Task Order.

5.4. METHOD OF PAYMENT

5.4.1. CITY shall pay CONSULTANT within forty-five (45) calendar days from receipt of CONSULTANT's proper invoice with documentation as provided above.

5.4.2. In the event CONSULTANT has utilized a Sub-consultant in order to perform the Task Order, CONSULTANT will be required to provide documentation that Sub-consultant and Sub-consultants of Sub-consultants have been paid prior to payment being made to CONSULTANT.

5.4.3. Payment will be made to CONSULTANT at:

Address: CH2M HILL ENGINEERS, INC.
PO Box 201869
DALLAS, TX. 75320-1869

ARTICLE 6

CITY'S RESPONSIBILITIES

- 6.1. CITY shall assist CONSULTANT by placing at CONSULTANT's disposal all information CITY has available pertinent to the Task Order including previous reports and any other data relative to design or construction of the Task Order.
- 6.2. CITY shall arrange for access to, and make all provisions for, CONSULTANT to enter upon public and private property as required for CONSULTANT to perform its services.
- 6.3. CITY shall review the CONSULTANT's itemized deliverables/documents identified in the Task Orders and respond in writing with any comment within the time set forth in the Task Order or within a reasonable time.
- 6.4. CITY shall give prompt written notice to CONSULTANT whenever CITY observes or otherwise becomes aware of any development that affects the scope or timing of CONSULTANT's services or any defect in the work of any Contractor.

ARTICLE 7

MISCELLANEOUS

7.1. OWNERSHIP OF DOCUMENTS

All finished or unfinished documents, data, data matrices and calculations generated and used to evaluate and compute the construction or material requirements for the Task Order, studies, surveys, drawings, maps, models, photographs and reports prepared or provided by CONSULTANT in connection with this Agreement, whether in hard copy or electronic form, shall become the property of CITY, whether the Task Order for which they are made is completed or not. If applicable, CITY may withhold any payments then due to CONSULTANT until CONSULTANT complies with the provisions of this Article. CONSULTANT is not responsible for damages caused by the unauthorized re-use by others of any of the materials for another Task Order.

7.2. TERMINATION

- 7.2.1. This Agreement may be terminated with or without cause by CITY at any time.
- 7.2.2. Notice of termination shall be provided in accordance with paragraph 7.12 NOTICES of this Agreement.
- 7.2.3. In the event this Agreement is terminated, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated. Compensation shall be withheld until all documents specified in Section 7.1 of this Agreement are provided to the CITY. Upon being notified of CITY's election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Under no circumstances shall CITY make payment of profit for services that have not been performed.

7.3. AUDIT RIGHT AND RETENTION OF RECORDS

- 7.3.1. CITY shall have the right to audit the books, records, and accounts of CONSULTANT that are related to any Task Order. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Task Order.
- 7.3.2. CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Fla. Stat.), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT's records, CONSULTANT shall comply with all requirements thereof; however, CONSULTANT shall violate no confidentiality or non-disclosure requirement of either federal or state law. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY's disallowance and recovery of any payment upon such entry.

7.4. NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AMERICANS WITH DISABILITIES ACT, AND EQUAL BENEFITS FOR DOMESTIC PARTNERS

- 7.4.1. CONSULTANT shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of the funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded in whole or in part by CITY, including Titles I

and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards.

- 7.4.2. CONSULTANT's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, gender identity or expression, national origin, marital status, physical or mental disability, political affiliation, or any other factor that can not be lawfully or appropriately used as a basis for service delivery. CONSULTANT shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, gender identity or expression, marital status, political affiliation, or physical or mental disability. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.
- 7.4.3. Consultant shall comply with City Ordinance Sec. 2-799 Requirements for City Contractors to Provide Equal Benefits for Domestic Partners

7.5. PUBLIC ENTITY CRIMES ACT

- 7.5.1. CONSULTANT represents that the execution of this Agreement shall not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in being barred from CITY's competitive procurement activities.
- 7.5.2. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit, that it or any sub-consultant, has committed an act defined by Section 287.133, Florida Statutes; as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

7.5.3. CONSULTANT shall promptly notify CITY if it or any subcontractor or sub-consultant is formally charged with an act defined as a "public entity crime" or has been placed on the convicted vendor list.

