

RESOLUTION NO. 10-186

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED AGREEMENT FOR CONSULTING SERVICES BETWEEN THE CITY OF KEY WEST AND KESSLER CONSULTING, INC FOR SOLID WASTE CONSULTING SERVICES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in Resolution No. 10-133, the City Commission ranked responses to RFQ 10-008 for Solid Waste Consulting Services, and authorized the City Manager to negotiate an agreement with Kessler Consulting, the top-ranked company;

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

Section 1: That the attached Agreement for Solid Waste Consulting Services is hereby approved between the City and Kessler Consulting, Inc.

Section 2: 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 15th day of June, 2010.

Authenticated by the Presiding Officer and Clerk of the Commission on 16th day of June, 2010.

Filed with the Clerk on June 16, 2010



CRAIG CATES, MAYOR

ATTEST:



CHERYL SMITH, CITY CLERK



THE CITY OF KEY WEST

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

M
E
M
O
R
A
N
D
U
M

EXECUTIVE SUMMARY

TO: Jim Scholl, City Manager
E. David Fernandez, Asst. City Manager - Operations

FROM: Jay Gewin, Utilities Manager

DATE: May 15, 2010

RE: **Approval of a 3-Year Contract with Kessler Consulting, Inc. to Serve as Solid Waste Consultants to the City.**

ACTION STATEMENT:

This resolution will approve a solid waste services consulting contract with Kessler Consulting, Inc. This was the firm ranked highest by the City Commission from a shortlist submitted by staff, and the Commission authorized staff to negotiate this contract at its April 6, 2010 meeting. (Resolution 10-133)

The duration of this contract will be three years, with an option, maintained by the City, to renew the contract on a yearly basis for up to two years.

BACKGROUND:

The City Commission directed Staff to issue an RFQ so that the City could create a Solid Waste Master Plan at its December 3, 2009 meeting. This plan would include:

- 1) *Analysis of the City's current solid waste/recycling stream.*
- 2) *Feasibility, budgetary cost, impacts, and how best to enact:*
 - **Composting** (commercial and residential)
 - **Improved Recycle Rates** (commercial and residential) – to include how Key West could comply with the State of Florida's 75% Recycling Goal should it apply to smaller locales in the future.
 - **Pay-as-you Throw** – The concept of billing more for residents that generate the most solid waste.
 - **Best Management Practices for Solid Waste/Recycling**

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

- **E-waste** - to include methods for assurance that all collected e-waste is recycled.
 - **Household Hazardous Waste** – Determine most effective means of collection and recycling of HHW
 - **Effective PR campaign to increase recycling rates**
 - **Other Best Management Practices**
- 3) *Establish a Pathway for the City to Reach Maximum Recovery/Zero Waste, including feasibility and costs.*
 - 4) *Analysis of Current Solid Waste/Recycling Franchise Contracts.*
 - 5) *Analysis of the City's Recycling and Solid Waste Ordinances*
 - 6) *Analysis of the City's Current Solid Waste/Recycling Operations and Staffing Levels*
 - 7) *Commercial Solid Waste/Recycling Billing Class Analysis*
 - 8) *Solid waste/Recycling Fees and Service Comparison to Other Locales*
 - 9) *Consultant will Ensure that the Solid Waste Master Plan Incorporates Key West's Unique Community Dynamics*

City Staff determined that it would be in the City's best interest to draft an RFQ for a Solid Waste Consultant, rather than just for a Master Plan. This way the City will have the option to have the consultant pursue projects in the future should Staff determine that additional information may be needed.

Submittals for RFQ 10-008 were opened on March 3, 2010. A total of 10 firms submitted their qualifications. A ranking committee reviewed the submittals and created a shortlist of 3 firms. At its April 6th meeting, Kessler Consulting, Inc. was the highest ranked firm from the City Commission, and staff was instructed to negotiate a contract.

PURPOSE AND JUSTIFICATION

This consultant has unique expertise in the field of solid waste and recycling that can provide very beneficial information and knowledge for the City as we move forward on our Solid Waste Master Plan and other consulting needs.

The rates for Kessler Consulting are very comparable to those of our other consultants.

| Kessler Consulting (Solid Waste) | Hourly Rates |
|-----------------------------------|--------------|
| Project Director | \$140-\$165 |
| Project Manager | \$120-\$140 |
| Senior Consultant | \$100-\$120 |
| Consultant | \$80-\$100 |
| Research Analyst | \$60-\$80 |
| Technical Support | \$40-\$60 |
| Gary Liss (Kessler Subconsultant) | \$150 |

| | |
|--|-------|
| Jeffrey Morris (Kessler Subconsultant) | \$150 |
| Ty Symroski (Kessler Subconsultant) | \$75 |

The General Services Dept., Risk Management, and the Legal Dept. have reviewed this contract. It will be the basis from which the Solid Waste Master Plan and any other task orders will be issued.

OPTIONS / ADVANTAGES / DISADVANTAGES:

1. The City Commission can decline hiring a solid waste consultant. This option is not recommended by staff. Utilizing consulting contracts with various firms has been one of the key ingredients in the City's ability to manage projects simultaneously, and benefit from a level of expertise that is not available within City staff. Without the assistance of a solid waste consultant, it would be tremendously difficult to construct a viable Solid Waste Master Plan.
2. The City Commission can approve this contract with Kessler Consulting, Inc. Having Kessler Consulting under contract will enable the City to proceed with the task order for the Solid Waste Master Plan, and offers a tremendous amount of expertise in solid waste and recycling that the City can utilize.

