

RESOLUTION NO. 11-051

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, EXERCISING THE TWO-YEAR RENEWAL OPTION CONTAINED IN THE CONTRACT FOR GENERAL ENVIRONMENTAL CONSULTING SERVICES WITH PBS&J, ORIGINALLY APPROVED IN RESOLUTION NO. 08-061; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, in Resolution No. 08-061, the City Commission approved a three-year contract with a two-year renewal option with PBS&J for general environmental consulting services; and

WHEREAS, the City Commission, having considered staff recommendations, has chosen to renew the contract, for the two year extension period.

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

Section 1: That the contract is hereby extended for two years, pursuant to the contract documents approved in Resolution No. 08-061;

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 15 day of February, 2011.

Authenticated by the presiding officer and Clerk of the Commission on February 16, 2011.

Filed with the Clerk February 16, 2011.



CRAIG CATES, MAYOR

ATTEST:



CHERYL SMITH, CITY CLERK

RESOLUTION NO. 08-061

**A RESOLUTION OF THE CITY COMMISSION OF THE
CITY OF KEY WEST, FLORIDA, APPROVING THE
ATTACHED CONTRACT BETWEEN THE CITY OF KEY WEST
AND PBSJ FOR ENVIRONMENTAL CONSULTING
SERVICES; PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, the City of Key West previously selected PBSJ as an approved contractor to furnish general environmental consulting services to the City of Key West and directed staff to negotiate a contract with the company; and

WHEREAS, staff and consultants have negotiated the attached contract; and

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

Section 1: That the attached contract between the City of Key West and PBSJ is hereby approved.

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 20th day of February, 2008.

Authenticated by the presiding officer and Clerk of the
Commission on February 21, 2008.

Filed with the Clerk February 21, 2008.


MORGAN MCPHERSON MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK

CITY OF KEY WEST

MASTER AGREEMENT TO FURNISH
GENERAL ENVIRONMENTAL
CONSULTING SERVICES
TO THE
CITY OF KEY WEST

February 2008

Master Agreement to Furnish General Environmental 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 PBS&J, a Florida corporation, whose address is 2001 NW 107th Avenue, Miami, Florida 33172, 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 ecological, environmental and professional services relating to the City's professional CONSULTANTing, construction, economics, planning, specialty consulting and any other lawful professional CONSULTANTing or 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 full-scale CONSULTANTing, 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, construction, permit modification, rehabilitation and/or retrofit of coastal facilities including docks, marinas, seawalls, bridges, erosion control, beach design and beach re-nourishment.
- 1.2 Provide comprehensive environmental CONSULTANTing services for full-scale CONSULTANTing, 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, sampling, analysis and monitoring, construction administration and owner project representation services relating to operation, new construction, permit modification, construction improvements, rehabilitation and or retrofit lands and facilities.

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.

CONSULTANT shall provide the above-mentioned Scope of Services as tasked by the CITY for the projects specifically identified in RFQ No. 05-007 and any other tasks as assigned under this scope. The terms that the CONSULTANT agrees to follow are set forth as follows:

- 2.1 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.
- 2.2 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.
- 2.3 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.
- 2.4 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.
- 2.5 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 Director of Utilities of the City of Key West.
- 2.6 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.
- 2.7 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.

Field rates as identified in Exhibit A shall be applicable when the CONSULTANT's employees are assigned to a field location for a continuous period exceeding 90 calendar days. Field location is defined as office space which is made available to CONSULTANT's employees by the CITY at no cost to the CONSULTANT. Field rates shall be applied on the first day the CONSULTANT's employee is assigned to a field location. Should the CONSULTANT's employee assignment not exceed 90 continuous calendar days,

CONSULTANT shall be permitted to retroactively re-invoice for the applicable field rate charges but based upon the CONSULTANT's per diem rates.

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

- 2.8 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.

- 2.9 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 shall be based on the Data Resources, Inc. (DRI) forecast of wage and price escalation.
 - 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, laboratory tests and analyses, and subcontracts and other outside services; and 2) CONSULTANT's standard project charges for CADD and specifications 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.
- 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 consulting and related consultation and advice and furnishing 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 professional 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. Subsurface Investigations

- A. In soils, foundation, groundwater, and other subsurface investigations, the actual characteristics and the location of underground features may vary significantly between successive test points and sample intervals and at locations other than where observations, explorations, and investigations have been made. Because of the inherent uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could affect total PROJECT cost and/or execution. These conditions and cost/execution effects are not the responsibility of the CONSULTANT.