7.6. SUB-CONSULTANTS

CONSULTANT may use the sub-consultants identified in the proposal that was a material part of the selection of CONSULTANT to provide the services under this Agreement. The CITY reserves the right to accept the use of a sub-consultant or to reject the selection of a particular sub-consultant and to inspect all facilities of any sub-consultants in order to make determination as to the capability of the sub-consultant to perform properly under this Contract. The CITY's acceptance of a sub-consultant shall not be unreasonably withheld. CONSULTANT shall obtain written approval of Contract Administrator prior to changing or adding to the list of sub-consultants. The list of sub-consultants submitted and currently approved is as follows:

- a. AVIROM & ASSOCIATES, INC.
- b. NOTTING ENGINEERS OF FLORIDA, INC.
- c. ~~_____~~
- d. ~~_____~~
- e. ~~_____~~
- f. ~~_____~~

Hourly rates for such said Sub-consultants are as on attached Exhibit A.

7.7. ASSIGNMENT AND PERFORMANCE

- 7.7.1. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by either party and CONSULTANT shall not subcontract any portion of the work required by this Agreement except as authorized pursuant to Section 7.6.
- 7.7.2. CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and to provide and perform such services to CITY's satisfaction for the agreed compensation.
- 7.7.3. CONSULTANT shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of CONSULTANT's performance and all interim and final product(s) provided to or on behalf of CITY shall be in accordance with the standard of care set forth in Paragraph 3.6.
- 7.7.4. CONSULTANT shall not change or replace overall project manager identified in the CONSULTANT's response to the RFQ without the Contract Administrator's prior written approval.

7.8. INDEMNIFICATION OF CITY

7.8.1. To the fullest extent permitted by law, the CONSULTANT expressly agrees to indemnify and hold harmless the City of Key West, their officers, directors, agents, and employees (herein called the "indemnities") from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees and court costs, such legal expenses to include costs incurred in establishing the indemnification and other rights agreed to in this Paragraph, to persons or property, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the CONSULTANT, its Subcontractors or persons employed or utilized by them in the performance of the Contract. Claims by indemnities for indemnification shall be limited to the amount of CONSULTANT's insurance or \$1 million per occurrence, whichever is greater. The parties acknowledge that the amount of the indemnity required hereunder bears a reasonable commercial relationship to the Contract and it is part of the project specifications or the bid documents, if any.

7.8.2. The indemnification obligations under the Contract shall not be restricted in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONSULTANT under workers' compensation acts, disability benefits acts, or other employee benefits acts, and shall extend to and include any actions brought by or in the name of any employee of the CONSULTANT or of any third party to whom CONSULTANT may subcontract a part or all of the Work. This indemnification shall continue beyond the date of completion of the Work.

7.9. INSURANCE

7.9.1. CONSULTANT is to secure, pay for, and file with the City of Key West, prior to commencing any work under the Contract, all certificates for workers' compensation, public liability, and property damage liability insurance, and such other insurance coverages as may be required by specifications and addenda thereto, in at least the following minimum amounts with specification amounts to prevail if greater than minimum amounts indicated. Notwithstanding any other provision of the Contract, the CONSULTANT shall provide the minimum limits of liability insurance coverage as follows:

Auto Liability	\$1,000,000	Combined Single Limit
General Liability	\$2,000,000	Aggregate (Per Project)
	\$2,000,000	Products Aggregate
	\$1,000,000	Any One Occurrence
	\$1,000,000	Personal Injury
	\$ 300,000	Fire Damage/Legal
Professional Liability	\$2,000,000	Per Claim / Aggregate
Additional Umbrella Liability	\$2,000,000	Occurrence / Aggregate