FINANCIAL IMPACT:

There is no direct cost related to entering into a contract with this firm. However, the cost of services for any particular project, such as the Solid Waste Master Plan, will be established through a task order. As per the City's purchasing code, any task order exceeding \$20,000 will be brought to the City Commission for approval.

RECOMMENDATION:

Staff recommends that the City Commission select option 2, the approval of a solid waste consulting services contract with Kessler Consulting, Inc.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/23/2010

| PRODUCER HALCYON UNDERWRITERS INC 2600 LAKE LUCIEN DR STE 304 MAITLAND, FL 32751 (888) 661-3938 X0079 700 | THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. | | | | | | | | | | | | |
|--|--|-----------------------------|--------|---|--|---|--|-------------------|--|-------------------|--|-------------------|--|
| INSURED KESSLER CONSULTING, INCORPORATED 14620 N NEBRASKA AVE, UNIT D TAMPA, FL 33613 | <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th style="width:60%;">INSURERS AFFORDING COVERAGE</th> <th style="width:40%;">NAIC #</th> </tr> <tr> <td>INSURER A: THE PHOENIX INSURANCE COMPANY</td> <td></td> </tr> <tr> <td>INSURER B: THE TRAVELERS INDEMNITY COMPANY</td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> </table> | INSURERS AFFORDING COVERAGE | NAIC # | INSURER A: THE PHOENIX INSURANCE COMPANY | | INSURER B: THE TRAVELERS INDEMNITY COMPANY | | INSURER C: | | INSURER D: | | INSURER E: | |
| INSURERS AFFORDING COVERAGE | NAIC # | | | | | | | | | | | | |
| INSURER A: THE PHOENIX INSURANCE COMPANY | | | | | | | | | | | | | |
| INSURER B: THE TRAVELERS INDEMNITY COMPANY | | | | | | | | | | | | | |
| INSURER C: | | | | | | | | | | | | | |
| INSURER D: | | | | | | | | | | | | | |
| INSURER E: | | | | | | | | | | | | | |

COVERAGES

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR | ADD'L | TYPE OF INSURANCE | POLICY NUMBER | POLICY EFFECTIVE DATE (MM/DD/YYYY) | POLICY EXPIRATION DATE (MM/DD/YYYY) | LIMITS |
|------|-------|--|-----------------|------------------------------------|-------------------------------------|--|
| A | X | GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> HIRED AUTO <input checked="" type="checkbox"/> NON OWNED AUTO GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJ <input type="checkbox"/> LOC | 680-1155L288-10 | 02/16/2010 | 02/18/2011 | EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 |
| | | AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS | | | | COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ |
| | | GARAGE LIABILITY <input type="checkbox"/> ANY AUTO | | | | AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$ |
| B | | EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$5,000 | CUP-6084Y191-10 | 02/16/2010 | 02/16/2011 | EACH OCCURRENCE \$2,000,000 AGGREGATE \$2,000,000 \$ \$ \$ |
| | | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N <small>(Mandatory in NH)</small> If yes, describe under SPECIAL PROVISIONS below | | | | WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$ |
| | | OTHER | | | | |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

IN THE EVENT OF NON-PAYMENT OF PREMIUM, ONLY TEN(10) DAYS NOTICE OF CANCELLATION SHALL BE GIVEN.
 AS RESPECTS TO GENERAL LIABILITY, CITY OF KEY WEST IS ADDITIONAL INSURED - BLANKET ADDITIONAL INSURED-OWNERS/LESSEES/CONTRACTORS, CG D1 05, BUT ONLY AS RESPECTS TO WASTE MANAGEMENT CONSULTING.
 AS RESPECTS TO GENERAL LIABILITY, SUBROGATION AGAINST CITY OF KEY WEST HAS BEEN WAIVED PER CG 00 01.

| | |
|--|---|
| CERTIFICATE HOLDER CITY OF KEY WEST ATTN RISK MANAGEMENT PO BOX 1409 KEY WEST, FL 33041 | CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE |
|--|---|



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 4/20/10

PRODUCER
 BRUCE P. CUMMING ALLSTATE PH: 813-282-0069
 5440 MARINER ST., STE 111 FAX: 813-207-5069
 TAMPA, FL 33609

THIS CERTIFICATION IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED
 Kessler Consulting, Inc.
 14620 N. Nebraska Ave Ste D
 Tampa, FL 33613

| INSURERS AFFORDING COVERAGE | NAIC # |
|-------------------------------|--------|
| INSURER A: | |
| INSURER B: ALLSTATE INSURANCE | |
| INSURER C: | |
| INSURER D: | |
| INSURER E: | |

COVERAGES

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| DESCRIPTION | TYPE OF INSURANCE | POLICY NUMBER | POLICY EFFECTIVE DATE (MM/DD/YYYY) | POLICY EXPIRATION DATE (MM/DD/YYYY) | LIMITS |
|-------------|--|---------------|------------------------------------|-------------------------------------|---|
| B | GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO. <input type="checkbox"/> LOC | | | | EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMPOUND AGG \$ \$ |
| | AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input checked="" type="checkbox"/> medical payments \$5000 GARAGE LIABILITY <input type="checkbox"/> ANY AUTO | 649825010 | 07/02/09 | 07/02/10 | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC AGG \$ EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ |
| | EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE \$ RETENTION \$ | | | | EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ |
| | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/OWNER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER | | | | NO STATUTORY LIMITS OTHER EA E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - JOY LIMIT \$ |
| B | Collision Comprehensive | 649825010 | 07/02/09 | 07/02/10 | ded \$250 ded \$500 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Waiver of subrogation in place