4.4. CONSULTANT's Personnel at Construction Site

- A. The presence or duties of the CONSULTANT's personnel at a construction site, where the contractor is other than PBS&J, whether as onsite representatives or otherwise, do not make the CONSULTANT or its personnel in any way responsible for those duties that belong to the CITY and/or the construction contractors or other entities, and do not relieve the construction contractors or any other entity of their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the Contract Documents and any health or safety precautions required by such construction work. The CONSULTANT and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions and have no duty for inspecting, noting, observing, correcting, or reporting on health or safety deficiencies of the construction contractor(s) or other entity(s) or any other persons at the site except CONSULTANT's own personnel.
- B. The presence of CONSULTANT's personnel at the construction site is for the purpose of providing the CITY a greater degree of confidence that the completed work will conform generally to the Contract Documents and that the integrity of

the design concept as reflected in the Contract Documents has been implemented and preserved by the construction contractor(s). CONSULTANT neither guarantees the performance of the construction contractor(s) nor assumes responsibilities for Contractor'(s) failure to perform their work in accordance with the Contract Documents.

- C. Construction sites include places of manufacture for materials incorporated into the construction work. Construction contractors include manufacturers of materials incorporated into the construction work.

4.5. 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 the 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.

4.6. Construction Progress Payments

- A. Recommendations by the CONSULTANT to the CITY for periodic construction progress payments to the construction contractor will be based on the CONSULTANT's knowledge, information, and belief from selective sampling that the work has progressed to the point indicated. Such recommendations do not represent that exhaustive, continuous or detailed examinations or reviews have been made by the CONSULTANT to ascertain that the construction contractor has completed the work in exact accordance with the contract documents; that the final work will be acceptable in all respects; that the CONSULTANT has made an examination to ascertain how or for what purpose the construction contractor has used the moneys paid; that title to any of the work, materials, or equipment has passed to CITY free and clear of liens, claims, security interests, or encumbrances; or that there are not other matters at issue between CITY and the construction contractor that affect the amount that should be paid.

4.7. Record Drawings

- A. Record drawings, if required, will be prepared, in part, on the basis of information compiled and furnished by others, including the CITY or contractors for the work, and may not always represent the exact location, type of various components, or

exact manner in which the PROJECT was finally constructed. The CONSULTANT is not responsible for any errors or omissions in the information from others that are incorporated into the record drawings.

- B. Record drawings will consist only in hard copy form. Any computer-generated files on diskettes or tapes furnished by CONSULTANT are for the CITY's and other's convenience and are to be utilized at users sole risk. Record Drawings will be signed and sealed were applicable based on CITY and/or regulatory requirements.

4.8. Access to CONSULTANT's Accounting Records

- A. The CONSULTANT will maintain accounting records, in accordance with generally accepted accounting principles and practices, to substantiate all invoiced amounts. These records will be available to CITY during CONSULTANT's normal business hours for a period of 1 year after CONSULTANT's final invoice for examination to the extent required to verify the direct costs (excluding established or standard allowances and rates) incurred hereunder. The CITY may only audit accounting records applicable to cost-reimbursable and cost plus fixed fee type compensation.

4.9 CONSULTANT's Insurance

- A. The CONSULTANT will maintain throughout this AGREEMENT the following insurance:
 - 1. Worker's compensation and employer's liability insurance as required by the state where the work is performed.
 - 2. Comprehensive automobile and vehicle liability insurance covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, and owned, non-owned, or hired vehicles, with \$1,000,000 combined single limits.
 - 3. Commercial general liability insurance covering claims for injuries to members of the public or damage to property of others arising out of any covered negligent act or omission of the CONSULTANT or of any of its employees, agents, or subcontractors, with \$2,500,000 per occurrence and in the aggregate.
 - 4. Professional liability insurance of \$2,500,000 per occurrence and in the aggregate
 - 5. CITY will be named as an additional insured with respect to CONSULTANT's liabilities hereunder in insurance coverage's identified in items 2 and 3, and CONSULTANT waives subrogation against CITY as to said policies.