7.9.2. CONSULTANT shall furnish an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West named as an additional insured on all policies— excepting Professional Liability—on a PRIMARY and NON CONTRIBUTORY basis utilizing an ISO standard endorsement at least as broad as

CG 2010 (11/85) or its equivalent, (combination of CG 20 10 07 04 and CG 20 37 07 04, providing coverage for completed operations, is acceptable) including a waiver of subrogation clause in favor of City of Key West on all policies. CONSULTANT will maintain the Professional Liability, General Liability, and Umbrella Liability insurance coverages summarized above with coverage continuing in full force including the additional insured endorsement until at least 3 years beyond completion and delivery of the work contracted herein.

- 7.9.3. Notwithstanding any other provision of the Contract, the CONSULTANT shall maintain complete workers compensation coverage for each and every employee, principal, officer, representative, or agent of the CONSULTANT who is performing any labor, services, or material under the Contract. Further, CONSULTANT shall additionally maintain the following minimum limits of coverage:

Bodily Injury Each Accident	\$1,000,000
Bodily Injury by Disease Each Employee	\$1,000,000
Bodily Injury by Disease Policy Limit	\$1,000,000

- 7.9.4. If the work is being done on or near a navigable waterway, CONSULTANT's workers compensation policy shall be endorsed to provide USL&H Act (WC 00 01 06 A) and Jones Act (WC 00 02 01 A) coverage if specified by the City of Key West. CONSULTANT shall provide the City of Key West with a Certificate of Insurance verifying compliance with the workers' compensation coverage as set forth herein and shall provide as often as required by the City of Key West such certification which shall also show the insurance company, policy number, effective and expiration date, and the limits of workers compensation coverage under each policy.

- 7.9.5. CONSULTANT's insurance policies shall be endorsed to give 30 days written notice to the City of Key West in the event of cancellation or material change, using form CG 02 24 or its equivalent.

- 7.9.6. Certificates of Insurance submitted to the City of Key West will not be accepted without copies of the endorsements being requested. This includes additional insured endorsements, cancellation/material change notice endorsements, and waivers of subrogation. Copies of USL&H Act and Jones Act endorsements will also be required if necessary. PLEASE ADVISE YOUR INSURANCE AGENT ACCORDINGLY.

- 7.9.7. CONSULTANT will comply with any and all safety regulations required by any agency or regulatory body including but not limited to OSHA. CONSULTANT will notify City of Key West immediately by telephone at (305) 809-3964 any accident or injury to anyone that occurs on the jobsite and is related to any of the work being performed by the CONSULTANT.

- 7.9.8. It shall be the responsibility of the Consultant to ensure that all sub-consultants/subcontractors comply with the same insurance requirements as is required of Consultant.

7.9.9. In addition, it is understood if at any time any of the policies required by the City shall become unsatisfactory to the City as to form or substance, or if a company issuing any such policy shall become unsatisfactory to the City, the Consultant shall obtain a new policy, submit the same to the City for approval and submit a certificate of insurance as which may be required by the contract. It is understood that upon failure of the Consultant to furnish, deliver and maintain such insurance as required above, the contract at the election of the City may be declared suspended, discontinued or terminated. Further, failure of the Consultant to take out and/or maintain any required insurance shall not relieve the Consultant from any liability under the contract, nor shall the insurance requirements be construed to conflict with the obligations of the Consultant concerning indemnification.

7.10. REPRESENTATIVE OF CITY AND CONSULTANT

7.10.1. The parties recognize that questions in the day-to-day conduct of the Task Order will arise. The Contract Administrator, upon CONSULTANT's request, shall advise CONSULTANT in writing of one (1) or more CITY employees to whom all communications pertaining to the day-to-day conduct of the Task Order shall be addressed.

7.10.2. CONSULTANT shall inform the Contract Administrator in writing of CONSULTANT's representative to whom matters involving the conduct of the Task Order shall be addressed.

7.11. ALL PRIOR AGREEMENTS SUPERSEDED

7.11.1. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document and the exhibits attached. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.