CERTIFICATE HOLDER

City of Key West
 P.O. Box 1409
 Key West, FL 33041-1409
 Attn: Risk Mgmt Dept

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

[Signature]

ACORD CERTIFICATE OF LIABILITY INSURANCE

04/19/2010

| PRODUCER (813)282-1965 FAX (888)883-8680 Lassiter-Ware Insurance 4401 W. Kennedy Blvd. Suite 200 Tampa, FL 33609 | THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. | | | | | | | | | | | | |
|--|---|-----------------------------|--------|--------------------------------------|-------|------------|--|------------|--|------------|--|------------|--|
| INSURED Kessler Consulting, Inc. 14620 N. Nebraska Ave Building D Tampa, FL 33613 | <table border="1"> <tr> <th>INSURERS AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A: American Safety RRG, Inc.</td> <td>25448</td> </tr> <tr> <td>INSURER B:</td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> </table> | INSURERS AFFORDING COVERAGE | NAIC # | INSURER A: American Safety RRG, Inc. | 25448 | INSURER B: | | INSURER C: | | INSURER D: | | INSURER E: | |
| INSURERS AFFORDING COVERAGE | NAIC # | | | | | | | | | | | | |
| INSURER A: American Safety RRG, Inc. | 25448 | | | | | | | | | | | | |
| INSURER B: | | | | | | | | | | | | | |
| INSURER C: | | | | | | | | | | | | | |
| INSURER D: | | | | | | | | | | | | | |
| INSURER E: | | | | | | | | | | | | | |

COVERAGES

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS

| INSR ADD'L LTR | INSRD | TYPE OF INSURANCE | POLICY NUMBER | POLICY EFFECTIVE DATE (MM/DD/YY) | POLICY EXPIRATION DATE (MM/DD/YY) | LIMITS |
|----------------|-------|---|---------------|----------------------------------|-----------------------------------|--|
| | | GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC | | | | EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ |
| | | AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS | | | | COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ |
| | | GARAGE LIABILITY <input type="checkbox"/> ANY AUTO | | | | AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$ |
| | | EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$ | | | | EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$ |
| | | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below | | | | WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$ |
| A | | OTHER Professional Liability Claims Made | MPL0098110905 | 07/12/2009 | 07/12/2010 | \$1,000,000 Per Claim \$1,000,000 Aggregate \$2,500 Retention Per Claim |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 The Certificate Holder is an additional insured under the terms and conditions of the General Liability policy with respect to work performed by the named insured as required by written contract. The Professional Liability policy contains a Waiver of Subrogation in favor of the cert holder providing the contract is executed prior to any loss.
 *Except ten (10) days notice for non-payment of premium.

CERTIFICATE HOLDER

CANCELLATION

| | |
|---|---|
| City of Key West Attn: Risk Mgmt Dept. P.O. Box 1409 Key West, FL 33041-1409 | SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 ² DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. |
| | AUTHORIZED REPRESENTATIVE Patricia Schmalz/JUDES <i>Patricia Schmalz</i> |

M1004116034

Policy Change Request

04/19/2010

| Agency | | Insured | |
|--|---------------|--|--------------------------|
| Lassiter-Ware Insurance 4401 W. Kennedy Blvd. Suite 200 Tampa, FL 33609 | | Kessler Consulting, Inc. 14620 N. Nebraska Ave Building D Tampa, FL 33613 | |
| Company | | Policy Number | Policy Period |
| American Safety Ins Svcs, Inc. American Safety RRG, Inc. 100 Galleria Parkway S.E. Suite 700 Atlanta, GA 30339 | | MPL0098110905 | 07/12/2009 07/12/2010 |
| Regarding | First Request | Add WOS for City of Key West | |
| Effective | 04/19/2010 | Add WOS for City of Key West | |

Comments

Please add a Waiver of Subrogation for the following: (\$250. charge)

City of Key West
Attn: Risk Mgmt Dept.
P.O. box 1409
Key West, FL 33041-1409

THank you,

Jude Sutton
(313)282-1965 FAX (888)883-8680

Lassiter-Ware Insurance
Page 1 of 1



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
4/19/2010PRODUCER (813)890-0415 FAX: (813)885-4311
PrimeGroup Insurance Services, Inc.
5440 Beaumont Center Blvd.
Suite #445

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

Tampa FL 33634

INSURERS AFFORDING COVERAGE

NAIC #

INSURED

INSURER A: Bridgefield Employers 10701 A xv

Kessler Consulting, Inc.
14620 Nebraska Ave. Building D

INSURER B:

INSURER C:

INSURER D:

Tampa FL 33613

INSURER E:

COVERAGES

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR ADD'L LTR INSRD | TYPE OF INSURANCE | POLICY NUMBER | POLICY EFFECTIVE DATE (MM/DD/YYYY) | POLICY EXPIRATION DATE (MM/DD/YYYY) | LIMITS |
|----------------------|---|---------------|------------------------------------|-------------------------------------|---|
| | GENERAL LIABILITY COMMERCIAL GENERAL LIABILITY CLAIMS MADE <input type="checkbox"/> OCCUR <input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> | | | | EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ |
| | AUTOMOBILE LIABILITY ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> | | | | COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ |
| | GARAGE LIABILITY ANY AUTO <input type="checkbox"/> | | | | AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$ |
| | EXCESS / UMBRELLA LIABILITY OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE \$ RETENTION \$ | | | | EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ |
| A | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> If yes, describe under SPECIAL PROVISIONS below | 0830-41210 | 3/7/2010 | 3/7/2011 | <input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input checked="" 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 |
| | OTHER | | | | |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
A Waiver of Subrogation has been issued in favor of the Certificate Holder.
See attached. 10 day intent to cancel for non-pay.