4.10 Subconsultants

- A. The CONSULTANT may not assign or subcontract its obligations under this AGREEMENT without the written consent of the CITY.

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 perform, at no cost to CONSULTANT, such tests of equipment, machinery, pipelines, and other components of the CITY'S facilities as may be required in connection with CONSULTANT's services, unless otherwise agreed to. CITY will be responsible for all acts of CITY'S personnel.

5.4. Advertisements, Permits, and Access

- A. Unless otherwise agreed to in the Scope of Services, the CITY will obtain, arrange, and pay for all advertisements for bids; permits and licenses, except those required by the bid documents, required by local, state, province, or federal authorities; and land, easements, rights-of-way, and access necessary for the CONSULTANT's services or PROJECT construction.

5.5. Timely Review

- A. The CITY will examine the CONSULTANT's studies, reports, sketches, drawings, specifications, proposals, 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.

5.6. 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 or construction contractors.

5.7 Contractor Indemnification and Claims

- A. CITY agrees use its best efforts to include the following in all construction contracts with contractors not affiliated with CONSULTANT:
 - 1. The provisions of Article 4.4, CONSULTANT's Personnel at Construction Site
 - 2. Provisions proving contractor indemnification of CITY and CONSULTANT as additional insureds on the contractor's general liability insurance policy
- B. CITY will use it best efforts to require construction contractor(s) to name CITY and CONSULTANT as additional insureds on the contractor's general liability policy

5.8. Exclusion of Contractor Claims

- A. CITY agrees to uses its best efforts to include the following clauses in all contracts with other construction contractors and equipment or material suppliers:

Contractors, subcontractors, and equipment and material suppliers on the PROJECT, or their sureties, shall maintain no direct action against the CONSULTANT, its officers, employees, affiliated corporations, and subcontractors, for any claim arising out of, in connection with, or resulting from the consulting services performed or required to be performed, unless construction contractors, subcontractors and equipment or material suppliers first gain the CITY's consent.

5.9. City's Insurance

- A. CITY will maintain property insurance on all pre-existing physical facilities associated in any way with the PROJECT.
- B. CITY will provide (or have the construction contractor(s) provide) a Builders Risk All Risk insurance policy for the full replacement value of all PROJECT work, including the value of all onsite CITY-furnished equipment and/or materials, associated with the CONSULTANT's services.

5.10 Services of CONSULTANT

- A. Unless this AGREEMENT is modified or terminated, the CITY will have all services specified in this AGREEMENT performed by the CONSULTANT, employing CONSULTANT's standard form and content of drawings, specifications, and Contract Documents, generally conforming to the standards, recommendations, and content of the Construction Specifications Institute (CSI)

and CONSULTANTs Joint Contract Documents Committee (EJCDC), and subject to the CITY's review and approval.

5.11 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 additional two-year option to extend on behalf of the CITY, which must be approved by Resolution of the City Commission. This Agreement shall continue in effect from year to year thereafter, until terminated by the CITY.

6.2. Reuse of Project Documents

- A. Reports, drawings, specifications, 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 specifications and plans 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. The CITY agrees to indemnify and defend the CONSULTANT and its officers, employees, subcontractors, and affiliated corporations from all claims, damages, losses, and costs, including, but not limited to, litigation expenses and attorney's fees arising out of or related to such unauthorized reuse, change, or alteration.

6.3 Ownership of Work Product and Inventions

- A. All of the work product of CONSULTANT in executing this Project shall remain the property of CONSULTANT. The CITY shall receive a perpetual, royalty-free, non-transferable, non-exclusive license to use the deliverables for the purpose for which they were intended. Any inventions, patents, copyrights, computer programs or other intellectual property developed during the course of, or as a result of, the Work shall remain the property of the CONSULTANT.

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 Director of Utilities 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 to the property 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. The CONSULTANT shall indemnify and hold harmless the CITY, its officers and employees, from liabilities, property damage, losses, personal injuries, and costs, including, but not limited to reasonable attorney's fees, to the extent caused by the

negligence, recklessness or intentional wrongful misconduct of CONSULTANT, its employees or agents, in the performance of this Agreement.

- 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 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 CONSULTANT continues to perform, Owner 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 21 day of February, 2007.