7.11.2. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

7.12. NOTICES

Whenever either party desires to give notice unto the other, such notice must be in writing, sent by certified United States mail, return receipt requested, addressed to the party for whom it is intended at the place last specified; and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice:

FOR CITY OF KEY WEST:

City of Key West
1300 White Street
Key West, FL 33040

FOR CONSULTANT:

Contact Name: SEAN M^CCOY
Address: 23069 BONITO LN.
CURTIS KEY, FL.
33042

7.13. TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The original contract price for any Task Order and any additions thereto shall be adjusted to exclude any significant sums, by which CITY determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of this Agreement.

7.14. INTERPRETATION

The language of this Agreement has been agreed to by both parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence or paragraph where they appear, unless the context otherwise requires. Whenever reference is made to a Paragraph or Article of this Agreement, such reference is to the Paragraph or Article as a whole, including all of the subsections of such Paragraph, unless the reference is made to a particular subsection or subparagraph of such Paragraph or Article.

7.15. CONSULTANT'S STAFF

7.15.1. CONSULTANT shall provide the key staff identified in their proposal for Task Order as long as such key staffs are in CONSULTANT's employment.

7.15.2. CONSULTANT shall obtain prior written approval of Contract Administrator to change key staff. CONSULTANT shall provide Contract Administrator with such

information as necessary to determine the suitability of proposed new key staff. Contract Administrator shall be reasonable in evaluating key staff qualifications.

- 7.15.3. If Contract Administrator desires to request removal of any of CONSULTANT's staff, Contract Administrator shall first meet with CONSULTANT and provide reasonable justification for said removal.
- 7.15.4. The CITY reserves the right to approve the members of the Consulting Team and the roles they will undertake in the assignment. The CITY's acceptance of a team member shall not be unreasonably withheld.
- 7.15.5. Each assignment issued under this Agreement by the CITY to the Consultant, the Consultant will at the CITY's request, disclose the role, qualifications and hourly rate of each individual working on the assignment.
- 7.15.6. The CITY reserves the right to require replacement of any of the members of the Consulting Team. Any proposed addition or change of members of the Consulting Team initiated by the Consultant must obtain the CITY Representative's prior written approval.
- 7.15.7. In the event of the death, incapacity or termination of employment of any member of the Consulting Team before Completion of the Services, the Consultant shall at its own expense and as soon as reasonably practicable arrange to substitute or replace the individual member concerned.
- 7.15.8. The Consultant shall ensure that the substitute or replacement is no less qualified in terms of relevant experience and qualifications than the outgoing individual and is available at the relevant time to act as such replacement or substitute. The Consultant shall without delay forward curriculum vitae of the proposed substitute or replacement to the CITY. The deployment of such substitute or replacement shall be subject to the CITY's consent.
- 7.15.9. The Consultant shall solely be responsible for all direct, indirect and consequential costs or losses that may arise from the substitution or replacement of members of the Consulting Team.

7.16. INDEPENDENT CONTRACTOR

CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT shall be subject to the supervision of CONSULTANT. In providing the services, CONSULTANT or its agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of the CITY, nor shall they accrue any of the rights or benefits of a CITY employee. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.17. THIRD PARTY BENEFICIARIES

Neither CONSULTANT nor CITY intend directly or substantially to benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement. No subcontractor or sub-consultant, whether named or unnamed, shall be a third party beneficiary of this Agreement.

7.18. CONFLICTS

7.18.1. Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT's loyal and conscientious exercise of judgment related to its performance under this Agreement.

7.18.2. CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY or in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude such persons from representing themselves in any action or in any administrative or legal proceeding.

7.18.3. In the event CONSULTANT is permitted to use sub-consultants to perform any services required by this Agreement, CONSULTANT agrees to prohibit such sub-consultants from having any conflicts as within the meaning of this section, and shall so notify them in writing.

7.19. CONTINGENCY FEE

CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement and that it 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 other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability at its discretion, or to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

7.20. WAIVER OF BREACH AND MATERIALITY

7.20.1. Failure by CITY to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach

and shall not be construed to be a modification of the terms of this Agreement.