CERTIFICATE HOLDER

City of Key West
Attn: Risk Mgmt. Dept
PO Box 1409
Key West, FL 33041-1409

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Ed Ellsasser

ACORD 25 (2009/01)

INS025 (200901)

© 1988-2009 ACORD CORPORATION. All rights reserved.

The ACORD name and logo are registered marks of ACORD

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

Blanket Waiver of Subrogation Applies

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

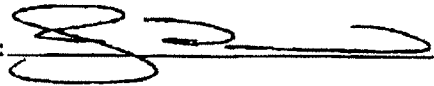
Date Prepared: January 12, 2010

Carrier: Bridgefield Employers Insurance Company

Effective Date of Endorsement: March 7, 2010

Policy Number: 830-41210

Countersigned by:

A handwritten signature in black ink, consisting of a stylized, cursive name that appears to be "S. J. [unclear]".

Insured: Kessler Consulting, Inc.

WC 00 03 13 (Ed. 4-84)

CITY OF KEY WEST

MASTER AGREEMENT TO FURNISH
SOLID WASTE CONSULTING SERVICES
TO THE
CITY OF KEY WEST

May, 2010

Solid Waste Consultants:

Kessler Consulting, Inc.

Master Agreement to Furnish Solid Waste Consulting Services to the City of Key West

This AGREEMENT made and entered into by and between the City of Key West, a municipal corporation of the State of Florida, whose address is 525 Angela Street, Key West, Florida 33040, hereafter referred to as the "CITY" and Kessler Consulting, Inc., a corporation authorized to do business in the State of Florida, whose address is 14620 N. Nebraska Ave., Suite D, Tampa, FL 33613, hereafter referred to as the "CONSULTANT". This agreement shall be effective on the date of execution of the last party to sign the AGREEMENT for the term specified in Paragraph 6.1.

Article 1. Scope of Services

The CONSULTANT'S primary responsibilities include, but are not limited to, providing solid waste consulting services to include the creation of a Solid Waste Master Plan. Additional work may include other consulting services which the CONSULTANT is qualified to provide and which the CITY authorizes the CONSULTANT to undertake in connection with the CITY's present and planned activities in the areas identified below. The specific services, which the CONSULTANT agrees to furnish, are set forth as follows:

- 1.1 Provide comprehensive solid waste consulting services to include the creation of a Solid Waste Master Plan for the CITY and assisting the CITY with other projects where solid waste consulting assistance is needed.

CONSULTANT shall provide the above-mentioned Scope of Services as tasked by the CITY for the projects specifically identified in RFQ No. 10-008, RFQ submission/proposal, and any other tasks as assigned under this scope. The terms that the CONSULTANT agrees to follow are set forth as follows:

- 1.2 The specific services to be provided by the CONSULTANT and the compensation for such services will 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.
- 1.3 Unless otherwise indicated in a Task Order, execution of a Task Order by the CITY shall constitute authorization for the CONSULTANT to proceed with the services enumerated in the Task Order. Each Task Order will be supported by appropriate cost and pricing data and such other documentation as required by the CITY.
- 1.4 Task Orders shall be numbered consecutively. Each Task Order shall include a description of the scope of services, 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.
- 1.5 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 will be made through an amendment to the Task Order.

- 1.6 A task order may be terminated at any time, with or without cause, by the CITY upon thirty (30) days written notice to CONSULTANT. No further work will be performed by CONSULTANT upon receipt of this notice unless specifically authorized by the Utilities Manager of the City of Key West.

On termination, the CONSULTANT will 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 will not pay for anticipatory profits.
- 1.7 The CONSULTANT will provide ADDITIONAL SERVICES mutually agreed to and authorized by the CITY in writing but not specifically described and authorized by a Task Order.
- 1.8 The CITY engages CONSULTANT to perform those Services described in the CITY'S February 2, 2010 Request for Qualification #10-008 and the Kessler Consulting, Inc. submittal, dated March 3, 2010.

Article 2. Compensation

As consideration for providing the services enumerated in Article 1 and supplemental Task Orders, the CITY shall pay the CONSULTANT fees as defined in each Task Order.

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

- 2.1 Lump sum payment, which includes compensation for all the CONSULTANT'S salaries, general overhead costs, direct expenses, and profit.
 - A. The lump sum is based on immediate authorization to proceed and timely completion of the PROJECT. If the PROJECT 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.
 - B. In the event of a change of scope, an appropriate decrease or increase in compensation will be authorized in writing.
 - C. Monthly invoicing will be based on an estimate of the percent complete at the end of the preceding month.
 - D. 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.
- 2.2 Cost Reimbursable-Per Diem (Time and Expenses)
 - A. Hourly Per Diem Rates are provided in Exhibit A to this Agreement. Per Diem Rates are those hourly rates charged for work performed on the PROJECT 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 fiscal year adjustments and on October 1 of each year, basic hourly wage rates for each step and grade will be adjusted by the

percentage change in the Employment Cost Index for private industry workers, wages and salaries (not seasonally adjusted), from July of the prior year to July of the current year. That is, the increase to go into effect on October 1, 2010 will be the increase in the ECI series between July 2009 and July 2010, while the increase to go into effect on October 1, 2011 will be the increase in the ECI between July of 2010 and July of 2011. There shall be no rate increase until October 1, 2010.