By: J. K. SCHOLL CITY MANAGER
Name Title

By: _____
Name Title

By: _____
Name Title

For the CONSULTANT, PBS&J

Dated this 12th day of FEBRUARY, 2007.

By: Adam R. Geller Group Manager
Name Title

PBS&J REIMBURSABLE EXPENSE ITEMS
 Key West General Environmental Consulting Services

Description	Unit	Unit Price
Reproduction/Printing (external @ cost -use these for estimating)		
B&W Copies (8.5x11)	each	\$0.05
B&W Copies (11x17)	each	\$0.20
Blue/line/Blackline Copies (24x36)	each	\$1.00
Color Copies/Printing (8.5x11)	each	\$1.00
Color Copies/Printing (11x17)	each	\$2.00
Color Printing/Plotting From File (24x36)	each	\$25.00
Color Scanning and Copying (24x36)	each	\$70.00
Mylar Plots (24x36)	each	\$10.00
Vellum Plots (24x36)	each	\$4.50
Lamination (8.5x11)	each	\$2.50

Materials

- Binders
- Graphics

Out-of-County Travel ⁽¹⁾

Per Diem (Breakfast)	day	\$6.00
Per Diem (Lunch)	day	\$12.00
Per Diem (Dinner)	day	\$24.00
Mileage	mile	\$0.485
Tolls	each	at cost
Hotel	day	at cost
Rental Car	day	at cost
Plane	flight	at cost
Boat to 20'	1/2 day	\$200
Boat to 20'	day	\$350
Boat greater than 20'	day	at cost
Snorkel Gear	day	\$15
SCUBA Equipment	day	\$40

Specialty Items

Based on scope of specific task not all equipment/supplies can be identified at this time. With each work order specific specialty items will be outlined for approval with appropriate back up to justify cost for items outside of this list.

Market cost with no surcharge



PBS&J Billing Rates By Grade Level
 Key West General Environmental Consulting Services

Position Titles

	<u>2008</u>	<u>2009</u>	<u>2010</u>
	<u>Hourly</u>	<u>Hourly</u>	<u>Hourly</u>
	<u>Billing</u>	<u>Billing</u>	<u>Billing</u>
	<u>Rate</u>	<u>Rate</u>	<u>Rate</u>
	<u>\$/hr</u>	<u>\$/hr</u>	<u>\$/hr</u>
Engineer I, Technical Professional I, Tech. Coordinator I, Estimator/Scheduler, GIS Analyst, Sr. CADD Designer/Operator, Sr. Designer I, Property Acquisition Agent I	\$55.00	\$58.30	\$61.80
Engineer II, Technical Professional II, GIS Analyst II, Sr. CADD Designer, ITS Analyst, Sr. Designer II, CADD Supervisor, Technical Coordinator II, Property Acquisition Agent II	\$75.00	\$79.50	\$84.27
Sr. Engineer I, Sr. Technical Professional I, Sr. Tech. Coordinator I, GIS/ITS Specialist I, Sr. Designer III, Survey Manager I, Sr. Estimator/Scheduler I	\$90.00	\$95.40	\$101.12
Sr. Technical Coordinator II, Sr. Property Acquisition Agent II, ITS Specialist II, Sr. Technical Coordinator II	\$105.00	\$111.30	\$117.98
Sr. Engineer II, Sr. Technical Professional II, Sr. Surveyor II, Sr. Estimator/Scheduler II, Sr. Property Acquisition Agent III, Sr. GIS Specialist, Survey Manager II	\$110.00	\$116.60	\$123.60
Sr. Engineer III, Sr. Technical Professional III, Sr. Property Acquisition Agent IV, Sr. Project Manager, Program Manager, Resident Engineer	\$125.00	\$132.50	\$140.45
Sr. Engineer IV, Sr. Technical Professional IV, Sr. Program Manager, Division Manager, Sr. Resident Engineer, Project Director	\$150.00	\$159.00	\$168.54
Sr. Engineer V, Sr. Technical Professional V	\$175.00	\$189.00	\$199.54
Principal Technical Professional, Sr. Division Manager	\$200.00	\$212.00	\$224.72

PBS&J has an extensive list of titles. The term "Technical Professionals" refers to Architects, Engineers, Landscape Architects, Planners, Scientists, Surveyors, etc.