7.20.2. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

7.21. COMPLIANCE WITH LAWS

CONSULTANT shall comply with federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement applicable at the time the scope of services was drafted for this agreement. In addition, at the time each Task Order is executed, any revisions to applicable federal state, and local laws, codes, ordinances, rules and regulations shall apply.

7.22. SEVERABILITY

In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement.

7.23. JOINT PREPARATION

Preparation of this Agreement has been a joint effort of CITY and CONSULTANT and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

7.24. PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.25. APPLICABLE LAW AND VENUE

The laws of the State of Florida govern the validity of this Agreement, its interpretation and performance, and any claims related to it. The venue for mediation, arbitration or any other legal proceeding shall be Monroe County, Florida.

7.26. INCORPORATION BY REFERENCE

The attached exhibits are incorporated into and made a part of this Agreement:


Exhibit A – CONSULTANT/Sub-consultants' Hourly Rates

7.27. COUNTERPARTS

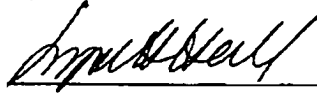
This Agreement may be executed in three (3) counterparts, each of which shall be deemed to be an original.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature.

By: CITY OF KEY WEST


James Scholl, City Manager

By: CONSULTANT



(Signature)
Sirpa H Hall

(Print Name and Title)

3rd day of NOVEMBER, 2017

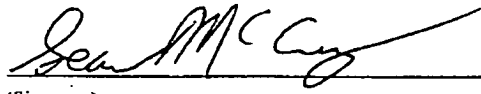
25th day of October, 2017





Paul Smith, City Clerk

Attest:



(Signature)
Sean McCoy, Project Manager

(Print Name and Title)

3 day of Nov, 2017

25th day of October, 2017



EXHIBIT "A"

Per Diem Rates (\$/hr) for Master Agreement to Furnish Engineering Services to
The City of Key West

Employer Category	FY18	FY19	FY20
Professionals			
Engineers, Architects, Planners, Economists, Scientists, Hydrologists, Hydrogeologists, Geologists			
Engineer 8	\$234.64	\$241.68	\$248.93
Engineer 7	\$216.68	\$223.18	\$229.88
Engineer 6	\$198.72	\$204.68	\$210.82
Engineer 5	\$181.88	\$187.34	\$192.96
Engineer 4	\$157.18	\$161.90	\$166.76
Engineer 3	\$134.72	\$138.76	\$142.92
Engineer 2	\$117.88	\$121.42	\$125.06
Engineer 1	\$99.92	\$102.92	\$106.01
Planner 1	\$81.96	\$84.42	\$86.95
Technicians			
Drafters, Graphic Artists, Computer, Surveyors, Cartographics, Construction Inspectors			
Technician 6	\$125.74	\$129.51	\$133.40
Technician 5	\$114.52	\$117.96	\$121.50
Technician 4	\$102.17	\$105.24	\$108.40
Technician 3	\$88.69	\$91.35	\$94.09
Technician 2	\$72.98	\$75.17	\$77.43
Technician 1	\$62.87	\$64.76	\$66.70
Office Support			
Specification Processor	\$79.71	\$82.10	\$84.56
Clerical/ Office Support	\$71.85	\$74.01	\$76.23
*Labor rates escalation at 3% per year			
Note (1): Rates applicable October 1 through September 30 for each year	10/1/17-9/30/18	10/1/18-9/30/19	10/1/19-9/30/20



Florida Board of Professional Engineers
2639 North Monroe Street, Suite B-112
Tallahassee, FL 32303-5268

CH2M Hill Engineers, Inc.
9191 S. JAMAICA STREET
ATTN: SALLY HILL
ENGLEWOOD, CO 80112

Each licensee is solely responsible for notifying the Florida Board of Professional Engineers in writing the licensee's current address.