- B. 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 will 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.
- C. 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.
- D. 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.
- E. The CITY shall pay for reimbursable expenses invoiced at the actual cost of expenditures incurred by the CONSULTANT. Direct expenses are those necessary costs and charges incurred for the PROJECT including, but not limited to: 1) the costs of express courier charges, mail, supplies and field equipment incurred directly for the PROJECT, printing and reproduction of drawings, documents, and other material, , and subcontracts and other outside services; and 2) CONSULTANT'S standard project charges for computing services, special health and safety requirements of OSHA and telecommunication services; and 3) the costs of travel, including the use of CONSULTANT'S vehicles, subsistence, lodging and related expenses of personnel while traveling in connection with the PROJECT in accordance with CITY policy and Florida Statute FS 112.061. Required Documentation: All requests for travel reimbursement must provide enough detail to clearly indicate the reason (s) for travel, date (s) of travel, exact time (s) of travel, and mode (s) of travel. If travel is by privately owned vehicle, exact mileage traveled with odometer readings must be submitted. All receipts for which reimbursement is requested are subject to Florida Statute rates applicable at the time of travel. CONSULTANT is obligated to minimize all expenses incurred in the execution of this AGREEMENT and subsequent Task Orders. There shall be no markup on expenses reimbursed under this agreement.
- F. All reimbursement requested must be supported by a receipt except where a receipt could not be obtained such as an unattended toll booth or parking meters. In those situations where receipts cannot be obtained, reimbursement requested must be supported by documents that show dates, parking meter numbers and locations, toll booth locations, and signature of employee. Travel, in connection with the work and for convenience of CONSULTANT (to make use of talent not located in Monroe County), shall be included in CONSULTANT'S Task Order. Travel requested by CITY'S AUTHORIZED REPRESENTATIVE and travel associated with permitting and grants, as required by state and federal agencies, will be reimbursed in accordance with this section.

- G. Transportation by passenger vehicles supplied by CONSULTANT in connection with the work will be reimbursed in accordance with Florida Statute 112.061. Required Documentation: Mileage log stating point of departure, point of destination, and odometer reading for both.

Article 3. Invoicing and Payment

Monthly invoices will be issued by CONSULTANT for all work performed during the preceding month under this AGREEMENT, as prescribed in Article 2. Invoices are to be submitted and paid in accordance with the Florida Prompt Payment Act.

Article 4. Obligations of the Consultant

- 4.1. General
 - A. The CONSULTANT will serve as CITY'S professional representative under this AGREEMENT, providing professional solid waste consulting advice and furnish customary services incidental thereto.
- 4.2. Standard of Care
 - A. The standard of care applicable to CONSULTANT'S services will be the degree of skill and diligence normally employed by financial and other related consultants performing the same or similar services at the time said services are performed. The CONSULTANT will perform any services not meeting this standard without additional compensation.
- 4.3. Opinions of Cost, Financial Considerations, and Schedules
 - A. In providing opinions of construction cost, financial analyses, economic feasibility projections, and schedules for design projects, the CONSULTANT has no control over cost or price of labor and materials; unknown or latent conditions of existing equipment or structures that may affect operation or maintenance costs; competitive bidding procedures and market conditions; time or quality of performance by third parties; quality, type, management, or direction of operating personnel; and other economic and operational factors that may materially affect an ultimate PROJECT cost or schedule. Therefore, the CONSULTANT makes no warranty that the CITY'S actual PROJECT costs, financial aspects, economic feasibility or schedules will not vary from the CONSULTANT'S opinions, analyses, projections, or estimates.
 - B. If CITY wishes greater assurance as to any element of PROJECT cost, feasibility, or schedule, CITY will employ an independent cost estimator, contractor, or other appropriate advisor.
- 4.4. CONSULTANT'S Insurance
 - A. The CONSULTANT will maintain throughout this AGREEMENT the following insurance:
 - 1. Worker's Compensation - statutory - in compliance with the compensation law of the State of Florida. The coverage must include Employer's Liability with a limit of One Million (\$1,000,000) Dollars each accident.

2. Commercial General Liability insurance with a minimum limit of liability per occurrence of one million (\$1,000,000) dollars with an annual aggregate of no less than two million (\$2,000,000) dollars. Evidence of any and all pending claims which may exhaust the aggregate may be requested. The City of Key West must be named as an Additional Insured. This insurance shall include for bodily injury and property damage the following coverage:
 - Commercial Form
 - Premises/Operations
 - Products/Completed Operations
 - Independent Consultants (if any part of the Work is to be subcontracted)
 - Broad Form Property Damage
 - Personal Injury
3. Business Automobile Liability insurance with a minimum limit of liability per occurrence of one million (\$1,000,000) dollars combined single limits with no annual aggregate. The City of Key West must be named as an Additional Insured. This insurance shall include for bodily injury and property damage the following coverage:
 - Owned automobiles
 - Hired automobiles
 - Non-owned automobiles
 - Location of operation shall be "All Locations"
4. Excess/Umbrella Liability shall have a minimum limit of two million (\$2,000,000) dollars per occurrence with an annual aggregate of two million (\$2,000,000) dollars. This coverage is to be following form and include the Commercial General Liability and Automobile Liability policies. If Consultant's insurance is a Claims Made policy, it must include coverage and/or extend reporting period to a minimum of two years following the completion of work performed under the contract.
5. Professional Liability/Errors & Omissions insurance with a minimum limit of one million (\$1,000,000) dollars.
6. The insurance required under paragraphs 1, 2, 3, 4, and 5 hereof is a minimum to provide adequate protection for the CONSULTANT, respectively, against damage claims which may arise from operations under this contract, whether such operation be by the insured or by anyone directly or indirectly employed by the insured and, also against any of the special hazards which may be encountered in the entity's operation under this contract. The insurance required herein and approval of the Consultant's insurance by the City of Key West shall not relieve or decrease the liability of the Consultant hereunder.
7. The insurance required under paragraphs 1, 2, 3, 4 and 5 hereof shall contain a "Waiver of Subrogation" provision whereas the Consultant insurer waives any claim against the City of Key West.
8. Certificates of Insurance shall be filed and maintained throughout the life of this Contract with the City Clerk evidencing the minimum limits of insurance

cited above. All policies shall provide they may not be terminated or modified without insurer providing the City of Key West at least thirty (30) days of advance notice. Additionally, the Consultant shall immediately notify the City of any cancellation of such insurance.

In addition, it is understood if at any time any of the policies required by 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 above provided, 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.

4.5 Subconsultants

- A. The CONSULTANT may not assign or subcontract its obligations under this AGREEMENT without the written consent of the CITY.
- B. The CONSULTANT may use Subconsultants to provide solid waste consulting services to the City. The list of Subconsultants along with their hourly rates will be included in the City's contract with the Consultant. The CONSULTANT shall obtain written approval from the City prior to changing or adding to the list of Subconsultants and their hourly rates listed in the contract.
- C. The CONSULTANT is as fully responsible to the owner for the acts and omissions of his Subconsultant and of persons either directly or indirectly employed by them as he is for the acts and omissions of persons directly employed by him.
- D. Nothing contained in the Contract Documents shall create any contractual relationship between any Subconsultant and the City. The Subconsultant shall have the same insurance requirements as the CONSULTANT.

4.6 Licenses

- A. The CONSULTANT will be required to obtain a local required license prior to performing any work for the CITY. This license will be a Business Tax Receipt at a cost not to exceed \$98.70.

4.7 Piggybacking

- A. The CONSULTANT shall extend the terms and conditions of its contract with the City to other interested governmental entities. The City shall approve the piggybacking of this contract to another party.

Article 5. Obligations of the City

- 5.1. Authorization to Proceed
 - A. Authorization to proceed will be considered to be given upon execution of each Task Order by the CITY.
- 5.2. City-Furnished Data
 - A. The CITY will provide to the CONSULTANT all data in the CITY'S possession relating to the CONSULTANT's services on the PROJECT including, but not limited to, information on any pre-existing. CONSULTANT will reasonably rely upon the accuracy, timeliness, and completeness of the information provided by the CITY.
- 5.3. Access to Facilities and Property
 - A. The CITY will make its facilities accessible to CONSULTANT as required for CONSULTANT's performance of its services and will provide labor and safety equipment as required by CONSULTANT for such access. CITY will be responsible for all acts of CITY'S personnel.
- 5.4. Timely Review
 - A. The CITY will examine the CONSULTANT's studies, reports, and other documents; obtain advice of an attorney, insurance counselor, accountant, auditor, bond and financial advisors, and other consultants as CITY deems appropriate; and render in writing decisions required of CITY in a timely manner.
- 5.5. Prompt Notice
 - A. The CITY will give prompt written notice to CONSULTANT whenever CITY observes or becomes aware of any development that affects the scope or timing of CONSULTANT's services, or any defect in the work of the CONSULTANT.
- 5.6. Litigation Assistance
 - A. The Scope of Services does not include costs of CONSULTANT for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by CITY. All such services required or requested of CONSULTANT by CITY, except for suits or claims between the parties to this AGREEMENT, will be reimbursed as mutually agreed in a separate Task Order, and payment for such services shall be in accordance with Article 3, unless and until there is a finding by a court or arbitrator that CONSULTANT's sole negligence caused CITY's damage.

Article 6. General Legal Provisions

- 6.1 Agreement Period
 - A. The duration of the agreement shall be three (3) years commencing from the date this Agreement was entered into, with an option, maintained by the CITY, to renew the contract on a yearly basis for up to two (2) years.
- 6.2. Reuse of Project Documents
 - A. Reports, documents and other deliverables of the CONSULTANT, whether in hard copy or in electronic form, are instruments of service for the project of the

CITY. All documents shall be made available on re-writable CD and are the property of the City of Key West. Reuse, change, or alteration on another project, by the CITY or by others acting on behalf of the CITY of any such instruments of service without the written permission of the CONSULTANT will be at the CITY's sole risk. Nothing herein shall constitute a waiver of City's sovereign immunity rights, including, but not limited to, those expressed in Section 768.28, Florida Statutes.

6.3 Ownership of Work Product and Inventions

- A. All of the work product of CONSULTANT in executing a Project under this contract shall become the property of the CITY. The City may use the deliverables solely for the purpose for which they were intended.

6.4 Force Majeure

- A. The CONSULTANT is not responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the CONSULTANT.
- B. In the event of a delay that results in additional costs to the CONSULTANT, an appropriate increase in compensation and schedule will be authorized in writing.