Name changes require legal documentation showing name change. An original, a certified copy, or a duplicate of an original or certified copy of a document which shows the legal name change will be accepted unless there is a question about the authenticity of the document raised on its face, or because the genuineness of the document is uncertain, or because of another matter related to the application.

At least 90 days prior to the expiration date shown on this license, a notice of renewal will be sent to your last known address. If you have not yet received your notice 60 days prior to the expiration date, please call (850) 521-0500, or write, Florida Board of Professional Engineers, 2639 North Monroe Street, Suite B-112, Tallahassee, FL 32303-5268 or e-mail: board@fbpe.org. Our website address is <http://www.fbpe.org>.

State of Florida

Board of Professional Engineers



FBPE
FLORIDA BOARD OF
PROFESSIONAL ENGINEERS

Is authorized under the provisions of Section 471, 0230 Florida Statutes, to offer engineering services to the public through a Professional Engineer, duly licensed under Chapter 471, Florida Statutes.

Expiration: 2/28/2019
Audit No: 228201902457 R

CA Lic. No:
25861



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/26/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER MARSH USA INC. 1225 17TH STREET, SUITE 1300 DENVER, CO 80202-5534	CONTACT NAME: _____	
	PHONE (A/C, No, Ext): _____	FAX (A/C, No): _____
E-MAIL ADDRESS: _____		
INSURER(S) AFFORDING COVERAGE		NAIC #
15114 - 12345-5EX2P-17-18 074191 BK	INSURER A : Greenwich Insurance Company	22322
INSURED CH2M HILL ENGINEERS, INC. 3150 SW 38 AVENUE, SUITE 700 MIAMI, FL 33146	INSURER B : National Fire & Marine Insurance Co	20079
	INSURER C : XL Specialty Insurance Company	37885
	INSURER D : Zurich American Insurance Co	16535
	INSURER E : INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** SEA-003512608-01 **REVISION NUMBER:** 6

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> \$500,000 SIR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER: _____	X	X	RGE500025506	05/01/2017	05/01/2018	EACH OCCURRENCE \$ 1,500,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,500,000 MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ 1,500,000 GENERAL AGGREGATE \$ 5,000,000 PRODUCTS - COMP/OP AGG \$ 5,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	X	X	RAD500025406	05/01/2017	05/01/2018	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$			42JMO30247602	05/01/2017	05/01/2018	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
C	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY <input type="checkbox"/> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			<input checked="" type="checkbox"/> RWD500025206 (AOS) <input type="checkbox"/> RWR500025306 (WI)	05/01/2017	05/01/2018	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	PROFESSIONAL LIABILITY*			EOC382962115	05/01/2017	05/01/2018	Each Claim & Aggregate \$2,000,000 Each Policy Period

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Re: Client Contract No.: 693030
 City of Key West is included as an additional insured on the General Liability and Automobile Liability policies as required by written contract or agreement. Coverage provided by the above General Liability and Auto policies shall be primary and non-contributory and is limited to the liability resulting from the named insured's ownership and/or operations. General Liability, Auto Liability and Workers' Compensation policies include a Waiver of Subrogation. THE ABOVE WORKERS COMPENSATION POLICY INCLUDES A LONGSHORE AND HARBOR WORKERS COMPENSATION ACT COVERAGE ENDORSEMENT.

CERTIFICATE HOLDER City of Key West Attn: Jim Scholl 1300 White St. Key West, FL 33040	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE of Marsh USA Inc. David Wilkins
---	--

© 1988-2016 ACORD CORPORATION. All rights reserved.

AGENCY CUSTOMER ID: 15114

LOC #: Denver



ADDITIONAL REMARKS SCHEDULE

Page 2 of 2

AGENCY MARSH USA INC.		NAMED INSURED CH2M HILL ENGINEERS, INC. 3150 SW 38 AVENUE, SUITE 700 MIAMI, FL 33146	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

*For Professional Liability coverage, the aggregate limit is the total insurance available for claims presented within the policy period for all operations of the insured. The limit will be reduced by payments of indemnity and expense.