6.5 Termination

- A. This agreement may be terminated at any time, with or without cause, by the CITY upon thirty (30) days written notice to CONSULTANT. No further work will be performed by CONSULTANT upon receipt of this notice unless specifically authorized by the General Services Department Director of the City of Key West.
- B. On termination, the CONSULTANT will 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 AGREEMENT. The CITY will not pay for anticipatory profits.

6.6 Suspension, Delay, or Interruption of Work

- A. The CITY may suspend, delay, or interrupt the services of the CONSULTANT for the convenience of the CITY. In the event of such suspension, delay, or interruption, or any other act or neglect of CITY or CITY's subcontractors, CITY will pay CONSULTANT for work performed to date. An equitable adjustment in the PROJECT'S schedule and CONSULTANT'S compensation will be made as agreed to by both parties.
- B. In the event delays to the project are encountered for any reason, the parties agree to undertake reasonable steps to mitigate the effect of such delays.

6.7 Third Party Beneficiaries

- A. This Agreement gives no rights or benefits to anyone other than the CITY and CONSULTANT and has no third party beneficiaries. CONSULTANT'S services are defined solely by this proposed scope of services, and not by any other contract or agreement that may be associated with the Project. All work products will be prepared for the exclusive use of CITY for specific application as described in the proposed scope of services. No warranty, expressed or implied, is made. There are no beneficiaries of the work products other than CITY, and no

other person or entity is entitled to rely upon the work products without the written consent of CONSULTANT. Any unauthorized assignment of related work product shall be void and unenforceable.

6.8 Indemnification

- A. Consultant agrees to protect, defend, indemnify, save and hold harmless The City of Key West, all Departments, Agencies, Boards and Commissions, its officers, agents, servants and employees, including volunteers, from and against any and all claims, demands, expense and liability arising out of injury or death to any person or the damage, loss of destruction of any property which may occur or in any way grow out of any act or omission of the Consultant, its agents, servants, and employees, or any and all costs, expense and/or attorney fees incurred by the Consultant as a result of any claim, demands, and/or causes of action except of those claims, demands, and/or causes of action arising out of the negligence of The City of Key West, all Departments, Agencies, Boards and Commissions, its officers, agents, servants and employees. The Consultant agrees to investigate, handle, respond to, provide defense for and defend any such claims, demand, or suit at its sole expense and agrees to bear all other costs and expenses related thereto, even if it (claims, etc.) is groundless, false or fraudulent.

Nothing in this indemnification is intended to act as a waiver of the city's rights under section 768.28, Florida Statutes.

- B. This indemnification shall survive the expiration or termination of this Agreement. In the event that any action or proceeding is brought against the CITY by reason of such claim or demand, CONSULTANT shall, upon written notice from the CITY, resist and defend such action or proceeding by counsel satisfactory to the CITY. The CONSULTANT shall defend at its own expense to and through appellate, supplemental or bankruptcy proceeding, or to provide for such defense, at the CITY's option, any and all claims of liability and all suits and actions of every name and description covered above which may be brought against the CITY whether performed by CONSULTANT, or by persons employed or used by CONSULTANT.
- C. In no event shall CONSULTANT, its affiliated corporations, officers, employees, or any of its subcontractors be liable for any incidental, indirect, special, punitive, economic or consequential damages, including but not limited to loss of revenue or profits, suffered or incurred by CITY or any of its agents, including other contractors engaged at the project site, as a result of this Agreement or CONSULTANT's performance or non-performance of services pursuant to this Agreement. Limitations of liability provided in this paragraph apply whether the liability is claimed to arise in contract, tort (including negligence), strict liability, or otherwise.

6.9 Limitation of Liability

- A. CONSULTANT's services shall be governed by the negligence standard for professional services, measured as of the time those services are performed.
- B. This Provision takes precedence over any conflicting Provision of this Agreement or any document incorporated into it or referenced by it.

C. This limitation of liability will apply whether CONSULTANT'S liability arises under breach of contract or warranty; tort; including negligence; strict liability; statutory liability; or any other cause of action, and shall include CONSULTANT's officers, affiliated corporations, employees, and subcontractors.

6.10 Assignment

A. Consultant shall not assign all or any part of this Agreement without the prior consent of the CITY by Resolution of the Key West City Commission.

6.11 Jurisdiction

A. The law of the state of Florida and Monroe County will govern the validity of this AGREEMENT, its interpretation and performance, and any other claims related to it.

6.12 Severability and Survival

A. If any of the provisions contained in this AGREEMENT are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will affect any other provision, and this AGREEMENT will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

B. ARTICLES 4, 5, and 6 will survive termination of this AGREEMENT for any cause.

6.13 Dispute Resolution

A. The parties will use their best efforts to resolve amicably any dispute, including the use of alternative dispute resolution options.

B. Unless otherwise agreed in writing, the CONSULTANT shall continue the Work and maintain the approved schedules during any arbitration proceedings. If the engineer continues to perform, CITY shall continue to make payments in accordance with this Agreement.

Article 7. Schedules, and Signatures

This AGREEMENT, including its Schedules, constitutes the entire AGREEMENT, supersedes all prior written or oral understandings, and may only be changed by a written amendment executed by both parties.

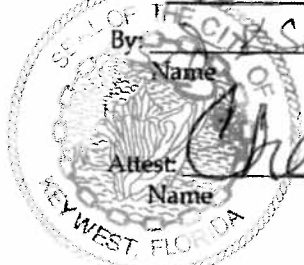
IN WITNESS WHEREOF, the parties execute below:

For the CITY, J. K. SCHOLL

Dated this 16TH day of JUNE, 2010.

By: J. K. Scholl CITY MANAGER
Name Title

Attest: Cheryl Smith CITY CLERK
Name Title



For the CONSULTANT,

Dated this 14 day of May, 2010.

By: [Signature] Mich Kessler, President
Name Title

ATTACHEMENT "A"
DETAILED FEE SCHEDULE

Kessler Consulting, Inc.

2010 RATES

Labor: Professional services will be provided at the billing rates set out below. These rates include all overhead and direct and indirect costs. KCI shall provide additional personnel as needed and approved by the Client to perform the services specified by the contract.

| POSITION | RATE |
|-----------------------------------|--------------------|
| Project Director/Principal | \$140 - \$165/hour |
| Project Manager | \$120 - \$140/hour |
| Senior Consultant | \$100 - \$120/hour |
| Consultant | \$80 - \$100/hour |
| Research Analyst | \$60 - \$80/hour |
| Technical Support | \$40 - \$60/hour |

Expenses: All expenses (travel, copies, postage, telephone, etc.) will be billed to the client at cost without markup as per Sections 112.061 (7) and (8), of Florida Statutes.

Jay Gewin

From: Robin Mitchell [rmitchell@kesconsult.com]
Sent: Tuesday, June 01, 2010 9:34 AM
To: Jay Gewin
Cc: Mitch Kessler
Subject: Rate Schedule
Attachments: KCI 2010 rates.pdf

Good Morning Jay,

Mitch mentioned that you contacted him regarding language on our rate schedule. Attached is a revised schedule without that wording.

As I mentioned previously, the hourly rates for our subconsultants are as follows:

Gary Liss - \$150/hour

Jeffrey Morris - \$150/hour

Please let me know if there is anything else you need.

Robin Mitchell
kessler consulting inc.
innovative waste solutions
☎813.971.8333 ext.14 📠813.971.8582
www.kesconsult.com
14620 N. Nebraska Avenue, Suite D, Tampa, FL 33613

Celebrating 22 years of Quality Service
EPA WasteWise Small Business Program Champion
Earth Charter Sustainable Business Award Winner
Sarasota County Green Business Partner

IMPORTANT NOTICE: THE INFORMATION CONTAINED IN THIS E-MAIL IS CONFIDENTIAL AND MAY CONSTITUTE PRIVILEGED WORK PRODUCT. This message is for the designated recipient only and may contain privileged, proprietary, or otherwise private information. Unless you are the named addressee or an authorized designee, you may not copy or use it, or disclose it to anyone else. If you have received it in error, please notify us immediately and then destroy it.

ATTACHEMENT "B"
LABOR CATEGORY DESCRIPTIONS

PROJECT DIRECTOR: A project director has final responsibility for all aspects of the project but is not engaged in routine project activities and does not have primary responsibility for production of project deliverables or management of the project budget or schedule. Project Director can be involved in client contact and communication including, but not limited to, project kick-off meeting, at time of final product delivery, and at any time in his/her judgment such contact is required. He/she is ultimately accountable to the client for all services provided by Kessler Consulting. As project director, he/she performs the following specific duties:

- Reviews and manages work of the Project Manager;
- Performs final review of project deliverables;
- Negotiates and administers client contracts;
- Approves project schedules, budgets, and work plans prepared by Project Manager;
- Approves deliverables and is ultimately responsible for product quality;
- Solves problems as they arise;
- Serves as a resource to the Project Team.

PROJECT MANAGER: A project manager has primary responsibility for all aspects of the project and serves as the primary contact for the client. The project manager is responsible for assuring that the client's objectives are met and that the project is completed within budget and on time. The project manager performs the following specific duties under the supervision of a project director:

- Maintains regular contact with client, responds to client's requests for information, and reports progress as appropriate;
- Develops and manages project schedules and budgets;
- Manages project tasks and personnel;
- Develops work plans and prepares work assignment sheets;
- Organizes and conducts project kick-off and debriefing meetings;
- Provides support for invoicing
- Manages preparation and delivery of work products and project deliverables and has primary responsibility for product quality;
- Performs technical edit of all work products;
- Provides regular status reports to project director.

SENIOR CONSULTANT: A senior consultant serves as a project manager on projects or as a manager of major components of a project under the direction of a project manager and/or project director. A senior consultant serves the following functions at KCI:

- Provides project management support for the project;
- Serves as a resource person for the project team, providing project advice and assistance;
- Helps to develop strategies for implementation of project components;
- Produces project deliverables meeting the highest technical standards as well as being appropriate to the needs of the client.

CONSULTANT: A consultant performs specialized research and planning. A consultant is responsible for the technical accuracy and the quality of project deliverables with which he/she has contact. In addition, a consultant may serve as a project manager reporting to a project director. In particular, a consultant serves the following functions:

- Serves as a resource person for the project team in particular areas of expertise;
- Provides technical and analytical assistance to senior consultants/project managers;
- Provides general advice and direction to researchers as required;
- Produces final deliverables.

RESEARCH ANALYST: A research analyst conducts research and produces documents as required to support the project objectives. He/she serves as a member of a project team performing assigned research and planning tasks.

- Performs assigned tasks, including research in all areas of expertise, with emerging specialty in defined areas as required;
- Writes and edits deliverables for senior consultant and/or project manager to review.
- Meets with project team members in task-oriented meetings;

TECHNICAL SUPPORT: Provides administrative support to project team to complete project objectives. Functions can include, but not be limited to, production and distribution of project deliverables; typographical and grammatical review of documents; preparation of meeting agenda/notes; travel arrangements; and filing of project documents.